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**12/00309/FUL**

**NEW SHOP FRONT, INSTALLATION OF ATM AND NEW  
PLANT TO REAR CONSISTING OF AIR CONDITIONING  
UNITS AND REFRIGERATION CONDENSER UNITS  
ENCLOSED IN A COMPOUND**

**AT: 239-241 EASTWOOD ROAD RAYLEIGH**

**APPLICANT: SAINSBURY'S SUPERMARKET LTD**

**ZONING: RESIDENTIAL**

**PARISH: RAYLEIGH TOWN COUNCIL**

**WARD: RAYLEIGH CENTRAL**

**1 PLANNING APPLICATION DETAILS**

- 1.1 Planning permission is sought for the installation of a new shop front, including ATM, and for the installation of 3 air conditioning units and a 3 fan condenser unit to the rear of the building.
- 1.2 The existing shop front consists of large glazed panels with two large sliding doors above which is a suspended canopy. The proposal seeks to replace the existing glazed panels and sliding doors with a number of narrower glazed panels separated by colour coated columns to match those on the existing building. The new shop front would have one sliding door with the proposed ATM alongside this. 6 bollards would be installed at the end of the car parking spaces, which would be provided (as per the earlier planning consent 11/00085/COU) in front of the shop unit.
- 1.3 The 3 proposed air conditioning units would be attached to the rear elevation of the building close to the north-east corner. The proposed 3 fan condenser unit would also be attached to the rear elevation of the building; each of the fans would point upwards and project off the rear wall by some 1.2 metres.
- 1.4 The proposal would include the installation of acoustic timber fencing along the rear boundary and part way down the side boundary of the site. This fencing would be 2 metres in height from ground level.

**2 THE SITE**

- 2.1 The application site relates to the eastern part of a vacant building, which was previously in use as a car showroom. The part of the building to which the application relates was granted planning permission, on appeal, for retail use

within Use Class A1 in November 2011; this consent would allow the proposed applicant, Sainsbury's, to operate a retail store from the premises.

- 2.2 The site is located with a frontage onto Eastwood Road close to the junction with The Chase.
- 2.3 The area surrounding the site is predominantly residential although there is a nearby retail store on the corner of The Chase. The application site directly borders several residential properties; No. 245 Eastwood Road and the rear garden boundaries of several residential properties on The Limes and Oakhurst Road to the rear of the site.

### **3 RELEVANT PLANNING HISTORY**

- 3.1 07/00258/FUL - Retention of Amended Fenestration to North Elevation, Retention of Air Duct and Screening, Valet Bay Extension and Car Wash Enclosure (Amendment to 05/00627/FUL). APPROVED.
- 3.2 10/00748/COU - Part Change of Use From Car Show Room (Including Ancillary Retail Space) to A1 Use Including the Provision for 8no. Customer Car Parking Spaces. REFUSED.
- 3.3 11/00085/COU - Part Change of Use from Existing Car Show Room (Including Ancillary Retail Space) to A1 Use Including the Provision for 6No. Customer Car Parking Spaces – Re-submission of Planning Application 10/00748/COU, Including Revised Vehicular Access Off Eastwood Road. REFUSED AND ALLOWED ON APPEAL.
- 3.4 11/00100/ADV - Relocation of Existing Internally Illuminated Double Sided Totem Sign. APPROVED.
- 3.5 12/00310/ADV - Proposed Advertising Consisting Of 1 New Internally Illuminated Fascia Sign, 1 Non-Illuminated ATM Surround And 1 Non-Illuminated 4.9m High Totem Sign. PENDING DECISION.

### **4 CONSULTATIONS AND REPRESENTATIONS**

#### **4.1 Rayleigh Town Council**

- Objection as the proposed refrigeration units to the rear would be a nuisance to neighbours.

#### **4.2 Highways (ECC)**

- De-minimis.

#### 4.3 Environmental Protection (RDC)

- No adverse comments in respect of this application, subject to the Standard Informative SI16 (Control of Nuisances) being attached to any consent granted.

#### 4.4 Rayleigh Through the Looking Glass

- Our interest is with the Heritage plaque erected in 1988 to commemorate the aeroplane crash in September 1987. Our wish is that in any development of the site (car parking/advertising displays) the plaque is not overlooked/mislaid/broken. We are happy for the plaque to be relocated on site and would be happy to discuss with the applicants any aspect of the plaque, should they wish.

