

BOROUGH OF KETTERING

Committee	Full Planning Committee - 17/11/2015	Item No: 5.8
Report Originator	John Hill Development Officer	Application No: KET/2015/0757
Wards Affected	Barton	
Location	33 Warkton Lane, Kettering	
Proposal	Full Application: Demolition of existing dwelling and erection of 3 no. dwellings with associated works	
Applicant	Elm Park Homes	

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 (as amended) 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 facing and roofing materials to be used, together with samples, 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: Details of materials are necessary prior to the commencement of development in the interests of the visual amenities of the area in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

3. Prior to the commencement of the development hereby approved a scheme detailing all hard surface materials and soft landscaping which shall include plant species, planting sizes, spacing and numbers of trees and shrubs to be planted shall be submitted to and approved in writing by the Local Planning Authority. The approved planting scheme shall be carried out at the latest in the first planting and seeding season following the occupation of each dwelling as it relates to each plot. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON: To improve the appearance of the site in the interests of visual amenity in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

4. No development shall take place on site until a scheme for the protection of all existing trees and boundary hedges on site has 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: Details for the protection of hedges and hedgerows are necessary prior to the commencement of development To ensure the continuity of amenity afforded by existing hedges or hedgerows in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

5. The window at first floor level on the south east elevation facing Plot 1 shall be glazed with obscured glass and fitted with a means of restricted opening, the latter being in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. The window shall thereafter be maintained in accordance with the approved details.

REASON: To protect the privacy of the adjoining property and to prevent overlooking in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy

6. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no additional openings permitted by Schedule 2, Part 1 Class A shall be made in the south east side elevation facing Plot 1 of the building.

REASON: To protect the amenity and privacy of the occupiers of adjoining property in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

7. The windows in the north east rear elevations of the dwellings on Plots 2 and 3 shall be glazed with obscured glass and thereafter shall be permanently retained in that form.

REASON: To protect the privacy of the adjoining property and to prevent overlooking in compliance with policy 13 of the North Northamptonshire Core Spatial Strategy.

8. The development hereby approved shall not commence until a drainage strategy including on and off-site works has 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 strategy, and the building shall not be occupied or the use commence, whichever is the sooner, until the approved strategy has been fully implemented.

REASON: A drainage strategy is necessary prior to commencement of development to ensure a satisfactory development in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

9. Prior to the commencement of development on Plots 2 and 3 details of an internal fire response sprinkler system shall be submitted to and approved in writing by the local planning authority. Thereafter the approved scheme shall be implemented in full prior to the first occupation of each dwelling on each plot and retained in good working order at all times.

REASON: To safeguard the amenity of any future occupants of the dwellings in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

10. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts A to C have been complied with.

A Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11 (or any model procedures revoking and replacing those model procedures with or without modification)'.

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'(or any model procedures revoking and replacing those model procedures with or without modification).
REASON : To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

11. No development shall take place until a Demolition and Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall detail the following:

- the parking and turning of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for waste minimisation and recycling/disposing of waste resulting from the demolition and construction works, which must not include burning on site.
- design of construction access
- hours of demolition and construction work
- control of noise and/or vibration
- measures to control overspill of light from security lighting

The approved method statement shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the demolition and construction works.

REASON: In the interests of highway safety and residential amenity in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

12. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no building, structure or other alteration permitted by Classes A or B of Part 1 of Schedule 2 of the Order shall be provided on the dwellings hereby approved.

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

13. Prior to the commencement of the development hereby approved a scheme demonstrating how the development will incorporate techniques for the provision of water efficiency and recycling and demonstrate that 10% of the demand for energy will be met

on site and renewable and/or from a decentralised renewable or low-carbon energy supply shall have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in full accordance with the approved details.

REASON: In the interests of securing an energy efficient and sustainable development in accordance with policy 14 of the North Northamptonshire Core Spatial Strategy.

Officers Report for KET/2015/0757

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

3.0 Information

Relevant Planning History

KET/2005/057 – Two detached dwellings and garages – Approved 16th March 2005.

KET/2005/0059 – Lawful Development Certificate: Commencement of development pursuant to planning permission reference KET/2005/0057 (two detached dwellings and garages) 6th May 2010

KET/2005/0343 - Demolition of existing dwelling and construction of 4 no. dwellings and associated works – Withdrawn 24th June 2015.

Site Description

Officer's site inspection was carried out on the 14th October 2015.

The site comprises virtually the whole of the plot of 33 Warkton Lane, a large detached house with a substantial garden. The only part of the garden excluded from the application site is the far end of the rear of the garden that adjoins Keating Close. This part of the garden, which in part extends along the rear of 29 Warkton Lane, is the subject of the deemed implemented planning permission for two detached dwellings under reference KET/2005/057.

Warkton Lane is in the main characterised by large detached dwellings sitting within large plots of which no. 33 is one of the largest. The boundary to the north east is shared with no.41 Warkton Lane, a large extended detached property, to the south west with 29 Warkton Lane, a more modest sized detached property. No.33 fronts directly onto Warkton Lane and has two vehicle access points. There are a number of mature trees within the garden, with an extensive lawn to the rear, an outdoor swimming pool and a number of large outbuildings and detached garages. The property itself sits well into the site approximately half way down the overall plot.

Proposed Development

It is proposed to demolish the existing detached dwelling and erect a new detached 5 bed dwelling forward of the existing dwelling in line with 29 Warkton Lane but still retaining a substantial garden area in front. To the rear on what is primarily the lawn it is proposed to erect two smaller detached 4 bed dwellings of a size similar to the two approved dwellings at the bottom of the garden. Proposed plot 3 adjoins the boundary with one the two approved plots. The proposed 5 bed detached dwelling is to be served from its own vehicle access leading to a detached double garage. This makes use of the existing vehicle access to the north east of the site. The two detached dwellings to the rear are to be served by the access approved to serve the two dwellings at the rear of the site which makes use of the existing access to the south west of the site. Both these properties have integral double garages.

Any Constraints Affecting the Site

None

4.0 Consultation and Customer Impact

Environmental Health

No objection subject to conditions addressing contamination and demolition and construction statement.

County Highways

No objections subject to conditions.

Neighbours

41 Warkton Lane

Objects on the following grounds:

- The site is covered by Policy K15 of the Kettering Local Plan and conflicts therewith as this policy states planning permission will not be granted for proposals for residential development involving redevelopment, infilling or the sub-division of a property's curtilage and this property is included in the identified area.
- The application should be rejected for the same reasons as the application for an additional dwelling at 12 Warkton Lane was refused in December 2014.
- Reference is made to a number of the Core Spatial Strategy Housing Policies directing development within towns to brownfield sites. Garden land is not classified as brownfield land.
- Paragraph 53 of the National Planning Policy Framework advises Councils to consider setting out policies to resist inappropriate development of residential gardens where development would harm the local area.
- The proposed dwelling removes a dwelling which is considered to have significant prominence on Warkton Lane and would result in a cramped and confined appearance within the context of surrounding dwellings.
- The predominant character to the east of no.33 would be undermined and establish an undesirable precedent in favour of development.
- Properties on Plots 2 and 3 would result in overlooking and significant loss of privacy as they will look directly in to the rear of no.41 Warkton Lane. The extensive garaging at 33 currently protects the property.

4 Keating Close

Objects on the following grounds that are the same as submitted in response to the earlier withdrawn application and are as follows:

- Proposal involves the demolition of one of the finest properties in Kettering and the further degradation of one of the few upmarket areas of the borough.
- On the expectation permission will be granted, would want the Council to ensure the trees adjacent to my property are properly maintained by a qualified tree person or felled as necessary. Refers specifically to a number of trees which contribute to TV interference to mine and neighbouring properties in Keating Close.

5.0 Planning Policy

National Planning Policy Framework March 2012 (NPPF)

Paragraph 17 - Core Planning Principles

Policy 6 – Delivering a wide choice of high quality homes – includes paragraph 53 which states local planning authorities should consider policies to resist inappropriate

development of residential gardens, for example where development would cause harm to the local area.

Policy 7 – Requiring good design

Development Plan Policies

North Northamptonshire Core Spatial Strategy 2008 (CSS)

Policy 1 – Strengthening the Network of Settlements

Policy 9 – Distribution and Location of Development

Policy 10 – Distribution of Housing

Policy 13 – General Sustainable Principles

Policy 14 – Energy Efficiency and Sustainable Construction

Policy 15 – Sustainable Housing Provision

Kettering Local Plan 1995 (LP)

Policy 35 – Housing within towns

Policy K15 – Character and Density in Defined Housing Areas

Supplementary Planning Guidance

North Northamptonshire Sustainable Design SPD

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 Appearance
3. Neighbouring Amenity
4. Parking and Highway Matters
5. Sustainable Construction and Design
6. Environmental Issues
7. Trees and landscaping

1. Principle of Development

Policy 6 of the NPPF encourages local planning authorities to take a positive approach to proposals for residential development, which should be considered in the context of the presumption in favour of sustainable development.

The application site is located within the town boundary of Kettering, as defined by Policy 35 of the Local Plan, in an established residential area. Policies 1 and 9 of the CSS direct development to existing urban areas and indicates that Kettering is a “Growth Town”. Policy 10 establishes that Kettering will provide a focal point for residential development and sets targets for delivering housing. Paragraph 111 of the NPPF and Policy 9 of the Core Spatial Strategy direct development within towns towards brownfield sites that have been previously developed. Garden land is not classed as previously developed land.

