

DELEGATED DECISION REPORT

NMA/2025/0031
Valid 20/11/2025

7A DERBY STREET
LEEK

NON-MATERIAL AMENDMENT
RELATING TO SMD/2022/0602
- CHANGE TO THE
DESCRIPTION OF
DEVELOPMENT

(NON MATERIAL
AMENDMENTS)

MAIN ISSUES

- Whether the change as proposed to the description of development can be considered non-material

DESCRIPTION OF SITE

The site has been granted planning permission under the above reference SMD/2022/0602 for '*Change of use of first and second floors to 5-room HMO with internal alterations, rear waste chute*'.

The applicant subsequently found they could not implement the waste chute due to building control requirements. They therefore wish to amend the application and in particular the condition which stipulated using the waste chute for refuse management. They have separately submitted a s73 planning application for variation of condition under reference SMD/2025/0101. However, they are prevented from amending the description of the development under section 73 and are therefore seeking to do this through this non material amendment. The description also needs to be amended to make this a 4-room HMO as opposed to 5-room.

PROPOSAL

The revised scheme under SMD/2025/0101 proposes to omit the waste chute system and this NMA seeks simply to amend the description of the development to exclude the waste chute as a core element and refer to the scheme as providing 4 separate bedrooms.

The effect of the amendment would be to change the original description of the development from *Change of use of first and second floors to 5-room HMO with internal alterations, rear waste chute* to: **Change of use of first and second floors to 4-bedroom House in Multiple Occupation (HMO) with internal alterations and alternative waste management strategy. A separate s73 application has been submitted (amendment to Condition 5 of SMD/2022/0602).**

Revised plans reference 2520-A.02B Proposed Elevations and 2520-A.01B Proposed Floor Plans accompany the application.

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 2024)

Paragraph(s) 1 – 14;

Section(s) 4 – Decision making; 5 – Delivering a sufficient supply of homes; 6 – Building a strong and competitive economy; 7 – Ensuring the vitality of town centres; 8 – Promoting healthy and safe communities; 9 – Promoting sustainable transport; 11 – Making effective use of land; 12 – Achieving well designed 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

85/14551/OLDDC – new shop front – approved;

87/00195/OLD – change of use of second floor from office to jewellery workshop – approved;

96/00234/OLD – installation of new shop front – approved;

SMD/2015/0307 – Change of use of first floor offices to Tattoo Studio (sui generis);

SMD/2021/0137 – Change of use upper floor for HMO for 5 no. room and internal alterations – refused

SMD/2022/0050 – 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 – refused – dismissed at appeal

SMD/2022/0602 - Change of use of first and second floors to 5-room HMO with internal alterations, rear waste chute – approved

The past planning history can be seen to show beyond doubt that the ground floor is an established retail premises. Treating the ground floor as a separate planning unit this would now come within planning use class E.

It appears that up until 1987 both the first and second floors were in use as offices. Office use appears to have continued for the first floor up until circa 2015 when approval was granted to change to a tattoo studio which the LPA believes was implemented (though now ceased). The second floor may have ceased in office use after 1987 when approval was granted for a jewellery workshop. The implementation of the tattoo studio use for a period of years by way of the grant of a planning permission is regarded by the LPA as having broken the office use history resulting in a sui generis use status. As the second floor is dependent for its access on the same front entrance and staircase, and is reached via a landing and stairs which are an integral element with the first floor and not segregated, the LPA believes both these floors should be regarded as being a single planning unit. For the reasons discussed this is now sui generis. There is nothing in the known planning history to point to any form of recent residential habitation on these floors but if there was historically this has long been superseded by the subsequent uses.

SMD/2025/0101 – variation of condition application re Condition 5 to SMD/2022/0602 – pending

CONSULTATIONS

Publicity / Consultation

Whether publicity is required is addressed at PPG 005 Reference ID: 17a-005-20140306. The paragraph reads:

As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.

As by definition the changes sought will be non-material, consultation or publicity are unlikely to be necessary, and there are unlikely to be effects which would need to be addressed under the Environmental Impact Assessment Regulations 2011.

Taking the above into account no publicity or consultation has been undertaken in this case – though the fact of the application will have appeared on the Council's web pages for applications received.

OFFICER COMMENTS

Principle of Development

The principle of the development has been accepted under SMD/2022/0602 and, subject to the variation of condition now applied for in the separate related application, the reference to a rear waste chute in the description of the development is immaterial. The revised application (SMD/2025/0101) proposes alternative management arrangements which the council's environmental health officer is able to support. There is therefore no longer a requirement for the rear waste chute.

This comes part-and-parcel with reducing the occupier capacity to four rooms rather than five. The description is to be amended to also reflect this. The use of the property for a four room HMO instead of a 5 room HMO will have less impact in respect of planning considerations such as amenity, highways, etc and therefore the proposed change is not considered to be material.

CONCLUSION / PLANNING BALANCE

In order for (SMD/2025/0101) to be progressed suitably and appropriately it is recommended that this NMA be accepted to change the description of the development and to do so by reference to the amended plans as provided. The magnitude and implications of these changes are not considered to be material.

OFFICER RECOMMENDATION : Approve

Case Officer: Arne Swithenbank

Recommendation Date: 04.03.2025

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council