DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-1049-22**	**Applicant:**	**Mr A Konovalovs**
Proposal:	Erection of chimney for outbuilding - Retrospective		
Location:	9 Nicolette Way Spalding		
Terminal Date:	29th December 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
30	Pollution

National Guidance

National Planning Policy Framework 2021

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

Proposal for the retrospective erection of a brick chimney on the outbuilding of 9 Nicolette Way. The chimney is 307cm tall, comprised of a 250cm brickwork base and a 57cm metal chimney hat. The outbuilding's height is 235cm, creating a 72cm discrepancy between the roof and chimney top. The chimney is visible from neighbouring properties and is within 2 metres of the curtilage boundary.

Site Description

The property is located on a housing estate constructed in the 1990s. Housing is a mix of semi-

detached and detached properties. The site is situated in west Spalding. The dwelling is a semi-detached, pale brown brick property. There is a rear conservatory and a sizeable garden.

The outbuilding is located several metres north-west from the dwelling and borders two neighbouring dwellings. The chimney would be visible from these neighbouring properties. The adjacent property's outbuilding also has a large metal chimney. The proposed development is visible from the footpath on Annette Close, however, it is not visible from the main access road, Nicolette Way.

Relevant History

No relevant planning history.

Consultation Responses

Environmental Protection

Although no complaints have been received we have concerns that the close proximity of the chimney to nearby property could cause smoke nuisance. Authorised fuels must be used and in the event of complaints being received then modification may be required to the flue.

Planning Considerations

Layout, Design, Size and Scale

Paragraph 127 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting. Likewise, Policy 2 of the South-East Lincolnshire Local Plan (SELLP) states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

The design of the chimney itself, of red brick with a metal chimney hat, is, to a large extent, in keeping with the local area. The brick shade is similar to that of the host dwelling and its neighbours, creating a consistent visual tone. While the metal of the extension is not necessarily consistent with the aesthetics of the neighbourhood, the visual impact is minor. The adjacent property (7 Nicolette Way) has a similar metallic chimney visible from the highway. As a result, its character impact of the proposed works is minor.

Taking the above into account, the proposal is deemed to comply with Policies 2 and 3 in the SELLP, 2019 and Section 12 in the NPPF, 2021 in terms of layout, design, size and scale.

Residential Amenity

The property to the rear (2 Annette Close) has no window facing the proposed works, and therefore, the chimney is not visible from this house. The neighbouring property to the south (11 Nicolette Way) has a frosted-glass window overlooking the outbuilding. Consequently, the chimney is not visible from this property either. Again, the chimney is not visible from the main highway, Nicolette Way.

However, the flue is visible from both the roadside at Annette Close and from the property 7 Nicolette Way. From Anette Close, only the metal extension is visible, limiting its impact on the landscape. Therefore, with the above considerations in mind, it can be ruled that the visual impact of the chimney is minor.

There will be no overshadowing or overlooking created by the chimney.

Taking the above into account, the chimney is deemed to comply with Policies 2 and 3 of the SELLP, 2019 and Section 12 in the NPPF, 2021 in terms of residential amenity.

Pollution

The relevant consultees, while not objecting to the proposed, have raised concerns regarding the

proximity of the flue to nearby properties. Only authorised fuel should be used in order to reduce smoke nuisance.

There are no windows facing the chimney to the northeast. As this would be the dominant direction of wind, the impact of the smoke upon residents will be reduced. However, as suggested by the Environmental Protection Officer, in the event of complaints being received, alterations may be required.

Planning Balance

The proposed chimney does not materially harm the character or appearance of the locality or amenity of nearby residents. It is therefore considered to be in accordance with Policies 2 and 3 of the SELLP, 2019.

Conclusion

The proposed chimney adheres to policies 2 and 3 of the South-East Lincolnshire Local Plan, therefore, the recommendation is for delegated approval.

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.