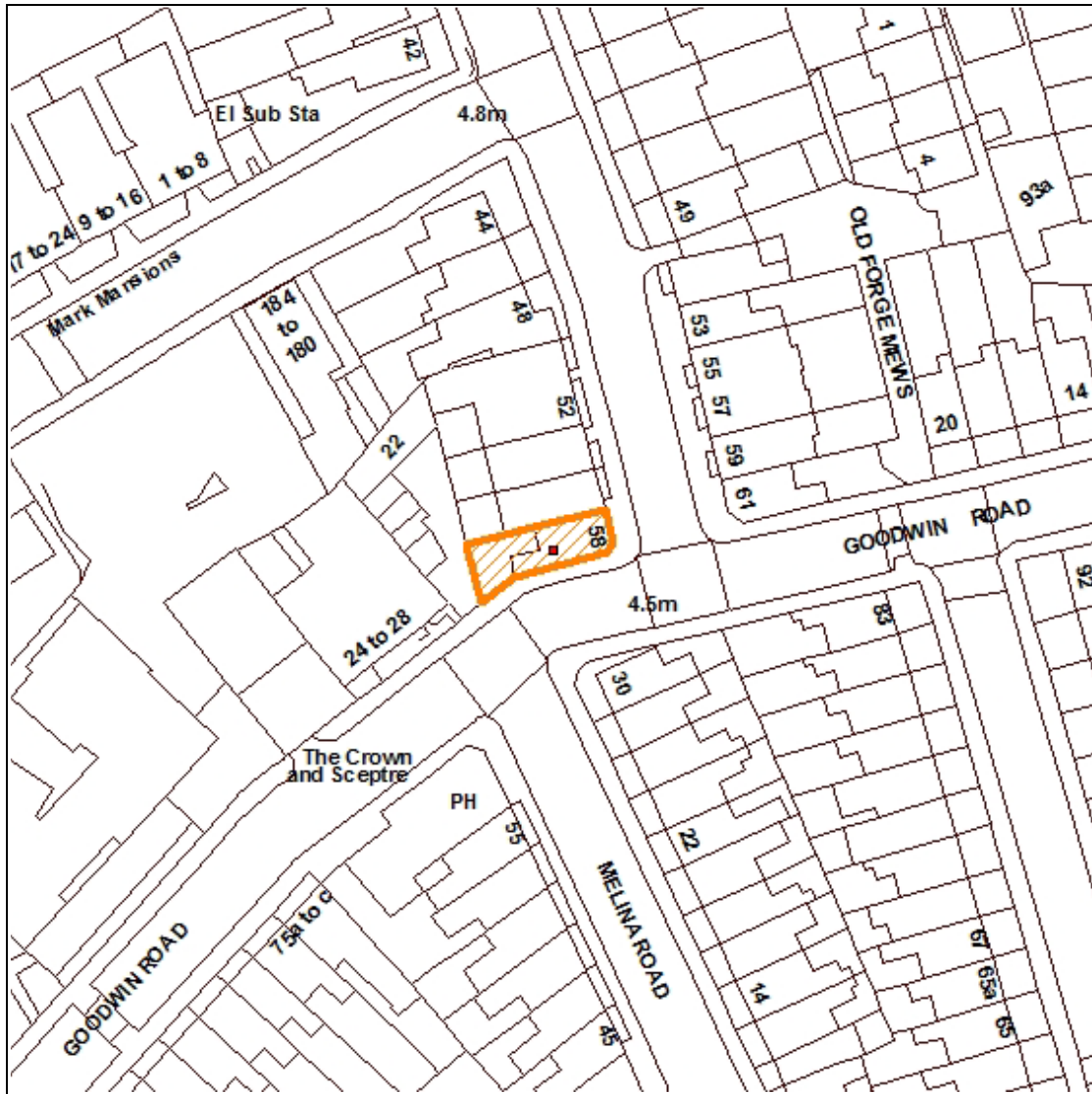


**Ward:** Askew

**Site Address:**

58 Boscombe Road London W12 9HU



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For identification purposes only - do not scale.

**Reg. No:**  
2020/03154/FUL

**Case Officer:**  
Elliot Brown

**Date Valid:**  
30.11.2020

**Conservation Area:**

**Committee Date:**  
06.07.2021

**Applicant:**

Mr S Satheeskumar  
58, Boscombe Road London W12 9HU

**Description:**

Installation of 2no. air condenser units attached to the rear elevation at ground floor level.

