



Appeal Decision

Site visit made on 31 January 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2023.

Appeal Ref: APP/B3438/W/22/3305781

7 Derby Street, Leek, Staffordshire ST13 6HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Calan against the decision of Staffordshire Moorlands District Council.
 - The application Ref SMD/2022/0050, dated 11 February 2022, was refused by notice dated 19 October 2022.
 - The development proposed is Change of use upper floor for HMO for 5 no room and internal alteration. First floor single-story rear extension, alteration to ground floor to staircase, and front elevation for refuse store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal was initially lodged in August 2022 against non-determination resulting from the Council's failure to reach a decision on the application submitted by the appellant within the prescribed period. However, the Council subsequently determined the application and issued a decision notice, refusing the application for two reasons. As the Council has now determined the application and the appeal has not been withdrawn, I shall determine the appeal against the Council's decision to refuse planning permission, and not as non-determination.
3. As part of his Final Comments, the appellant has submitted additional plans showing revised arrangements for waste and refuse bin storage to include removing the bin storage area by the entrance door, omitting the first floor extension as a bin storage area, and instead providing a galvanised chute from an existing first floor window into a refuse bin in the rear yard below. Some amended window details and sections have also been submitted.
4. The Planning Inspectorate's Procedural Guide Planning Appeals England states that the appeal process should not be used to evolve a scheme, and that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority and on which the views of interested persons were sought. If an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application.
5. I consider that the revised proposed refuse and bin storage arrangements and the window details are materially different to the scheme that was consulted on

and which the Council, including its Environmental Health team, considered. Whilst I recognise that the proposed amendments are an attempt by the appellant to address the original concerns of the Council and the reasons for refusal, I have decided not to accept them for the reasons above. I have therefore determined this appeal on the basis of the originally submitted plans, which are those on which the Council made its decision.

Main Issues

6. The main issues are:-

- Whether the proposal would preserve or enhance the character or appearance of the Leek Conservation Area, and its effect on a non-heritage designated asset, and
- Whether or not the proposed development would provide acceptable living conditions for future occupants, with regard to provision of refuse and waste facilities.

Reasons

Character and appearance

7. The appeal site comprises a mid-late 19th century three storey brick building (the non-designated heritage asset) on a pedestrianised street of predominantly retail and commercial buildings within Leek town centre, close to the market place. The building lies within the central part of Leek Conservation Area (the CA), a nationally designated heritage asset, which the National Planning Policy Framework (the Framework) recognises of being an irreplaceable resource that should be conserved in a manner appropriate to its significance. The CA includes the core of the medieval market town with its old buildings, church, marketplace and medieval street pattern. The heritage significance of the CA is derived from its architectural and historic interest.
8. I saw there were a variety of building designs and styles in Derby Street. The building has decorative detailing and stone banding. It also retains its original timber sash windows, including two fine three-pane windows, one with decorative stone arched surrounds at first floor and one with rectangular stone window surrounds at second floor. These features combine to give the building a visually striking and prominent façade. I observed that many of the upper floors of buildings in the CA and along Derby Street still retained their original windows, which contribute to the charm and distinctiveness of Leek town centre and its CA. Due to its location within the street scene, and with its decoration and original windows, the property makes a positive contribution to the character and appearance of the street scene and the CA. The CA is also covered by an Article 4 Direction that removes various permitted development rights for dwellinghouses, but is not directly relevant to the proposal.
9. The ground floor of the property is a trading retail premises. The upper two floors are currently vacant and are accessed via a separate double door to the side of the shop, behind which is a flight of stairs leading to the first floor. The proposal would involve changing the upper floors into 5 Houses in Multiple Occupation (HMOs), with access for residents via the double doors.
10. On the recommendation of the appellant's submitted Noise Assessment, the existing timber windows would be replaced with uPVC double-glazed windows

with trickle vents, in order to improve the acoustic and thermal insulation of the buildings for future residents of the proposed HMOs in this town centre location.

