

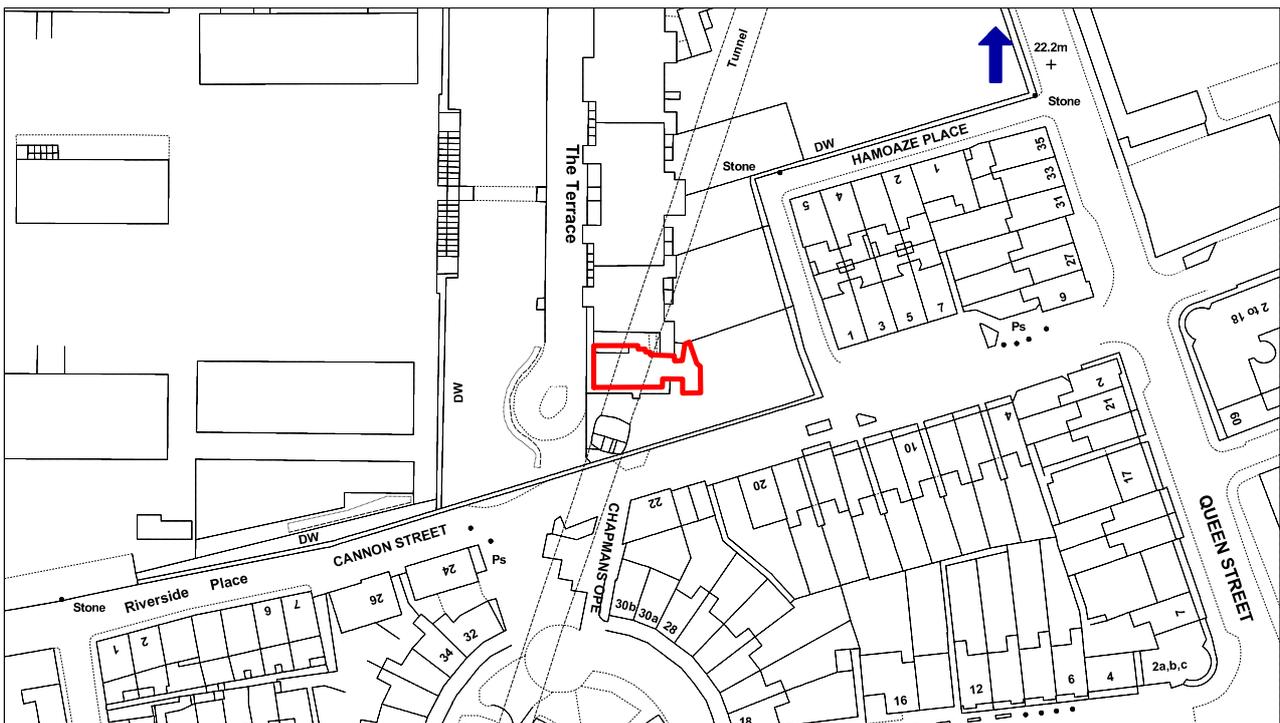
PLANNING APPLICATION REPORT



Application Number	15/02058/LBC	Item	02
Date Valid	11/12/2015	Ward	Devonport

Site Address	6 THE TERRACE, MORICE YARD, HM NAVAL BASE DEVONPORT PLYMOUTH		
Proposal	Retrospective application for removal of chimney and rebuilding		
Applicant	Defence Infrastructure Organisation		
Application Type	Listed Building		
Target Date	05/02/2016	Committee Date	Planning Committee: 11 February 2016
Decision Category	Assistant Director of Strategic Planning and Infrastructure Referral		
Case Officer	Jess Maslen		
Recommendation	Grant Conditionally		

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This application has been referred to Planning Committee by the Assistant Director of Strategic Planning and Infrastructure because there are public interest reasons for the matter to be determined by the Committee.

1. Description of site

The Terrace is a Grade II* listed building, which stands within Morice Yard, originally the Ordnance Yard for the Royal Navy. The terrace of 5 houses and the stable block were built between 1720 and 1724, as part of Colonel Lilly's formal plan for the Yard. The terrace, which stands on a promontory, overlooking the rest of the yard, was built of Dunstone rubble with brick party wall stacks and timber, sliding sash windows, under a slate roof in the Baroque style. Number 6 is, according to the listed description, a stable block, which stands at the south end of the terrace and is separated from the main terrace by a small internal courtyard, fronted by a single-storey screen wall with a recessed flat-headed bay containing a round-arched doorway.

