



Appeal Decision

Site visit made on 13 August 2024 by I Chukwujekwu BSc MSc MIEMA CEnv MRTPI

Decision by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/B5480/D/24/3341037

8 Nelmes Road, Hornchurch RM11 3JA

- 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 Duane Sullivan against the decision of the Council of the London Borough of Havering.
 - The application Ref is P1870.23.
 - The development proposed is to retain as existing 5no a/c condenser units to the side of the property, behind the garage. 2 units are to be moved further to the rear and a screen fence introduced to prevent visibility from the road. (Part Retrospective).
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are:
 - The effect of the proposal upon the character and appearance of the surrounding area;
 - The effect of the proposal upon the living conditions of occupants of 10 Nelmes Road with regard to outlook, and;
 - Whether sufficient information has been provided to demonstrate that the proposal would not cause harm to the living conditions of occupants of 10 Nelmes Road with regard to noise and vibration.

Reasons for the Recommendation

Character and appearance

4. The appeal property is a large two-storey detached dwelling set within a spacious plot and set back from the road. The surrounding area is residential and is characterised by medium to large dwellings in a variety of designs which are set within spacious plots. I observed on my visit to the site that some of these properties have air conditioning (a/c) condensers installed externally on different elevations which are visible on the street scene. Thus, a/c condenser units are not an alien feature within the surrounding area.

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5. Three of the a/c condenser units at the appeal property are installed on the flank wall behind the garage to the side and are not visible from the street. At present, only the front two units are visible from the street via gaps in the gate at 10 Nelmes Road. These units are however proposed to be moved to the rear as part of the appeal proposal. At their new location with the proposed screening, these, along with the other three units, will no longer be visible to the public. Thus, they will not appear unacceptably dominant and visually intrusive in the street scene.
 6. I therefore find that the proposal would not be harmful to the character and appearance of the surrounding area. Consequently, there would be no conflict with the objectives of Policy 26 of the Havering Local Plan 2016 – 2031 Adopted November 2021 (the LP). This, among other matters, seeks to ensure that proposals respect, reinforce and complement the local street scene.

Living conditions - outlook

7. The elevation of 10 Nelmes Road which is near to the a/c condenser units features the wall to the garage to the side, a set back area with a single window, and then the flank wall continues to the rear. There are no other windows on this elevation with direct views to the a/c condenser units.
8. From my observations on my visit to the site, the window on the set back area does not appear to serve a habitable room. The appellant has also provided reference to approved plans for 10 Nelmes Road to demonstrate that the area served by the window is not a habitable room. Thus, there is no point of outlook from a habitable room where the a/c condenser units would appear intrusive and overbearing.
9. I therefore find that the proposal would not be detrimental to the living conditions of occupants of 10 Nelmes Road with regard to outlook. Consequently, I find no conflict with the objectives of Policy 7 of the LP. This, amongst other matters, seeks to ensure that developments do not result in unacceptable loss of outlook.

Living conditions - noise and vibration

10. In support of the appeal, the appellant has submitted Technical Data for the Daikin model of a/c units. Sound data including Sound Pressure Spectrum which is within chapter 9. They have also submitted a Noise Impact Assessment (NIA)¹ report which found that the condenser units have a rating level of 10 decibels (dB) above the daytime average background level and 15dB above the night-time average background level for neighbouring receivers. The assessment identifies that a difference of around +10dB or more is likely to be an indication of a significant adverse impact, depending on the context. As the predicted noise levels are above the target noise criteria, the assessment proposes a number of mitigation measures to bring the noise levels to within the target range. This includes relocating the units to the middle area of the side alley space and to ground level. Based on the implementation of the identified mitigation, a further prediction assessment was made in accordance with BS4142:2014 which shows rating levels for the a/c units can achieve -7dB below the daytime average background level and -2dB below the night-time average background level for neighbouring receivers. At these levels there would not be an adverse impact or a significant adverse impact.

¹ Noise Impact Assessment Report: 4874-R1 – Clover Acoustics

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11. However, while the appeal proposal relocates the two front units, placing all the units in the middle area, the submitted drawings show that the units would still be at the same level and not at ground level as the mitigation recommends and upon which the predicted noise levels in the report are based. Thus, the proposal before me does not reflect the suggested mitigation. Furthermore, the caveat below the suggested mitigation in chapter 8 of the NIA report states that the recommendation has only been considered from an acoustic perspective without consideration of other requirements such as ventilation and overheating of the units. This casts doubt on whether the mitigation can be implemented and does not provide the necessary certainty that there would not be unacceptable harm to living conditions from noise.
 12. Subsequent correspondence from Clover Acoustics² does not appear to be predicated on the ground level placing of the units, however there is no substantive evidence to suggest why this previous mitigation requirement may not be necessary. The letter concludes that the proposed mitigation scheme in 'the report' would show a prediction assessment in line with BS4142 with a rating below the existing background could be achieved.
 13. I therefore find that I am unable to conclude that the proposal would not cause harm to the living conditions of occupants of 10 Nelmes Road with regard to noise. Consequently, I find there is conflict with Policy 7 of the LP. This, amongst other matters seeks to ensure that developments do not result in unacceptable levels of noise, vibration and disturbance.
 14. The Council has referred to Policy 34 of the LP in their reason for refusal. However, this policy relates to air quality and control of emissions. As such, it does not apply in this instance.

Conclusion and Recommendation

15. I have found that the proposal would not result in harm to the character and appearance of the surrounding area, nor would it be detrimental to the living conditions of occupants of 10 Nelmes Road with regard to outlook. However, I am unable to conclude that the proposal would not cause harm to the living conditions of the occupants of 10 Nelmes Road with regard to noise. For this reason, the appeal should be dismissed.
16. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

I Chukwujekwu

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

A M Nilsson

INSPECTOR

² 4874-L1: External Condensing Units Noise Assessment – Noise Assessment Review