



Appeal Decision

Site visit made on 18 February 2025

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/U2750/W/24/3357280

3 Byland Grove, Harrogate, North Yorkshire HG1 4EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Peter Dobbins against the decision of North Yorkshire Council.
 - The application reference ZC24/02111/FUL was approved on 20 August 2024 and planning permission was granted subject to conditions.
 - The development permitted is installation of an air source heat pump to be installed at the rear of property.
 - The condition in dispute is No 3 which states that: The Air Source Heat Pump shall be selected so that it does not affect the residents of adjacent dwellings and should be effectively controlled so that the rating level of such equipment does not exceed the background sound level at any time ("rating level" and "background sound level" are as defined in BS4142:2014+A1 2019). Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.
 - The reason given for the condition is: In the interests of amenity.
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Decision

1. The appeal is allowed and planning permission reference ZC24/02111/FUL for the installation of an air source heat pump to be installed at the rear of property at 3 Byland Grove, Harrogate, North Yorkshire, HG1 4EU granted on 20 August 2024 by North Yorkshire Council, is varied by deleting condition 3 and substituting it with the following condition:

The air source heat pump hereby permitted shall be installed and operated such that the level of noise emitted from the air source heat pump does not exceed 42dB LAeq at any time, as measured on the boundary of the appeal site shared with 1 Byland Grove. Details of any mitigation measures required to meet this noise level shall be submitted to and approved in writing by the local planning authority prior to their installation. The approved mitigation measures shall be installed prior to the first operation of the air source heat pump hereby permitted and shall be retained thereafter for the lifetime of the development.

Preliminary Matters

2. The condition in dispute appears to have been imposed to address two consultation responses from the Council's environmental health officer. However, the appellant states that the condition was inadvertently included on the permission. This view is based on an email they received from a Council officer¹.

¹ dated 11 December 2024

3. Nonetheless, section 79(1) of the Town and Country Planning Act 1990 (as amended) prescribes that on an appeal under Section 78, the Secretary of State may (a) allow or dismiss the appeal, or (b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to them in the first instance. Consequently, I have the authority to reverse the original decision (i.e. to refuse planning permission), or to amend or delete existing conditions and/or to impose new ones.

Background and Main Issue

4. The Town and Country Planning (General Permitted Development) (England) Order 2015, (as amended) (the GPDO) under Schedule 2, Part 14 Class G sets out that the installation, alteration, or replacement of a microgeneration air source heat pump on a dwelling is permitted development, subject to certain criteria. Class G.1 of the GPDO sets out that such development is not permitted by Class G unless the air source heat pump complies with the MCS Planning Standards or equivalent standards.
5. The noise calculation for the heat pump is 46dB(A) at the assessment position which appears to me as a first-floor bedroom window. This is higher than the maximum threshold of 42dB(A), to be MCS compliant. The requirements of Class G.1 of the GPDO would not be met and hence, planning permission was sought for the air source heat pump. Planning permission was granted for the development as described in the banner heading in August 2024. The permission includes three conditions. The appellant disputes condition 3 as they consider it to be unnecessary.
6. The main issue is therefore whether condition 3 is reasonable and necessary in the interests of the living conditions of residents of 1 Byland Grove with regard to noise.

Reasons

7. The appeal site is a house on a cul de sac within a mainly residential area. The air source heat pump is to be located to the rear of the house around two metres from the boundary with the adjoining property at 1 Byland Grove.
8. The condition in dispute requires that noise from the air source heat pump does not exceed background noise levels, with background noise levels being as defined in BS4142:2014+A1 2019. The condition implies that an assessment will be needed to establish background noise levels in accordance with BS4142:2014+A1 2019. This is different to the MCS Planning Standards which assumes a background noise level of 40dB(A).
9. The actual background noise levels calculated using the methodology in BS4142:2014+A1 2019, as required by the disputed condition, are not in evidence. It cannot therefore be identified whether actual background noise levels are greater or less than the assumed level in the MCS Planning Standards.
10. As noted above, the noise calculation for the air source heat pump is 46dB(A) at the assessment position. This is 6dB above the assumed background noise level in the MCS Planning Standards. In general, background noise levels exceeded by more than 5dB may cause disturbance at noise sensitive receptors. The air source

heat pump can operate during the day and at night-time. I am mindful that the assessment position that would experience the 46dB(A) is likely to be a bedroom window where there would be a reasonable expectation of quieter conditions during the night-time period, especially given the predominantly residential character of the area.

11. Given this context, in my view it would be reasonable and necessary to impose some means of control to ensure that the air source heat pump would not result in undue noise disturbance to residents of 1 Byland Grove.
12. Under Schedule 2, Part 14 Class G of the GPDO an air source heat pump with a noise level 4dB(A) less than that proposed at the assessment position would be permitted development. In view of this realistic fallback position, it would be reasonable to assume a noise level of 42dB(A) would be acceptable in respect of the living conditions of residents of the neighbouring house. This would be the case even if an assessment using the methodology in BS4142:2014+A1 2019 were to be carried out and this found that background noise levels are below 40dB(A). On this basis, an assessment to establish the existing background noise levels using BS4142:2014+A1 2019 would not be necessary.
13. I appreciate that an air source heat pump with a noise level of 42dB(A) would benefit from permitted development rights, subject to meeting the other relevant criteria, and so there would be no requirement to apply for planning permission. However, cases such as the appeal proposal, where express planning permission is required, allows for a consideration of noise generation to ensure that the operation of the air source heat pump would not harm the living conditions of neighbouring residents through excessive noise exposure. In some cases, this will mean that mitigation is required to avoid unacceptable noise intrusion.
14. Having regard to the above, subject to an alternative condition specifying 42dB(A) as the noise level and requiring, if necessary, appropriate noise mitigation measures to be approved and installed, I conclude that the development would not have a harmful effect on the living conditions of residents of 1 Byland Grove with regard to noise. Consequently, the appeal proposal would accord with the residential amenity requirements of Policy HP4 of the 2020 adopted Harrogate District Local Plan 2014 – 2035.

Conditions

15. In addition to substituting the disputed condition, it is necessary to retain conditions 1 and 2 of the permission for certainty.

Conclusion

16. For the reasons given above, I conclude that the appeal should succeed, and that the planning permission is varied by deleting the disputed condition No 3 and replacing it with an alternative condition.

F Wilkinson

INSPECTOR