2. Proposal description

This is a retrospective application for the removal of two chimneys in the stable block of the terrace and to rebuild the chimneys.

3. Pre-application enquiry

None requested

4. Relevant planning history

15/02056/FUL Retrospective application for removal of chimney and rebuilding UNDER CONSIDERATION

5. Consultation responses

Historic England – It is likely that the majority of chimneystacks in this terrace have been rebuilt in an engineering brick in the late 19th or early 20th century. Historic England have no objection to a further rebuilding. It is advised that the applicant consider use of an appropriate but recognisably different brick to aid future building historians. It is recommended that this application be determined in accordance with national and local policy guidance, and on the basis of expert conservation advice.

6. Representations

None received.

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004

Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007). In the case of this application, it also comprises the Devonport Area Action Plan.

The development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One was approved by the City Council in September 2015. The Plan, which incorporates draft development plan policy, has been prepared following a consultation process. As such it is a material consideration for the purposes of planning decisions.

The policies contained in National Planning Policy Framework (the Framework) and guidance in National Planning Practice Guidance (NPPG) are also material considerations which should be taken into account in the determination of planning applications. Due weight should be given to relevant policies in existing and emerging plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The Framework provides that the weight to be given to an emerging draft plan is also to be determined according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given). The Plymouth Plan is at a relatively early stage of preparation.
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given).

At the heart of the Framework is a presumption in favour of sustainable development. In the context of planning applications, this means approving development proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or
- Specific policies in the Framework indicate development should be restricted.

Additionally, the following planning documents are also material considerations in the determination of the application:

- Sustainable Design Supplementary Planning Document
- Development Guidelines Supplementary Planning Document

8. Analysis

- I. This application has been considered in the context of the development plan, the draft Plymouth Plan, the Framework and other material policy documents as set out in Section 7. The application turns upon policies CS02 (Design), CS03 (Historic Environment) and CS34 (Planning application considerations) of the Adopted Core Strategy of Plymouth's Local Development Framework 2006-2021 and the aims of the Council's Sustainable Design

Supplementary Planning Document (2010), and the National Planning Policy Framework (2012). The primary planning consideration in this case is the impact on the character and appearance of the listed building.

2. Retrospective listed building consent is sought for the removal of two brick built chimneys that were removed on the grounds of health and safety. Under Section 7 of the Planning (Listed Buildings & Conservation Areas) Act 1990 it is an offence in law to carry out alterations to a listed building, which affect its character or appearance, without prior consent from the Local Planning Authority. However, it is most important to note that Section 9 of the Act goes on to state that it shall be a defence against any possible prosecution if such works are;
 - necessary in the interests of safety or health, or for the preservation of the building, and,
 - that the work carried out is the minimum necessary to abate the danger, and,
 - that the Local Planning Authority is notified of the work as soon as is practicable.

On the basis of the available evidence in this instance, it is considered that these circumstances apply, and so there is little, or no, prospect of a successful prosecution. The works undertaken to date have therefore been reasonable.

3. A visual structural assessment was carried out following the removal of these chimneys on the 5th August 2015.
4. The key planning consideration in respect of this application is what the impact of the removal of the chimneys would have on the visual amenity of the listed building, and whether they should be reinstated at the full height; whether the height of the chimneys could be permanently reduced, or whether the chimneys could be permanently removed to roof level and capped appropriately in order to provide adequate ventilation.
5. It is deemed that the permanent removal of these chimneys would have a detrimental impact on the listed terrace as a whole. Although it is clear that the chimneys on the terrace have been replaced in the past, as is acknowledged by Historic England, their presence is unquestionably a unique feature of the exterior of the building, and therefore should be retained. It is noted that these chimneys were visible from both inside and outside the yard. Therefore, in terms of the visual amenity of the building, it is considered that the chimneys should be replaced to a height and design negotiated by condition.
6. There are two chimney stacks that remain at eaves height. It is noted that the structural engineer considers that the existing remnant brick stack should initially be taken down to first floor level prior to being rebuilt. It would appear that there are concerns raised by the structural engineer of the long-term durability and structural integrity of the stack should this work not be carried out in accordance with the advice. Officers would not be opposed to this suggestion but it is important that the height of the stack, the design of the chimney and the brick to be used needs to be agreed by condition.
7. In terms of the second chimney, which is currently rendered, the structural engineer asserts that the state of this chimney is considerably worse than the brick stack. The bricks, on the internal elevations, have started to spall as a result of moisture ingress. Again, the structural engineer recommends that the chimney be taken down to first floor level and then rebuilt. Officers are not opposed to this proposal however they would want the rebuilt chimney to match that of the other chimneys on the terrace, and thus to be brick built and not rendered. The height and design of the chimney and the brick to be used in its construction needs to be agreed by condition.

