

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	08/02/2021
Planning Development Manager authorisation:	AN	08/02/2021
Admin checks / despatch completed	CC	08.02.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	08.02.2021

**Application:** 20/01573/LBC **Town / Parish:** Harwich Town Council

**Applicant:** Mr Andrew Mear

**Address:** Thai Up at The Quay Restaurant 1 Eastgate Street Harwich

**Development:** Proposed 4 flat roof vents, replacement boiler and vertical flue. (Retrospective)

### **1. Town / Parish Council**

Harwich Town Council  
14.01.2021

Harwich Town Council has no objection to this application but would however raise concern over the retrospective nature of this application which relates to a listed building.

### **2. Consultation Responses**

Essex County Council  
Heritage  
04.01.2021

The application is for proposed 4 flat roof vents, replacement boiler and vertical flue. (Retrospective).

The building is listed and located in a Conservation Area.

There is no objection to the four vents or the vertical flue.

Clarification is required regarding the replacement boiler and confirmation that this required no internal alterations for its installation.

### **3. Planning History**

04/01853/FUL	Retrospective application to revert from Antiques Shop to living accommodation	Approved	16.11.2004
07/01192/LBC	Installation of new boiler and flue and repainting of external walls from white to pale pastel.	Withdrawn	17.09.2007
07/01527/LBC	Installation of combi boiler including external condensing flue to rear single storey roof slope.	Approved	16.11.2007
07/01633/FUL	Change of use from residential to A3 (food and drink) on the ground floor with continued use of residential above. Single storey	Approved	18.12.2007

	rear extension and first floor rear extension. Construction of covered bin store in rear courtyard.		
07/01634/LBC	Single storey rear extension and first floor rear extension. Internal alterations including partition walls, refurbishment and mechanical extraction system. Construction of covered bin store in rear courtyard. Installation of external gallows style hanging signs and menu boards.	Approved	18.12.2007
07/01635/ADV	Erection of 2 No. illuminated hanging gallows style signage and 1 No. illuminated menu board.	Approved	02.05.2008
10/01072/FUL	Variation of condition 3 of planning permission 07/01633/FUL to extend opening hours.	Approved	04.11.2010

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

EN22 Extensions or Alterations to a Listed Building

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

PPL9 Listed Buildings

#### **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. In this latter regard, as of 26<sup>th</sup> January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 10<sup>th</sup> 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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> January 2021, at which point it became part of the development

plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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 (including Site Description and Proposal)**

### Site Description

The application site refers to Thai Up at The Quay Restaurant. The application site is located within the settlement boundary of Harwich, is within the Conservation Area and within Flood zone 3. The building itself is Grade II listed.

The listing is as follows:

*House. C18. Timber-framed with rendered brick front and gabled clay plain tile roof with 2 hipped roofed dormers. 2 storeys and attics and raised rendered band between storeys. First floor has 3 double-hung sash windows with small panes. Ground floor has 2 double-hung sash windows with small panes and early C19 open pedimented door-case with consoles and 4-panel door. To the SE of this is a square 'shop' window with small panes and flat hood on thin consoles. INTERIOR: wide inglenook fireplace with timber mantel beam on rear wall.*

### Proposal

The application seeks retrospective Listed Building Consent for 4 flat roof vents, replacement boiler and a vertical flue.

### Assessment

The only consideration as part of this application is the above mentioned amendments on the character, appearance and historic fabric of the listed building.

Paragraph 189 of the National Planning Policy Framework ("the Framework") requires applicants to describe the significance of any heritage assets affected. This requirement is retained by draft Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Paragraph 196 of the Framework adds that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy EN22 of the Saved Plan states that development involving proposals to extend or alter a Listed Building will only be permitted where; it would not result in the damage or loss of features of special architectural or historic interest; and the special character and appearance or setting of the building would be preserved or enhanced. These requirements are carried forward to Policy PPL9 of the Emerging Publication Draft (June 2017) which also requires the use of building materials, finishes and building techniques that respect the listed building and its setting.

The Council's Historic Environment Manager has been consulted on this application and has stated that there is no objection to the four vents or the vertical flue. Clarification is required regarding the replacement boiler and confirmation that this required no internal alterations to the installation. The

applicant confirmed via email that there were no internal alterations needed for the boiler replacement. The Historic Environment Manager was satisfied with the response.

It is therefore considered that the proposed works will not cause any harm to the historic fabric or character of the Listed Building, and the proposal is therefore acceptable against this criteria.

### Other Considerations

Harwich Town Council have no objection to this application and would however raise concern over the retrospective nature of this application which relates to a Listed Building.

One letter of objection has been received stating the following concerns:

- The dates given for the works do not correlate with the observation and experience of a close neighbour.
- The boiler which serves the commercial and domestic parts of the property were replaced and moved.
- The 'Existing Ground Floor Plan', does not represent the current use of the building as a restaurant. The area labelled 'Store Room' is the cooking area of the kitchen. The four flues/vents of the application go through the flat roof directly into this area.
- On the 'Block/Layout Plan Showing Works', there is an additional single storey on the adjoining property beyond what is shown, (see block plan). The context is particularly relevant in this case.
- The square piece of ground (patio), to the left of the enclosed yard on this drawing, is raised up. Again the context is relevant.
- A Schedule of Works & Method statement was requested as part of the application but is missing.

In response to the concerns above, as an application for Listed Building Consent the only consideration for this application is the impact of the development upon the character, appearance and historic fabric of the listed building. A retrospective application has been submitted and the works undertaken have been assessed by the Historic Environment Manager as addressed within the report. An email has been received from the applicant stating that there were no internal alterations to the boiler replacement. A schedule of works and method statement has not been requested by the Historic Environment Manager and therefore does not form part of this Listed Building Consent

## **6. Recommendation**

Approval - Listed Building Consent

## **7. Conditions**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plan:
  - Drawing No. SK03 - proposed first floor plan
  - Proposed Rear Elevation - Scanned 01 Dec 2020
  - 1:50 Block/Layout Plan showing Works - Scanned 14 Dec 2020

Reason - For the avoidance of doubt and in the interests of proper planning.

## 8. Informatives

### Positive and Proactive Statement

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.

### Planning permission

Please note that planning permission is required for the vertical flue as it is part of a commercial premises.

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