

DELEGATED DECISION REPORT

SMD/2024/0355
Valid 05/08/2024

**REAR OF 14 DERBY
STREET
LEEK**

**THE REFURBISHMENT,
CONVERSION, AND REPAIR
OF A VACANT VICTORIAN
PROPERTY IN LEEK TOWN
CENTRE, TO CREATE 3 NO.
RESIDENTIAL UNITS. DUE TO
STRUCTURAL ISSUES, THE
CONVERSION WORK WILL
ALSO INCLUDE TAKING
DOWN AND REBUILDING THE
EXISTING TWO-STOREY
BRICK FRONT ELEVATION
AND ROOF.**

(FULL - MINOR)

MAIN ISSUES

- Heritage – Leek Conservation Area
- Heritage – setting of Grade II Listed no.10 Derby Street rear elements
- Housing
- Economy
- Design
- Neighbours
- Means of access
- Drainage
- Extent of land ownership and access rights

DESCRIPTION OF SITE

Characterful red brick and clay tile two storey building. Stone lintels and cills. Some surviving timber sash windows sub-divided 8 over 8 and a large 4 unit casement with leaded lights surviving.

The building overlooks a part cobbled / part gravel gated courtyard with vehicular access off Pickwood Road via Wardel's Passage and additional pedestrian access only from Russel Street also via Wardel's Passage.

Overlooking the courtyard from the opposite side at a separation of c.17.5m are two dwellings approved as a conversion under SMD/2004/0991. The building is also close by with the Grade II Listed solicitors and former court house building at 10 Derby Street which has its rear outriggers partly facing the application building.

In the easterly elevation the building stands partly back-to-back with buildings in Russell Street.

The building appears long out of use but most recently appears to have been storage ancillary to no. 14 though perhaps historically was also residential in part. An accompanying structural survey concludes that: "severe distortions have been caused to this property due to significant roof spread". These failures have caused the front and left hand walls to bow outwards.

The applicant is also the owner of no.12 Derby Street.

PROPOSAL

From the DAS: "... the distorted wall of the front façade and its character is to be replicated like-for-like with its reconstruction. By strictly adhering to the cill levels and salvaging as much of the brickwork and tiles for the roof as possible it is intended to preserve the character of the building and improve its life span for future generations".

"...two bricked windows to be reopened on this elevation".

"...three bricked up 20th century windows on the ground floor front elevation [to the left], are to be enlarged and replaced with sash windows to match the adjacent existing sash windows [to the right]".

"...it is proposed to use the West frontage for a 3/4 person dwelling and to divide the rest of the property into a ground floor and first floor flat for 1 and 2 residents' respectively". The flats will be one bedroom units whilst the house will be a two bed.

"There is a small courtyard to the rear of the proposed house which currently has a drop and a concrete ramp and it is proposed to partition this courtyard to create two private outdoor spaces to service the ground floor flat and the house. As part of these works it is planned to level the ground here bordered by two parti walls. It is also proposed to improve access by removing the large concrete slab to the front (West) of the property and replace it with a ramp and stair access to the front entrances to the flats and a gated bin store".

"There are two new windows proposed on the rear along with a new skylight, these are not visible to the adjacent Listed Building and their design is informed by the existing casement windows found on the property and the large Victorian leaded light".

"The proposed works will remove access to the property from Derby Street through the alley alongside 14 Derby Street with all access to the proposed dwellings now provided through Wardle's Passage/Pickwood Rd. The development is not capable of providing occupation for less abled people due to the stepped internal access and the uneven ground in the access. Access to the fire escape for the adjacent property

will also be rerouted to provide privacy to the proposed dwellings and limit risk from ground floor windows being located along the escape route.”

In addition to the structural report and DAS which incorporates a heritage assessment the application is accompanied by a bat preliminary and follow-up activity survey report.

BNG

Exemption is claimed as follows: Development subject to the de minimis exemption (development below the threshold).

Reason for selecting exemption: ‘Change of uses to development where there is no or only a de minimis impact on onsite habitat’. The proposed change of use and the boundary of the site have no regions which are able to provide habitats or biodiversity gains. Any external areas are hardstanding with no vegetation, and the proposal does not increase the overall building footprint.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan (adopted 9th September 2020)

SS1 Development Principles
SS2 Settlement Hierarchy
SS5 Leek Area Strategy
DC1 Design Considerations
DC2 The Historic Environment
H1 New Housing Development
NE1 Biodiversity and Geological Resources
NE2 Trees, Woodland and Hedgerows
T1 Development and Sustainable Transport

National Planning Policy Framework (Dec 2023)

Paragraph(s) 1 – 14;

Section(s) 4 – Decision making; 6 – Building a strong and competitive economy; 7 – Ensuring the vitality of town centres; 8 Promoting healthy and safe communities; 11 – Making effective use of land; 12 – Achieving well designed places and beautiful places; 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

Adopted Supplementary Planning Documents/Guidance (SPD/G):

- Space About Dwellings SPG
- Design Principles SPG
- Design Guide SPD adopted 21st February 2018

Local Plan Supporting Evidence Documents:

- Landscape and Settlement Character Assessment (2008)

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None for the site itself but see facing building:
04/01383/FUL – Premises to rear 10 Derby Street change of use to 2 dwellings – approved
05/00161/LBC [relating to the above] – alterations to Listed Building to create 2 dwellings – approved

CONSULTATIONS

Publicity

Site Notice expiry date: 05.09.2024
Neighbour consultation period ends: 30.08.2024
Press Advert: 11.09.2024

Public Comments

In respect of no.10 Derby Street both the owners of the building in the name of Mr T Cogan and the occupiers of the premises in the name of Tinsdills solicitors have commented. Whilst the owner's letter from Mr Cogan is specific in saying they have "no objection to the proposed rectification works" they are in effect raising objection in relation to other matters. The Tinsdills letter is concerned with impacts on their business and what they appear to identify as conflicts with their leasehold rights and is in effect a series of objections.

For Tinsdills:

The application and plans submitted appear to negatively impact our use and occupation of 10 Derby Street in a number of ways:

- Access to the proposed properties relies upon access via the car park at the rear of 10 Derby Street. While the title to 12 Derby Street contains limited rights of access/egress (via a route specified by the owners of 10 Derby Street) these rights do not extend to 14 Derby Street and the current proposal would be a significant extension of the current rights of 12 Derby Street. While we cannot speak for the owners of 10 Derby Street, we would not be in agreement with the grant of additional access via the car park currently leased by Tinsdills and therefore alternative arrangement for access to the proposed properties would need to be made.
- Drainage would involve significant works across the leased land affecting the parking which is "in constant use" by the leaseholder (no.10). "We would not be in agreement with this and alternative foul/surface water drainage arrangements will need to be made".
- The plans for a bin/recycling store for the new properties are currently on land occupied by Tinsdills and we would not agree to a variation of the lease to allow for this, not least because it is proposed to put a waste/recycling area in close proximity to our existing conference rooms, offices and document stores.
- The level of works contemplated would require access over/occupation of a significant amount of our car park area and for a significant amount of time.

- This will negatively impact both our use of the rear of 10 Derby Street, and also the works will impact our quiet use and enjoyment the rest of the premises. We need to be able to provide a clean and safe environment for our staff to park which will undoubtedly be compromised by the proposed works.
- Concern about how the occupiers of the development might avail themselves of no.10's leasehold land: "there is very limited amenity space proposed for the new properties – what controls are proposed to prevent the occupants from using the rear of 10 Derby Street?"
- Parking availability in this area of Leek is already poor, and the potential of another 8 residents together with associated vehicles, deliveries, etc, is only going to exacerbate the situation.
- As business owners in Leek what we want to see is investment in the town centre to encourage businesses and employment opportunities.

For the freehold owners of 10 Derby Street

- Despite the application form certificate B – no notice of the application has been received
- The proposal plans are difficult to follow and vague in relation to access but this appears to involve the car park at the rear of no. 10.
- Applicant has "very limited access rights over the car park area in relation to the use of the retail units fronting Derby Street and forming part of the title of 12 Derby Street no such rights exist in relation to the development of property at 14 Derby Street nor do any existing rights extend to access to any of the proposed development properties.
- Carrying out the work will require a significant area of the car park – this would restrict the tenants whilst being carried out both in terms of the available parking and in terms of the occupiers quiet enjoyment during the work and [separate point] as a result of the occupation of the completed development thereafter
- The application proposes its bin store on land owned with 10 Derby St and leased and the developer has no rights over this area.

Town / Parish Comments

Leek Town Council – resolved that as the application was complicated, they will trust in the officers decision who have visited the property and studied the plans in depth to understand the access arrangements.

