DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0393-21**	**Applicant:**	**Mrs J Kustova**
Proposal:	Proposed outdoor BBQ		
Location:	62 Balmoral Avenue Spalding		
Terminal Date:	9th June 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
30	Pollution

National Guidance

National Planning Policy Framework 2019

Section 12- Achieving well designed places

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a householder application seeking permission for a proposed BBQ at the property at 62 Blamoral Avenue, Spalding.

It should be noted that there is no issue with the principle of a BBQ being located in the garden of a residential property. The reason that an application is required in this instance is that a flue attached to a permanent structure (in this case, a brick-built BBQ) cannot be considered to be permitted development.

Site Description

The site is situated within a residential area of the settlement of Spalding according to the South East Lincolnshire Local Plan, 2019. The semi detached dwelling is set back from the main road, with a gravelled driveway to the front boundary and no boundary treatment.

There is access to the rear garden along the northern boundary. The rear garden is a spacious size and is very long which is typical of the dwellings in the area. The surrounding dwellings are all of a similar age and design.

History

No relevant planning history.

Consultation Responses

Environmental Protection Officer- No objection.

Planning Considerations

They key issue in this instance, given the nature of the proposal, is whether a flue in this location would have an unacceptable impact upon the occupants of neighbouring properties.

Impact upon residential amenity

The proposed flue from the brick BBQ will be just over 1m higher than the boundary fence to the south. This fence is approx. 500mm away from where the BBQ is to be sited, which is considered to be a sufficient distance. The proposed BBQ includes a fireplace and a stove with wood storage.

The proposed BBQ is for seasonal leisure and for cooking outside occasionally and will not have any other purposes apart for the sole purpose of leisure for the existing residents.

There have been no objections received from any residents, nor from SHDC's Environmental Protection Officer.

Taking the above into account, the proposed brick BBQ is deemed to comply with Policies 2, 3 and 30 in the SELLP, 2019 and Section 12 in the NPPF, 2019 in terms of residential amenity.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The proposed outdoor BBQ will not materially harm the amenity of nearby residents. It is therefore considered to be in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity,

race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

The recommendation is for a delegated approval.