



Appeal Decision

Site visit made on 24 January 2024

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2024

Appeal Ref: APP/C1435/D/23/3331014

33 Oldfield Road, Lower Willingdon, Eastbourne, BN20 9QD

- 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 Ms Julie Lorraine Melisi against the decision of Wealden District Council.
 - The application Ref WD/2023/1438/F, dated 1 June 2023, was refused by notice dated 8 September 2023.
 - The development proposed is described as air source heat pump being installed.
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. Since the appeal application was refused the National Planning Policy Framework 2021 has been replaced. Within the current National Planning Policy Framework December 2023 (Framework) paragraphs 126, 127, 128, 129, 130 and 134 of the Framework 2021 have been renumbered 131, 132, 133, 134 & 139, although their content is unchanged. Paragraphs 7–13 remain unaltered and paragraph 14 is not material to the appeal proposal. For the avoidance of any doubt, I confirm that in this decision I have referred to the December 2023 Framework.
3. For the avoidance of any doubt, I confirm that this decision purely addresses the location of the proposed air source heat pump at the front of the dwelling. It does not address the previously proposed location at the side of the dwelling.
4. In their appeal statement the appellant states that they have offered to erect a seven foot fence along the boundary with 31 Oldfield Road (No.31). However, this did not form part of the appeal application and due to its height it would need to be made the subject of a separate planning application. As such it falls outside the scope of this decision.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of No.31, with particular regard to noise and disturbance.

Reasons

6. Oldfield Road is a quiet residential road that is characterised by detached and semi-detached bungalows and chalet bungalows that are set back from Oldfield

Road behind good sized front gardens. The appeal site is located within a row of bungalows/chalet bungalows with uniform front building lines and which project close to their side boundaries.

7. As stated in paragraphs 157, 162, 163 & 164 of the Framework the planning system supports the transition to a low carbon future and that significant weight should be given to the need to support energy efficiency and low carbon heating improvements to existing buildings. This includes through the installation of heat pumps. Policies SPO9 and WCS14 of the Wealden District Core Strategy Local Plan 2013 (CS), policy EN1 of the Wealden Local Plan 1998 (LP) and the Sustainability section of the Wealden Design Guide 2008 (WDG), are consistent with this.
8. Sustainable development also takes into account other factors and in relation to the appeal proposal, CS Policy SPO13, LP Policies EN1, EN27 & HG10, Section 2 and paragraphs 131 & 135 of the Framework, collectively seek to provide satisfactory living conditions. The living conditions of existing residents should be protected from unacceptable harm due to a range of factors including noise.
9. Whilst the council's decision notice also refers to paragraphs 132, 133, 134 & 139 of the Framework, in relation to the appeal proposal I do not find them to be of specific relevance to the council's reason for refusal.
10. Regarding background noise levels the current MCS 020 Permitted Development Planning Standard for air source heat pumps, when measured from the nearest neighbouring property is assumed to be 40 dB(A) Lp. The submitted specifications for the proposed air source heat pump states that its sound level would be 62dBA.
11. The proposed air source heat pump would be sited less than five metres from the side wall at No.31, which contains windows. It would also be located within the recessed part of the front elevation where it would be contained within an open fronted porch area. Whilst this porch enclosure and the boundary fence between the appeal property and No.31 would likely help contain some noise generated by the air source heat pump the adjacent windows and door within the recessed area at the front of the appeal dwelling could reflect noise towards No.31.
12. Having regard to these factors the Council's environmental health officer has calculated that the noise generated by the proposed air source heat pump could be between 4dB and 8dB higher than the 42dB specified in the MCS 020. I appreciate that this calculation is based on assumptions because the precise location of the closest windows at No.31 are not provided and the actual potential noise attenuation that would be derived from the enclosed location of the air source heat pump is unknown. Notwithstanding this, it indicates that the noise generated by the proposed air source heat pump would have the potential to unacceptably harm the living conditions of the occupiers of No.31.
13. To demonstrate otherwise would require a more comprehensive noise assessment, such as that based on the methodology of BS 4142:2014+A1:2019, referred to in the Review of Air Source Heat Pump Noise Emissions, Permitted Development Guidance and Regulations Final Report 2023. In reaching this conclusion I have taken into account the low background noise levels within this part of Oldfield Road.

14. It is acknowledged that the air source heat pump would not be used during the summer months. However, this would not negate the harm caused when it would be operated.
15. For these reasons I find that the potential harm to the occupiers of No.31 would clearly outweigh the personal benefits identified by the appellant and the positive contribution the proposal would make in supporting energy efficiency. It is also not a matter that could be satisfactorily addressed through the imposition of conditions.
16. I conclude that, in the absence of a specific noise assessment, the appellant has failed to demonstrate that the noise generated by the proposed air source heat pump would not have an unacceptable harmful impact on the living conditions of the occupiers of No.31. Accordingly, it would conflict with LP Policies EN1, EN27 & HG10, CS Policies SPO9, SPO13 & WCS14 and Section 2 and paragraphs 131 & 135 of the Framework.

Elizabeth Lawrence

INSPECTOR