

DELEGATED DECISION REPORT

HPK/2024/0360
Valid 27/08/2024

21 PEAK PHARMACY HIGH
STREET
CHAPEL-EN-LE-FRITH

CHANGE OF USE OF
BUILDING TO CREATE HMO
AT FIRST & SECOND FLOOR
LEVEL. GROUND FLOOR TO
REMAIN AS USE CLASS E.

(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Design and Conservation
- Amenity
- Parking Provision and Highway Safety

DESCRIPTION OF SITE

The application relates to No.12 High Street, Chapel-en-le-Frith. The applicant site comprises a three storey building that sits immediately to the south of the public highway and contains a vacant retail unit at ground floor level, with ancillary storage and other ancillary functions at first and second floor level. The building benefits from a small area of curtilage to the side and rear.

The principal elevation is characterised by a recessed shop front set back behind the public highway and three distinct stone pillars, with an unusually unsympathetic rendered brick at first and second floor levels above, characterised by two windows on each floor.

For the purposes of the Local Development Plan, the building lies within the built-up area boundary of Chapel-en-le-Frith and within the Conservation Area.

PROPOSAL

The application seeks full planning permission to convert the first and second floors of the property to a House in Multiple Occupation (HMO). The HMO is shown to have 4no. double bedrooms, with communal living space and kitchen at second floor level.

The ground floor would be retained as a commercial space under Class E (meeting rooms).

Externally, the application seeks to replace the existing timber windows in front and rear elevations, with white UPVC frames. At the request of Officers, further details have been submitted in relation to this aspect of development, in the form of a product specification brochure and joinery and cross section details.

In order to address comments received from AES Waste Collection services, the applicant has submitted revised plans (Rev B) that show an increase in the provision of bin storage.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the Chapel-en-le-Frith Neighbourhood Plan (2015) and the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

Chapel-en-le-Frith Neighbourhood Plan 2015

H2 Smaller Sites

High Peak Local Plan 2016

S1 Sustainable Development Principles
S1a Presumption in Favour of Sustainable Development
S2 Settlement Hierarchy
S3 Strategic Housing Development
H1 Location of Housing Development
H3 New Housing Development
EQ6 Design and Place Making
EQ7 Built and Historic Environment
EQ10 Pollution and Unstable Land
CF1 Town Centre and Retail
CF6 Accessibility and Transport

National Planning Policy Framework 2023

Achieving Sustainable Development	Chapter 2
Delivering a Sufficient Supply of Homes	Chapter 5
Building a Strong Competitive Economy	Chapter 6
Promoting Sustainable Transport	Chapter 9
Effective Use of Land	Chapter 11
Achieving Well Designed and Beautiful Places	Chapter 12
Conserving and Enhancing the Natural Environment	Chapter 15
Conserving and Enhancing the Historic Environment	Chapter 16

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0000/9477	Proposed New Shop Front (Approved)
HPK/0003/2547	Change of roof covering from grey to blue slate (Approved 08/06/1993)

CONSULTATIONS

Publicity

Site Notice expiry date: 24/10/2024
Neighbour consultation period ends: 25/09/2024
Press Advert: N/A

Public Comments

None

Chapel Town Council

Request Officers conduct a site visit to consider potential over development of the site and lack of parking.

AES Waste

Initial Comments

OBJECTION

There is not enough storage space in the yard to the rear of the property for the correct capacity of refuse and recycling. Each of the rooms within the HMO should be provided with 240l for recycling and 240l for refuse. There is also a requirement from 2026 for such properties to be provided with a weekly food waste collection, which will also require suitable receptable storage space

Further Comments

I think the developer has clearly shown that there is bin capacity available – they may not need this exact number of bins as the legislation requires '**adequate provision**'.

This would be down to the landlord to decide based on the number of tenants (we can only approximate) so they maybe able to get away with half the number of bins but ultimately it is the landlords responsibility to arrange this.

I have no further objections, just another note that any bins would need to be presented by the tenants at the highway for collection and returned to the court yard after they have been emptied – we would not enter the court yard to collect the bins.

Derbyshire County Council Highways

It is noted that the site has no on site parking facilities, therefore, the proposed HMO element of the application will be car free.

Considering the location of the application site, being within the centre of Chapel-en-le-Frith with the expected amenities available within recommended walking distances and with good access to bus stops, it is considered that the application will provide sustainable development and will not have an unacceptable impact on the highway safety network.

There are no highway authority objections to the application.

HPBC Conservation Officer

No comments received at time of writing

OFFICER COMMENTS

Principle of Development

The application seeks full planning permission for the conversion of ancillary storage space at first and second floors above a former pharmacy and vacant retail unit (Class E) to a 4no. bedroom HMO, with the ground floor unit serving commercial meeting rooms and office space (Class E). In addition, exterior alterations are proposed in the form of replacement window frames on the front and rear elevations.

The introduction of residential accommodation to the upper floors of this building that is located within the Town Centre of Chapel-en-le-Frith, one of the larger Market Towns that sit at the top of the Settlement Hierarchy complies in principle with Policy H2 of the Chapel Neighbourhood Plan and the strategic Local Plan (LP) Policies S1, S2, S6 and H1, in addition to relevant paragraphs under Chapter 5 of the NPPF.

The retention of the ground floor as a space serving commercial/office space is consistent with the existing lawful use (Class E) and thus supports the aims and objectives of LP Policy CF1 and relevant paragraphs under Chapter 6 of the NPPF.

However, the site lies within the Conservation Area and as such any exterior works to the building must either preserve or enhance the character and appearance of the building and wider Conservation Area, in accordance with LP Policy EQ7 and relevant paragraphs under Chapter 16 of the NPPF, underpinned by Section 72 of the Act 1990.

Design and Conservation

Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.

LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, having regard to matters of scale, height, density, layout, appearance and materials.

LP Policy EQ7 has regard to the Built and Historic Environment. It states that the Council will conserve heritage assets in a manner appropriate to their significance. This will take into account the desirability of sustaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment.

Chapter 7 of the Design Guide SPD (2018) deals with Materials, with relevant paragraphs set out as follows below:

- 7.6 The traditional materials used in window construction are timber, cast metal or lead. In sustainability terms, timber is today by far the best material to use. UPVC by contrast, is often inappropriate as an alternative to more traditional materials – particularly in historically sensitive areas such as in conservation areas or on listed buildings. They often have very heavy sections and profiles and lack the detail and finesse of their timber equivalent.*
- 7.7 The design of replacement or new windows needs to relate to the age or style of the property in question as well as to the local context. Modern windows often do not look appropriate when the subdivision of panes is handled badly and lacking a vertical emphasis.*

Paragraph 135 states amongst other things that decisions should ensure that developments will add to the overall quality of the area; are visually attractive as a result of good architecture; and are sympathetic to the surrounding built environment.

Chapter 16 of the NPPF contains the relevant restrictive policies relating to heritage conservation. Paragraphs 205-209 sets out how the local authority should assess the significance of a heritage asset and how to assess the potential impact of a development proposal upon that asset. Where a proposal will lead to substantial harm or total loss of a designated heritage asset, local planning authorities should refuse consent unless there are substantial public benefits that outweigh that harm. Where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits.

The sole aspect of development that requires assessment against the above policy context is the proposed replacement of existing windows with a UPVC replacement. The site lies within a prominent and sensitive location within the heart of the Conservation Area and thus any changes should be handled with care.

No information was submitted with the application with regards to the specific product specification to be used. At the request of Officers, this information has been forthcoming in the form of a 'Legacy' UPVC sliding sash windows brochure and joinery details in the form of a cross section plan.

The Council have previously considered that this product, whilst UPVC, is a high quality product that suitably replicates the timber appearance, and as such in the interests of consistency, it would be unreasonable to reject such a product in this case.

The plans depict that the proposed replacement window frames will be white. In considering its sensitive context, and that white can sometimes appear very stark and bold, Officers take the view that notwithstanding the approved plans, a compliance condition is applied to the decision notice that requires the replacement windows to have an exterior finished in 'Cream Grain' and interior finished in 'Smooth White'.

Subject to the above compliance condition, it is considered that the proposed development will preserve the character and appearance of the host building and wider Conservation Area, in accordance with LP Policies S1, EQ6 and EQ7, the Design Guide SPD, and relevant paragraphs contained under Chapters 12 and 16 of the NPPF, the latter underpinned by Section 72 of the Act 1990.

Amenity

LP Policy H3 relates to all new housing development and requires proposals to provide a high standard of amenity for all future occupiers by virtue of demonstrating compliance with, or exceeding, Nationally Described Space Standards (NDSS), published by DCLG (2015) that set out minimum floor areas of residential units, and bedrooms, based on occupancy rate and number of storeys.

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.

LP Policy EQ10 seeks to ensure that people and the environment are protected from adverse impacts relating to issues including air pollution, noise, light pollution or any other nuisance or harm to amenity, by securing appropriate mitigation by way of planning conditions and obligations.

The High Peak Residential Design Guide SPD requires development to preserve the residential amenity of neighbouring properties, having regard amongst other things to the relationship between existing and proposed development, the positioning of windows, and the change in land levels.

Paragraph 135 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

Paragraph 191 requires decisions to ensure that 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, including matters of noise and light pollution.

Firstly with regards to the amenity for future occupiers, and in compliance with NDSS, it is calculated that all four bedrooms have a total internal floor area below 10m² not including the integrated en-suite bathroom.

The above calculation demonstrate that each bedroom meets the minimum standards for single occupancy (7.5m²) but falls short of minimum standards for a double occupancy (11.5m²). As such, in order to ensure that a high standard of amenity for all future occupiers, an occupancy condition is recommended to limit the occupancy of each room to single occupancy for the lifetime of the development. Subject to this condition, it is considered that the application demonstrates with LP Policy H3.

Turning to neighbouring residential amenity, the neighbouring residential property to the west is 'The Vicarage'. Given that there are no windows located on the western elevation, there would be no issues relating to overlooking or privacy. There are no properties to the south that would be adversely affected.

The site lies adjacent to High Street, a narrow road within the centre of Chapel-en-le-Frith. Directly opposite the property is No.10 High Street, which contains residential accommodation. Due to the character of the street, the distance between principal elevations is 11m, with habitable windows contained at ground and first floor level.

Having regard to the Residential Design Guide SPD, a minimum of 21m should be adhered to between habitable windows in principal elevations, however this is flexible depending on the specific context and circumstances associated with a site.

In assessing potential impacts on the privacy of this neighbouring property, it should be noted that a realistic fall-back position exists under Schedule 2, Part 3, Class G of the General Permitted Development Order, which would permit the conversion of the upper floors of the commercial (Class E) premises to a maximum of 2no. flats, subject to a limited number of prior approval matters.

Whilst it is acknowledged and accepted that the habitable windows serving residential accommodation fails to comply with the Residential Design Guide SPD, and thus a degree of conflict with LP Policy EQ6 exists, it is considered that when taking into account the realistic fall back position, a reason for refusal on grounds of harm to residential amenity (privacy and overlooking) would be unsustainable at appeal, particularly given the character of the area and existing relationships between properties on either side of the street and distance with habitable windows.

In conclusion, subject to appropriate conditions, it is considered that the proposed development will provide a high standard of amenity for future occupiers and will on balance, amount to an acceptable relationship with neighbouring residential properties, in accordance with LP Policy EQ6, the High Peak Residential Design Guide SPD, and relevant paragraphs under Chapter 12 of the NPPF.

Parking Provision and Highway Safety

LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner and that all new development is located where it can be satisfactorily accommodated within the existing highway network and provides

suitable off-street parking provision in accordance with guidelines set out under Appendix 1 of the Local Plan.

Paragraph 114 of the NPPF states that in assessing sites for specific applications, it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 115 of the NPPF goes on to state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact impacts on the road network would be severe.

The Town Council have raised concerns regarding the lack of parking provision and resultant impacts on highway safety.

The property does not benefit from any off-street parking and as such there is a resultant conflict with LP Policy CF6. The site lies within a highly sustainable location within the Town Centre of a large Market Town, which benefits from good access to public transport links, public car parks and unrestricted on road parking.

In the absence of any objection from the Highways Authority, it is considered that whilst there would be a degree of conflict with LP Policy CF6, there are no reasonable or sustainable grounds for refusal on grounds of unacceptable highway safety impacts, and as such the application is acceptable in this regard.

Other Matters

Bin Storage and Waste Collection

As submitted, the proposal attracted an objection from AES Waste owing to concerns regarding a lack of provision for bin storage, on the basis that HMO's are treated (from a waste collection perspective) as individual residential units. The lack of provision for bin storage and waste collection has the potential to create an environmental and public health problem which would result in conflict with LP Policies EQ1 and EQ10.

Further to ongoing discussions between Officers, the applicant and AES Waste, it has been possible to achieve an appropriate and adequate level of waste and bin storage associated with the 4no. HMO rooms in the form of 2 x 240l bins for each tenant, to the satisfaction of AES Waste.

As such, this issue has been satisfactorily addressed, subject to compliance with the approved plans and occupancy restriction.

Biodiversity Nett Gain (BNG)

The Environment Act (2021) requires all applications to provide a 10% nett gain in biodiversity (BNG) unless they are exempt. Such exemptions include sites with no habitat value and/or less than 25m². This application is exempt from BNG due to the fact that it is a change of use of an existing building with no habitat value.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application seeks full planning permission for the conversion of the first and second floor and retention of an existing ground floor Class E use at a property that lies within the heart of Chapel-en-le-Frith and within the Conservation Area.

The principle of introducing housing to this site is fully supported by the Neighbourhood Plan, Local Plan and the NPPF.

A detailed assessment has concluded that subject to appropriate conditions, the proposed development will provide a high standard of amenity for future occupiers and neighbouring properties, would not result in any harm to highway safety, and preserve the character and appearance of the Conservation Area. Initial issues relating to bin storage and waste collection have now been resolved by virtue of revised plans.

As such, the application is considered to comply with all Local Development Plan policies, Supplementary Guidance and relevant paragraphs relating to heritage conservation under Chapter 16 of the NPPF and thus constitutes a sustainable form of development.

In line with LP Policy S1a and Paragraph 11 of the NPPF the application is thus recommended for approval subject to appropriate conditions.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 11th November 2024

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council