Drg Nos: PE-02, Noise Report 215161. PCR.01.Rev A dated 23/6/21,

**Application Type:**

Full Detailed Planning Application

**Officer Recommendation:**

1) That the Committee resolve that the Chief Planning Officer be authorised to grant planning permission subject to the conditions listed below;

2) That the Committee resolve that the Chief Planning Officer, after consultation with the Head of Law and the Chair of the Planning and Development Control Committee be authorised to make any minor changes to the proposed conditions, which may include the variation, addition or deletion of conditions, any such changes shall be within their discretion.

**Conditions:**

- 1) The development hereby permitted shall not commence later than the expiration of 3 years beginning with the date of this planning permission.

As required by Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2) The development shall only be carried out and completed in accordance with the drawings which have been approved and are stated on this decision notice.

To ensure a satisfactory external appearance and the protection of residential amenities, in accordance with Policies DC1, DC4, and HO11 of the Local Plan (2018).

- 3) Any alterations to the elevations of the existing building shall be carried out in the same materials as the existing elevation to which the alterations relate.

To ensure a satisfactory external appearance, in accordance with Policies DC1 and DC4 of the Local Plan (2018).

- 4) The external sound level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background sound level by at least 10dBA. To ensure this, a post installation noise assessment shall be carried out to confirm compliance with the sound criteria and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to use of the equipment and thereafter be permanently retained in order to prevent any adverse impact. The assessment shall be made in accordance with BS4142:2014 at the nearest and/or most affected noise sensitive

premises, with all machinery operating together at maximum capacity.

To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from plant/mechanical installations/ equipment, in accordance with Policies CC11 and CC13 of the Local Plan (2018).

- 5) Prior to use, machinery, plant or equipment, extract/ ventilation system and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by vibration, in accordance with Policies CC11 and CC13 of the Local Plan (2018).

- 6) The condenser units hereby approved shall not be installed on the rear wall until further details of a proposed plant enclosure to encase the two air condenser units have been submitted to, and approved in writing by the Council. The approved enclosure must be installed at the same time as the condensers and shall thereafter be permanently retained.

To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from plant/mechanical installations/ equipment, in accordance with Policies CC11 and CC13 of the Local Plan (2018).

#### **Justification for Approving the Application:**

- 1) It is considered that the proposal would contribute towards the daily operation of the existing Class E commercial unit without having an unacceptable impact on the amenity of surrounding occupants, subject to conditions relating to the external sound levels of the proposed air condenser units, and without harm to the character and appearance of the parent building or the surrounding area. In these respects, the proposal would be consistent with Section 12 of the National Planning Policy Framework (2019), Policy D14 of the London Plan (2021), Policies CC11, CC13, DC1, DC4 and HO11 of the Local Plan (2018) and Key Principle NN4 of the Planning Guidance Supplementary Planning Document (2018).

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### **LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS**

#### **All Background Papers held by Andrew Marshall (Ext: 4841):**

Application form received: 28th November 2020

Drawing Nos: see above

**Policy documents:** National Planning Policy Framework (NPPF) 2019  
The London Plan 2021  
LBHF - Local Plan 2018  
LBHF – Planning Guidance Supplementary Planning Document  
2018

## Consultation Comments:

Comments from:

Dated:

## Neighbour Comments:

Letters from:

Dated:

50b Boscombe Road London W12 9HU	22.12.20
52 Boscombe Road First Floor Flat London W12 9HU	05.01.21
Flat 2, 56 Boscombe Rd Shepherds Bush London W12 9HU	05.01.21
48b Boscombe road London W12 9HU	22.12.20
54B Boscombe Road London W12 9HU	22.12.20
56 Boscombe Road London W12 9HU	06.01.21
First Floor Flat 56 Boscombe Rd London W12 9HU	05.01.21
Flat 2, 79 Vespan Road Shepherds Bush London W12 9QG	05.01.21
52 Boscombe Road London W12 9HU	06.01.21
50 Boscombe Road London W12 9HU	24.12.20
56 Boscombe Road Basement & Ground Floor Flat W12 9HU	04.01.21
54a Boscombe road London W12 9hu	22.12.20

## COMMITTEE REPORT

### 1.0 BACKGROUND AND RELEVANT PLANNING HISTORY

#### + Background

- 1.1 The application site contains a three-storey plus basement mixed use commercial and residential property located on the western side of Boscombe Road. No.58 is a prominent end-of-terrace corner property located on the junction with Goodwin Road. The property contains a Class E commercial unit at ground floor level with a Class C3 2-bedroom maisonette flat above at first and second floor level. The basement is also in use as a Class C3 1-bedroom unit (granted on appeal).
- 1.2 The ground-floor Class E commercial unit is the subject of this planning application.
- 1.3 The application site does not lie within a Conservation Area, nor does it contain a Listed Building or a locally listed Building of Merit.
- 1.4 The site is located within the Environment Agency's Flood Risk Zone 3, within an area that benefits from flood defences.
- 1.5 The current planning application seeks permission for the installation of two (2) air condenser units to the rear elevation of No.58 Boscombe Road, at ground floor level. The two condensers would be fixed to the rear wall below the retail unit's rear elevation window.

