

Shore Prior

Your ref. APP/25/00491

Havant Borough Council,
Public Service Plaza,
Civic Centre Road,
Havant,
PO9 2AX.

18 September 2025

For the attention of Mr R. Riley- Planning Officer.

Dear Sirs,

Your email message dated 12 September 2025 - Planning Application APP/25/00491

I refer to the email which received late on 12 September 2025 from your Mr Riley. I note you have reservations concerning the chimney proposed on the eastern elevation of the dwelling. Mr Riley, having examined the matter, has advised, based on his current assessment of policy, that if the feature is retained a refusal of planning permission might follow. I have discussed your message with my client. There are a number of matters in the email of 12 September 2025 which are in my client's opinion, either incorrect or require further evaluation. These considerations are material to the Local Planning Authority's assessment of the application and have bearing on my client's decision whether or not to modify the application with respect to the proposed chimney.

1 The existing chimney at 25 Tower Street

a) Your planning officer and others consulted, appear to have overlooked the presence of a prominent brick chimney at 25 Tower Street which has been present since its construction. As much of your officer's assessment concerns flue emissions and potential nuisance arising from my client's proposals it is considered necessary for Havant B. C. officers to be seen to have given due weight to the existing situation in their assessments of my client's proposals; there is no evidence of this at present.

b) The existing chimney is positioned within the body of the dwelling near the eastern elevation of the house and Tower Street. The attached photo shows the chimney and roof arrangement that exists, when viewed from the harbour. The chimney projects upwards from the roof by some 2,300 mm and serves a professionally fitted wood burning stove installed over 3 years ago in an open fireplace. Previous to the installation of the stove the fireplace was available for open coal and wood fires. The chimney is clearly visible from the harbour and also from Tower Street.

c) The top of the existing chimney is positioned slightly above the ridge of the roof of 25 Tower Street and close to, but higher than the nearby existing sloping "catslide" roof. It will be readily appreciated from the attached photograph that discharges from the existing chimney must, when the wind is from any southerly direction, be directed inland over and importantly around the existing roof form and in consequence also along Tower Street. Homes on Emsworth harbour frontage must discharge domestic flue emissions inland in a broadly similar fashion. My client is very confident that [REDACTED] family occupation of the dwelling there has never been a

nuisance complaint from neighbours [REDACTED] concerning emissions from the chimney.

2 Proposed heating arrangements in the dwelling as proposed

a) The existing chimney is to be demolished because its location in the house obstructs formation of the accommodation required by my client at both ground and particularly at first floor level.

b) As it is proposed to remove the existing chimney and fire place a replacement source of radiant heat is required to serve the new lounge only: a small domestic radiant heater with related low emissions for occasional use. There would be, in addition, hot water radiators as the principal source of heat during the heating season served from the existing gas boiler located near the kitchen. Unsatisfactory experience of complicated “feature” fires has directed my client to favour a source of radiant heat powered by an enclosed stove, burning gas, seasoned wood, solid smokeless fuel or perhaps wood pellets for which a flue is necessary and this is shown on the submitted drawings. No decision has been taken on the fuel or the appliance to supply the radiant heat in the proposed new lounge.

c) The replacement flue/chimney shown in the submitted plan, which is the subject of your officer’s text, is to be located to the east of the existing chimney by only a distance of approx 2,800 mm. The replacement chimney would be only slightly lower in height than the chimney that now exists and would be constructed in brick so that in general appearance at higher level it would look much the same as the demolished existing chimney. It would thus discharge a more efficient better quality exhaust over the same area on Tower Street from approximately the same height as the existing chimney has been doing for 43 years without any record of complaint of nuisance.

d) The existing gas powered space heating and hot water system will be reused

e) My client notes that new heating appliances must meet current approved national emission standards. These cover the fuel type to be used and require that appliances will deliver emissions which meet mandatory national emission standards during operation.

3 Conservation Officer’s (C. O.) objection to the proposed chimney

a) Your C.O.’s statement refers to the details sent showing the substantial building present at 25 Tower Street until the early 1980s. It is possible that the C.O. was not previously aware that this structure was present. Further consideration of its relevance is not mentioned other than by stating “it was demolished and views of the harbour from the end of Tower Street have come to be appreciated and positively contribute to the special interest of the Conservation Area”. This may be the case but my client considers reference should be made in any assessment to the fact that:

- the view of the harbour looking south and west along Tower Street was more restricted than currently exists by a demolished building which was present for well over a century prior to 1982 .
- the minor alterations proposed on the eastern elevation of 25 Tower Street fit within the historic profile of the former building and within the footprint of the existing dwelling