8. Having considered the situation, Officers judge that the chimneys should be rebuilt to an agreed height, to a design that matches those chimneys on the adjacent terrace, in an appropriate type of brick, all of which will need to be conditioned. This conditional approval will ensure that the visual amenity of the building will be brought back to an acceptable quality.
9. Therefore the application is considered to comply with Policy CS02 (Design) and Policy CS03 (Historic Environment) and Policy CS34 (Planning Application Considerations) of the Council's Adopted Local Development Framework – Core Strategy 2007, as well as the guidance set out in the Sustainable Design SPD 2009.

Intentional Unauthorised Development

10. The application under consideration seeks planning permission retrospectively.

In August 2015 the Government announced a new national planning policy relating to intentional unauthorised development. The new policy applies to all planning decisions made by Local Planning Authorities, after then, including those made by Planning Inspectors where decisions are made on appeal to them.

The new policy requires weight to be given in the decision making process where unauthorised development has been carried out intentionally. Unfortunately, the policy does not indicate exactly how much weight should be afforded to this in relation to the weight given to other material planning considerations that will apply. Neither does the policy clarify exactly what evidence is required to demonstrate the unauthorised development has been carried out intentionally, as opposed to it possibly having been carried out unintentionally. Written advice was given to the applicant that a Householder Application for Planning Permission for Works or Extension to a Dwelling and Listed Building Consent for Alterations, Extension or Demolition of a Listed Building would be required, however, works were carried out to remedy structural defects within the listed building.

In reality, given the difficulties in interpreting these issues, it is considered that little or no weight can be given to this aspect, unless the Council has clearly indicated to the applicant that in its opinion unauthorised development is being carried out, and that works have continued beyond that point. This does not apply in this case, and so it is considered that very little weight should be afforded to this point in the determination of this application.

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

Under the present Community Infrastructure Levy charging schedule no CIL contribution is required for this development.

11. Equalities and Diversities

Not applicable.

12. Conclusions

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and CS02, CS03 and CS34 of the Core Strategy and specifically for the reasons discussed above, the proposal is considered to be acceptable and as such is recommended for approval.

13. Recommendation

In respect of the application dated **11/12/2015** and the submitted drawings Site location plan (Drawing number 15/20748/SKI); Photographs pre-removal of chimney stacks (Drawing number 15/20748/01); Photographs post-removal of chimney stacks (Drawing number 15/20748/02); Heritage statement, it is recommended to: **Grant Conditionally**

14. Conditions

CONDITION: TIME LIMIT FOR COMMENCEMENT (LBC)

(1) The works hereby permitted shall be begun before the expiration of three years from the date of this consent.

Reason:

To comply with Section 18 of the Planning (Listed Building and Conservation Areas) Act 1990.

CONDITION: APPROVED PLANS (LISTED BUILDING CONSENT)

(2) The works hereby permitted shall be carried out in accordance with the following approved plans: Site location plan (Drawing number 15/20748/SKI); Photographs pre-removal of chimney stacks (Drawing number 15/20748/01); Heritage statement

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 131, 132 and 133 of the National Planning Policy Framework 2012.

Pre-commencement Conditions

PRE-COMMENCEMENT: DETAILS OF THE HEIGHT AND DESIGN OF THE CHIMNEYS

(3) No rebuilding works shall take place until full details of the height and design of the two reinstated chimneys have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details.

Reason:

To ensure that the details of the proposed works do not conflict with Policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 131, 132 and 133 of the National Planning Policy Framework 2012

Justification for pre-commencement condition:

To ensure that important historic features are properly respected before construction commences.

PRE-COMMENCEMENT: BRICK DETAILS

(4) No rebuilding works shall take place until details of the proposed bricks to be used in the rebuilt chimneys have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details.

Reason:

To ensure that the details of the proposed work do not conflict with Policy CS03 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 131, 132 and 133 of the National Planning Policy Framework 2012.

Justification for pre-commencement condition:

To ensure that important historic features are properly respected before construction commences.

Informatives

INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

(1) The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

INFORMATIVE: LISTED BUILDING (OFFENCE WARNING)

(2) Under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 it is an offence to execute or cause to execute any works for the demolition of a listed building or its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised by and executed in accordance with the terms of a Listed Building Consent and any conditions attached to it.

INFORMATIVE: CONDITIONAL APPROVAL (NO NEGOTIATION)

(3) In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.