#### + Relevant planning history

- 1.6 There is an extensive planning history related to the application site. Details of these are provided below.

2020/01763/FUL - Erection of an additional floor with roof terrace at roof level, in connection with the creation of 1no. self-contained two bedroom maisonette at second and third floor level; erection of a two storey rear extension at first and second floor level to the side of and above the existing back addition in connection with the conversion of the existing maisonette at first and second floor level into 1no. self-contained one bedroom flat at first floor level - currently under consideration.

2020/00038/FUL - Erection of an additional floor with roof terrace at roof level, in connection with the creation of 1no. self-contained two bedroom maisonette at second and third floor level; erection of a two storey rear extension at first and second floor level to the side of and above the existing back addition in connection with the conversion of the existing maisonette at first and second floor level into 1no. self-contained one bedroom flat at first floor level - this was the subject of a non-determination appeal and was dismissed by the Planning Inspectorate (13.01.2021).

2019/02526/CLE - Continued use of the basement as a self-contained residential flat refused on 22.10.19.

2019/01682/FUL - Erection of an additional floor with roof terrace at roof level in connection with the creation of 1no. self-contained two bedroom flat at second and third floor level; erection of a two storey rear extension at first and second floor level to the side of and above the existing back addition in connection with the conversion of the existing maisonette at first and second floor level into 1no. self-contained one bedroom flat at first floor level. Refused on 09.08.2019. An appeal against the decision was submitted, with the Planning Inspector dismissing the appeal on 20.12.2019.

2019/00838/PD56 - Change of use of the ground floor from retail (Class A1) into a one bedroom self-contained flat (Class C3). Refused on 15.05.2019. Subsequent appeal was dismissed on 20.12.2019.

2019/00518/FUL - Erection of an additional floor with roof terrace at roof level in connection with the creation of 1no. self-contained one bedroom flat; erection of a two storey rear extension at first and second floor level to the side of and above the existing back addition in connection with the conversion of the existing maisonette at first and second floor level into 2no. self-contained one bedroom flats at first and second floor level. Refused on 16.04.2019.

2018/03790/PD56 - Change of use of the ground floor from a convenience store (Class A1) to a one bedroom self-contained flat (Class C3); alterations to the external elevations associated with removal of the existing shop frontage including installation of a new entrance door and window to the front elevation and installation of a new window to the side elevation. Prior approval application was refused on 22.01.2019.

- 1.7 There has been a number of enforcement investigations for the premises relating to:

- installation of industrial air conditioning units outside the back of the shop (units were moved internally as a result)
- installation of a green shutter (ongoing investigation)
- change of use of the basement from retail (use class A1) to a single one bedroom self-contained residential flat (use class C3), NB: this was determined as lawful under and enforcement appeal.

## 2.0 PUBLICITY, CONSULTATIONS AND SITE VISIT

2.1 The application was publicised by means of a site notice and a press advertisement, together with letters of notification to neighbouring properties.

2.2 Thirteen (13) representations have been received, which object to the proposal. The objections can be summarised as follows:

- the proposed air condenser units would have a harmful impact upon neighbouring amenity, particularly with regard to noise and disturbance and outlook;

- external air condenser units were previously installed without planning permission, before being moved internally as required by H&F. Allowing external units would therefore seem counter-intuitive;

- the need for air condenser units is questioned, as the ground-floor shop has not required air condenser units previously. If external air condenser units are necessary, then they should be installed on the building elevation fronting Goodwin Road, as opposed to their current proposed location.

- the submitted Noise Assessment Report is inaccurate, as the position of the proposed plant installation shown in Figure 2.2 is incorrect.

2.3 Officer response: The material issues are addressed in the report below. Officers note that the need for air condenser units is not a material planning consideration. A revised version of the Noise Assessment Report (REV A, dated 23.06.2021) has been submitted, with this document now showing the proposed air condenser units in the same location as depicted on the submitted drawing No. PE-02.

