

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	21 st Jan 2021
Planning Development Manager authorisation:	TF	22/01/2021
Admin checks / despatch completed	DB	22/01/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	22/01/2021

Application: 20/01604/FUL **Town / Parish:** Brightlingsea Town Council

Applicant: Mr and Mrs M Jay

Address: 28 Queen Street Brightlingsea Colchester

Development: Proposed retention of stainless steel flue.

1. Town / Parish Council

Brightlingsea Town Council The stainless steel flue which has been erected is totally unsuitable for a Conservation Area. Brightlingsea Town Council request that it is replaced with a brick built chimney, as per the original application.

2. Consultation Responses

TDC Environmental Protection I have looked at the plan for the proposed chimney and Environmental Protection have no comments to make.

Essex County Council Heritage The application is for proposed retention of stainless steel flue.

This is a retrospective application for a site within the Brightlingsea Conservation Area.

Should this application have been made prior to completion of works, there would have been no objection. There would however have been a recommendation that the flue be more subtle in colour, such as powder coated black. This recommendation would have been to preserve the character and appearance of the Conservation Area.

3. Planning History

16/01185/FUL	Proposed side and rear extension.	Approved	05.10.2016
19/00073/NMA	Non material amendment to planning application 16/01185/FUL - Omission of parapet wall and replacement with conventional guttering.	Approved	11.02.2019
20/01604/FUL	Proposed retention of stainless steel flue.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN17 Conservation Areas

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

SP1 Presumption in Favour of Sustainable Development

PPL8 Conservation Areas

Local Planning Guidance

Essex Design Guide

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26th January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been

appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.

5. Officer Appraisal

Site Description

The application site is a detached late twentieth century dwellinghouse (as is its neighbour to the left); neither hold any particular architectural merit. To the right of the application site is a pair of Victorian cottages which are typical to the wider character of the area and to the right of these a pair of typical 1930's pebble-dash semi-detached.

In 2016, planning permission was granted for side and rear extensions; as part of the approved plans an external chimney breast/stack was shown on the external wall of the lounge to the south elevation. The development which was undertaken in June 2018 was the installation of a stainless-steel flue instead; the flue serves an internal log-burner.

Description of Proposal

The application seeks retrospective planning permission for the flue. The flue is sited approximately 2.8m back from the façade of the dwelling and 1.9m up from ground level; it then extends upwards for approximately 5.3m, ending around 0.6m beneath the ridge line. It projects approximately 0.5m away from the face of the wall.

Principle

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Design & Appearance

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

In considering the proposal in regards to its relationship with the host dwelling; as described above the dwelling is circa 1970 and of very little architectural merit. For this reason the flue is considered to respect the character and appearance of the host dwelling. In regards to the wider streetscene, other properties have highly visible uPVC downpipes and modern satellite dishes (some on the front façade). For these reasons, the flue is not considered to cause material harm to the wider streetscene.

Impact to Neighbouring Amenities

The NPPF, at paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the

development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Being a flue, which would serve a log-burner, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Highway Issues

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The proposal neither increases nor decreases the existing parking provision at the site.

Conservation Area

Heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The character of an area is made up not only by individual buildings but also their relationship to each other and the sense of place that they create. The setting of a building is therefore a material consideration when assessing the suitability of development proposals in Conservation Areas.

Paragraph 192 of the NPPF requires the Local Planning Authority, when determining applications for development, to take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Policy EN17 of the Saved Plan (Development within a Conservation Area) requires that development must preserve or enhance the character or appearance of the Conservation Area. Development will be refused where it would harm the character or appearance of the Conservation Area, including historic plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain, or significant natural or heritage features. Emerging Policy PPL8 reflects this consideration.

Brightlingsea Conservation Area appraisal describes Queen Street as having been a thoroughfare for many centuries, but was chiefly built up in the 19th century. A small group of vernacular cottages survive at a dog leg, now the junction with Spring Street. Much of the rest of Queen Street is comprised of two storey Victorian houses, either individuals, pairs or individual houses butting-up to other houses of different design. Regent Road continues from the top of Queen Street to become a rather pretty Victorian suburb with some good houses and quite a lot of period detail remaining. Spring Road is much more mundane and more varied in date with less intrinsic interest. The small group of vernacular listed buildings forms an effective termination of the Area at this point.

The ECC Heritage Team comment that *"Should this application have been made prior to completion of works, there would have been no objection. There would however have been a recommendation that the flue be more subtle in colour, such as powder coated black. This recommendation would have been to preserve the character and appearance of the Conservation Area."*

On the basis that the dwelling itself is at odds with the character of the Conservation Area as described in the appraisal, being constructed externally in a mass-produced red-brick with and having large expanses of self-coloured render, it is considered that the flue has a neutral impact on this Conservation Area.

6. Contributions

When a decision is made on a planning application, only certain issues are taken into account; these are often referred to as 'material planning considerations'. The weight attached to material considerations in reaching a decision is a matter of judgement for the decision-taker however the decision-taker is required to demonstrate that in reaching that decision that they have considered all relevant matters. . Generally greater weight is attached to issues raised which are supported by evidence rather than solely by assertion.

One letter has been received, the contents of which are summarised here:-

It is not in keeping with the house or the area which it is within.	Addressed under Design & Appearance and Conservation Area section above.
it affects the market value of my property	Loss (or gain) in property value is not a material consideration in the determination of a planning application.
The bracket which it sits on is already rusting which adds to the eye sore.	Noted.
On the original plans this was to be a brick-built chimney which I feel is much more within keeping of the house and area.	The application is being determined on its own merits.
no consideration to us and our property on the erection of this structure	Noted.

Brightingsea Town Council object to the application on the grounds that the stainless steel flue which has been erected is totally unsuitable for a Conservation Area; a response to this is addressed under Design & Appearance and Conservation Area section above. They request that it is replaced with a brick built chimney, as per the original application; in response to this the application is being determined on its own merits.

7. Recommendation

Approval - Full

8. Conditions

1 No conditions.

9. Informatives

Application Approved Without Amendment

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO