



Appeal Decision

Site visit made on 1 October 2024

by A Caines BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/J1535/W/24/3337934

16 Eleven Acre Rise, Loughton IG10 1AN

- 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 Declan O'Driscoll against the decision of Epping Forest District Council.
 - The application Ref is EPF/1852/23.
 - The development proposed is installation of air conditioning condenser units to the pair of new houses.
-

Decision

1. The appeal is dismissed insofar as it relates to the air conditioning condenser units on 'House A'.
2. The appeal is allowed and planning permission is granted insofar as it relates to the air conditioning condenser units on 'House B' at 16 Eleven Acre Rise, Loughton IG10 1AN, in accordance with the terms of the application Ref EPF/1852/23, so far as relevant to that part of the development hereby permitted and the plans submitted with it: Site Location Plan; House B Plans & Elevations 3 Rev C.

Applications for costs

3. An application for costs was made by the appellant against the Council. This is the subject of a separate decision.

Procedural Matters

4. The development subject to this appeal has already taken place so I am considering the proposal retrospectively.
5. There are two recently constructed houses at the site, identified on the drawings as 'House A' and 'House B'. A number of air conditioning condenser units (AC units) have been installed at both houses, but it is only the units on the west elevation of 'House A' that have drawn objection from the Council. I have no reason to find the uncontested AC units at 'House B' unacceptable, and as they are clearly severable from those at 'House A', a split decision can be made in this instance.
6. I am also dealing with another appeal¹ at the site. Each appeal has been considered on its own merits and forms the subject of a separate decision.

¹ APP/J1535/W/24/3337933

Main Issues

7. The main issues are the effect of the AC units at 'House A' on: i) the living conditions of the occupiers of 17 Eleven Acre Rise with particular regard to noise; and ii) the character and appearance of the area.

Reasons

Living conditions

8. Two AC units have been installed on the west elevation of 'House A', close to some window openings and the garden of 17 Eleven Acre Rise. Although there is a solid fence along the boundary, the difference in ground levels means that the top of the AC units are roughly level with the top of the fence.
9. An Environmental Noise Report (June 2023) has been provided which predicts that the AC units will likely be audible above background noise levels for both day and night time, but suggests that a further 10dB reduction can be provided through acoustic enclosures or louvred screens which will enable the plant to operate at or below the typical background noise levels, although no details are provided.
10. I acknowledge that the Council's Environmental Health Noise Team raised no objection subject to the recommendations of the noise report being conditioned. However, without the precise details of the attenuation measures that would be needed, it is not possible to assess whether or not this would adequately mitigate any unacceptable noise generated by the AC units, including in respect of being able to comply with any maximum noise level restrictions that could be set. Nor is it clear whether the installation of such measures would even be feasible given how close one of the units is to the window above it, or what the visual impact would be. It would not be appropriate to leave consideration of such matters to planning conditions as they are fundamental to the acceptability of the proposal. I also have concerns over the screening barrier effect that has been attributed to the boundary fence given the relative ground levels.
11. Therefore, based on the evidence before me, it has not been sufficiently demonstrated that the AC units on the west elevation of 'House A' would not unacceptably harm the living conditions of the neighbouring occupants at 17 Eleven Acre Rise with regard to noise. As such, there is conflict with Policy DM9 of the Epping Forest District Local Plan (2023) (the LP) where it requires development proposals to take account of the amenity of neighbours by addressing issues of noise. It is also contrary to the National Planning Policy Framework (the Framework) in respect of achieving a high standard of amenity for existing and future users.

Character and appearance

12. In their current form, the AC units at 'House A' are not visually prominent or intrusive in design terms. However, there is uncertainty over the size and appearance of the noise attenuation measures that are needed on the west elevation. Without such details before me I simply do not have all of the necessary information to fully assess the visual impact of the end proposal.
13. Therefore, based on the evidence before me, it has not been sufficiently demonstrated that the AC units at 'House A' would not harm the character and

appearance of the area. In this regard, there is conflict with the design expectations of LP Policy DM9 and the Framework.

Other Matters

14. Planning permission was recommended to be granted by Council planning officers and due consideration has been given to the contents of their report. However, I concur with the Council's ultimate decision for the reasons set out above.
15. Matters relating to the retrospective nature of the development and planning history of the site are not for me to address and have not influenced my assessment of the planning merits of the scheme.

Conditions

16. In respect of the allowed elements, I have specified the approved plans in the formal decision. No further conditions are necessary as the development is already in place and has not been identified as problematic in its current form.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed in relation to 'House B', but should be dismissed in relation to 'House A'.

A Caines

INSPECTOR