### Site visit

2.4 As a result of the Covid-19 pandemic, this current application has been determined without a site visit. In considering this application, I have reviewed aerial and street photography, as well as site photography provided by both the applicant and surrounding properties. Furthermore, it is highlighted that a site visit was undertaken as part of the previous planning application Ref.2020/00038/FUL. I am satisfied that this has enabled me to fully assess the proposals.

## 3.0 POLICY FRAMEWORK

3.1 The Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011 are the principal statutory considerations for town planning in England.

3.2 Collectively the three Acts create a plan led system which requires local planning authorities to determine planning applications in accordance with an adopted statutory development plan unless there are material considerations which indicate otherwise (section 38(6) of the 2004 Act as amended by the Localism Act).

3.3 In this instance the statutory development plan comprises the London Plan (2021) and the Local Plan (2018). A number of strategic and local supplementary planning guidance and other documents are also material to the determination of the application.

+ National Planning Policy Framework (February 2019)

3.4 The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and was revised in 2019 and is a material consideration in planning decisions. The NPPF, as supported by the Planning Practice Guidance (PPG), sets out national planning policies and how these are expected to be applied.

3.5 The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up to date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

+ London Plan

3.6 The London Plan was published in March 2021. It sets out the overall strategic plan for London and a fully integrated economic, environmental, transport and social framework for the development of the Capital over the next 20-25 years. It forms part of the development plan for Hammersmith and Fulham

+ Local Plan

3.7 The Council adopted the new Local Plan on 28 February 2018. The policies in the Local Plan together with the London Plan make up the statutory development plan for the borough. The Planning Guidance Supplementary Planning Document (SPD) (February 2018) is also a material consideration in determining planning applications. It provides supplementary detail to the policies and is organised around key principles.

#### 4.0 PLANNING CONSIDERATIONS

4.1 The relevant considerations in this case, to be assessed against the policies in the National Planning Policy Framework [NPPF] (2019), The London Plan (2021) and the Hammersmith and Fulham Local Plan (2018) and the Planning Guidance Supplementary Planning Document [SPD] (2018) are:

- Impact upon neighbouring amenity (including noise and disturbance).
- Visual amenity.

## IMPACT UPON NEIGHBOURING AMENITY

### + Noise and disturbance

- 4.2 Policy D14 of the London Plan (2021) specifies that residential and other non-aviation development should mitigate and minimise the existing and potential adverse impacts of noise on, from, with, as a result of, or in the vicinity of new development, to avoid significant adverse noise impacts on health and quality of life.
- 4.3 Policy CC11 of the Local Plan (2018) states that noise-generating development will not be permitted if it would be liable to materially increase the noise experienced by the occupants of existing noise-sensitive uses in the vicinity. Policy CC13 (Control of Potentially Polluting Uses) states that the Council will, where appropriate, require mitigation measures if a nuisance (such as smoke, smell, or noise) would be likely to occur.
- 4.4 Key Principle NN4 of the Planning Guidance SPD (2018) states that all noise generating development, including plant, machinery and equipment, will be subject to requirements to minimise noise to relevant criteria, where applicable, in order to protect residential and other noise sensitive amenity.
- 4.5 A 'Planning Compliance Report (Ref. 21561.PCR.01 REV A, dated 23.06.2021) prepared by KP Acoustics has been submitted as part of this planning application. Section 5.1 (proposed plant installations) of the Planning Compliance Report specifies that the proposed plant equipment would consist of the following:
- One (1) KD PAL036M1 Condenser Unit
  - One (1) Hispania HUC4001Z03MS Condenser Unit.
- 4.6 Noise level emissions provided by the condenser unit manufacturers are outlined within Table 5.1 of the Planning Compliance Report. A 24-hour environmental noise survey was undertaken on-site from 26.10.2020 - 27.10.2020, in order to prepare a noise impact assessment in accordance with British Standards BS4142:2014 'Method for rating and assessing industrial and commercial sound'.
- 4.7 The revised Planning Compliance Report has been reviewed by the Council's Environmental Protection team. Their comments specify that subject to conditions, the proposal should be able to ensure that effective mitigation measures prevent the proposed air condenser units from exposing neighbouring occupants to harmful levels of noise and disturbance. One of these conditions would be for the external sound level emitted from the air condenser units to be at least 10dBA lower than the lowest existing background sound level. To ensure this, the condition would require a post installation noise assessment to confirm compliance with the sound criteria.
- 4.8 A second condition would require the air condenser units to be mounted with proprietary anti-vibration isolators, and fan motors to be vibration isolated from the casing and adequately silenced and maintained as such thereafter. Furthermore, details of an acoustic enclosure need to be provided prior to the units being installed on the rear elevation, and a condition requires these details to be approved and that the enclosure is retained in perpetuity.



