



Appeal Decision

Site visit made on 10 October 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24.10.2023

Appeal Ref: APP/B1930/D/23/3322753

67 Colney Heath Lane, St Albans, Hertfordshire, AL4 0TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ron Israel against the decision of St Albans City & District Council.
 - The application Ref 5/23/0393 dated 22 February 2023, was refused by notice dated 16 May 2023.
 - The development proposed is to installation of air conditioning condenser unit.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. Since the determination of the application, and the submission of this appeal, a revised National Planning Policy Framework 2023 (the Framework) was adopted on 5 September 2023. The refusal reason generically references the Framework however, it is not considered that this impacts upon the determination of this appeal given the main changes to the Framework.

Main Issues

4. The main issues are the impact of the proposal upon character and appearance of the area and neighbouring amenity with regard to noise.

Reasons

5. The appeal site is a two storey, detached, dwelling standing in a corner plot between Colney Heath Lane and Swan Close. The area is predominantly residential but is also noted to be opposite a school. At the time of my site visit I parked at the top of Swan Close and walked down to the appeal site and viewed from both within this cul-de-sac and outside the school which is opposite the appeal site. The appeal site is surrounded by a well-established fir tree boundary with solid wooden gates at the entrance.
6. Any views into the appeal site/of the dwelling in general, and where the proposal is to be located, are extremely limited to within Swan Close and the Council's assessment as to character and appearance is limited on the basis that it may have some level of visibility from the street scene. At the time of my site visit the entrance gates were slightly open but even in this case I find that the proposed location of the unit and the orientation of the dwelling would

essentially obscure the majority of views from the street scene as well being limited to a potential single, glimpsed, viewpoint from Swan Close (which the elevation on which the unit would be mounted faces).

7. The appellant has submitted a specification sheet for the proposed unit which shows its sizing to be modest with both height and width being under a metre. At this stage, and as discussed below, I acknowledge there may be a need for acoustic mitigation measures, but I have no evidence before me to suggest that such measures would increase the scale of the installation to a level which would be visually inappropriate for a domestic dwelling in terms of character or appearance. Such details could be secured by condition meaning that if acoustic screening is required the details are approved, prior to first use of the unit, to ensure an appropriate visual finish.
8. Environmental Health have been consulted on the proposal. The revised comments from Environmental Compliance have taken into account the specific site context, noting and referencing the school, but still confirm that relevant supporting information would still be required whether the proposal was for residential or commercial use, as the unit has potential to cause nuisance to surrounding residential properties. It is a policy requirement that the amenity of adjoining properties is not unacceptably harmed.
9. The appellant states that the average background noise level of a UK street is 60 decibels. This is acknowledged; however, I have no evidence before me as to the actual background noise levels surrounding the appeal site specifically which is key to assessing the suitability of the proposed equipment. At time of my site visit (around 10:15am), and walking down the road, I found the area to be relatively quiet in terms of general background noise. I appreciate that at certain times of the day such as pick up and drop off for school, or playtime when children are outside, that the noise levels are likely to be higher. Despite this there are times of the day, outside of these points, including when the school is closed or night times which need to be appropriately assessed to ascertain average background noise levels against which equipment needs to be considered. Without such information having been measured, it cannot be confirmed that the noise levels of the proposed unit (48 decibels in cooling and 53 decibels in heating and acknowledged to be for home use) would be below the site-specific levels in this case.
10. As a result of this I do not find that evidence is clearly before me and available which would support that the proposal is acceptable in terms of noise without a noise assessment survey. Such a survey would also ensure and recommend, if required, appropriate noise mitigation to ensure the proposal is acceptable in this regard. I do not find that the Council have failed to understand technical information. The information has been received and noted, however, to assess whether it is appropriate for the site context further information is required as to the specific background noise of the area. Such information is also required to confirm whether mitigation is required and, if so, whether any proposed enclosure or attenuation measures are appropriately designed to mitigate any impact. This cannot be done with generic reference to average UK figures.
11. In the absence of a noise assessment and details of any acoustic mitigation measures, it has not been demonstrated that the proposed development would have an acceptable impact on neighbouring amenity with regard to noise. Such information can be secured as a pre-commencement condition to ensure

the proposal is acceptable in all regards. Given my findings and notwithstanding the appellant's statement to date regarding a noise survey - the appellant was contacted and given the opportunity to agree to a pre-commencement condition of this nature, however, disagreed with the request for a noise survey as a condition. Without this I cannot allow the appeal as I have no evidence as to actual background noise for the site to take into account alongside proposed noise levels from the unit and due to the nature of the information required, this needs to be a pre-commencement condition.

12. I note the appellant's comments that BS4142:2014 is directed at assessing industrial or commercial sounds but the Council contend that, whilst this is noted, this is still utilised for best practice to assess any mechanical noise be that domestic or commercial in the event of a compliant. Despite this the condition that was suggested did not make specific reference to compliance with a particular standard so I find that would have still allowed the appellant to submit evidence, from an appropriately qualified consultant, in accordance with the guidance they feel is of most relevance for consideration by the Council prior to installation as part of a condition discharge.
13. The proposal would be inconsistent with St Albans District Local Plan Review 1994 (LP) Policy 69 which requires to take into account the site context and LP Policy 72 (though the proposal is not for an extension) which requires the amenity of adjoining property shall not be unacceptably harmed. The proposal would also be inconsistent with paragraph 130 f) of the Framework which should ensure that developments create places that have a high standard of amenity for existing and future users.

Other Matters

14. I note and acknowledge the concerns raised in relation to the handling of applications on this site to date as well as the time taken to determine the proposal, however, the handling and timings of the application are not matters which fall within the scope of this appeal. I also note comments relating to the requirement for the proposal and discrimination, however, given that the appeal is being allowed subject to conditions I do not feel there is a requirement to discuss this matter further in the circumstances. The appeal has been determined on its own merits taking into account the evidence before me and relevant Local Plan policies as outlined in the main body of this decision letter.

Conclusion

15. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR