

BOROUGH OF KETTERING

Committee	Full Planning Committee - 10/02/2015	Item No: 5.5
Report Originator	Richard Marlow Senior Development Officer	Application No: KET/2014/0708
Wards Affected	William Knibb	
Location	The Earl of Dalkeith, 13 Dalkeith Place, Kettering	
Proposal	Full Application: Conversion of car park and outbuildings to create external seating area, bin store and bar, change of use to A4 drinking establishment, creation of new opening to rear elevation of public house and erection of glazed external lobby and new boundary fence and gates	
Applicant	JD Wetherspoon PLC	

1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED subject to the following Condition(s):-

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 and to prevent an accumulation of unimplemented planning permissions.

2. No development shall commence on site until details of the types and colours of all external materials to be used including facing, roofing, window and doors together with hard and paved surface details have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

REASON: In the interests of the visual amenities of the area in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

3. No development shall take place on site until a scheme for boundary treatment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of the boundary treatment and emergency exit gates to be installed between Dalkeith Place and the external seating area. The use hereby permitted shall not commence until the approved scheme has been fully implemented in accordance with the approved details.

REASON: In the interests of the amenities and privacy of the neighbouring property in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

4. The use of the outdoor terrace, bar, bin and furniture stores hereby permitted and shown on approved plan no. 6845 04 Revision B, received 26 January 2015 by the Local

Planning Authority, shall not be carried out before 08:00 hours or after 21:00 hours on Mondays to Thursdays, nor before 08:00 hours or after 22:00 hours on Fridays and Saturdays, nor before 08:00 hours or after 21:00 hours on Sundays or any recognised public holidays.

REASON: To protect the amenities of the occupiers of nearby properties in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

5. There shall be no external illumination on the site at any time other than in accordance with a detailed scheme which shall first have been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of the amenities of the area and adjoining residential properties in particular in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

6. Notwithstanding the approved plans, and prior to first use of the external seating area full details of the proposed Pergola area to the north of the site, shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include as a minimum; elevations, means of enclosure, materials and designation of a smoking area. The Pergola area shall be completed in accordance with the approved details.

REASON: To protect the amenities of the occupiers of nearby properties in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

7. Before the installation of any plant a noise assessment detailing the impact on noise sensitive properties shall be undertaken in accordance with BS41412:1999 (or later amendments) and submitted to the Local Planning Authority for approval, including noise mitigation measures where required to ensure that the noise from the plant is 5dB(A) or more below the existing background noise level. The plant and any required noise mitigation measures shall be installed in accordance with the approved details before first use and maintained in the approved state.

REASON: In the interest of residential amenity in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

8. There shall be no public address or other sound amplification system installed or used at any time other than in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of the amenities of the occupants of neighbouring properties in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

9. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared and submitted for approval in writing to the Local

Planning Authority. Occupation or use of the development will not be permitted until the verification report has been submitted and approved.

REASON: To ensure if any contaminated soil or groundwater is encountered during development is dealt with appropriately in accordance with the requirements of policy 13 (q) of the North Northamptonshire Core Spatial Strategy.

10. Prior to the commencement of development, a scheme detailing the security measures/ standards to be incorporated into the development shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: To reduce the potential for crime in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

Officers Report for KET/2014/0708

This application is reported for Committee decision because there are unresolved, material objections to the proposal.

3.0 Information

Relevant Planning History

KET/2009/0718 – Outline application, conversion and redevelopment to create 18 no. flats (all matters to be considered except landscaping) APPROVED 10/03/2010.

Site Description

Officer's site inspection was carried out on 6 January 2015.

The site comprises of a former factory/retail unit located within Kettering Town Centre. The buildings were most recently used for the retail of shoes with an element of storage but are understood to have been used for holiday promotions, furniture sales and caravan repair in the past 20 years.

Two public houses bound the site to the West along with other commercial uses fronting Dalkeith Place. A garage block and parking area stands to the North, and a further public house to the South East. Residential properties are located to the south and east of the site. Land levels are consistent both within and immediately surrounding the site.

The site falls within the designated Conservation Area for Kettering and within The Silver Street Quarter designated within the Area Action Plan for Kettering Town Centre (AAP).

The site is dissected by the town centre boundary and primary shopping area, which follows the existing rear elevation of the Earl of Dalkeith public house, as set out in policies 2 and 3 of the AAP. As such the majority of the site where the change of use and outdoor seating is proposed falls outside of the town centre boundary and primary shopping area.

Proposed Development

The application seeks permission for the redevelopment and change of use of the site to provide an external seating area to be used in conjunction with the adjacent Earl of Dalkeith Public House (A4 use).

Any Constraints Affecting the Site

Conservation Area
A Road

4.0 Consultation and Customer Impact

Original Scheme

Highway Authority

No objection. The land off Angel Yard is private and has no public right of way over it.

Environmental Health

Object to the proposal due to concerns about the impact on the residential properties which lie adjacent to the proposed outside bar. The principle of an external space is accepted and some customer noise from its use should be expected by nearby residents. The location of the external bar, concentration of customers and operational noise from the bar are likely to cause significant disturbance to residents. There is potential to review the bar inclusion in a less noise sensitive location.

The consultation response also highlights issues that would need to be addressed by condition including hours of use, installation of external plant, lighting, amplification of noise, and contaminated land.

Northamptonshire Police

No objection and have suggested conditions to reduce the likelihood of crime, disorder and anti-social behaviour occurring.

Neighbours

Two third party objectors from neighbours to the south on the following grounds:

- Additional noise and antisocial behaviour after dark and when opening hours are extended to 1AM at the weekends
- Noise from bottles being emptied after closing
- The bar planned to adjoin my property and concerns about the noise generated.

A revised scheme has been submitted which relocates the bar. Consultation responses will be set out in the Committee update.

5.0 Planning Policy

National Planning Policy Framework

Policy 2 - Ensuring the Vitality of Town Centres

Policy 7 – Requiring Good Design

Policy 8 - Promoting Healthy Communities

Policy 12 – Heritage, Conservation and Archaeology

Paragraph 17 – Core Planning Principles

North Northamptonshire Core Spatial Strategy

Policy 1 - Strengthening the Network of Settlements

Policy 9 - Distribution & Location of Development

Policy 13 – General Sustainable Development Principles

Kettering Town Centre Area Action Plan (AAP)

Policy 2 - Urban Quarters, Urban Codes and Development Principles

Policy 3 - Primary Shopping Area (Primary and Secondary Frontages) and the Evening Economy

Policy 12 - Heritage, Conservation and Archaeology

Policy 22 – The Silver Street Quarter

Supplementary Planning Guidance

Kettering Town Centre Urban Codes SPD

Other

Kettering Conservation Area Appraisal

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

The key issues for consideration in this application are:

1. Principle of Development
2. Design, Character and Conservation Area
3. Neighbouring Amenity
4. Highways and Public Safety
5. Environmental Matters

1. Principle of Development

Policies 1 and 9 of the North Northamptonshire Core Spatial Strategy (CSS) encourage development to be focused within the growth town of Kettering. The site falls partly within the boundary of Kettering Town Centre and within the Silver Street Quarter therein, as defined by the Kettering Town Centre Area Action Plan (KTCAAP). The principle of commercial development in this area is, therefore, established.

The proposed development and change of use would provide an additional outdoor seating area to an existing public house (A4 use). It is noted that the proposal will result in the loss of a business premises, including a small element of retail and that this conflicts with the aims of policy 3 of the AAP and CSS policy 12 which seeks to increase comparison retail floorspace within the town. While this is so, the property has been vacant for some time and has previously held a number of uses in recent times. The previous uses have centred around light industrial processes with a very small proportion of retail sales. The site is not well suited to such uses, occupying an enclosed site with a constrained access and close proximity to residential properties. The external seating area itself is located outside of the primary shopping area and includes no primary or secondary retail frontages and would not result in detriment to the vitality or viability of the town centre.

The site falls within The Silver Street Quarter defined by policy 2 of the AAP and amplified by policy 22. It is envisaged that this will become a vibrant mixed use area where the existing commercial and leisure uses are to be enhanced along with a range of residential-led development. Policy 22 considers that new development should make use of infill opportunities, redevelop inefficient and poorly designed sites and reinforce the commercial and residential mix of the area. The proposed development is considered to accord with these objectives.

2. Design, Character and Conservation Area

The Local Planning Authority is required by Section S72(i) of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area. Policy 12 of the NPPF protects heritage assets from harm through inappropriate development or destruction. CSS Policy 13 (o) requires development to conserve and enhance designated built environment assets and their setting. Policy 12 of the KTCAAP states that development proposals should preserve or enhance the existing historic environment.

Policy 13 (h) of the CSS requires new development to raise standards – to be of a high standard of design and architecture; to respect and enhance the character of its surroundings; and to create a strong sense of place by strengthening distinctive historic qualities and townscape through its design. Policy 7 of the NPPF sets out the importance of good design and underlines how good design is indivisible from good planning and sustainable development.

The existing buildings are utilitarian in their design and appearance. Their layout follows the perimeter of the site creating a service yard within, accessed from Dalkeith Place. This arrangement is typical of an infill rear yard development in Kettering as identified within the Conservation Area Appraisal. The design of the buildings and the extent to which they have been altered are not the best example however and the site is not of significant merit within the Conservation Area.

The application seeks to convert some of the existing buildings on site for use as a bar serving the external seating area and storage facilities. Other smaller buildings will be demolished to provide the seating area, which will maintain a similar layout to that existing. The conversion of existing buildings will respect the former industrial character of the site and helps to incorporate the scheme into its historic environment.

Angel Yard is an example of the private spaces which have been retained within the conservation area and is therefore considered of value in terms of street layout and morphology. The buildings themselves are of limited merit on the basis of their historic and social relationship with the development of Kettering. However in architectural terms the buildings have lost much of their intrinsic interest, it is more the type and collection of buildings which characterise this yard quality. Therefore the principle of demolition is acceptable in this instance and would retain much of the “yard” character.

Subject to conditions which secure appropriate materials, boundary treatments including gates and hard landscaping, the design and the impact of the proposal on surrounding character and the Conservation Area is considered to be acceptable and accords with Policies 7 and 12 and Paragraph 64 of the NPPF, Policy 13 (h) and (o) of the CSS, Policy 2, 12 and 22 of the KTCAAP and the Urban Codes SPD.

3. Neighbouring amenity

Paragraph 17 of the NPPF states that development must secure a good standard of amenity for all existing and future occupants of land and buildings. Whilst Policy 13 of the CSS is clear that development must not result in an unacceptable impact on the amenities of neighbouring properties or the wider area, by reason of noise, vibration, pollution, loss of light or overlooking.

Two residential properties stand in close proximity to the south of the site and have objected to the proposal. The pair of semi-detached dwellings (Cleveland Villa and Eastholme) present their rear elevations towards the site and are within 1 metre of the boundary. No habitable room windows are located in the rear elevations although it is noted that obscure glazed bathroom windows exist at first floor level. The scheme originally submitted included the provision of a bar within the single storey building which abuts the boundary with Cleveland Villa. Environmental Health also raised objections to this element of the scheme on amenity grounds and the potential for unacceptable impacts to these neighbouring residents.

The applicant has submitted a revised scheme which seeks to overcome the objections raised to the original layout. Consultation on the revised plans is currently being undertaken, full details will be provided within the Committee update. The revised scheme has relocated the bar to the north east of the site providing the maximum separation distance between this element and the nearest residential properties to the south, a distance of 22m.

Subject to the imposition of conditions which limit the hours of use of the external seating area, bar and storage buildings to acceptable times then there will be no unacceptable impacts on the amenity of neighbouring residents. Further conditions will ensure that there is no amplification of sound, external lighting or external plant without full details having been submitted to and approved in writing by the Local Planning Authority.

The location of the buildings which are to be converted and their single storey form ensure that no overlooking or privacy issues result from the proposal. There will be no unacceptable impact on the amenity of neighbouring residents through this proposal and it is therefore considered that the development is in accordance with criterion I of Policy 13 of the North Northamptonshire Core Spatial Strategy.

4. Highways and Public Safety

Paragraph 69 of the NPPF requires new development to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. Criterion (b) of Policy 13 of the CSS requires development to design out antisocial behaviour and crime and reduce the fear of crime. Criterion (n) of the same Policy states that development must not have a negative impact on highway safety.

In terms of public safety, Northamptonshire Police and Kettering Borough Council Environmental Health Service were consulted on the proposal and raised no objection on highway grounds. The response from the Police highlights the importance of ensuring that there is no direct access into the seating area via Dalkeith Place. The applicant has confirmed that the gate will only provide an

emergency exit and all patrons will be directed through the building. Full details of boundary treatments and gates will be conditioned to ensure that appropriate details are secured prior to the commencement of the use.

Subject to conditions the proposal is considered to accord with Policy 13 (b) and (n) of the CSS and Paragraph 69 of the NPPF.

5. Environmental Matters

Due to the underlying geology of the area which commonly presents unacceptable levels of arsenic and the sensitive end use of the proposal, a contaminated land condition will be imposed to ensure that any unexpected contamination discovered during development is appropriately remediated.

Conclusion

The proposed development is in accordance with the relevant policies of the Development Plan and there are no material considerations which indicate planning permission should not be granted. The principle of development is established, there would be no unacceptable detrimental impact on neighbouring residential amenity and the design is appropriate within the Conservation Area. The application is recommended for approval, subject to conditions.

Background Papers

Title of Document:

Date:

Contact Officer:

Richard Marlow, Senior Development Officer on 01536 534316

Previous Reports/Minutes

Ref:

Date: