
Appeal Decision



The Planning Inspectorate

Site visit made on 26 November 2024

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2024

Appeal Ref: APP/H1840/D/24/3351587

10 Vallenders Road, Bredon, Worcestershire GL20 7HL

- 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 Nicholas Bradley against the decision of Wychavon District Council.
 - The application Ref is W/24/00105/HP.
 - The development proposed is an air conditioner which is installed to the garden building.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. According to the Council's Planning Refusal Notice the application decision was based on Drawing Nos.300: Plans and 301: Elevations. The appellant submitted other plans with the application indicating potential forms of mitigation, however these were marked as "Draft for Discussion Purposes Only." I must determine the appeal based on the plans which were refused by the Council. To do otherwise could be prejudicial to the Council and any interested third parties who would otherwise not have been consulted.

Main Issue

3. The main issue is the effect of the air conditioner on the living conditions of the occupants of 8 Vallenders Road in respect of noise and disturbance.

Reasons

4. The air conditioner was installed prior to the application to the Council. It is visible above the boundary fence of 10 Vallenders Road when viewed from the rear garden of 8 Vallenders Road. The conditioner is situated within one metre of the boundary fence and next to an outbuilding in the appellant's garden.
5. The appellant has submitted noise impact assessments which indicate that the overall sound power level of the air conditioning unit, as outlined by the manufacturer data, would be 60dB(A). I am advised by the appellant that assessment points have been taken and measured from windows of at 8 Vallenders Road. Worcestershire Regulatory Services (WRS) advised that based on the quoted distance to the nearest neighbouring habitable room window, the

conditioner appeared to be compliant with the MCS 020 Standard (MCS 020: Planning Standard for Permitted Development Installations of Air Source Heat Pumps) of less than 42dB(A). However, it added that the MCS standard does not cover noise in external amenity areas and, given the location of the external plant in relation to the neighbouring garden area it considered that noise from the external plant was likely to adversely impact the neighbouring occupant(s). Therefore, the service recommend that the air conditioner should be relocated. In this regard the measurements stipulated in MCS 020 are to property windows rather than intervening garden space.

6. The air conditioning unit is located close to the boundary with 8 Vallenders Road and its rear garden. It has no significant screening and hence any noise that it generates would normally be heard at a maximum in the garden when next to the unit and diminishing to the calculated noise levels at the assessment points at 8 Vallenders Road. The appellant has referred to background noise levels and the sources of noise, including the M5 and Birmingham to Bristol railway line, but no actual measurements of the background noise within the rear garden of 8 Vallenders Road have been submitted.
7. The appellant refers to the World Health Organisation Guidelines for Community Noise in Outdoor Living Areas (1999). However, whilst it proposed a guideline noise limit of 55 dBL no evidence has been submitted to confirm that it is a specific limit that is applicable for residential gardens. The appellant indicates that the unit would only be operated in the afternoons of the hotter days in the hotter months of July and August. However, those months are also periods when local residents would be likely to make most use of their gardens.
8. I acknowledge that the appellant has attempted to establish what forms of noise mitigation would be acceptable to the Council, but without any agreed details and in the context of the WRS recommendation that, despite the submitted assessment, the conditioner should be relocated.
9. There are no formally submitted plans for noise mitigation or relocating the air conditioner as part of the application. Therefore, in these circumstances I cannot conclude that there would be no harm to the living conditions of the occupants of 8 Vallenders Road in respect of noise and disturbance when using their rear garden amenity area.
10. The Council considers that the development conflicts with South Worcestershire Development Plan policy SWDP 21. However, the policy relates mainly to design, whilst also seeking to ensure that development integrates effectively with its surroundings, in terms of form and function.
11. I find that the air conditioner would fail to comply with policy SWDP 31 of the South Worcestershire Development Plan which indicates that development proposals must be designed in order to avoid any significant adverse impacts from pollution on human wellbeing, including noise. It would also fail to comply with the objective in the National Planning Policy Framework of mitigating and reducing to a minimum potential adverse impacts resulting from noise from new development.

Other Matters

12. The appellant has indicated that he is not happy with the way in which the Council has dealt with pre-application advice and the determination of the application. However, these are not matters which are relevant to my determination of this appeal. Neighbours have queried whether the garden building next to the air conditioner requires planning permission. Nevertheless, that is a matter for the Council to determine and not a consideration for me in this appeal.
13. The appellant has also referred to application ref: 21/01347/HP which also concerned noise from an air conditioner. However, the circumstances of that proposal were different, including the submission of a plan which was approved and which included a solid screen to the side of the conditioner for noise mitigation.

Conclusion

14. I find that the development conflicts with the development plan as a whole and there are no material considerations to indicate that the development should be permitted despite the policy conflict.
15. For the reasons given above the appeal should be dismissed.

Martin H Seddon

INSPECTOR