



Appeal Decision

Site visit made on 24 September 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2024

Appeal Ref: APP/E3715/W/24/3346175

16 Cypress Road, Rugby, Warwickshire CV21 1SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Robbie Lesbirel against the decision of Rugby Borough Council.
 - The application Ref R23/1126 was approved on 29 May 2024 and planning permission was granted subject to conditions.
 - The development permitted is an air source heat pump to western side of dwelling.
 - The condition in dispute is No 3 which states that:
Prior to installation of air source heat pumps (ASHP's) it shall be demonstrated that the noise from such plant will not adversely affect residential amenity in the area. Prior to installation, a scheme of works shall be submitted to and approved by the Local Planning Authority and any mitigation kept for the operation of the ASHP. Reference shall be had to BS4142:2014+A1:2019 due to the nature of the equipment.
 - The reason given for the condition is:
In the interests of residential amenity and to ensure the details are acceptable to the Local Planning Authority.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal form did not explicitly indicate which condition was the subject of the appeal. However, from the documentation provided I have concluded that the condition in question is No 3.

Main Issue

3. The main issue is whether the condition is reasonable and necessary in the interests of the living conditions of neighbouring properties.

Reasons

4. Class G of Part 14 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) grants deemed planning permission, commonly known as 'permitted development', for Air Source Heat Pumps (ASHP) on domestic premises. A condition of this deemed permission is that such ASHP comply with the MCS Planning Standards in terms of noise emissions.
5. The ASHP proposed in this instance does not accord with these standards and for this reason at least, requires express planning permission. It does not follow that simply because the ASHP requires such permission that it will cause

noise intrusion or be unacceptable. Indeed, the Council agreed with this assessment and approved the scheme.

6. However, ASHP have the potential to generate noise and it is not clear to me, from the evidence provided, what the noise generation from the proposed ASHP would be. Nor is it clear what the effects of such noise would be when appreciated at neighbouring residential properties.
7. The appellant has noted that the noise exposure falls outside of the permitted development limit by only 0.1dB. However, decibels are a logarithmic scale such that this comparison is not a definitive assessment. Moreover, noise can be appreciated in different manners and can be subject to surrounding environmental conditions. This means that there can be substantial variation in day-to-day practice for the operation of an ASHP or similar equipment in differing positions and contexts.
8. Accordingly, the Council required additional detail to ensure that the operation of the ASHP could not be operated in a manner that could cause harm to the living conditions of neighbours through excessive noise exposure. I have no reason to disagree with this precautionary approach and therefore must conclude that the condition imposed was reasonable and necessary and meets the tests of paragraph 56 of the National Planning Policy Framework (the Framework) and related Planning Practice Guidance.
9. I appreciate the additional financial cost that this may incur in installation as equally as I acknowledge the environmental benefits that are associated with an ASHP as opposed to a traditional gas boiler. Nevertheless, these matters must be weighed against the potential disbenefits from excess noise exposure. In the absence of a condition, such as that imposed by the Council, an ASHP could be operated without any restriction on noise emissions that could potentially cause serious detriment to neighbours living conditions.
10. I therefore conclude that condition 3 of planning permission R23/1126 is reasonable and necessary and is in the interests of the living conditions of neighbours.

Conclusion

11. For the reasons given above, the appeal should be dismissed.

Nick Bowden

INSPECTOR