



Appeal Decision

Site visit made on 6th February 2025

by **Jonathan Price BA(Hons) DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/Z1510/D/24/3352345

35 Broomfield Way, Braintree, Essex CM7 2DA

- 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 Scott Maxam against the decision of Braintree District Council.
 - The application Ref is 24/01513/HH.
 - The development is a retrospective application for the installation of an air conditioner condenser unit to side wall of the house to supply cooled air to both the family room and main bedroom.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The proposal relates to a detached house on a relatively new residential estate in Braintree. The air conditioner condenser unit is in place, having been installed in May 2024. It is located on the side wall facing the boundary with the next-door detached house at No 37.
3. The appellant had been advised by the supplier that the condenser unit did not require planning permission. However, once in place and operational, it was the subject of complaints from the neighbour at No. 37, due to visual and noise impacts. The Council investigated the matter and determined planning permission was required. I note that Schedule 2 Part 14 Class G of the Permitted Development Order¹ (GPDO) permits an air source heat pump used solely for heat purposes, seemingly excluding what has been installed in this instance. In any event, the appellant cooperated with the Council through submission of an application for retrospective planning permission. This appeal arises from the subsequent refusal of the Council to grant this, principally on advice from the Environmental Health Officer. This was over the lack of sufficient acoustic information to assess the effects of the unit on the living conditions of neighbouring occupiers.
4. The main issue in this appeal is whether further acoustic information is reasonably necessary to ensure the condenser unit would not have an unacceptable effect on the living conditions of neighbouring occupiers, with particular regard to those at No. 37 and in respect of noise.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015.

Reasons

5. Policy SP7 of the Braintree District Local Plan 2013-2033 (LP) requires new development to protect the amenity of existing residents with regards to issues that include noise. LP Policy LPP 70 seeks to prevent development which, despite mitigation, would result in unacceptable noise impacts.
6. Paragraph 198 of the National Planning Policy Framework requires that planning decisions mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and quality of life.
7. The appellant contends that the noise from this domestic condenser unit is minimal and can only be heard in very close proximity. However, noise is a subjective experience. The Council's delegated report provides a considered account of the noise issues in this case, with which I generally concur. Its author considers there is a degree of noise pollution experienced in proximity to the unit. It is noted that the manufacturer's published sound levels derive from a standard test environment. I agree that these need to be assessed in a locational context, possibly considering matters such as background noise levels, the characteristics of the surrounding built environment, the nature of the sound produced, the duration and times of operation and the need for and efficacy of any mitigation. In my opinion, it is for the Council to advise further over this, making the noise assessment requirements proportionate to the scale of impact resulting from this domestic installation.
8. The Council relies on its Environmental Health advice, which is the appropriate source of expertise over noise. On the basis of the evidence before me, I consider further acoustic information is reasonably necessary to ensure the condenser unit would not have an unacceptable effect on the living conditions of the neighbouring occupiers at No. 37.

Other Matters

9. The appellant's criticism of the Council's missed deadline and late notification of its decision is noted. I also recognise that the appellant had cooperated with the Council during the application period, including over provision of sound specifications for the condenser unit. The requirement for a noise impact assessment had not been raised during this application stage, arising for the first time in the refusal of planning permission. Furthermore, the Council's planning validation requirements for householder applications indicate that, for such condenser units, manufacturer's details of sound power levels and sound pressure levels would provide adequate information upon which to assess noise. I have considered all this, but it does not change my view over the need for a noise report in this case.
10. The appellant has explained the Council's changing position over the interpretation of permitted development rights since it began investigations. However, a conclusion over permitted development rights falls outside the scope of this appeal, which is against the refusal of planning permission.
11. I also note the photographs of air conditioning units elsewhere, and that the Council in such instances is apparently not seeking retrospective planning permission or taking enforcement action. I understand that enforcement action is a discretionary matter for the Council to decide upon on a case-by-case basis. I not aware of the

full circumstances in respect of these other installations and therefore must deal with this appeal on its own, individual merits.

12. The near neighbours at Nos. 27 and 33 wrote in response to the application confirming neither objected. However, I do not consider this necessarily reduces the weight given to the concerns raised from No 37, given it is the boundary with that next-door house that the condenser unit is the closest.
13. The Council found that the visual impacts of the condenser unit were insufficient to cause material harm to the living conditions at No. 37, and I have no reason to disagree with this. However, this does not lessen the need to require the information reasonably necessary to assess its noise implications. The occupier at No. 37 has not written further in respect of this appeal. However, with nothing before me to the contrary, I must assume the concerns raised at the application stage still stand.

Conclusion

14. For the reasons discussed, and having taken all other matters raised into account, I conclude that the appeal be dismissed.

Jonathan Price

INSPECTOR