

## DELEGATED DECISION REPORT

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**SMD/2021/0137**  
**Valid 21/04/2021**

**7 DERBY STREET**  
**LEEK**

**CHANGE OF USE OF UPPER  
FLOORS FOR HMO FOR 5NO.  
ROOM AND INTERNAL  
ALTERATIONS**

**(FULL - MINOR)**

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### MAIN ISSUES

- Whether the proposal accords with the District's housing policy.
- Impact on neighbouring amenity and future occupiers.
- Impact on highway safety.
- Impact on the significance of the non-designated heritage asset and the designated heritage asset of Leek Conservation Area.
- Impact on the character and appearance of the existing dwellinghouse and the surrounding area.

### DESCRIPTION OF SITE

The application site comprises a three-storey building within Leek town centre. The ground floor of the building is used as a card shop. The upper floors are accessed via a separate enclosed access located to the east of the card shop. The building is located within Leek town centre, with various shops and services occupying the ground floor of the buildings along the street. The application site is in the Development Boundary of Leek and within Leek Conservation Area, whereby an Article 4 Direction is in place. The building is considered to comprise a non-designated heritage asset.

### PROPOSAL

Full planning permission is sought to change the use of the upper two storeys of the building to a five bedroom House in Multiple Occupation (HMO) – Use Class C4.

The application has been amended during the course of the application and additional information has been submitted to try and overcome the concerns of both Environmental Health and the Conservation Officer. This has resulted in the application now also proposing a first floor side/rear extension to house a bin store and external alterations to comply with the recommendations of the submitted Acoustic Report.

## **RELEVANT LOCAL AND NATIONAL PLANNING POLICIES**

### **Staffordshire Moorlands Local Plan (Adopted Sept 2020)**

SS1 Development Principles  
1a Presumption in Favour of Sustainable Development  
SS2 Settlement Hierarchy  
SS5 Leek Area Strategy  
DC1 Design Considerations  
DC2 The Historic Environment  
H1 New Housing Development  
T1 Development and Sustainable Transport  
SD4 Pollution and Water Quality

### **National Planning Policy Framework (Revised 2021)**

Paragraph(s) 1 - 14  
Section(s) 4, 5, 12, 15, 16

## **SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS**

SMD/2015/0307 Change of use of first floor offices to tattoo studio (sui generis)  
Approved 14/07/2015

## **CONSULTATIONS**

### **Publicity**

Site Notice expiry date: 21/05/2021 and 07/12/2021  
Neighbour consultation period ends: 18/05/2021 and 06/12/2021  
Press Advert: 02/06/2021

**Public Comments:** None

**Town / Parish Comments:** None

**Severn Trent Water:** No objection to the proposals and do not require a drainage condition to be applied.

**SCC Highways:** No objection on highway grounds.

**AES Waste:** No issues regarding waste collections.

**Conservation Officer:** Site in Leek Conservation Area and the adjoining premises (betting shop) is Grade II Listed (linking through to the Market Place). Whilst this property is not Listed we know that it is one of Leek's 'Sudgen' buildings (the town's most prominent 19th century architects) and therefore of high local significance. External building detailing including windows and architectural features are hugely important. Note to applicant: Any changes to windows will require Planning Permission and external architectural features must be retained.

## **Environmental Health**

First Response: Recommend refusal due to insufficient information in respect of noise.

Second Response: The additional information does not address our concerns, the application should be accompanied with a site specific noise assessment which should include a scheme for sound insulation. Looking at the proposed extra double glazing (no noise reduction specification) although ideal for noise reduction if installed to a good standard could hinder ventilation in the property. When the flat heats up in summer there would be reasonable expectation to open a window for ventilation but noise from the street would cause sleep disturbance.

The proposed bin storage area needs clarification. Are these bins being stored up a flight of stairs?

Aside from the above the proposed HMO on completion would require to comply with the Housing Act 2004 and the Housing Health and Safety Rating System.

Third Response:

Sound: The internal transmission of noise between the proposed residential units would be dealt with through building regulations. The mitigation proposed in the noise assessment should be installed in full, sound testing should be conducted prior to completion to ensure sound insulation works are compliant with the noise assessment.

Housing standards – the proposed HMO will be subject to housing inspections if granted permission and will require a licence. The Housing Standards Officer has raised the following concerns and advice –

Paragraph 15.23 of the Housing Health and Safety Risk Rating Scheme Operating Guidance states that 'There should be suitable and sufficient provision for the storage of refuse awaiting collection or disposal outside the dwelling. There should also be suitable and sufficient provision for the storage of household refuse within the dwelling. The storage provisions should be readily accessible to the occupants, but sited so as not to create a danger to children. The refuse facilities should not cause problems of hygiene, nor attract and allow access to pests.'