The proposal is in general conformity with those policies at both national and local level that seek to deliver housing in urban areas such as Kettering. The site however lies within the area of Warkton Lane covered by Policy K15 which states that planning permission will not be granted for proposals for residential development involving infilling or the sub-division of a property's curtilage.

Whilst Policy K15 is of some age it is generally consistent with the guidance set out in the more up to date NPPF, in particular paragraph 53 which states: *local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.* This position was established in a recent appeal decision relating to 12 Warkton Lane where an Inspector dismissed an appeal for a new dwelling in the rear garden of a property as being contrary to amongst other policies, Policy K15.

Policy K15 makes a clear statement 'planning permission will not be granted for proposals for residential development involving the redevelopment or the sub-division of a property's curtilage'. Policy 13(h) of the CSS looks for development to enhance the character of its surroundings. Finally the more up to date guidance contained in the NPPF requires an assessment of whether the proposed development of residential gardens is inappropriate or not having regard for example to the local area. In light of the above the principle of allowing the redevelopment of the remaining garden at 33 Warkton Lane can be viewed, in particular, as being contrary to Policy K15, unless other material considerations justify otherwise. In this case there are other material considerations which are discussed below.

The objection on the principle of developing the site from the neighbouring resident in Warkton Lane has been noted and given due consideration.

2. Design, Character and Appearance

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. Paragraph 64 of the NPPF makes provision for local planning authorities to refuse development of poor design.

There is a degree of individuality of the properties in the vicinity of no. 33 on both sides of Warkton Lane This degree of individuality would be retained by the large proposed 5 bedroom dwelling on plot 1 that would front Warkton Lane as does the existing property. It would be seen more readily in the street scene sitting further forward on the plot than does the existing dwelling. Its design is considered acceptable. It is of a scale that would be in keeping with the existing properties and the elevations, both front and rear, have an acceptable degree of interest. The materials are not precisely specified but are detailed to be tiles for the roof and brick for the walls. Appropriate details could be secured by condition. This proposed dwelling is considered to be an appropriate form of development.

The more sensitive assessment is the two proposed detached dwellings to the rear of the proposed dwelling on Plot 1. Their scale, plot size and design having regard to their location are considered acceptable. Materials would consist of tiled roof and brick and render walls. Again as with Plot 1 precise finishes of the type and colour could be

controlled through the use of a condition. However they constitute the redevelopment of the existing plot through the introduction of additional dwellings over and above the existing dwelling, albeit this is to be replaced and re-sited, and the loss of the majority of the remaining garden land to the existing house to the rear.

However a critical material consideration in assessing the appropriateness of these two detached dwellings is the planning permission for a further two detached dwellings at the bottom of the garden which has been accepted as being implemented by the Council and could be built out at any time in the future. Planning permission therefore already exists for the sub-division of part of the plot as a whole and importantly would be accessed off Warkton Lane. This development if built out now based on the existing layout would read as development at the bottom of the garden of 33 Warkton Lane as that is what it is. The fact this was allowed fundamentally because this site sits adjacent to but beyond the line that defines where Policy K15 or not applies does not alter how the appearance of these two dwellings will appear in the context of the rear garden. In physical terms part sub-division has already been permitted.

Additionally, it is acknowledged that the established character of Warkton Lane is defined by varying sizes of detached properties standing in their own large gardens. The notable exception to this form of development is the former addresses of 23 and 25 Warkton Lane, which has been redeveloped for 19 detached dwellings, following a permission granted in 2000. Significantly this development has two large dwellings sitting on either side of the vehicle access fronting Warkton Lane thereby retaining the existing character.

Clearly redeveloping the remainder of the site over and above the two existing approved dwellings will result in a form of development different from the established character of the majority of properties on Warkton Lane. However the key public perception of travelling along Warkton Lane are views of large detached bespoke dwellings set back from the public highway with varying gaps between the properties interspersed with mature landscaping. This would not be lost as a result of the proposed development.

In conclusion taking as the starting point the implemented planning permission for the as yet not built two detached dwellings added to which views of the site from Warkton Lane would be dominated by the proposed large detached property screening the proposed dwellings to the rear thereby not readily showing to users of the public domain the loss of the rear garden area to the proposed and approved dwellings. On balance the proposed development in conjunction with the approved dwellings will not appear as inappropriate development having regard to the specific circumstances associated with this site.

Whilst it constitutes further sub-division and redevelopment, which on its face would make it contrary to Policy K15 and Policy 13(h) of the CSS, in the context of the previously approved and implemented scheme for 2 dwellings, it can be accepted as an appropriate form of development compliant with paragraph 53 of the NPPF in these specific circumstances.

