

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AP	25/7/2022
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Application: 22/00954/LUPROP **Town / Parish:** Manningtree Town Council

Applicant: Keith and Maria Paxman Vigneau

Address: The Foremans House The Walls Mistley

Development: Proposed removal of RHS chimney stack, removal of existing kitchen window to front and replace with larger window. Replacement side door to a stable style door. Various internal alterations.

1. Town / Parish Council

n/a

2. Consultation Responses

n/a

3. Planning History

96/01496/OUT	() Construction of 27 new detached and linked 2, 3 and 4 bedroom houses with garages and communal parking. Construction of new access and estate road with associated infrastructure	Approved	31.07.1997
97/00984/FUL	() Variation to approval TEN/96/1494, minor internal and external alterations and small extension to The Walls building. Rear extension to the foreman's house, proposed double garage to the front garden to the	Approved	09.12.1997
98/00750/LBC	(The Former Dalgety Maltings, The Walls, Mistley) Alterations to approval TEN/96/1495/LB - Conversion, repair/refurbishment of the Central Maltings, The Walls and Foremans House for residential use	Approved	10.07.1998
22/00281/FUL	Proposed removal of RHS chimney stack. New open porch to rear, with side door to utility to be changed to	Approved	

a window. Rear utility window to be changed to a door. Front kitchen window to be made larger and front gates to be replaced.

22/00954/LUPRO P Proposed removal of RHS chimney stack, removal of existing kitchen window to front and replace with larger window. Replacement side door to a stable style door. Various internal alterations. Current

4. Relevant Policies / Government Guidance

n/a

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

5. Officer Appraisal

Site Description

The Foremans House is a detached house set back from the The Walls within the Mistley and Manningtree conservation area. The host dwelling has a variety of external finishes, brickwork, weatherboarding and painted render corresponding with the additions to the house over time. The property benefits from a slate roof and timber framed windows and doors. The application site is within development boundary of Lawford and Manningtree.

Description of proposal

The application seeks a Lawful Development Certificate for a Proposed Development, in this case the proposed removal of right hand side chimney stack, removal of existing kitchen window to front and replace with larger window. Replacement side door to a stable style door and various internal alterations.

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'.

The plans submitted with the application shows the removal of right hand side chimney stack, removal of existing kitchen window to front and replace with larger window. Replacement side door to a stable style door and various internal alterations.

Assessment

Main considerations are;

- Is the proposal development within the meaning of Section 55 of the Act?
- Planning History
- General Permitted Development Order

Development

Section 55 (2) (a) of the Town and Country Planning Act 1990 clearly states:-

The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which:-

(i) affect only the interior of the building*, or

(ii) do not materially affect the external appearance of the building,

*Apart from a mezzanine floor within a retail shop

and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

The internal alterations do not materially affect the external appearance of the building, and therefore do not constitute 'development' as defined in the Act.

Works (which would normally be exempt planning control), can require permission if such works are restricted by a condition imposed on an earlier planning permission. Whilst the site has various planning history, there are no conditions on any permission related to the property that would restrict the proposed works.

On the basis of the above it is concluded that the proposed internal alterations would not constitute development, and would therefore be 'lawful'.

Planning History

The property was built prior to 1947. There is no planning history for the property that restricts permitted development rights, meaning the permitted development rights for the property still exist.

General Permitted Development Order

This application seeks a lawful development certificate for a proposed development, relating to the removal of right hand side chimney stack, removal of existing kitchen window to front and replace with larger window with replacement side door to a stable style door. The aim of this application is to establish whether or not this development would require planning permission. The certificate issued would state that the development is lawful and not at risk of being subject to enforcement action.

To establish whether the proposed development is permitted development reference needs to be made to The Town and Country Planning (General Permitted Development) (England) Order 2015.

Class A - the enlargement, improvement or other alteration of a dwellinghouse. This section relates to the proposed removal of the existing kitchen window to the front and replacement with larger window and replacement side door to a stable style door.

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

Not applicable.

(b) the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

Not applicable.

(c) The height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

Not applicable.

(d) The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;

Not applicable.

(e) The enlarged part of the dwellinghouse would extend beyond a wall which
(i) fronts a highway, and
(ii) forms either the principal elevation or a side elevation of the original dwellinghouse;

The Foremans House is not being enlarged.

(f) The enlarged part of the dwellinghouse would have a single storey and
(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
(ii) exceed 4 metres in height;

The Foremans House is not being enlarged.

(g) until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—
(i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
(ii) exceed 4 metres in height;

The Foremans House is not being enlarged.

(h) The enlarged part of the dwellinghouse would have more than one storey and would
(i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;

The Foremans House is not being enlarged.

(i) The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

The Foremans House is not being enlarged.

(j) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would
(i) exceed 4 metres in height,
(ii) have more than one storey, or
(ii) have a width greater than half the width of the original dwellinghouse; or

The Foremans House is not being enlarged.

(k) It would consist of or include
(i) the construction or provision of a veranda, balcony or raised platform,
(ii) the installation, alteration or replacement of a microwave antenna,
(iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
(iv) an alteration to any part of the roof of the dwellinghouse.

The proposal does not include the construction or provision of a veranda, balcony or raised platform, the installation, alteration or replacement of a microwave antenna, flue or soil and vent pipe, however it does include the alteration to the chimney on the right hand side. The chimney can

be considered under Class G – The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

- (L) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

The dwellinghouse is not built under Part 20.

A.2 In the case of a dwellinghouse is on article 2(3) land development is also not permitted by Class if: -

- (a) It would consists of or include the cladding of any part of the exterior of the dwellinghouse with, artificial stone, pebble sash, render, timber, plastic or tiles;
(b) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
(c) The enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse.

The application site is situated in a Conservation Area (article 2(3) land) however the development would not include include the cladding of any part of the exterior of the dwellinghouse with, artificial stone, pebble sash, render, timber, plastic or tiles and the dwellinghouse is not being extended.

A.3 Conditions:-

- (a) the materials used in any exterior work (other than materials used in the construction of a conservatory) shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

The proposed materials to be used will match those used in the existing dwelling.

- (b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse shall be
(i) obscure-glazed, and
(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and

Not applicable.

- (c) where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

Not applicable.

G – The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

Not applicable

- (b) The height of the chimney, flue or soil and vent pipe would exceed the highest part of the roof by 1 metre or more;

The chimney on the right hand side of The Foremans House will be removed.

- (b) In the case of a dwelling on article 2(3) land, the chimney, flue or soil and vent pipe would be installed on a wall or roof slope which -

- (i) fronts a highway, and
- (ii) forms either the principal elevation or a side elevation of the original dwellinghouse;

The application site is situated within a Conservation Area (article 2 (3) land), however the right hand side chimney is being removed and not installed.

Conclusion

The proposed internal alterations would not constitute development, and would therefore be 'lawful'. The proposed removal of right hand side chimney stack, removal of existing kitchen window at the front and replacement with a larger window, and replacement side door to a stable style door meet all the relevant criteria as set out above and must be concluded to be permitted development. The Lawful Development Certificate for the proposed development can therefore be issued.

6. Recommendation

Lawful Use Certificate Granted

7. Conditions

- 1 The proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 1, Classes A and G of The Town and Country Planning (General Permitted Development) (England) Order 2015. This definition is subject to the conditions set out therein, namely that the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

8. Informatives

n/a