



Appeal Decision

Site visit made on 11 November 2024

by A Hartley, LLB(Hons), Solicitor, MBA

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Appeal Ref: APP/F2605/D/24/3351492
7 Coltsfoot Way, Thetford, Norfolk IP24 2WX

- 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 Beverley Uter against the decision of Breckland Council.
 - The application Ref is 3PL/2024/0134/HOU.
 - The development is for two air conditioning units positioned on the west elevation of the property both at ground level. Secured to property wall.
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Decision

1. The appeal is dismissed.

Preliminary Issues

2. At the site visit I noted that two air conditioning units were in situ.
3. The description of development has been taken from the appeal form as it more accurately describes the proposal than the description on the application form.

Main Issue

4. The effect of the proposal on the living conditions of the neighbouring occupiers at 90 Mallow Road in relation to noise.

Reasons

5. The appeal property is a modern two storey brick built detached house on a large housing estate.
6. The development would introduce two air conditioning units on the western side elevation of the appeal property, approximately 0.77 metre from the boundary fence. At the site visit I observed that the well established rear garden patio of 90 Mallow Road is directly behind the fence and that the existing two air conditioning units emitted noise when on cooling mode.
7. Due to the proximity of the appeal development to the garden patio at 90 Mallow Road it is necessary to properly assess the level of noise from the air conditioning units to ensure that the development does not unacceptably impact on the living conditions of those occupiers.

8. There is some anecdotal evidence before me that the noise levels from the existing air conditioning units are likely to be acceptable, that their use has improved the living conditions of the occupiers of the appeal property by cooling the dwelling and that they cannot be sited elsewhere. I have attached some limited weight to this evidence.
9. There is also anecdotal evidence that the existing air conditioning units negatively impact on the living conditions of the neighbouring occupiers of 90 Mallow Road, by way of unacceptable noise levels, particularly when using their garden patio. I have attached some limited weight to this evidence.
10. The Environmental Health expert has advised that the position of the appeal development does not conform to industry standards as the units would be sited within one metre of the boundary. Unless re-sited at least one metre from the boundary or evidenced by way of noise assessment that the noise levels would not unacceptably impact the living conditions of the neighbours at 90 Mallow Road, the expert is unable to support their approval. I have attached significant weight to the expert evidence in this case.
11. I have considered the benefits to the occupiers of the appeal property and in particular the reference to improving health. However, I must also have regard to any impact on the existing living conditions of the neighbours at 90 Mallow Road. As the appeal development would be sited less than one metre from the boundary, I conclude that in the absence of any technical noise evidence to demonstrate otherwise, it would have an unacceptable impact on the living conditions of the occupiers of 90 Mallow Road, particularly when using their garden patio, due to noise.
12. I therefore find that the appeal proposal conflicts with policy COM03 of the Breckland Local Plan (2023) because it fails to protect the residential amenity of the occupiers of 90 Mallow Road when using their garden due to unacceptable noise.
13. It is also at odds with paragraph 191 of the National Planning Policy Framework (the Framework), as it fails to mitigate and reduce to a minimum the potential adverse impacts of noise pollution on health and living conditions, having regard to the location of the new development.

Conclusion

14. For the above reasons the proposal conflicts with the development plan taken as a whole and with the provisions of the Framework. There are no material considerations that would justify a decision other than one in accordance with the development plan. Accordingly, the appeal should be dismissed.

A Hartley

INSPECTOR