Environmental Health

No objection subject to conditions

Sound Insulation: The proposed development is adjacent to a busy commercial area including associated plant and delivery noise. It is also adjacent to an access road and car park. The proposed apartments will require sound insulation to mitigate noise to current criteria levels as set out BS8233:2014 Guidance on Sound Insulation for Buildings and the Pro PG: Planning and Noise Professional Practice Guidance on Planning and Noise New Residential Development.

Also re lighting; unexpected contamination; pollution control during development; noise control during development – ie. hours of work.

Staffordshire County Council Highways Authority

Recommends acceptance.

Application is to convert a building off Derby Street to residential use. Application site is in Leek town centre.

Application form states that the site has no parking and that none will be added or removed. Aerial view appears to show parking within the area covered by the red line. However, the site is in Leek town centre directly adjacent to an existing public car park, close to existing facilities of a large town and close to the bus station. Site is in a sustainable location. Given this, parking is not required to be provided.

SMDC waste collection services

No issues raised.

Severn Trent Water

No objection subject to pre-commencement condition: “should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority”.

Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative, other sustainable methods should also be explored. If these are found unsuitable satisfactory evidence will need to be submitted before a discharge to the public sewerage system is considered. No surface water to enter the foul or combined water systems by any means.

OFFICER COMMENTS

Principle of Development

Being within the Leek Town Development Boundary the Council's adopted policies are in principle supportive of development at this site. In terms of transport and travel and access to services this is a highly sustainable location.

The main issues are impacts if any on the character and appearance of the Leek Conservation Area; the amenities and living conditions available to the occupiers of the completed development; any impacts upon adjacent neighbouring property

occupiers (both residential and business); and impacts on the setting of the Grade II Listed Building at 10 Derby Street.

Design / Heritage

In terms of the character and appearance of the Conservation Area and in terms of the setting of the Listed Building the main considerations are the southerly elevation to the two storey dwelling which is seen quite prominently from the public thoroughfare of Wardle's Passage and is glimpsed from Pickwood Road. It is also seen in conjunction with the rear outriggers of the Listed no.10. Although the two storey facade is to be re-built its character is essentially to be the same. There would not be any adverse consequences for the CA or the setting of the LB. Moreover, as a currently disused and decaying building there are significant benefits from the scheme for the CA and the LB setting.

Related to the above potential impacts there must be concern that the area first allocated as bin storage is apparently not available to the applicant given the objectors' comments. It is questionable however whether this should be sufficient a concern to jeopardise the scheme as a whole. Whilst it would be desirable to condition the bin storage to be completed as proposed in the original application submissions this would not be a 'reasonable' or 'enforceable' condition given the different ownership. It is understood the applicant is in negotiation with the objectors who own the land in question. Meanwhile a revised layout has been submitted which omits using the bin store as first shown and instead would place the bins immediately alongside the entrance doors. This is much less ideal but at least finds provision. As these dwellings would be unlikely to require a garden waste bin it is reasonable to allow space for just two bins per dwelling.

There are some elements of the roofscape that will also fall into view as noted above for the elevations. This will largely be unchanged but for the insertion of roof lights in three locations all with minimal or no visibility from outside the site and therefore of no impact to the CA or LB.

From the statement: "There are two new windows proposed on the rear along with a new skylight, these are not visible to the adjacent Listed Building and their design is informed by the existing casement windows found on the property and the large Victorian leaded light." From the application form: windows are proposed as 'painted timber to match existing'. The window design forms – sash for the southerly frontage, or casements to the courtyards – either replicate or match existing forms.

In visual street scene and heritage impacts this is a well proposed scheme in terms of its design detailing and by dealing with a deteriorating structure it can be accepted as improving the Conservation Area and the setting of the Listed Building.

Amenity

Interior space

In terms of NDSS the proposed units have floor area as follows:

- The two storey two bedroom dwelling provides
Ground Floor 34.5m² (confirmed from plan by LPA)
First Floor 35.7 (confirmed from plan by LPA allowing extra 1m² for storage)
Therefore total is 70m² which is sufficient for a two bedroom / 3 person dwelling. It does not meet the 79m² requirement for a two bedroom / 4 person dwelling.
- Ground floor flat 40.6m² (scales as 42m² – LPA). Therefore meets NDSS 39m² minimum for a single storey one person dwelling. (NB needs to be 50m² minimum as a two person dwelling.)
- First floor flat stated as 48.6m² but scales as 50m² – LPA. Therefore can be accepted as meeting NDSS for single storey one bedroom / two person dwelling.