#### 4.5 Neighbours

4.5.1 45 letters of objection received from the occupants of properties on Daws Heath Road, The Croft, The Limes, Eastwood Road, Oakhurst Road, Nevern Road, Poplar Road, The Chase, Wyburns Avenue, South View Close, Grove Road.

4.5.2 In addition a petition was received signed by 131 signatories expressing objection to the application, although not stating specific grounds of objection.

4.5.3 Summary of the comments received:-

- Additional traffic stopping at this shop and crossing the pavement will cause a severe risk of accidents. The road and junction are already very busy. Traffic stopping for the current Co-op store makes it very difficult for pedestrians and road traffic and a second shop will increase traffic.
- There is no need for an additional retail outlet next to another store.
- Encouraging more retail out of the main town centre will continue to reinforce the closure of shops in Rayleigh.
- The amount of car parking spaces is very limited and the access to the road by a single run in for customers arriving and departing will result in chaos on what is a narrow but very busy road.
- Concern about impact on residential amenity due to proximity of air conditioning units and condensers to nearby residential properties, which would be in very close proximity. Noise from these day and night would cause harm to residential amenity. Why was the noise survey not conducted to the rear gardens of the properties immediately behind the building where the most noise would be heard? The gardens to these residential properties to the rear are very small and very quiet. Sitting in the garden would not be enjoyable with the noise of these units. At night we do

not want to have to shut windows to bedrooms due to noise from these units.

- A store with an ATM would have cars arriving and leaving constantly and would put additional pressure on car parking at the site. Cars may stop on the highway to use the ATM. The ATM is not required for the store to operate.
- The plant proposed to the rear would obstruct access for deliveries.
- Proposed clear glazing to the shop front would add to illumination of the area and should be frosted.
- The proposed ATM will detract from the character of the building and area.
- The parking and traffic situation at the top of The Chase is already dangerous and this would just be made worse if another supermarket (with ATM) was developed on the site.
- The proposed plant and machinery at the rear of the building would be unsightly and noisy and would disturb us. We have previously had to complain about the lighting used by Geoff Bray.
- The ATM, placed externally to the shopping area, would be able to be accessed 24 hours a day, creating a disturbance to all local residents. This disturbance would be by way of noise/traffic/light based pollution and the potential for increased anti-social behaviour. Noise would arise from slamming doors, engines starting, music playing, etc). Although Eastwood Road is a busy road the traffic and noise does tend to diminish in the early morning and evenings. If an ATM must be installed, it should be internal to the store where it will still be accessible to the store's customers.
- There is no provision for any screening fences so all visitors' headlights will shine in through our bedrooms and front rooms; we will have lost all privacy.
- The site is in a residential location and the retail use would be un-neighbourly.
- Insufficient parking would be provided including no staff parking.
- Increased light pollution from more signage would not improve the streetscape.
- Would the remainder of the Geoff Bray site become an overflow for Sainsbury's?

- The alleyway to the side of the building would not have any CCTV and would be ideal for loitering.
- We strongly object to any 24 hour activity as we have both young and teenage children and the car and people traffic noise will affect their sleep and disturb us as well.
- There is a strong risk of increased problems with security.
- The noise of the proposed refrigeration and air conditioning units will create the same noise problems with constant humming.
- Deliveries to the store will create noise and disturbance to local residents.
- Environmental health issues will arise from increased refuse and waste.
- The new store will have a detrimental impact on small stores locally and on the High Street in Rayleigh.
- The ATM would pose a security risk and should be located in a high street where there are more people around.
- Lighting on the existing Geoff Bray site causes a nuisance shining into bedroom windows.

## **5 MATERIAL PLANNING CONSIDERATIONS**

- 5.1 This proposal follows the grant of planning permission, on appeal, for the use of that part of the building to which the application relates as a retail store within Use Class A1 (reference 11/00085/COU).
- 5.2 In the appeal, the Inspector considered the Council's reasons for refusing planning permission, namely whether parking provision for the proposed use would be adequate, the effect of parking on pedestrian and highway safety and the issue of the effect of the proposed use and an increase in activity on the living conditions of the occupiers of residential properties in the vicinity of the site.
- 5.3 The Inspector determined that the parking provision in the proposal 11/00085/FUL, which consisted of spaces to the front of the store and use of spaces to the front of the remaining part of the building, would be adequate to serve the proposed use and not to cause local highway problems. Use of the wider parking area was made subject to a planning condition.
- 5.4 The Inspector concluded that the scale of activity likely to be associated with the retail use would not materially harm the amenity and living conditions of neighbouring properties. This was, however, subject to a hours of use condition. The Inspector disagreed that the use should be allowed to open

until 2300 hours and imposed a condition restricting the hours of use to between 0700 and 2200 hours each day.

- 5.5 The Inspector also considered a number of other objections from local residents, but determined that planning permission for the retail use should be granted, subject to conditions.
- 5.6 A number of the objections received in connection with the current application for the ATM, new shop front and equipment relate to the principle of retail use at the site and raise a range of issues, including the adequacy of parking, highway impacts and impact on residential amenity. As detailed above, these matters have already been considered and dealt with by the appeal and cannot therefore be re-visited in the current application.

#### PROPOSED NEW SHOP FRONT

- 5.7 The proposal would not significantly alter the appearance of the shop front as it would remain largely glazed with a sliding door, albeit with slightly smaller glazed panels than the remainder of the building. The glazing framework would be in a slate grey colour, which would complement the colour of the existing panelling on the building.
- 5.8 Although not highlighted on the submitted elevation plan, the image of the proposed new shop front provided in the design and access statement shows what appears to be a red coloured panel behind the proposed ATM. This red panel would reflect the central red coloured entrance way to the adjoining part of the vacant car show room.
- 5.9 The advertising shown on the image of the proposed new shop front does not form part of this application.
- 5.10 The suspended canopy, which extends across the full width of the buildings frontage, would be retained, as would the grey panelling above the glazed shop front. The proposed ATM would alter the appearance of the front elevation, although not markedly so and overall it is considered that the changes to the shop front would not adversely affect the appearance of the building to the detriment of visual amenity.

#### PROPOSED ATM

- 5.11 The ATM would be positioned so that it would be accessible to the public outside whilst the retail store is open (0700 to 2200) but also outside of these hours.
- 5.12 Considerable concern has been raised by local residents with regard to the proposed installation of the ATM to the front elevation of the building, particularly in connection with its potential to attract additional visitors to the site in the evenings and at night. At such times, the general background noise at the site would be reduced. In addition, concern has been raised that the

ATM would result in additional parking pressures at the site from visitors calling specifically to use this facility rather than to use the store.

- 5.13 In the appeal relating to the use of the site for retail, the Inspector noted that the retail store may generate more activity (than the previous car showroom use) but this would likely be confined to customers parking and people entering/leaving the building, rather than from the actual sales operation within the building itself. In the Inspector's view the vehicle activity associated with the retail use would fall mainly on the adjacent house, no. 245 Eastwood Road, and houses opposite the site. Whilst the Inspector concluded that the activity associated with the retail use would not materially harm amenity and living conditions of these properties, this was on the basis that the store closed at 2200 hours each day.
- 5.14 The proposed ATM would give rise to the potential for visitors in vehicles after 2200 hours each day. This could give rise to a level of noise and disturbance associated with vehicles accessing the site, including from engine noise and the shutting of car doors, which would be unreasonable and give rise to a harmful impact on residential amenity.
- 5.15 The provision of an ATM facility would not be required in order for the retail use to function but would be an add-on facility. It is also likely that customers using the retail store could obtain cash-back on purchasing items at the till. In any event, whether this facility is a key requirement for the applicant or not, it is considered that there is considerable potential for additional harm to residential amenity.
- 5.16 The proposed ATM could not reasonably be subject to a condition to restrict its hours of operation to prevent visitors to the site after 2200 hours each day and consequently the objection to the proposal could not be overcome by the imposition of a planning condition.

#### PROPOSED AIR CONDITIONING AND CONDENSER UNITS

- 5.17 The proposed air conditioning units and condenser units would be attached to the rear elevation of the building. In this position the air conditioning units would be positioned approximately 2 metres from the rear boundary of the site, which also forms the rear garden boundary of residential properties on The Limes and Oakhurst Road. The proposed refrigeration condenser units would project out from the rear wall and would be approximately 1 metre from the rear boundary. The rear gardens to these properties immediately to the rear of the site vary in depth from between approximately 8.6 and 9.1 metres.
- 5.18 Concern has been raised from both the occupants of these immediately adjoining neighbouring properties and from other nearby residents that the proposed equipment would generate noise, which would adversely affect the amenity of the occupants of nearby residents. Specific concern has related to noise affecting residents' enjoyment of their gardens and at night when

sleeping in bedrooms to the rear of the properties, which would be closest to the installed equipment, particularly if windows are open.

- 5.19 The applicant has submitted the results of an environmental noise survey as part of the application. The survey work was undertaken in March 2012, with background noise levels measured from a single measurement location close to but not directly at the site of the proposed air conditioning and condenser equipment within the wider Geoff Bray site. The report explains that the measurement position was selected as being representative of background noise levels at the nearest noise sensitive receptor, i.e. the rear gardens of the closest adjoining neighbours to that part of the building where the proposed equipment would be installed. The lowest background noise level recorded was 32 decibels.
- 5.20 The submitted report recommends a plant noise limit of 30 decibels (average) measured or predicted 1 metre external to the nearest noise sensitive windows throughout the plant operating period, which is stated to be between 0600 and 0000 hours for the air conditioning units and 24 hours for the refrigeration units.
- 5.21 In the course of the application the applicant's agent has provided further information relating to the proposed positioning of the equipment explaining that the proposed location of the equipment is the most suitable, in their view, given the options available within the land edged red on the submitted location plan. Whilst the roof would offer an alternative, the proposed condenser units would stand some 1.7 metres high and give rise to concerns relating to visual amenity.
- 5.22 The applicant's agent has also explained that Sainsbury's contractors are currently working on the exact specification of the proposed equipment and acoustic fencing, which Sainsbury's are confident will meet the recommended noise limit. The specification details will be submitted to the Council shortly.
- 5.23 The Council's Environmental Protection Team has considered the submitted noise report and does not raise any objection to the proposal. They advise that the installation of the proposed equipment would increase background noise level slightly although the increase, providing the noise limit of 30 decibels (average) for the new equipment within 1 metre of the nearest windows was imposed, would be imperceptible.
- 5.24 If the current application were approved a planning condition would be recommended to require specific details of the equipment to be installed to be submitted and agreed before installation. The details would not be agreed unless it was demonstrated that the noise from the proposed equipment would not exceed 30 decibels (average) within 1 metre of the rear windows of the adjoining neighbouring dwellings. The rear gardens to adjoining dwellings are not particularly deep such that it would not be possible for the proposed noise limit to be achieved for the rear windows and for the noise level in the remaining rear garden to be much higher than the 30 decibel average limit.



## OTHER MATTERS

- 5.25 Whilst not technically a planning matter, in the light of locally voiced concern, the applicant's agent has confirmed in additional information submitted in the course of the application that the memorial plaque at the site would be retained at the site in its current position.

**6 CONCLUSION**

- 6.1 The use of the application site as a retail unit has already been approved in the grant of planning consent on appeal.
- 6.2 The proposed change to the external appearance of the building would not cause harm to the character and appearance of the area or to visual amenity and is thus acceptable.
- 6.3 The proposed air conditioning and condenser units to the rear of the building would be positioned in close proximity to the rear gardens of adjoining residential properties, however the Council's Environmental Protection Team considers that the level of increase in background noise as a result of the installation would not be reasonably perceptible. The performance of the equipment can be adequately controlled by condition.
- 6.4 The proposed ATM installation would, however, introduce the potential for increased activity, particularly vehicular activity, to the site at times when the site would be quietest and give rise to the potential for increased noise and disturbance, which would be harmful to the amenity of nearby residential properties.

**7 RECOMMENDATION**

- 7.1 It is proposed that the Committee **RESOLVES**

To **REFUSE** planning permission for the following reason:-

- 1 The proposed ATM installation would introduce the potential for increased activity, particularly vehicular activity with associated noise, to the site at times when the site would be quietest and outside of opening hours of the retail store which would give rise to the potential for increased noise and disturbance, which would be harmful to the amenity of nearby residential properties.



Shaun Scrutton

Head of Planning and Transportation

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**Relevant Development Plan Policies and Proposals**

Policy SAT 8 of the Rochford District Replacement Local Plan (2006).

National Planning Policy Framework (NPPF).

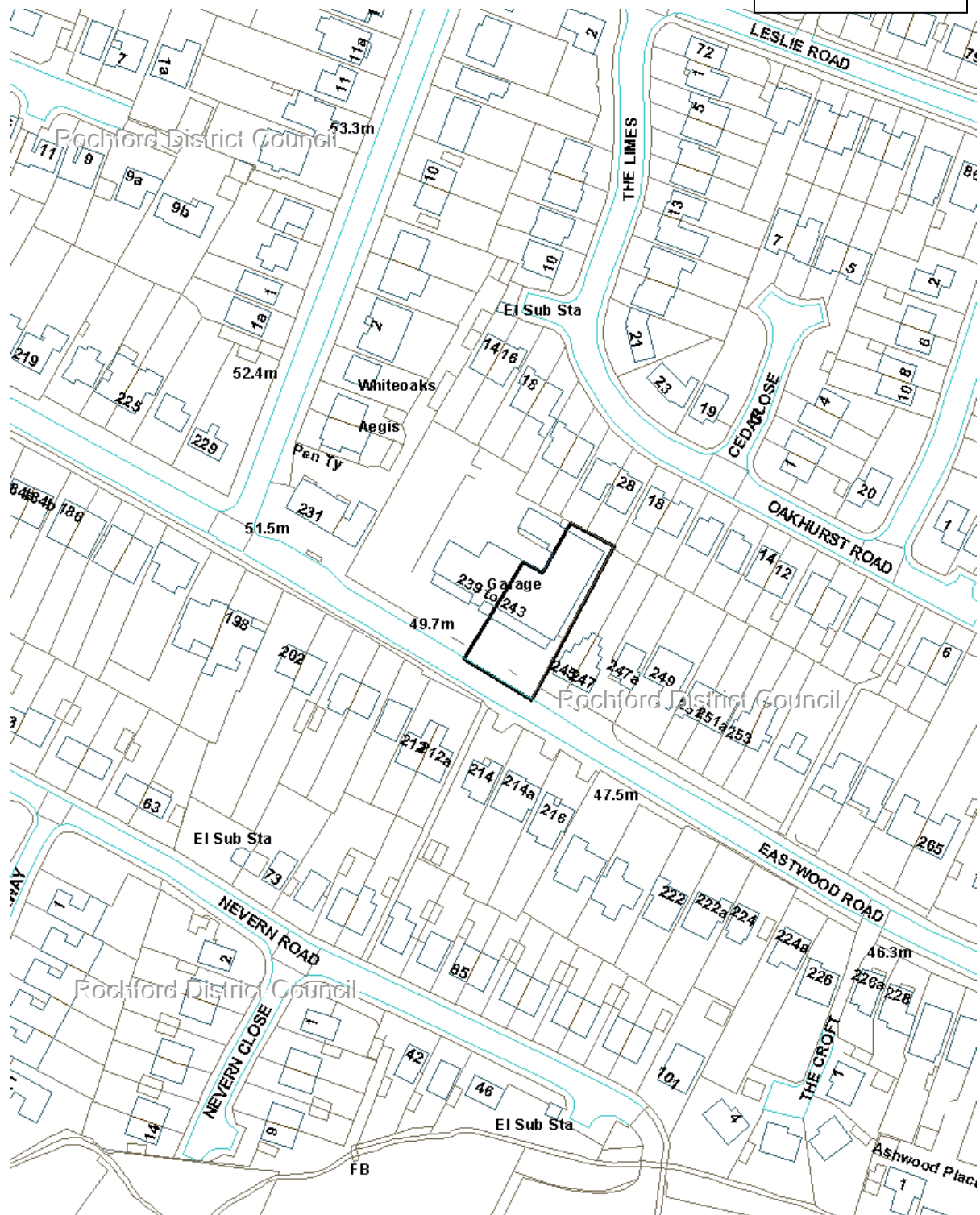
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