Paragraph 15.24 of the Housing Health and Safety Risk Rating Scheme Operating Guidance states that 'For houses, bungalows and houses converted to self-contained flats, there should be a clearly defined area for refuse containers. This is best in the open air, and away from windows and ventilators, and, if possible, in shade or in a shelter.'

The potential health outcomes associated with poor refuse storage facilities include gastro-intestinal disease (from spread of infection), and asthma and allergic rhinitis (from allergens). Household waste may, in addition, present a physical hazard of cuts to young children. Emotional distress is also

commonly associated with pest infestations, and accumulations of refuse. Premises which are difficult to keep clean may be a cause of depression and anxiety.

Insect pests can cause allergic reactions. Children who live in dwellings visibly infested with cockroaches show high levels of sensitivity to cockroach allergen. Contact with cockroaches can cause dermatitis, urticaria, rhinitis, bronchitis and asthma. Some people have an aversion to cockroaches amounting to a phobia and can suffer anxiety when in the presence of the insects.

Insects are also responsible for food spoilage, rendering it unpalatable if not inedible. Insect pests, including flies and cockroaches, are known to be mechanical vectors of diseases, picking up disease causing organisms on their bodies from one source and transferring it. Their behaviour means that they travel from matter such as rotting garbage and animal faeces that are infected to food intended for human consumption.

Rats and mice are known to be infected with pathogenic organisms. Rats have been found to be infected with such zoonotic agents as *Yersinia enterocolitica* (Yersiniosis), *Listeria* spp (Listeriosis), *Cryptosporidium parvum* (Cryptosporidiosis), *Toxoplasma gondii* (Toxoplasmosis), *Leptospira* spp (Leptospirosis or Weil's disease), *Trichinella spiralis* and *Trichuris* spp (Whipworm infection).

Birds, such as pigeons, can cause nuisance, carry diseases including *Salmonella* and can harbour biting insect pests such as the Martin Bug in their nests.

All age groups may be vulnerable to infections associated with dirt, dust and those passed on by pests. Young children may be the most vulnerable to infection and cuts associated with poorly stored refuse, through lack of awareness of dangers. Asthmatics and those with pest allergies will be most vulnerable to allergic reactions to pests.

The view of the Housing Service is that it would not be appropriate for there to be a communal internal refuse storage area for the temporary storage of household waste. It will lead to offensive odours and potential insect and rodent infestation if not effectively managed. Individual occupiers should be responsible for their own refuse storage arrangements within their dwelling unit and should be required to deposit their household waste in suitable and sufficient outdoor refuse containers ready for collection.

Recommendation: Environmental Health recommends refusal due to inadequate and unsustainable bin arrangements. The living standards of future occupiers will be significantly compromised by the proposed internal bin storage areas.

Fourth Response: (Following a site meeting by the Environmental Health Officer accompanied by the planning agent, revised plans proposing the bin storage area to be included in a proposed extension at the top of the internal staircase; and

amendments to the Acoustic Report due to the replacement of the existing windows with double glazing units being unacceptable):

Sound: A revised assessment by Peak Acoustics (ref. TW1207216NR ver 1.0 dated 25/11/2021) has been supplied to address noise concerns and take account of heritage concerns. If permission is granted the mitigation set out in this assessment should be completed in full and a pre-completion test should be undertaken to ensure compliance with the assessment.

The internal transmission of noise between the proposed residential units would be dealt with through building regulations.

The previous comments provided by the Housing Standards Officer were reiterated as the communal bin storage area would still be located inside the building.

Environmental Health recommends refusal due to inadequate and unsustainable bin arrangements. The living standards of future occupiers will be significantly compromised by the proposed internal bin storage areas.

## **OFFICER COMMENTS**

### **Principle of Development**

Paragraph 11 of the National Planning Policy Framework (NPPF, 2021) promotes a 'presumption in favour of sustainable development'. For decision takers this means (c) approving development proposals that accord with an up-to-date development plan without delay; or (d) where there are no relevant development plan policies, or the policies which are more important for determining the application are out-of-date, granting permission, unless: i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Paragraph 8 of the NPPF (2021) identifies three dimensions to sustainable development as being economic, social and environmental. In accordance with policies SS1 and 1a of the Staffordshire Moorlands Local Plan, the Council will expect all new development to make a positive contribution towards the sustainability of communities and to protecting, and where possible, enhancing the environment. When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF (2021).

The building is located within the Development Boundary of Leek; a 'town' as identified by Local Plan policies SS2 and SS5. One of the aims of the Leek Area Strategy is to support the development of new housing on sustainable sites within the Development Boundary. The application site is located within Leek town centre; a sustainable site within the Development Boundary of Leek. The principle of the proposed change of use is therefore acceptable.