Subject to clarifying occupancy numbers by condition these figures can all be found acceptable.

Natural light

In terms of light the two storey dwelling can be considered well provided as it has a series of windows with open aspect facing west to the benefit of all the living areas. In addition it has ground floor windows into a small enclosed rear courtyard. For the first floor landing and for bedroom one a rooflight is proposed on the east roof slope to serve each of these spaces. Bedroom two also has the benefit of a side corner window as well as its front west facing window.

The one-bedroom ground floor flat has two west facing windows to serve the bedroom and a large south facing window to serve the living / kitchen area. This latter is somewhat compromised in that it faces into a very small and fully enclosed courtyard – see file photos P112-0433 and P112-0434. Helpfully this window in addition to its beneficial size faces south. Also, the enclosing walls to the west and to the south, although two storey, are not especially high. As a small single-occupant flat this compromised natural light can potentially be considered acceptable.

The one-bedroom first floor flat benefits from a west facing first floor window serving its bedroom; a skylight serving the bathroom and a generous 2.2m long x 1.2m high window facing south over the inner court yard discussed above (see file photos P112-0432 and P112-0454). This latter window will receive good natural light taking into account its relative height with the structures to the south and west. It can be reasonably accepted.

Space About Dwellings

In terms of potential over-looking and privacy there are not found to be any issues for the windows of flats 1 and 2, neither for the occupiers nor for neighbours.

The west facing windows of the two storey dwelling look across to existing dwellings at Rose Cott and Lilac Cott. The separation distance is 17.5m which is less than the

22m expected for principal windows in facing elevations. This separation is however appreciably more than the 10m to 12m commonly found throughout Leek in traditionally laid out town streets of similar era. It can reasonably be accepted.

Overlooking the rear (east) aspect of the two storey dwelling is a three storey elevation forming the rear of Lion House at no.4 Russell Street (see eg file photo P112-0431, also P112-0432). This property had consent in 2015 for 'Change of use from offices (Call Centre) (B1) to restaurant/tea rooms (A3) with proprietor's residential flat over'. This has been implemented. There are no ground floor windows addressing the courtyard. From the approved plans (SMD/2015/0519) the three first floor windows serve a restaurant area. The four top floor windows serve a stairwell (left most end), hall and main living area (two windows). Whilst these two facing elevations are very close at c.3.5m the very steep angle of any view between the sole principal window (W9) of the proposal dwelling and any windows in Lion House (only the top floor of which are residential) should render any actual or even perceived overlooking as being inconsequential and the proximity of the elevations is therefore acceptable.

Outdoor space

There is no private outside space for the one-bedroom two-person first floor flat.

The one-person ground floor flat has the benefit of a very small 4.0m x c.2.7m courtyard. The main function of this must chiefly be to preserve the occupier's control of the space immediately outside their main window. It will also give some scope for outside storage.

Beyond an adjacent similar slightly larger (20m²) yard to the two storey dwelling there is otherwise no significant private outdoor space for this unit either.

The town centre location of these dwellings means they have ready access to a range of leisure amenities. In particular, via Derby Street and the Market Place to the north, Leek's main Brough Park can be reached on foot at a distance of c.400m. A similar distance again through the park would reach the baths, sports hall, and outdoor play facilities. This can be accepted as off-setting the disadvantage of limited or no private space. It can also be noted that it is only in relation to the two storey dwelling that it should be anticipated that children may possibly be among the occupiers which heightens the desirability of having adjacent outside space.

The objectors are concerned about the likelihood of the occupiers taking advantage informally of the main access yard area to the west given the lack of amenity around the dwellings within the application ownership. There is perhaps some inevitability to this in fine weather even if it simply amounts to sitting out on a step or a carried out chair but it is difficult to see how this could impact greatly on the offices. The effects should be no greater than anything arising from Rose Cott and Lilac Cott which also have no dedicated outdoor space and open into and are accessed from the same yard area. In any event these are chiefly private matters between the land holders.

There are therefore some compromises in terms of dedicated outdoor space to these dwellings but on balance and all considered this can be accepted.

