



Appeal Decision

Site visit made on 30 January 2025

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 5 February 2025

Appeal Ref: APP/C4235/C/24/3347989

Land at The Birches, 38B Grange Road, Bramhall, STOCKPORT, SK7 3BD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Bradley Scott against an enforcement notice issued by Stockport Metropolitan Borough Council.
 - The notice was issued on 21 June 2024.
 - The breach of planning control as alleged in the notice is Without the benefit of planning permission the installation of an air conditioning unit to the side elevation of the property.
 - The requirements of the notice are to:
 - Remove the external air conditioning unit from the side/gable elevation of the property.
 - Remove any cabling, fixing brackets and pipework from the gable elevation of the building.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal on ground (c)

2. The ground of appeal is that the matters alleged in the Notice do not constitute a breach of planning control. On this legal ground of appeal, the onus of proof is on the appellant to make out his case and the test is on the balance of probabilities.
3. The appellant purchased his Midea Split Type Air Conditioning Unit (DC Inverter) on the understanding from his supplier that it would not require the benefit of planning permission. The information he was given was that the unit would be permitted development provided the external unit is: not installed on a pitched roof; there was no wind turbine at the property; the unit would not be within a metre of the edges of a flat roof nor within one metre of the property boundary, and provided the external compressor unit does not exceed 0.63m in size.
4. Class G, Part 14, Schedule 2 of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order, 2015, as amended (GPDO) provides for the installation or alteration or replacement of a microgeneration air source heat pump on domestic premises, including on a dwellinghouse or within the curtilage of a dwellinghouse, subject to limitations at G.1 and G.2. and to Conditions set out at G.3.
5. It is the Council's view that the air conditioning unit installed is not a microgeneration heat pump and does not therefore benefit from the permitted development provisions set out in Class G of the GPDO. Part 14 defines the term 'microgeneration' by reference to section 82(6) of the Energy Act 2004.

6. The appellant has not provided any substantive evidence that would confirm that the unit installed is a 'microgeneration' air source heat pump, as defined by Section 82(b) of the Energy Act 2004. Whilst I do not dispute the unit installed is a form of heat pump, it is clear from the evidence submitted that it is an air conditioning unit which cools the air as well as heats it. Microgeneration means for the purposes of the GPDO the use of any plant for the generation of electricity or the production of heat. Furthermore, Class G, Part 14 of Schedule 2 sets out conditions which apply to that Class. It states at G.3 that development is permitted by Class G subject to several conditions, including G.3 (a) which requires the air source heat pump to be used solely for heating purposes.
7. The air conditioning unit installed, which is the subject of this appeal, cools air as well as heats it. It thus conflicts with Condition G.3 (a) of Class G, Part 14. Development has taken place for which no planning permission was granted by the local planning authority. The building operation is not permitted development under any provision of the Town and Country Planning (General Permitted Development Order) (England), 2015. A breach of planning control has occurred, and the appeal on ground (c) must therefore fail.

Other Matters

8. The appellant advises that other similar units have been installed on other domestic properties in the locality, however, no specific details have been provided. My decision relates solely to the development undertaken at the appeal property, and having regard to the details submitted as part of the appeal process.
9. I recognise that the appellant would be willing to move the unit to the rear of the property and has offered to cover the unit to minimise its visual impact. However, in the absence of an appeal on ground (a), general planning considerations cannot be considered in this appeal, and it is not therefore open to me to grant permission for the unauthorised development or impose conditions in relation to it.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Elizabeth Pleasant

INSPECTOR