

DELEGATED DECISION REPORT

SMD/2025/0101
Valid 07/05/2025

7A DERBY STREET
LEEK

**AMENDMENT OF CONDITION
5 OF THE PLANNING
PERMISSION SMD/2022/0602
TO REMOVE REQUIREMENT
FOR A WASTE CHUTE AND
REPLACEMENT WITH AN
ALTERNATIVE WASTE
MANAGEMENT STRATEGY.**

(FULL - MINOR)

MAIN ISSUES

- Occupier amenity – internal
- Street scene amenity – Derby St pedestrian area
 - the above both in regard to the alternative waste management strategy

DESCRIPTION OF SITE

The approved scheme SMD/2022/0602 was for 'Change of use of first and second floors to 5- Room HMO with internal alterations, rear waste chute'.

The building is eye-catching and fronts one of the main pedestrianised shopping streets of Leek town centre. Although not Listed it contributes very significantly to the character and appearance of the Leek Conservation Area. On this basis it must be regarded as a non-designated heritage asset.

Condition 5 of SMD/2025/0602 reads:

The development hereby approved shall not be occupied until and unless the waste chute to the rear of the building has been completed nor until and unless waste disposal for occupiers of the first and second floors of the development hereby approved can be undertaken from the alley at the rear of the building using the chute.

Reason: In the absence of feasible or satisfactory alternative means of waste storage and collection for residential occupants of the first and second floors the waste chute and waste collection via the rear alley serving the building are essential to ensure satisfactory living conditions and to avoid conflicts with highway safety and public amenity at the Derby Street entrance to the development.

In order to take into account that a s.73 minor amendment cannot be used to vary the core description of the development as first approved the applicant (after some

negotiation) has submitted a non-material amendment application. This has been prepared concurrently with this report under separate reference NMA/2025/0031. The effect of the NMA would be to amend the description (recommended) 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 (amendment to Condition 5 of SMD/2022/0602).

Revised (corrected) plans have been submitted (12.12.2025) reference 2520-A.01B (floor plans) and 2520-A.02B (elevations).

PROPOSAL

Although Planning Approval was granted for a 5-room HMO the developer cannot obtain Building Regulation approval for that scheme. In a covering letter dated 22.02.2025 a revised internal layout illustrating a new first floor plan arrangement has been provided. [Nb – application only valid from 7th May 2025.] This illustration was headed with the words 'Building Control Plan Extract showing communal kitchen and void area where bins will be stored'. A void area is labelled but this is obviously inaccessible and this was questioned with the agent. A clarification letter was received dated 26th Aug 2025.

The clarification states:

For clarity, the void space within the building remains a void space and is not proposed for waste storage, this was an error and the corridor adjacent to this void, which previously provided access to the waste chute, has had the chute opening blocked. This corridor, now fitted with a secure door, will instead be used as a cleaner's cupboard, which can also accommodate additional bins if required. Day-to-day waste and recycling storage is provided within the communal kitchen, with the cleaner's cupboard acting as supplementary space where necessary.

In other words this amended scheme now demonstrates a means of gathering waste within the building in advance of domestic waste collection arrangements described in the letter as follows:

It is proposed that waste and recycling will be collected either from the front of the property or, alternatively, from Council-issued bins stored at the rear of the site. The preferred approach is for weekly collection from the front of the property but rear Council bin storage remains a potential alternative arrangement. We are keen to engage with the Council's waste team to understand their preferred arrangements for waste and recycling management, and will adapt the operational details accordingly to ensure compliance and safe operation.

The applicant's suggested amended wording of condition 5 reads:

The development hereby approved shall not be occupied until an alternative waste management strategy for the site, as set out in the submitted Waste Management Strategy (August 2025) or any subsequent strategy agreed in writing with the Local Planning Authority, has been implemented in full. The

approved arrangements shall thereafter be retained and managed for the lifetime of the development.

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
- T1 Development and Sustainable Transport

National Planning Policy Framework February 2024

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; 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

Leek Conservation Area Character Appraisal:

- September 2017

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.

Pending related NMA/2025/0031 (as discussed above under description).

CONSULTATIONS

Publicity

Site Notice expiry date: 31.07.2025

Neighbour consultation period ends: 09.07.2025

Press Advert: 16.07.2025

Public Comments

None

Town / Parish Comments

Leek Council – no objection

At a planning committee meeting of Leek Town Council held on 28th July 2025, the committee resolved to have no objection as not un-neighbourly for SMD/2022/0602 to remove the requirement for a waste chute and to replacement with an alternative waste management strategy.

Environmental Health

Environmental Health do not object to the amendment but would advise that if the scheme does not work effectively then enforcement may be required under Public Health and Housing Legislation.

SMDC Heritage Conservation Officer

We have undertaken a desk-based assessment of the proposal, including a review of the submitted Covering Letter and decided that no technical advice is required from

Conservation. The development site is within Leek Conservation Area (which is a designated heritage asset). When considering the impact of a proposed development upon a Conservation Area, the application should be determined in accordance with the duties in s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In addition, great weight should be given the heritage asset's conservation, as stipulated in par.212 of the National Planning Policy Framework (2024) and the application determined in accordance with Section 16 of the NPPF and policy DC2 of the local development framework. We have determined not to provide technical conservation advice in this case. If you believe specialist conservation advice is required, please contact.

Staffordshire County Council Highways

Not consulted but had commented on the original SMD/2022/0602 when that scheme as first put forward had involved waste collection via Derby Street. No objection was raised on that aspect but it was at that stage expected and being proposed that waste would be accumulated and stored internally between collections.

OFFICER COMMENTS

Principle of Development

The principle of the development is confirmed by the grant of consent under SMD/2022/0602.

With the original consent SMDC EH could not accept the storage of the waste from five separate HMO occupiers within the building between public waste collections. Unable to devise a suitable internal segregated waste storage arrangement the applicant put forward the waste chute solution using a back yard space. The LPA was concerned that if waste could not be stored internally (and before the back yard idea was put forward) waste whether in bags or bins might be permanently or often present in the pedestrianised space of Derby Street at the front. As a main town centre shopping street this was considered not acceptable.

The internal changes as illustrated by the applicant in the covering letter do not require planning permission. Planning Act section 55 (2) refers:

The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building,

The developer having found that Building Regulation approval could not be granted for the five 5 HMO spaces, presented in effect as five bedsits, the accommodation has been reduced to four. Individual private kitchen arrangements for each 'unit' or bedsit were not acceptable for fire safety reasons and it is understood will not be provided. Instead there is to be a single shared kitchen (as per the layout illustration provided in revised and corrected drawing 2520-A.01B). This has taken the place of one of the

private rooms. In turn this has created the scope for better segregation of waste within the building away from living areas.

The main issue therefore is that if the alternative waste management arrangement can be accepted the current wording of condition 5 is not necessary.

Design

The removal of the chute at the rear of the building (introduced as part of the 2022 consent) does not raise any design concerns.

Amenity

Maximum or likely occupancy numbers have not been stated. A minimum of four adults is assumed and potentially at times the development could accommodate in the order of up to 8 adults. In terms of the management of waste from each of the four HMO 'units' the advice of the EHO is that the alternative waste management now put forward is acceptable.

Highway Safety

It is apparent to the LPA that some properties do of necessity place waste on their Derby Street frontages in readiness for collection. There is no bin / waste storage on the frontages. Occupiers present waste at the front on collection days only. Now that the developer has been able to show that waste can be accumulated within the building to the satisfaction of the EHO and by use of the rear yard area when necessary the LPA can have reasonable confidence that undue accumulation of waste at the front should not occur.

Procedural matter

The description of the development cannot be altered by minor amendment (s.73) and will remain as worded including its reference to 5-room HMO. This has been the subject of discussion with the agent /applicant but for whatever reason has only latterly been addressed by them. The revised layout plan shows that a kitchen is taking the place of one of the rooms and that whilst there is a planning permission based on 5 occupier rooms, only four are being implemented. The separate NMA application if approved will enable this section 73 application to be issued under the amended description put forward in the NMA.

In addition to amending condition 5, a variation by addition of wording to condition 2 (plans) is needed, and condition 8 becomes redundant and should be omitted.

CONCLUSION / PLANNING BALANCE

It is recommended that an amendment to condition 5 is accepted with the following wording:

The residential HMO development hereby approved shall only be occupied in accordance with the 'waste management strategy' submitted by email from the applicant's agent dated 26th August 2025 or any subsequent waste management strategy agreed in writing with the Local Planning Authority. Management of the development in accordance with the approved or agreed

arrangements for waste management shall thereafter continue for the lifetime of the development.

Reason: To ensure satisfactory living conditions and to avoid conflicts with highway safety and public amenity at the Derby Street entrance to the development.

OFFICER RECOMMENDATION: Approve

Case Officer: Arne Swithenbank

Recommendation Date: 10.10.2025 up-dated for issue 06.03.2026

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council