Nowhere in the C.O.’s statement is there mention that the views which currently exist will remain. That matter is completely avoided. The statement tends to build an impression that the harbour view will materially change and it clearly will not. The view of the harbour is framed by the gable end of 8 Tower Street and the 1800 mm high boundary wall of 25 Tower Street and this view is unaffected by my client’s proposals and would therefore still be appreciated just as it is now. The glimpses and relationship noted by the C.O. between built form and water will not be materially affected as claimed.

b) Your C.O.’s statement includes in its evaluation of the view of the harbour from Tower Street the words “It is possibly the case that the current house was built with a catslide roof on the eastern side in order to maximise that view” This wording as it stands is a conjecture and because of that

my client considers that this wording should be deleted and discounted from any planning assessment, unless there is a record proving that the proposition is correct.

c) Your C.O. may not have taken account of the fact that an existing prominent chimney on the south elevation facing the harbour on 25 Tower Street is shown removed in submitted plans. A replacement chimney is required to serve a radiant heat appliance in the new lounge to be formed in the former garage. The officer has advised that a flue on the western side of the dwelling would receive support, however there are no rooms which require a flue at that end of the building.

d) Your C.O. has objected to my client's proposed replacement chimney on grounds that it would be a prominent and distracting feature and harm the impact of the vista in Tower Street. My client notes that:

i) a scrutiny of the harbour frontage shows almost all houses have simple chimneys but of differing heights and designs. Some homes have two chimneys. If there is one single characteristic on the frontage apart from the variety of roof forms which adds interest and character to the waterfront scene it is the chimneys of these houses.

ii) in the case of 25 Tower Street one chimney is to be replaced by another 2.8 metres east of the existing to be demolished. No additional chimney is proposed.

iii) the buildings on both sides of Tower Street at its southernmost end including my client's property, currently present unbroken blank brick walls to the highway. A flat roofed two storey property at 8 Tower Street is finished above ground floor level with a visually drab, unbroken covering of matt black fibre tiles. There is no feature in these bland facades which adds interest to the street scene.

iv) the proposed chimney would add interest and character to otherwise flat brickwork visible above the approx. 1800 mm brick wall which constitutes the boundary of 25 Tower Street. The proposed chimney above eaves level is approximately 450 mm square, formed in brickwork: a traditional domestic chimney, located close to the sea wall. This would be much the same as the many other chimneys in the vicinity which add so much charm, interest and character to the harbour frontage and importantly it would not restrict existing views of the harbour from Tower Street.

The C.O.'s opinion is that the proposed chimney is a "prominent and distracting feature" which could be considered a subjective view. As it is a common traditional feature to be seen against a background of roofs of various designs and would not restrict the existing vista of the harbour, in my professional view, it would not be a distracting or prominent feature as claimed. It would also have the benefit of introducing additional interest and character to the existing street scene on Tower Street.

4 Environmental Health Officer's (E.H.O.) objection

The E.H.O. has objected because he has presumed that my client intends to install a wood burning stove. Surprisingly that officer has not addressed any comment in respect of other sources of radiant heat requiring a flue. As stated in foregoing paragraphs no fuel has been determined for the appliance to be connected to the proposed flue and no appliance has been selected at this time, because information of this type is not usually required at planning stage for a domestic alteration of this very limited scale. It was considered prudent to show a flue in the submitted application to allow for the possibility that one might be needed. Whilst my client respects a professional opinion of the value of wood burners, he notes that:

- there is no national ban on the use of wood burning stoves
- any fuel used in a wood burning stove must comply with relevant accepted legislation whether it is solid fuel (smokeless) or seasoned wood. Some stoves are dual fuel.
- should a wood burning stove be used it must be of an approved eco design standard covering emissions. It is presumed other types of enclosed radiant heater are certified to comply with equivalent emission standards
- the flue shown in submitted drawings does comply with mandatory safe emission requirements, in terms of position on the building itself and location in relation to adjacent

premises, specified in Building Regulation Approved Document J. Adjacent dwellings are located at significantly greater flue separation distances than is required by Approved Document J. It is a low density residential housing area. The separation distances are far greater than is present in most low rise housing developments being erected today

- a Smoke Control Area is not in force in Emsworth
(a question must be raised as to why, if Havant B. C. (and the E.H.O.) really does have concern over flue and smoke emissions in the Emsworth harbour area, it has not sought to declare a Smoke Control Area: this would afford improved control of flue emissions from the heating equipment of the many properties in the town and would significantly enhance the quality of air in the adjacent protected harbour environment. It would not however prevent use of approved wood burning stoves)

As national standards have been determined by government for fuel and heating appliances, my client contends that these must also be seen as standards of acceptability appropriate for this location. Your planning officer cannot use an objection founded on a presumption and the personal professional opinion of your E.H.O. to override the above mentioned nationally accepted standards as support for refusal of my client's proposal. Provided the standards referred to above are adhered to my client contends his proposal cannot be fairly held to present any materially detrimental impact on the amenity of the surrounding area, including the adjacent Chichester and Langstone harbours SPA/Ramsar and Solent Maritime SAC". His proposals must thus also fulfil the requirements of policy relevant to the grant of planning permission in this location.

