

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JD	21/07/2020
Planning Development Manager authorisation:	AN	21/07/2020
Admin checks / despatch completed	CC	21.07.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	21/07/2020

**Application:** 20/00502/LUEX **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Fran Roddy-Watts - The Renewable Design Company Limited

**Address:** Victoria Gardens Hadleigh Road Frinton On Sea

**Development:** The Renewable Design Company are completing the Renewable Heat Incentive application for this development on behalf of McCarthy and Stone. The development has one air source heat pump at roof level that provides heating to the site that otherwise would have been served by gas boilers.

### 1. Town / Parish Council

Not applicable.

### 2. Consultation Responses

Not applicable.

### 3. Planning History

95/00964/FUL	(St Joseph's Convent of Mercy, 16 Raglan Road, Frinton onSea) Proposed extension to sun lounge and lobby	Approved	08.09.1995
07/01860/OUT	Demolition of the existing convent and the construction of a new building containing 14 apartments, including associated car parking and construction of new access.	Refused	25.04.2008
11/00145/OUT	Demolition of the existing convent and construction of 12 apartments with associated car parking.	Approved	09.08.2011
13/00121/FUL	Redevelopment to provide 14 later living retirement apartments with associated communal facilities, accesses, parking and landscaped grounds.	Refused	07.06.2013
13/00868/DEMCON	Demolition of former St Joseph's Convent building and outbuildings	Determination	11.09.2013

	to clear site of all structures		
13/01035/FUL	Redevelopment to provide 14 later living retirement apartments with associated communal facilities, accesses, parking and landscaped grounds.	Allowed at appeal	17 June 2014
14/00584/DETAIL	Demolition of convent and erection of 12 apartments with associated car parking.	Approved	
14/01168/ADV	Installation of 4 sign board sets.	Refused	08.10.2014
14/01199/DISCON	Discharge of conditions 01 (time limit), 02 (approved plans), 03 (age restriction), 05 (materials), 07 (landscaping), 08 (arboricultural report), 10 (driveways and parking areas), 11 (construction method statement), 13 (ecological management scheme and mitigation plan) and 15 (working hours) of planning application 13/01035/FUL allowed on appeal APP/P1560/A/14/2214702.	Approved	13.10.2014
14/01374/DISCON	Discharge of conditions 06 (hard and soft landscaping) and 09 (screen walls and fences) of planning application 13/01035/FUL allowed on appeal reference APP/P1560/A/14/2214702.	Approved	02.12.2014
14/01691/ADV	Proposed sign boards.	Approved	05.01.2015
14/01872/DISCON	Discharge of condition 4 (existing & proposed site levels), 12 (surface water drainage) and 14 (external lighting) of planning permission 13/01035/FUL allowed under appeal reference APP/P1560/A/14/2214702.		12.02.2015
15/00450/DISCON	Discharge of condition 04 (existing & proposed site levels) of planning permission 13/01035/FUL allowed under appeal reference APP/P1560/A/14/2214702.	Refused	08.05.2015
15/01582/DISCON	Discharge of condition 14 (external lighting illumination scheme) of planning permission 13/01035/FUL allowed under appeal reference APP/P1560/A/14/2214702.	Approved	17.03.2016

#### **4. Relevant Policies / Government Guidance**

## 5. Officer Appraisal

### Site Description

The site is that of a building, providing accommodation for 12 flats, and its grounds. The building is known as Victoria Gardens. The building has a sizeable footprint and part of the roof is flat, hidden behind ridged elements of the overall roof form. A site/roof plan, submitted plan G-3259-100 revision A, shows that a single air source heat pump is set on the flat part of the generally crown type roof.

The site is that of a retirement development of sheltered apartments for the elderly. The building appears to have been occupied relatively recently and a planning application by McCarthy & Stone relates to the site. The site is at a corner of the junction of Hadleigh Road with Raglan Road.

An elevation drawing illustrates that the air source heat pump is hidden from public view and this has been verified by a visit to view the site from adjoining highways, Hadleigh Road and Raglan Road.

### Description of that for which the Certificate is sought

The application seeks the issuing of a Lawful Development Certificate for one air source heat pump at roof level. This is made clear by the response to question 5 on the application form.

The heat pump is understood to be in situ. The response to question 7 indicates that the heat pump has been in place since May 2016.

The response to question 6 of the application form is considered the most relevant to the background of why a Certificate of Lawfulness for an existing building work is being sought. The certificate is sought on 'Other' grounds. The text provided by the applicant giving details of the grounds is reproduced as follows. "*We are applying for the Renewable Heat Incentive for the air source heat pump system that was installed at this site, on behalf of McCarthy and Stone. As part of the application process we need to provide evidence that the system has been granted planning. The only way to obtain formal confirmation as to whether or not the air source heat pump system either has planning permission or would not require planning permission would be to submit an application for a Certificate of Lawful Development.*"

The application documentation includes a site location plan 10-1851-OS; a site/roof plan G-3259-100 revision A; an elevation drawing (the existing northeast elevation, i.e. the view from the complex's car park) G-3259-100 revision A; and, Device Specification, written technical information.

A lawful use certificate is 'a certificate issued by a local planning authority, on application, stating that an existing (LDC 191) or proposed use (LDC 192), or other forms of development, can be considered as lawful for planning purposes.'

### Planning History

The building has planning permission, 13/01035/FUL, granted at appeal, reference APP/P1560/A/14/2214702. Condition 2 of the Inspector's decision letter requires the building to have been built as per specified plans and drawings, including G-3259-100 Rev B (site/roof plan). The site roof plan forming part of the documentation to the application makes no reference to an air source heat pump. Nevertheless, there is no condition to the Inspector's decision letter to prevent an air source heat pump being installed per se.

Details relating to conditions were approved, the most recent being in 2016.

### Assessment

The purpose of this application is to establish whether the air source heat pump system has planning permission or would not require planning permission.

The air source heat pump has been considered as a structure, as something created by building work. Another aspect is that heat pumps generate some noise, a sound, similar to air conditioning units and there is a reference to this - 74 dB (A) - in the table of technical specifications submitted as part of the application documentation.

Although not shown on the approved plan for the roof, the heat pump is a relatively small structure in relation to the scale of the roof. The heat pump unit has a height of 2.3m, a width of 1.9m and a length of 1.0m. In its own right it is a large piece of equipment, a large fixture. Nevertheless, it is considered that its omission from the approved plans does not lead to a conclusion that planning permission is required for it. In proportion to the scale of the roof and mainly due to its invisible position from ground level, the heat pump is considered to be an item of a “de minimus” nature. By way of comparison between the scale of the roof and the building on which the heat pump is set, the flat element of the crown roof is 19m long by 2m wide, widening to a maximum of 7m. The footprint of the building has a maximum length of 50m by a maximum width of 29m. Given the scale of the heat pump in proportion to the scale of the building, it is considered that the heat pump is not “development” as the word is applied in the Planning Act.

Section 55 of the Town and Country Planning Act 1990 provides a definition of “development”. In very simple terms “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. It is accepted that the building work to create the heat pump took place as part of the building work for the three-storey building but in the context of the erection of the building as a whole the heat pump was less than a material element.

In the context of the site and the setting of the site, the heat pump is not “development”.

It is noted that the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 14, Class G states that the installation of a microgeneration air source heat pump on a block of flats is Permitted Development. However, exclusions from this are provided at paragraphs G.1 and G.2 and conditions are set out at G.3.

G.2 (d) states that development is not permitted by Class G if the volume of the air source heat pump’s outdoor compressor unit (including any housing) would exceed 0.6 cubic metres. Based on the dimensions provided in the submitted device information, at 5.1, the unit would have a volume of 4.37 cubic metres.

It seems reasonable to assume that the heat pump was installed concurrently with the erection of the building and that the erection of the building dated to sometime fairly soon after March 2016 (the date the last matter relating to a condition was agreed). The heat pump seems likely to have been in place for more than four years.

Conclusion

The air source heat pump would not require a planning application because in the context of its setting it is “de minimus”. The Lawful Development Certificate for the heat pump can therefore be issued.

**6. Conditions**

1. The evidence submitted with the application is sufficiently clear to demonstrate to the satisfaction of the local planning authority that the air source heat pump is an element of the building at which it is set which when it was installed did not, in itself, constitute development as defined by Section 55 of the Town and Country Planning Act 1990. Accordingly, no planning application was required for the air source heat pump in this instance and the retention of the air source heat pump as described in the application is lawful.

<b>Are there any letters to be sent to applicant / agent with the decision?</b>	<b>YES</b>	<b>NO</b>
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<b>If so please specify:</b>		
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	NO