

DELEGATED DECISION REPORT

SMD/2025/0345
Valid 23/07/2025

1 CLEWLOWS BANK
STOCKTON BROOK

**CERTIFICATE OF
LAWFULNESS FOR A
PROPOSED CHIMNEY
BREAST**

**(CERTIFICATE OF
LAWFULNESS - PROPOSED)**

MAIN ISSUES

Is the proposed householder development, consisting of the removal of an existing chimney and its replacement with an inglenook style chimney breast, permitted by Class G, Part 1, Sched 2 of the GPDO and could it be carried out without breaching any of the planning conditions that are attached to the planning permission that was granted to build the house SMD/2014/0123?

DESCRIPTION OF SITE

Red brick double fronted cottage style dwelling on a large corner plot. The dwelling is a relatively recent and contemporary build following the grant of planning permission in 2014 (SMD/2014/0123). The dwelling has been built with what appears to be a dummy/faux chimney that provides characterful architectural detailing.

THE APPLICATION

The application proposes to remove the small dummy chimney from the roof of the dwelling and to replace it with an inglenook style chimney breast to be constructed on the exterior of the side elevation.

The claim is that the development would be permitted by Part 1 of the GPDO.

It is of note that condition 17 of the 2014 planning permission prohibits the carrying out of development as specified in Part 1 Classes A,B,C,D and E without planning permission first being granted.

Class G, however, which permits (subject to criteria) chimneys, flues etc, is not affected by the condition and development specified at Class G would not be prohibited by condition 17.

The 2014 Planning permission, however, is also subject to condition 3 which alternatively exerts control over the type of chimney that could be erected at the dwellinghouse and required chimney details to be agreed, before the development was carried out and for the development only to be carried out in accordance with those details and for it to be retained as such.

“Notwithstanding the detail provided, no development shall be commenced until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- *External Facing*
- *Joinery Details and Finish of Windows and Doors*
- *Hard Surfacing*
- *Chimneys*

Development shall thereafter be undertaken in accordance with the approved details and retained as such”.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2014/0123 Erection of two dwellings. Approved.

OFFICER COMMENTS

The proposed development is detailed in a submitted plan 100-02. It shows the existing chimney removed from the roof and it replaced with a brick inglenook brick chimney breast built externally on the side elevation of the dwelling.

Class G (Part 1, Sched 2) permits the installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

The height of the proposed chimney as proposed and detailed in the submitted plan would be just 0.7m above the height of the roof, it would not exceed the height of the roof by 1m or more. The dwellinghouse is not in a Conservation Area and so there is no restriction with the chimney being provided on the side elevation. The development would be permitted by Class G, Part 1, Sched 2 of the GPDO.

However, in this case there is also condition 3 on the 2014 planning permission that reads: *“Notwithstanding the detail provided, no development shall be commenced until details of the following have been submitted to and approved in writing by the Local Planning Authority:*

- *External Facing*
- *Joinery Details and Finish of Windows and Doors*
- *Hard Surfacing*
- *Chimneys*

Development shall thereafter be undertaken in accordance with the approved details and retained as such”.

Detail of the existing chimney was submitted to and approved by the Local Planning Authority and the development was carried out in accordance with those details. To comply with that condition the development, that includes the existing chimney must be retained as such.

Carrying out the development that is proposed with this application – removing the chimney and building a different chimney, i.e. not retaining the chimney detail as agreed and carried out with the housing development, would result in a breach of condition 3 of the existing planning permission. The Local Planning Authority could take action against the proposed development as a breach of condition 3.

The proposed development therefore, would not be lawful.

CONCLUSION / PLANNING BALANCE

Although the proposed development might otherwise be permitted by Class G, Part 1, Sched 2 of the GPDO, it would result in a breach of condition 3 of the planning permission SMD/2014/0123. The planning authority would be able to take action against the development and the breach of condition and it would not therefore be lawful.

OFFICER RECOMMENDATION : REFUSAL

Case Officer: Ben Hurst

Recommendation Date: 29TH September 2025

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council