



Appeal Decision

Site visit made on 21 March 2025

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 4th April 2025

Appeal Ref: APP/X2410/W/24/3350193

65 Edward Street, Anstey, Leicestershire LE7 7DR

- 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 Robert James against the decision of Charnwood Borough Council.
 - The application Ref P/24/1035/2 was approved on 15 August 2024 and planning permission was granted subject to conditions.
 - The development permitted is the installation of an air source heat pump to side elevation of property.
 - The condition in dispute is No 4 which states that: Prior to the installation of any air source heat pump, a noise assessment shall be submitted for the approval of the Local Planning Authority. The noise assessment shall be in accordance with the current version of British Standard 4142 (BS 4142:2014 +A1:2019 Methods for rating and assessing industrial and commercial sound) or the alternative approach set out in Briefing Note "Heat Pumps Professional Advice Note" Institute of Acoustics/Chartered Institute of Environmental Health. The assessment shall provide full details of the proposed unit, details of anti-vibration mounts and other noise control measures necessary to eliminate potential detriment to nearby residential properties. Agreed noise control measures shall be implemented as approved and thereafter maintained as such.
 - The reason given for the condition is: In the interests on residential amenity of neighbouring properties in relation to noise.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the condition is necessary to ensure that the proposed development does not harm the living conditions of the occupants of 63 Edward Street.

Reasons

3. The appeal property is a detached dwelling in an established residential area. The air source heat pump (ASHP) would be attached to the side elevation of the appeal property which is located near to the common boundary with 63 Edward Street (No 63). I observed that this neighbouring property has its front door and windows serving habitable rooms that face towards the appeal property.

4. The appellant sets out that their installer has indicated that all of their installations are MCS compliant. If that was the case and certain other criteria were met, which I am satisfied that they are, then planning permission would not be required. That is because under Schedule 2, Part 14, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) which deals with the installation, alteration or replacement of a microgeneration air source heat pump, the proposed ASHP would be considered to be permitted development. That would be a legitimate fallback position to which I would accord substantial weight.
5. However, to comply with the MCS planning standards under the GPDO the noise level would need to be no higher than 42dB(A). This is explained clearly on the MCS accredited calculation report submitted by the appellant where the installer undertook a noise appraisal. However, the appraisal was marked as a fail because the noise level was indicated to be 45dB(A). To my mind if the proposed ASHP had met the MCS's planning standards as required under the GPDO that would have provided adequate comfort that the living conditions of the neighbouring residents at No 63 would have been sufficiently protected. If that had been the case, there would have been no need for any further noise assessment and the condition would have been unnecessary.
6. However, given that the appraisal failed to meet the 42dB(A) benchmark, it is entirely reasonable for the Council to impose a condition to require the appellant to submit a noise assessment in order to ensure that noise control measures are implemented so that the ASHP would not result in unacceptable harm to the living conditions of the occupants of No 63.
7. I have taken account of the fact that the appellant sets out that the ASHP would only generate 45dB(A) when run on full capacity and that would only occur a few days per year. However, I am unable to be sufficiently confident that it would only omit this level of noise so infrequently. In any event, even if I accept this would only occur infrequently, this level of noise would still have the potential to have an unacceptable effect on the living conditions of the neighbouring residents. I also accept that the ASHP would provide environmental benefits in comparison to the existing heating system and that there would inevitably be costs involved in undertaking a noise assessment and implementing any necessary mitigation works. However, these matters do not justify harmful development at the appeal site.
8. I therefore conclude that the condition is necessary to ensure that the proposed development does not harm the living conditions of the occupants of 63 Edward Street. Consequently, if the condition was deleted the installation of the ASHP would conflict with Policy CS2 of the Charnwood Local Plan 2011-2028 Core Strategy adopted on 9 November 2015 which among other things seeks to protect the amenity of people who live nearby. It would also be at odds with the National Planning Policy Framework which seeks to ensure that developments create places with a high standard of amenity for existing users.

Conclusion

9. The proposal to remove the relevant condition conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

S Rawle

INSPECTOR