5 Further issues requiring reconsideration by the Local Planning Authority concerning emissions and Flues

Your planning officer has given considerable attention in his message of 12 September 2025 to the issues of emissions from the proposed flue particularly relating to wood burning stoves. My client wishes to stress that although there is currently a wood burning stove in the dwelling no decision has been reached on the use of this form of radiant heat in the new lounge. My client considers however that in view of your officer's apparent lack of any assessment of the implications of the existing chimney and a concentration of concern on wood burning stoves, it is necessary to address the issues raised, even though a decision to use a wood burner has not been made.

a) **Emissions** Your officer has made no allowance in his assessment for the fact that though a new flue is proposed which would be equipped with a new heating appliance, an old and less efficient chimney (constructed 43 years ago, without a dedicated external air supply to facilitate efficient combustion) together with its existing fireplace and wood burning stove is to be demolished. Moreover as new flue construction is proposed complying with current building regulation requirements and new heating equipment is to be installed complying with the latest standards, the proposed new flue would operate in an improved state of efficiency, emitting better quality (to an approved standard) emissions than currently is possible. It must be stressed that it is not intended as a primary source of heat which will be in continual use: it is proposed as a small radiant heat source, ancillary to a central heating system. It is unlikely to be used during summer, much of autumn and spring and is most likely to be used for brief periods at weekends in winter. As one chimney is to be removed and another constructed, there can be no overall increase in levels of polluting emissions than currently exists. As better efficiency and quality of emissions can be expected from a new system, my client strongly contends that his proposal rather doing harm to the locality, would if approved, contribute to an improvement in local environmental conditions and therefore fulfil the policy objectives of NPPF paras. 8b), 135 a) 124 and 198, identified by your officer as being of importance in any evaluation. These policies should be seen as grounds supporting an approval of my client's proposal rather than being cited as reasons for refusal. For these reasons my client contends that any objection to his proposal founded on these policies should properly be reassessed and dismissed.

b) **Flue Design** Your email of 12 September 2025 on the second page evaluates the issues of concern on the presumption that a wood burning stove is to be fitted to serve the proposed flue shown in the submitted drawings. It must be repeated once more that no decision has been taken

on the type of appliance to be used. However you will note from previous paragraphs that the existing chimney in the dwelling which it is proposed to remove, is fitted with a wood burning stove. In paragraph 1c) you have been made aware that my client's family has not received any complaint of nuisance from adjacent residents during [REDACTED] ownership of 25 Tower Street. The message of 12 September 2025 describes a flue construction and design which my client does not propose to use. My client wishes to make clear that the proposed flue would not be fitted with a steel liner or a resin one as suggested. It is proposed that it will be formed from interlocking circular concrete flue tubes 200 mm internal diameter, insulated and encased in brickwork finished at the upper end with a chimney pot and circular flat topped cowl. A flat metal topped cowl with open sides beneath is necessary to cover the chimney from falling rain and prevent birds, twigs and other material from blocking the flue. The continuously open sides of this type of cowl are only restricted by four slim supports required to support the flat top covering. The continuous side opening is covered with widely spaced wire mesh to prevent ingress of birds etc. A cowl of this type thus offers minimal restriction to resist efflux velocity and thermal lift. Such emissions as do take place would be from an eco design stove using an approved fuel for the area. From personal experience this form of flue, complying with construction and height requirements and roof location requirements specified in Building Regulation Approved Document J, which the proposal does, generates good draught. In view of the location close to the sea front which is nearly always breezy dispersion of legally acceptable emissions will prove satisfactory. With a flue constructed on this basis my client considers that there can be no material ground for refusing planning approval on the basis of the provisions of the Environmental Protection Act and Local Plan Policy DM10 as stated by your officer.