Highway Safety

The Highway Officer comments advise that the town centre location means that off-street parking is not required to be provided. For the LPA the acceptance and approval of new town centre dwelling units without their own dedicated parking provision would be consistent with numbers of recent approvals especially in relation to conversions. As already noted this is a highly sustainable location in which a wide range of needs can be met from within the town at ready walking distance but if travel is required the bus station can be reached on foot at a distance of c.300 metres.

Other Matters

The owners of 10 Derby Street say they were not initially served with notice of the development affecting their land – despite the submitted certificate B referencing 28th March 2024. The agent has since provided copies of the notice together with an accompanying letter both dated 6th September 2024. The elapse of 21 days from the 6th Sept occurred 30th September. In any event it is clear to the LPA that the owner and separately their tenants have had full knowledge of the application at least since 29th August 2024 when their representations to the LPA were dated. It is appropriate to conclude therefore that in terms of being aware of the application their interests have not been disadvantaged by the applicant's apparent initial failure to serve the Article 13 notice.

Other matters raised by the objectors where these are material to the planning assessment have been discussed in the above report. Matters relating to rights of access, rights of drainage etc are chiefly private matters to be resolved between the parties though obviously if agreements are required and not obtained the development as proposed may not be able to proceed.

In terms of biodiversity, following the LPA site visit the exemption claimed with regard to BNG can be accepted. With regard to protected species a bat survey including activity survey results have been provided from a qualified bat ecologist. Activity survey focussed on the two storey dwelling part (their area A) but also considered Area B (over the flats). They conclude "Area A of the building is not considered to support any roosting bats"; "no signs of bat activity were recorded within Area B and based on the low level of bat activity across the three surveys, bats are unlikely to be present within the building". It is obvious to the LPA that a considerable amount of work had been done inside the buildings prior to the bat surveys – eg full removal of ceiling in area A and re-roofing of area B including re-timbering. Any significant bat usage (if any present) would be likely to have been extinguished by these activities but the LPA has no knowledge or evidence either way. It would be appropriate to require the insertion of bat roost bricks in accordance with the applicant's submitted survey recommendations at 4.4.1.

There must be some presumed urgency to this work due to the bowing front (west) elevation. The applicant has requested that the Severn Trent drainage condition

should not to be a pre-commencement requirement. However, drainage is fundamental to the establishment of three dwellings. It would appear that there is only external roof water drainage at present and the buildings may never have had internal foul drainage. The agent has confirmed they agree to submitting drainage plans as requested by Severn Trent and will accept a condition that no development shall occur until they have done this and had the plans approved other than work specified on drawing AL10 relating to the necessary take down and re-build of parts of the intended two-storey dwelling.

Although SMDC Environmental Health have recommended a condition to require a site-specific scheme for protecting the proposed residential units from road traffic noise this cannot be justified as being either reasonable or necessary. The dwellings are separated from adjacent streets by significantly sized other buildings and are not in a street-front location. Derby Street itself is pedestrianised as is Wardle's Passage. Pickwood Close is a cul-de-sac for deliveries and limited nearby parking spaces. Russell Street is one-way only and well separated from the proposal scheme by other buildings. Brook St is 100m to the south west with other buildings coming in between.

CONCLUSION / PLANNING BALANCE

This is a valuable scheme in terms of preserving the historic character and appearance of the Conservation Area and retrieving a series of long-vacant buildings from on-going decay and eventual loss. It will also contribute 3 dwellings to the housing supply. Whilst there are some compromises in terms of living conditions in particular with regard to the ground floor one-bedroomed flat and its access to natural light and in all three cases in terms of outside space it can be anticipated that this should ultimately be reflected in the market value (whether for sale or to rent). Leek spatial strategy policy SS5 seeks to (1) "increase the range of available and affordable house types" in the town and these three units can be regarded as welcome 'stepping-stone' or market-entry properties. Importantly the scheme meets basic NDSS requirements but a condition to reference the limits should be attached. The most appropriate way to do this may be to require they only be marketed as providing for accommodation within the NDSS prescribed limits and to be the main or permanent residence only for the prescribed number of occupiers.

OFFICER RECOMMENDATION : **Approve subject to conditions**

Case Officer: Arne Swithenbank

Recommendation Date: 03.10.2024 revised 10.10.2024

X *Jane Curley*

Signed by: Jane Curley

On behalf of Staffordshire Moorlands District Council