4.9 Subject to the above conditions, officers are of the view that the proposal would be considered consistent with the aims of Policy D14 of the London Plan (2021), Policies CC11 and CC13 of the Local Plan (2018) and Key Principle NN4 of the Planning Guidance SPD (2018), mitigating against the exposure of surrounding occupants to harmful levels of noise and disturbance.

+ Outlook, light, privacy and a sense of enclosure

4.10 Policy HO11 of the Local Plan (2018) specifies that development proposals should respect the principles of good neighbourliness, especially with regard to privacy, light, outlook and a sense of enclosure. These principles are supported by Key Principles HS6 and HS7 of the Planning Guidance SPD (2018).

4.11 With the exception of the subject ground-floor unit, the subject terrace-row (Nos. 44 - 58 Boscombe Road) contain self-contained residential accommodation at all floor levels. Nos. 180 - 184 Westville Road are also situated to the north-west of the application site.

4.12 The two proposed air condenser units would be installed to the rear elevation of No.58 Boscombe Road, at ground-level below the ground-floor rear window serving the commercial unit. Section 14 (materials) of the submitted application form specifies that the air condenser units would be of a white colour. Measurements taken from the submitted drawing No. PE-02 indicate that the proposed air condenser units would be of the following dimensions:

-0.7m height  
-0.9m width  
-0.3m depth

4.13 Officers consider that the scale, siting and design of the proposed air condenser units would prevent a harmful impact upon the amenity of surrounding occupants, with regard to outlook, light, privacy and a sense of enclosure. In this respect, the proposal would be consistent with the aims of Policy HO11 of the Local Plan (2018) and Key Principles HS6 and HS7 of the Planning Guidance SPD (2018).

#### VISUAL AMENITY

4.14 Paragraph 127 of the NPPF (2019) specifies that development should be visually attractive as a result of good architecture and be sympathetic to local character and history, Paragraph 130 of the NPPF (2019) states that permission should be refused for development of poor design.

4.15 Policy DC1 of the Local Plan (2018) notes that all development should seek to create a high quality urban environment which respects and enhances its townscape setting, whilst Policy DC4 notes that all alterations and extensions to existing buildings should be a subservient addition to the parent building and compatible with the scale and character of existing development, neighbouring properties and their settings.

4.16 The application site does not lie within a Conservation Area, nor does it contain a Listed Building or a locally listed Building of Merit. Nevertheless, it is still important

that the proposal preserves the character and appearance of the parent building and the surrounding streetscene. The submitted drawing No. PE-02 demonstrates that the scale and siting of the proposed air condenser units would not project above the existing flank boundary brick wall which fronts Goodwin Road. Meanwhile, street imagery and site photographs demonstrate that the rear flank boundary consists of a timber fence of a sufficient height to screen the proposed air condenser units. Accordingly, Officers are satisfied that the proposal would not be visible in views from the surrounding streets (Boscombe Road, Goodwin Road or Melina Road), nor would it be visible from the walkway to the rear boundary of Nos. 52 - 58 Boscombe Road. This would be considered sufficient to prevent a harmful impact upon the character and appearance of the parent building and the surrounding streetscene, in accordance with Policies DC1 and DC4 of the Local Plan (2018) and Section 12 of the NPPF (2019).

## 5.0 CONCLUSION

- 5.1 In considering planning applications, the Local Planning Authority needs to consider the development plan as a whole and planning applications that accord with the development plan should be approved without delay, unless material considerations indicate otherwise and any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 5.2 In the assessment of the application regard has been given to the NPPF, London Plan, and Local Plan policies as well as guidance.
- 5.3 In summary, the proposed development would contribute towards the daily operation of the existing Class E commercial unit without having an unacceptable impact on the amenity of surrounding occupants, subject to conditions relating to the external sound levels of the proposed air condenser units, and without harm to the character and appearance of the parent building or the surrounding area.
- 5.4 Officers have taken account of all the representations received and in overall conclusion for the reasons detailed in this report, it is considered having regard to the development plan as a whole and all other material considerations that planning permission should be granted subject to conditions.

## 6.0 RECOMMENDATION

- 6.1 Grant planning permission subject to conditions.