c) **8 Tower Street** Your officer has identified 8 Tower Street as a dwelling for which he has concern arising from his assessment of emissions from my client's proposed flue. Your officer accepts in his message of 12 September 2025 that there are no windows on the blank, west facade of 8 Tower Street and no issues of concern have been identified on that elevation arising from my client's proposals. The western wall of 8 Tower Street is the nearest element of that building to my client's property from which it is separated by a minimum distance of approximately 4.5 metres. The officer has identified windows (small and probably [REDACTED] non-habitable space) on the northern facade of the dwelling at 8 Tower Street as an issue of concern. The northern elevation meets the western elevation of that building at a point approximately 6.0 metres from my client's proposed flue. This dimension is the closest point on the northern elevation to the proposed flue. Approved Document J of the Building Regulations covers heating appliances, the design of flues and provision of proper ventilation. This document regulates the arrangement of grouped dwellings and their flues necessary for the safe emission of combustion products from heating appliances in countless new housing developments being undertaken in England and Wales. It follows that Approved Document J establishes the precise legal requirements necessary for locating a flue at 25 Tower Street to ensure safe emission from proposed heating appliances as they affect adjacent buildings. My client's proposals fully comply with these requirements. The separation between adjacent dwellings and my client's proposals so significantly exceeds the required separation provisions of Approved Document J that my client must reject the officer's assessment of impact on the windows on the northern facade of 8 Tower Street. The space separation requirements for solid domestic fuel (wood and timber) are set out in Approved Document J Diagram 17 page 31 and my client's proposals fully meet and exceed the required separation requirements for these fuel types. The requirements for small gas appliances are set out in Diagram 34 page 49 with relevant separation distances given on page 50. In this later case various minimum separation distances are identified but most are of the order of 600 mm or less. Again my client's proposed flue would very significantly exceed these base requirements. By way of example the situation concerning the minimum separation distance of a flue to a boundary between properties for a domestic gas appliance is 600 mm. This separation requirement must be compared with the 6 metre plus separation distance (different by a factor of 10) to the windows at 8 Tower Street identified by your officer as being of concern. In these circumstance my client sees no justification in your officer's use of either the provisions in the Environmental Protection Act or Local Plan Policy DM10 1 to refuse planning approval.

d) **Nuisance** In your email of 12 September 2025 you have advised that the E. H. O. has stressed “that Building Regulations are about absolute and are not designed to ensure the prevention of a nuisance”. My client does not wholly accept this assessment of the role of Building Regulations as it affects the matter of the proposed flue. He notes that the function of The Building Act 1984 is to provide a legal framework for building regulation giving power to make regulations for health, safety, welfare and fuel conservation in and importantly around buildings. Approved Document J of the Building Regulations covers heating appliances, the design of flues and provision of proper ventilation. This document regulates the arrangement of grouped dwellings and their flues necessary for the safe emission of flue gases from heating appliances in countless new housing developments being undertaken in England and Wales. It follows that Approved Document J establishes the precise legal requirements necessary for locating a flue at 25 Tower Street to ensure safe emission of flue gases so as not to impose harm (from smell, pollution of water, air or soil personal comfort and nuisance etc.) to those in the dwelling from which it emanates and the occupants of adjacent dwellings. The E.H.O. in his objection to the proposed flue has raised the issue of nuisance. My client is not aware of any precise definition of what nature of emission from a chimney constitutes a “nuisance” but my client considers that the spatial separation distances between flues and adjacent buildings specified in Approved Document J do establish base distance limits within which no flue should be placed and within which flue emissions must certainly be deemed a nuisance and considered unsafe. Beyond these limits approved emissions from flues from approved appliances and approved open fire construction are deemed acceptable nationally. My client notes that as perceptions of nuisance must decrease with distance, the further a position of concern is from a source of disturbance the less is the weighting that can be attached to the value of a particular complaint of nuisance. Your officer has raised the situation of a window on the north elevation of 8 Tower Street as the only point of concern over proposed flue emissions. In my client’s case not only is his proposal compliant with Document J but the separation distances from sensitive locations on adjacent dwellings far exceed the minimum separation provisions required by Approved Document J. The southern end of Tower Street is a low density housing area. This matter is further evaluated in paragraph c) as it concerns the dwelling at 8 Tower Street where a separation distance of over 6 metres is proposed between possible location of complaint and source. The receipt of complaint of nuisance can never be obviated but it has to be assessed against accepted standards. My client’s firmly held opinion is that the value of a complaint of nuisance from this position on 8 Tower Street must be assessed from the considerations referred to above and on that basis with a separation distance of 6 metres (considerably exceeding mandatory separation distances) should be regarded as a de minimis level complaint. In these circumstances he sees no justification in your officer’s use of ill-defined concepts of nuisance to invoke the provisions of the Environmental Protection Act or Local Plan Policy DM10 1 to refuse planning approval: the matter should not be used as justification for refusal of planning application. My client wishes to remind your officer again that in [REDACTED] family occupation of the dwelling there has never been a nuisance complaint from neighbours [REDACTED] concerning emissions from the existing chimney which is close to to Tower Street as explained in para 2c) above.

My client has asked that you consider the issues raised in this letter and provide your response as soon as possible.

Yours faithfully,

[REDACTED]

[REDACTED]