

Report to: PLANNING COMMITTEE

Date: 05 April 2017

Report from: Assistant Director of Housing and Built Environment

Application Address: **96 Norman Road, St Leonards-on-sea, TN38 0EJ**

Proposal: **Installation of replacement kitchen extract duct (Retrospective)**

Application No: **HS/FA/17/00100**

Recommendation: **Grant Full Planning Permission**

Ward: CENTRAL ST LEONARDS
File No: NO35960
Applicant: Ms Yoong Tung per R D P Chartered Architects
14 Cross Street St Leonards on Sea East
Sussex TN37 6DP

Interest: Owner
Existing Use: Takeaway

Policies
Conservation Area: Yes - St. Leonards East
Listed Building: No

Public Consultation
Adj. Properties: Yes
Advertisement: Yes - Conservation Area
Letters of Objection: 5
Petitions Received: 0

Application Status: Not delegated - More than 2 letters of objection received

Site and Surrounding Area

No. 96 Norman Road, is a two-storey terraced building within St Leonards East Conservation Area. This area of St Leonards-on-sea is an urban area that comprises residential and commercial uses and it is identified within the Development Management Plan (2015) as a Cultural Quarter. Buildings in the immediate locality are typically two-storey Victorian terraced.

The building is not listed. This application relates to the takeaway business which occupies the ground floor and the basement of the building.

Constraints

St Leonards East Conservation Area
SSSI Impact Risk Zone

Proposed development and Background information

This is a retrospective planning application for the installation of an extractor duct at the rear of the premises following the service of an Enforcement Notice (referenced below) in respect of this unauthorized duct. The ductwork is a replacement of an old system damaged in a fire. The duct is located at the rear of the commercial property. From the courtyard, at the rear of the building, it is noted that the extractor ductwork exits the building at first floor level and continues up to the eaves and then follows the slope of the roof to the apex where it stands vertically to discharge at a high level (1.3 m above the ridge height).

As set out in the paragraph below the previous extraction ductwork was granted planning permission in 2006. That permission was granted subject to a number of conditions including condition no.2 which states, "*The completed installation shall provide a sound pressure level of not more than 35 dBLAeq (5min) when measured in the centre of the rear yard 1.5m above ground level*". The ductwork which was granted planning permission in 2006, operated without causing a detrimental impact in terms of noise or smell to the immediate neighbouring properties. The new replacement system, installed without planning permission, has been the subject of a number of complaints to Environmental Health in respect of noise and smell.

Relevant Planning History

EN/16/00090	Service of an enforcement notice in respect of an unauthorized installation of an extractor duct. Issued 7 December 2016
EN/16/00076	Service of a Planning contravention notice in respect of an unauthorized installation of an extractor duct. Issued 14 October 2016
HS/FA/05/0459	Remove existing ductwork and fit new ductwork. Granted 20 January 2006

It should be noted that the Council can withdraw the enforcement notice EN/16/00090 should this permission be granted. Alternatively, if the application is refused this will stay in effect and appropriate action will be taken. The current period for compliance with the enforcement notice expires on 16th April 2017, however, can be extended at the Council's discretion.

National and Local Policies

Hastings Local Plan – Planning Strategy (2014)

Policy FA2 - Strategic Policy for Central Area
Policy FA4 - Strategy for Central St Leonards
Policy EN1 - Built and Historic Environment
Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way

Hastings Local Plan – Development Management Plan (2015)

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy DM6 - Pollution and Hazards

Policy HN1 - Development Affecting the Significance and Setting of Designated Heritage Assets (including Conservation Areas)

Policy HN2 - Changing Doors, Windows and Roofs in Conservation Areas

Policy CQ1 - Cultural Quarters

National Planning Policy Framework (NPPF)

The NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Para 14 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay.

Three dimensions of sustainability given in paragraph 7 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 10 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

Consultations comments

Conservation Officer - **No objection, no suggested conditions.**

"The site sits within the St. Leonards East Conservation Area. The development consists of an extract flue, which runs up the rear elevation of the building, and up across the roof, and has already been installed. The rear of the property is not visible from Norman Road, but it is visible from the seafront. The extract flue is clearly visible in distance views from the promenade. However, at a glance, the extract flue looks like a chimney stack. It is only on closer examination that you can see that it is an extract flue.

It does change the view from the promenade, but the change is only slightly detrimental and, as such, only minor harm to the significance of the conservation area results. Marine Court, a Grade II listed building, frames the view from the seafront towards the rear of Norman Road. However, considering the monolithic scale of Marine Court, and the relatively minor change to the view brought about by the presence of the extract flue, I do not consider that the development harms the setting of Marine Court. Nor does the development harm the setting of any other adjacent listed buildings.

On this basis, I do not consider that planning permission should be refused for the development. Should the size or appearance of the existing extract flue need to be changed substantially to meet the requirements of the environmental health officer, then conservation should be re-consulted on our view."

Environmental Health - Noise - **No objection subject to conditions.**

"That a detailed noise report, from a competent acoustic consultant, for the ductwork is undertaken, to ensure that the previously achieved output of 35db, when measured in the centre of the rear yard 1.5 metres above ground level, is attainable, within the present structure. This is deemed necessary as this previously attained output solicited no complaints from residents to this department. The report should be submitted in order to satisfy the Local Planning Authority

That the ductwork is attached to the roof by other means than those currently employed, to avoid noise transference into the neighbouring property.

The fan should be located as low as possible and enclosed in an acoustic housing. An attenuator should be fitted to the outlet side of the fan.

The fan and all ducting shall be on anti-vibration mounts.

Details of the odour control, which should include what filters are being used, should also be included.

The system shall be maintained on a regular basis, so as to prevent any increase in noise and odour emission"

Representations

7 letters of objection have been received from 5 properties raising the following concerns:

- Noise and vibration
- Out of keeping with the area
- Detrimental impact upon the significance of the conservation area.

Determining Issues

The main issues to be considered in assessing this application are relating to the impact of the development on the character of the area, including conservation area and the impact on neighbouring residential amenity in terms of noise and odour.

Principle

The site is in a sustainable location and the application is therefore in accordance with policy LP1 Hastings Local Plan - Development Management (2015) in this respect and acceptable in principle subject to other local plan policies.

Impact on Character and appearance of the Conservation Area

The extractor ductwork is installed at no.96 Norman Road, within the St. Leonards East Conservation Area, it exits from the rear of the building at first floor level. The ductwork continues up the rear of the building to the eaves and then follows the roof slope to the apex and then stands vertically in order to discharge at a high level. The ductwork is not visible from Norman Road but is visible from the seafront. As the Conservation Officer noted: "the extractor flue looks like a chimney stack" when viewed from a distance and although it

slightly changes the view from the promenade the impact is minor. The Conservation officer has also considered the application proposal in relation to Marine Court, a Grade II listed building, which encloses the view from the promenade towards the rear of Norman Road. It has been stated that, given the scale of the listed building and the minor change to the view from the introduction of the ductwork, there is no harm imposed on the historic significance of the setting of Marine Court. As such, the ductwork is not considered to be contrary to Policy DM3 of the Hastings Local plan Development Management Plan (2015)

Impact on Neighbouring Residential Amenities

Policy DM3 - General Amenities of Hastings Local Plan - Development Management Plan (2015) is relevant in the assessment of this application. The Policy states that in order to achieve a good living standard for future users of proposed development and its neighbours it should be demonstrated that amenity has been considered and appropriate solutions have been incorporated into schemes. Permission will be given for development where:

a) the use of the scale, form, height, mass, and density of any building or buildings, reduces or avoids any adverse impact on the amenity (privacy, over shadowing, loss of daylight) of neighbouring properties;

Policy DM6 - Pollution and Hazards of Hastings Local Plan - Development Management Plan (2015) is also being considered in the assessment of this application. This states that in order to protect human health and water quality planning permission will only be granted for development providing:

c) noise and odour that is detrimental to neighbouring and/or local amenity is kept to a practical minimum.

The proposal as mentioned earlier under the heading 'Proposed Development and Background information' is for the replacement of an external extraction ductwork. This system currently has a significant negative impact upon a number of residents adjoining no.96 Norman Road mainly because of the current level of noise emission. The original planning permission, from 2006, was granted subject to the condition that the extractor would not exceed 35db of noise output which was considered acceptable and hence the system operated with no issues for over 10 years.

The Environmental Health Team was consulted on this application and it concluded that the inclusion of mitigation measures and maintenance directions will be sufficient to ensure an acceptable level of noise, vibration and smell during the time the system runs.

In light of the planning history for the site and consultation response from Environmental Health it is considered that the inclusion of the suggested measures will keep noise, vibration and smell at an acceptable level and hence minimize their impact on the neighbouring residential amenities.

Conclusion

This retrospective planning application proposes the replacement of an external extraction duct at the rear of no. 96 Norman Road. The Conservation Officer does not consider the proposal would harm the significance of St. Leonards East Conservation Area or the settings of adjacent listed buildings. The Environmental Officer has not objected to the scheme subject to conditions regarding noise, vibration and odour. In light of the above the proposal is recommended for approval subject to conditions.

These proposals comply with the development plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

The Human Rights considerations have been taken into account fully in balancing the planning issues.

Recommendation

Grant Full Planning Permission subject to the following conditions:

1. Within three months from the date of this permission the noise levels from the kitchen extractor duct shall not exceed 35db when measured in the centre of the rear yard 1.5 m above ground level.
2. Details showing the arrangements for how the ductwork is attached to the roof shall be submitted and approved by the Local Planning Authority within one month from the date of this permission; the agreed details shall be implemented within three months from the date of this permission unless a longer period of time is agreed by the Local Planning Authority.
3. Details showing an acoustic housing and position for the fan shall be submitted and approved by the Local Planning Authority within one month from the date of this permission; the agreed details shall be implemented within three months from the date of this permission unless a longer period of time is agreed by the Local Planning Authority.
4. Details of anti-vibration mounts for the fan and ducting shall be submitted and approved by the Local Planning Authority within one month from the date of this permission; the agreed details shall be implemented within three months from the date of this permission unless a longer period of time is agreed by the Local Planning Authority.
5. Details of odour control measures (to include filters) shall be submitted and approved by the Local Planning Authority within one month from the date of this permission; the agreed odour control measures shall be implemented in full within three months from the date of this permission unless a longer period of time is agreed by the Local Planning Authority.
6. A programme for the regular maintenance of fan and ductwork shall be submitted to and approved by the Local Planning Authority within one month from the date of this permission. The maintenance regime shall thereafter be undertaken in full accordance with the approved details.

Reasons:

1. To safeguard the amenity of adjoining and future residents.
2. To safeguard the amenity of adjoining and future residents.
3. To safeguard the amenity of adjoining and future residents.
4. To safeguard the amenity of adjoining and future residents.
5. To safeguard the amenity of adjoining and future residents.
6. To safeguard the amenity of adjoining and future residents.

Officer to Contact

Miss R De Tommaso, Telephone 01424 783267

Background Papers

Application No: HS/FA/17/00100 including all letters and documents