11. The Council's Design Guide¹ recognises that windows are amongst the most important features of an elevation and deserve special care and attention and advises that the use of timber is preferred. uPVC windows are often inappropriate as an alternative to more traditional materials, particularly in sensitive areas such as conservation areas, with chunky sections and profiles and lack of detail and finesse.
12. The submitted plans appear to show the replacement windows looking similar to those that would be removed. Whilst uPVC window design has improved over the years and detailing has become more refined and slimmer, the technical finish and appearance is still different to wood and the design and detailing can often change the proportions of the glazing, and hence a building's character and appearance. The submitted plans lack detail, including sections and specifications. Without these there is insufficient information to be able to assess the finesse and detailing of uPVC windows to be certain they would be appropriate.
13. From my observations inside the building, the windows were in generally good condition and many of the sliding sashes were in working order, particularly the most striking windows on the front elevation. No evidence has been submitted to justify that there are no alternative ways of providing effective sound and thermal insulation to the building without removing the original windows.
14. The proposal would also involve altering the entrance doors. These are symmetrical timber double-doors with a decorative fanlight and fascia above with the words 'Central Chambers'. The doors would be replaced by an asymmetric arrangement that would include a vertically glazed single door that would give access to the stairs. The other replacement door would be narrower with a ventilator grill above it and would give access from the street to a communal refuse bin store. The two doors would be architecturally unsympathetic.
15. Overall, the proposed replacement uPVC windows and new doors at street level would see the removal of features that would erode the architectural and historic interest of the building and harm its character and appearance. As the building forms an integral part of the street scene and CA, it therefore follows that the contribution the property makes to the CA would be diminished. Consequently, the proposal would neither preserve or enhance the character or appearance of the CA, as required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
16. In cases such as this, where the harm to the heritage asset is less than substantial, paragraph 202 of the Framework states that the harm should be weighed against the public benefits. In accordance with Paragraph 199 of the Framework I attach great weight to this matter.
17. On the other side of the balance the provision of 5 HMOs would play a role in providing low-cost housing in the centre of Leek, with good access to services, facilities and public transport. Indeed, the Council has no objection to the

¹ Supplementary Planning Document adopted February 2018

principle of the development in the town centre. The proposal would result in some modest construction employment, and the additional spend of future residents would be of benefit to the town centre. The residential use would also help bring vacant upper floors back into use and make efficient use of previously developed land. These would amount to public benefits.

18. However, the public benefits do not outweigh the harm that would be caused to the character and appearance of such a prominent building in Leek town centre and to the heritage asset of Leek CA. Accordingly, the development would be contrary to Policy DC2 of the Staffordshire Moorlands Local Plan² (the Local Plan) that seeks to conserve and enhance heritage assets. The proposal would be contrary to the Framework as well as failing the statutory tests. It would also be contrary to the Council's Design Guide.

Refuse and waste management

19. The proposal would involve the creation of communal refuse storage areas for the residents of the proposed HMOs. One refuse storage area would be formed from part of the space by the entrance doors by subdividing the space at the bottom of the stairs. A narrow bin store would be created shown to house 2 plastic sack bins, one behind the other. The refuse store would be accessed by a door that would open into the street and the store would be ventilated by a grill installed above the door.
20. The Council's Environmental Team advise that bin storage areas are best in the open-air and away from windows and ventilators. The provision of internal refuse storage areas would lead to offensive odours and potential insect and rodent infestation if not effectively managed, with associated problems of illness and disease to residents. No details have been submitted as to how the refuse areas would be managed and kept clean.
21. The provision of 2 standard household waste bins in the space by the front door would be inadequate waste and refuse provision for 5 households. Furthermore, the plans do not show any designated waste recycling facilities. I have not been advised of the frequency of refuse collections, but even a weekly service would likely lead to overflowing bins leaving litter and detritus in the bin area arising from 5 households, with the associated detrimental effect this would have on the street with the door opening onto it.
22. The plans also show a small extension would be erected at first floor, annotated for 'storage' and accessed at the top of the flight of stairs. This looks to be no bigger than the ground floor refuse area. A small windowless room is also shown on the second floor. If these small storage areas were also used for communal refuse bin storage, this would be wholly unsuitable for similar environmental and health reasons.
23. The proposal therefore fails to make adequate provision and facilities for waste, refuse and recycling. This would result in poor living conditions for future residents. Accordingly the proposal would be contrary to Local Plan Policy SD4 which seeks to protect people and the environment from unsafe, unhealthy and polluted environments by ensuring proposals avoid potential adverse effects.

² Adopted September 2020

Conclusion

24. For the reasons given above, I conclude that the proposal would be contrary to the development plan considered as a whole and that the public benefits of the scheme are insufficient to outweigh the harm that would be caused to the building and the CA. There would also be harm to the living conditions of future residents arising from inadequate refuse bin and waste management provision and facilities.
25. As a result, the appeal should be dismissed.

K Stephens
INSPECTOR