## Housing Policy

Part (4) (a) of policy H1 states that *'Housing development on sites not allocated for such purposes in Policy H 2 will be supported as follows: within the development boundaries of the towns and larger villages, residential development and development on unidentified (windfall) sites will be permitted, subject to compliance with the Spatial Strategy and wider Local Plan policies'*.

The application site comprises a windfall site and is located in the Development Boundary of Leek. The proposed development to provide a five bedroomed HMO therefore complies, in principle, with policy H1 of the Local Plan (2020).

## Amenity

Local Plan policy DC1 and paragraph 130(f) of the NPPF (2021) seek to secure development that protects amenity, including residential amenity, in terms of satisfactory daylight, sunlight, outlook, privacy and soft landscaping.

Policy SD4 of the Local Plan (2020) seeks to protect people and the environment from unsafe, unhealthy and polluted environments by ensuring proposals avoid potential adverse effects and only permitting proposals that are deemed to result in pollution if after mitigation, potential adverse effects are deemed acceptable.

Paragraph 185 of chapter 15 of the NPPF (2021) states that decisions should ensure that a new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment.

The building is attached to No. 9 Derby Street to the east, by the entrance door and enclosed staircase up to first floor level. None of the proposed living accommodation will adjoin the adjacent property and therefore there will be no amenity issues associated with the proposed change of use on this property.

The building is detached from the building to the west (No. 5 Derby Street) to both the first and second floors. Therefore there will be no amenity issues associated with the proposed change of use on this property.

In respect of the future occupiers of the proposed HMO, there will be 5no. separate rooms each with its own kitchenette and en-suite. Each room will measure between 11 square metres and 24.4 square metres and will be served by at least 1no. window, providing occupants access to daylight and sunlight. On the first floor there will be a utility room, a bike storage area and a refuse store that will be shared by all the tenants.

Environmental Health recommended the submission of a noise report. A Noise Assessment Report was submitted by the applicant. Although acceptable to Environmental Health, the survey required the replacement of the existing windows with UPVC double glazed windows with trickle vents. This is unacceptable to the character and appearance of the non-designated heritage asset (see section below) and therefore a revised Noise Assessment Report was submitted that proposed the

use of secondary glazing behind the existing windows and the use of through-wall ventilators. This is acceptable to Environmental Health and therefore the proposed change of use can be conditioned to be undertaken in accordance with the revised report and revised technical drawings. Future occupants will therefore not be adversely affected by noise pollution.

Environmental Health raised concerns in respect of the refuse storage area being located within the building and the risk that this poses to the health and wellbeing of the proposed tenants. The applicant sought to overcome this issue and held a site meeting with the Environmental Health Officer. It was noted that the applicant does not own any external space adjacent to the building and therefore there is no means of providing an external bin storage area. Despite the concerns raised by Environmental Health in respect of an internal bin storage area, the applicant submitted revised drawings that relocated the bin storage area into a proposed extension that will be constructed at the top of the existing internal staircase. The extension will be constructed above the flat roof of the shop below (also within the applicant's ownership). The amended location for the bin storage area is still located within the building and therefore the concerns of Environmental Health have not been overcome in respect of this issue.

The proposed development will not protect the future occupiers of the bedsits from unhealthy living conditions, contrary to policy SD4 of the Local Plan (2020) and the NPPF (2021), in particular paragraph 185 of chapter 15.

## **Design and Heritage**

Policy DC1 refers to design and seeks to secure development of a high quality which is designed to add value to the area and to respect the site and its surroundings. New development should promote a positive sense of place and identity through its scale, density, layout, siting, landscaping, character and appearance.

Paragraph 130 of the NPPF (2021) requires the design of a development to add to the overall quality of an area, by being sympathetic to local character and by being visually attractive as a result of good architecture.

The Council's Design SPD outlines the Council's expectations in respect of design and states that extensions should harmonise with the parent building. An extension should respect the dominance of the original building and be subordinate to it in terms of its size and massing.

Policy DC2 of the Local Plan (2020) states that the Council will safeguard and where possible, enhance the historic environment by resisting development which would harm or be detrimental to the special character and historic heritage of the District's towns and villages and those interests of acknowledged importance; promoting development which sustains, respects or enhances buildings and features which contribute to the character or heritage of an area; and preventing the loss of buildings and features which make a positive contribution to the character or heritage of an area through appropriate re-use and sensitive development.

The Glossary to the NPPF (2021) defines a 'heritage asset' as a '*building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing)*'. The Planning Practice Guide states, '*in some cases, local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications...*'

Paragraph 194 of the NPPF (2021) requires an applicant to submit a Heritage Statement to '*describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary*'.

Paragraph 203 of the NPPF (2021) states, '*the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset*'.

The application site is located in Leek Conservation Area that is also covered by an Article 4 Direction preventing certain types of permitted development. The Conservation Officer made the following comments in respect of the planning application:

*'Whilst this property is not Listed we know that it is one of Leek's 'Sudgen' buildings (the town's most prominent 19th century architects) and therefore of high local significance. External building detailing including windows and architectural features are hugely important. Note to applicant: Any changes to windows will require Planning Permission and external architectural features must be retained.'*

A Heritage Statement was submitted to support the application however, it is brief, lacking in content and does not identify the significance of the heritage asset. The Heritage Statement does not comply with the minimum requirement set out in paragraph 194 of the NPPF (2021), as the Historic Environment Record has not been consulted, otherwise the applicant would be aware that the building was built by Sudgen.

The applicant was unaware that the initial Noise Assessment Report proposed the replacement of the existing windows with UPVC. When it was explained that this would not be acceptable, an amended Noise Assessment Report proposed the retention of the existing windows, the provision of secondary glazing and the installation of through-wall ventilators. Revised drawings were requested to understand where the ventilators would be positioned and what they would look like, to be able to fully assess the impact they may have on the heritage assets.

Revised drawings were submitted, but these did not include the through-wall ventilators. Instead they reverted back to altering the existing windows and the provision of secondary glazing with no trickle vents (Drawing numbers 015.21/07F, 015.21/08F, 015.21/16F). It is therefore unclear what is proposed by the applicant. Insufficient information has therefore been provided to determine the impact of the proposed change of use on the significance of the heritage assets; both designated and non-designated.

It is proposed to erect a first floor extension to the rear of the existing enclosed staircase that provides access to the upper floors of the building. The extension would not be visible from the public realm due to the high density of the surrounding buildings. The proposed extension will be subordinate and will have a mono-pitch roof that will adjoin the roof of the enclosed staircase. It will be built on top of an existing flat roof, thereby improving the appearance of the building. Subject to a condition requiring the external materials to match those on the existing building, the proposed extension will not adversely affect the character or appearance of the Leek Conservation Area, the existing or adjacent buildings.

Insufficient information has been provided in respect of the content of the submitted Heritage Statement and the final scheme for noise protection and ventilation. It is therefore not possible to determine whether the proposed change of use will have an adverse effect on the significance of the non-designated heritage asset or Leek Conservation Area. The development is therefore contrary to policy DC2 of the Local Plan (2020) and the NPPF (2021), with particular reference to chapter 16.

### **Highway Safety**

Policies DC1 and T1 seek to achieve a level of parking and an access that is appropriate to the development it serves.

The Highways Engineer has assessed the application and does not raise an objection. The site is located within Leek town centre in a sustainable location. No in curtilage parking is available or possible, but public parking is available close by.

It is therefore not considered that the proposed development will have a detrimental effect on highway safety and it will comply with policies DC1 and T1 of the Local Plan (2020) and the NPPF (2021).

### **CONCLUSION / PLANNING BALANCE**

The proposed change of use of the first and second floors of the building to a 5 bedroom HMO is acceptable in principle, as it will be sited within the town centre of Leek; a very sustainable location. Although no parking is provided, the Highways Engineer notes the sustainable location of the property and the proximity of both on-street parking and car parks and therefore he does not raise an objection. It is also noted that an internal bike storage area will be provided for occupants, thereby promoting other means of transport.

The proposed extension to house the bin storage area will be small in scale and subordinate. It will not be visible from the public realm and will use materials to match. No objection is therefore raised to its scale or design.

The application site is located within the Leek Conservation Area and the Conservation Officer has indicated that whilst not listed, the building comprises a non-designated heritage asset due to its architect being Leek's most prominent in the 19<sup>th</sup> Century. A Heritage Statement was submitted with the application but its content is lacking and does not comply with the minimum requirements as detailed in paragraph 194 of the NPPF (2021). Insufficient information has also been submitted to understand which Noise Assessment Report is to be followed and the associated impact of either, alterations to the existing windows or the inclusion of through-wall ventilation, will have on the significance of the non-designated heritage asset or the Leek Conservation Area. The application is therefore contrary to policy DC2 of the Local Plan (2020) and the NPPF (2021), particularly chapter 16.

It is proposed to provide an internal bin storage area on the first floor of the building, as there is no available external space. Environmental Health has raised concern regarding the health implications associated with an internal bin storage area and the adverse effect this will have on the living conditions of future occupiers. The proposed development will therefore result in substandard living conditions, contrary to policy SD4 of the Local Plan (2020) and the NPPF (2021), particularly chapter 15.

As such, the application is recommended for refusal.

**OFFICER RECOMMENDATION: REFUSE**

**Case Officer: Ailsa Berry**

**Recommendation Date: 20/01/2022**

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Signed by: Ben Haywood

**On behalf of Staffordshire Moorlands District Council**