



Appeal Decision

Site visit made on 9 July 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 29TH July 2024

Appeal Ref: APP/C1950/D/24/3344451

220 Daniells, Welwyn Garden City, AL7 1QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Darren Luker against the decision of Welwyn Hatfield Council.
 - The application Ref is 6/2024/0241/HOUSE.
 - The development proposed is the installation of an air source heat pump at front of property.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposed heat pump as a new noise source on the amenity of neighbours.

Reasons

3. The appeal property at No.220 Daniells is a two-storey terraced dwelling which, like its immediate neighbours and others in Daniells, has a garage projecting from the front elevation. This projection also houses the front entrance door to the dwelling, alongside which is a window that appears to light the entrance hall rather than the garage. The footprint of the neighbour at No.222 is handed so that the garages of the 2 properties enclose much of the front garden leaving a relatively narrow area between them. The air source heat pump would be installed on the garage wall, just beyond the window mentioned above.
4. The main issue in this case comes down to the simple matter of whether the impact of this new noise source would have any detrimental effect on the neighbouring occupiers. For the council, it is noted that a data sheet has been provided which contains technical information about the proposed air source heat pump. The council's Public Health and Protection Officer has reviewed the proposal and raises no objection to the proposal in principle. However, in order to ascertain the potential noise impact to the neighbours, the predicted noise levels need to be compared to the existing background (LA90) noise level at the nearest neighbouring property, and it is not possible to do this without carrying out a noise survey.
5. The council's position is that, without carrying out a noise survey, it is not possible to have sufficient confidence about this matter. It would wish to grant

a planning permission, subject to a condition to secure the relevant information. As this application proposes an air source heat pump only, and the noise assessment is fundamental to ensuring the development is acceptable, the council suggests a pre-commencement condition to secure this. Section 100ZA(5) of the Town and Country Planning Act 1990 (as amended), provides that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition. Therefore, the applicant must confirm in writing agreement to the condition being included as part of the decision.

6. The appellant has not agreed to the pre-commencement condition wording and has questioned the need for it, citing an application at No.239 Daniells (6/2022/1920/HOUSE) which included the submission of a noise assessment, and asserting that it would be possible to use the same assessment for the appeal proposal. However, the council's Public Health and Protection Team states that this approach is not acceptable, as an individual noise assessment is required as each situation must be considered in isolation.
7. The environmental benefits of the development are not disputed, and I would wish to grant planning permission, but only if I can be satisfied that the beneficial effects of the heat pump would not be at the expense of a detrimental effect on the living conditions of neighbours due to noise. Having looked from the highway at the house at No.239 Daniells, I can understand why the appellant considers that the plant noise assessment for the heat pump on that property would be representative of the situation at the appeal site, since on the face of it, the situations are similar.
8. The stance taken by the council's Public Health and Protection Team appears reasonable to me. That team has expertise in these matters, and its views must carry considerable weight. However, in this case there are other matters that concern me. The first is that the appeal application simply stated that the proposal was for "Installation of an Air Source Heat Pump at front of property", and the council accepted this description in dealing with the application. It is only when looking at the appellant's appeal statement that Octopus Energy state that the installation would be a heat pump model EDLA06E2V3. Since different heat pumps may well have different noise characteristics, I consider that the description of the development should include the heat pump model number, or that any permission should be conditioned to apply to the installation of that particular model, the noise characteristics of which should have been tested by a noise assessment.
9. Turning to the noise assessment that was carried out at No.239 Daniells, I note that within the report by AF Acoustics Ltd, in Table 5.2, the particular plant that was used in that evaluation, and presumably installed, was model Daikin EDLA04EV3. I have no information about the implications of the 2 model numbers, and their particular variations 6E2V3 and 4EV3.
10. Therefore, I cannot be reasonably satisfied that the installation of an air source heat pump at the appeal property, as a new noise source, would not have an adverse effect on the amenity of neighbours. The council's planning policies drawn to my attention both (in brief) commit to encourage, empower and enable residents, local businesses and the wider community to take personal decisions that reduce their own carbon footprints and help meet the goals of

reducing carbon emissions, and also protect against detrimental effects on health from Noise and vibration. With the correct data to support the development, both objectives can, and should, be met. In the absence of such data, or the appellant's agreement to a pre-commencement condition, the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR