

## Item: 3.4

**Planning Committee: 4 September 2019.**

### **Install Four Air Conditioning Units and Screen (Part Retrospective) at 53 Albert Street, Kirkwall.**

**Report by Executive Director of Development and Infrastructure.**

## **1. Summary**

### **1.1.**

Planning permission is sought for the installation of four condenser units to the south elevation of 53 Albert Street, Kirkwall, situated within the Conservation Area. The units have been installed since submission of the application. A timber screen would be installed to shield the units and minimise the visual impact from Albert Street. One objection has been received on the grounds of impact on residential amenity and the appearance of the conservation area. The objection is considered of insufficient weight to merit refusal. It is considered that the development accords with Policies 1, 2 and 8 of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval.

Application Number:	19/266/PP.
Application Type:	Planning Permission.
Proposal:	Install four air conditioning units and a screen (part retrospective).
Applicant:	Superdrug Stores PLC, 51 Sydenham Road, Croydon, CR0 2EU.
Agent:	Cube PSL, Hannah Simmons, Unit 502 Birchwood One Business Park, Dewhurst Road, Warrington, WA3 7GB.

### **1.2.**

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

[https://www.orkney.gov.uk/Service-Directory/D/application\\_search\\_submission.htm](https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm)  
(then enter the application number given above).

## **2. Consultations**

Consultees have not objected or raised any issues which cannot be addressed by planning conditions.

### 3. Representations

#### 3.1.

One objection has been received from:

- Colin Ingram, Laing House, 59 Albert Street, Kirkwall, Orkney, KW15 1HQ.

#### 3.2.

The objection is on the grounds of residential amenity, specifically appearance and noise.

### 4. Relevant Planning History

Reference.	Proposal.	Location.	Decision.	Date.
12/465/PP.	Demolish existing stores and erect attached three storey building, consisting of shop floor space and storage on the ground floor, and four flats in upper floors, and finish the building with a slate roof, smooth rendered walls, painted timber windows and doors, and metal rainwater goods, and install four air source heat pumps.	53 Albert Street, Kirkwall, Orkney, KW15 1HQ.	Granted.	04.08.15.
17/489/PP.	Demolish ancillary buildings, rebuild section of boundary wall, extend a shop and amend shop front, erect 4 flats with raised open space and install 6 air source heat pumps.	53 Albert Street, Kirkwall, Orkney, KW15 1HQ.	Granted.	13.02.18.
18/458/PP.	Extend a shop, amend shop front and boundary walls and install two air source heat pumps (amendment to 17/489/PP).	53 Albert Street, Kirkwall, Orkney, KW15 1HQ.	Granted.	20.03.19.
19/025/AD.	Display a fascia sign.	53 Albert Street, Kirkwall, Orkney, KW15 1HQ.	Granted.	14.03.19.

19/243/AD.	Display a fascia sign and a projecting sign, and internal lighting.	53 Albert Street, Kirkwall, Orkney, KW15 1HQ.	Granted.	20.08.19.
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## 5. Relevant Planning Policy and Guidance

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and supplementary guidance can be read on the Council website at:

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The following policies are relevant to this application:

- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 8 – Historic Environment and Cultural Heritage.
- Supplementary Guidance and Planning Policy Advice 2017:
  - Supplementary Guidance: Historic Environment and Cultural Heritage.
  - Planning Policy Advice: Historic Environment (Topics and Themes).

## 6. Legal Aspects

### 6.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) states, “Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan ...”

### 6.2.

Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party's conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
- Reaching a decision without reasonable planning grounds for doing so.
- Not taking into account material considerations.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.

### **6.3.**

An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

## **7. Assessment**

### **7.1. History**

The units were installed after submission of the application, but before the application was decided, to avoid delay to the opening of the shop. When originally submitted, one of the units was located directly opposite the kitchen window of the neighbouring Laing House, the objector's house, with the other three units facing a blank gable. The objection was received from the residents of Laing House on grounds of residential amenity. Following receipt of that representation, the unit subject to comment was relocated to be in a closer grouping with the other units, not opposite the neighbouring window. In response, the objector has confirmed that, whilst visual impact from the house has been addressed, the objection is maintained, on grounds of noise and impact on the appearance of the conservation area.

### **7.2. Principle**

53 Albert Street is situated within Kirkwall Conservation Area. The four condenser units are located to the south elevation. It is proposed to install a timber screen, coloured to match the wall, to shield the units and minimise the visual impact from Albert Street. Residential amenity would be protected by controlling noise. Subject to protection of residential amenity and the character and appearance of the area, the principle of development associated with the operation of retail units in the town centre is acceptable.

### **7.3. Siting and Visual Impact**

The units are installed in a horizontal alignment, approximately 2.1 metres above ground level to the underside of the units. Following the relocation of one unit, all four units face the blank gable of Laing House and are behind its set back first floor building line. Therefore, the condenser units are only visible from Albert Street from the opening of the lane. A timber screen would be installed to screen the plant, as viewed from the main thoroughfare. The screen would be appropriate in design and materials, as has been successfully achieved on other projects throughout the street, and the units would not be visible from any other public location. On the basis of the screening, and the purpose of the units related to the occupation and operation of the shop, it is considered that the character and appearance of the Conservation Area would be preserved.

## **7.4. Residential Amenity**

The units are near the kitchen window of the neighbouring house, but are not directly opposite, and are located against a blank gable wall in a private lane.

Notwithstanding the noise objection, Environmental Health has no objection subject to a planning condition to control noise output, which would protect amenity in perpetuity. It is therefore considered the units would not harm the residential amenity of the immediate neighbour, and the elevated positions prevent any obstruction of the lane.

## **8. Conclusion and Recommendation**

The units are critical for the use and operation of the retail business within the building. The siting of the units, combined with mitigation through timber screening, is appropriate and would preserve the character and appearance of the Conservation Area. The elevated position would not impede use of the lane and residential amenity would be protected. As such, the development accords with Policies 1, 2 and 8 of the Orkney Local Development Plan 2017 and the objection is not of sufficient weight to merit refusal. Accordingly, the application is **recommended for approval**, subject to the conditions listed in Appendix 1.

## **9. Contact Officer**

Dean Campbell, Graduate Planner / Planning Technician, extension 2528, Email [dean.campbell@orkney.gov.uk](mailto:dean.campbell@orkney.gov.uk)

## **10. Appendix**

Appendix 1: Planning Conditions.

## **Appendix 1.**

01. The air conditioning units hereby approved shall be covered by a timber screen as specified in accordance with the approved drawing (OIC-06). The screen shall be painted to match the wall colour and installed no later than six weeks after the date of this decision, and thereafter shall be retained in situ throughout the lifetime of the development hereby approved.

Reason: To ensure screening of incongruous plant and preserve the character and appearance of the Conservation Area.

02. Total cumulative noise from the Air Source Heat Pumps/air conditioning units or any similar plant and machinery installed shall not exceed NR25 within any residential property outwith the development, where NR25 is the Noise Rating Curve at 25, (noise measurements to be made with a window of any residential property outwith the development open no more than 50 mm.)

Reason: To protect any nearby residents from excessive noise disturbance from the air source heat pumps/air conditioning units or similar plant/machinery.