The objection from the neighbouring resident in Warkton Lane in relation to the impact of the proposed development on the character and appearance of the area has been noted and given due consideration. Additionally the objection from the neighbour in Keating Close regarding the loss of the existing dwelling has been noted but there are no grounds to resist the demolition of the dwelling.

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. Policy 13(l) of the CSS is clear in that development must not result in an unacceptable impact on amenities of neighbouring properties or the wider area, by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking.

The proposed location of the 3 dwellings within the site is considered acceptable and there will be no adverse impacts arising for future occupants on each other. The relationship between the proposed dwelling on Plot 2 and the approved dwelling at the bottom of the garden is also acceptable. They both have the same facing front and rear aspects with side elevations facing each other and are separated by a double width drive.

In terms of the relationship with the existing neighbouring dwellings at 29 Warkton Lane to the south west and 41 Warkton Lane to the north east there are no issues of loss of light. In terms of any possible adverse overlooking from the proposed dwellings towards these properties there is none directly towards the property itself at no. 29. Having regard to the rear garden the front elevations of Plots 2 and 3 are some 12m away from the boundary, which at ground level is defined by a substantial tall hedge along this boundary. Whilst from the first floor windows there will be some views towards the rear garden the distance the proposed dwellings are from the boundary is considered acceptable.

Having regard to the relationship with 41 Warkton Lane the occupier of this property has included in his objection one relating to overlooking. The dwelling at no.41 sits at an angle towards the dwellings on Plots 2 and 3. The nearest point between the dwelling on Plot 2 and in effect the corner of the property at no.41 is 24m. The distance between any windows will be greater and at an angle, there is no direct overlooking into each property. The dwelling on Plot 3 is obviously further away. This is considered acceptable. In terms of overlooking into the rear garden area of no.41 the rear gardens of Plots 2 and 3 are between 14 and 15m deep and the boundary with no. 41 is also defined by a tall hedge but also at the present time a by a range of tall outbuildings and garages which will be removed as part of the proposed development. There will be no overlooking at ground level. At first floor each dwelling in the rear elevation has two bedrooms each with two 850mm wide windows serving them and further one bathroom and one ensuite room. Whilst there will be a degree overlooking from these windows the distance the properties are from the boundary is considered acceptable. The windows in the bathroom and the ensuite can be conditioned to be obscure glazed.

To ensure no issues arise in the future from potentially further extensions to the properties a condition will be attached to any planning permission taking away permitted development rights.

It is therefore considered that the proposed development is compliant with Policy 13(l) of the CSS.

4. Parking and Highway Matters

Policy 13(d) and (n) of the CSS require that developments have a satisfactory means of access and provide for parking, servicing and manoeuvring in accordance with adopted standards and do not have an adverse impact on the highway network.

Plot 1 is proposed to make use of the existing vehicle access adjacent to the north east boundary of the site. This will serve Plot 1 only, which has a detached double garage.

Plots 2 and 3 will be served by the shared private access drive approved to serve the two dwellings granted planning permission at the bottom of the garden. This makes use of the second existing vehicle access point close to the south west boundary. Plots 2 and 3 will be provided with internal fire sprinkler system reflecting the narrowness of the access road to accommodate a fire tender. This will be conditioned if planning permission is granted.

The Highway Authority has no objections subject to conditions.

5. Sustainable Construction and Design

Policy 14(b) of the CSS states that development should meet the highest viable standards of resource and energy efficiency and reduction in carbon emissions. All developments should incorporate techniques of sustainable construction and energy efficiency, provide for waste reduction/recycling and water efficiency and be in accordance with the requirements of the North Northamptonshire Sustainable SPD.

A condition will be attached to any planning permission requiring the submission of a scheme to satisfy this requirement of any development. In these circumstances Policy 14(b) of the CSS will be satisfied.

6. Environmental Issues

Due to the underlying geology present across the County, which commonly presents high levels of naturally occurring arsenic and the sensitive end use, being proposed a condition should be attached to any permission requiring a contamination investigation. Additionally to safeguard the amenity of neighbouring occupiers from any disturbance during construction a demolition and construction method statement should also be conditioned if planning permission is granted. Environmental Health have raised not objection to the application subject to the aforementioned conditions being attached to any planning permission.

7. Trees and Landscaping

A number of mature trees, many conifers and pines, exist on what is a long established garden. A number of these are planned to be lost although it should be noted this as a result of the existing planning permission for the two dwellings at the bottom of the garden. The applicant has however sought to retain a number of trees within the site as part of the development. An appropriate landscaping condition, which includes confirmation of trees to be retained and details of hard surfacing, will be attached to any planning permission to ensure amongst other matters appropriate replacement tree planting is secured. The comments from the neighbour in Keating Close have been noted regarding the existing trees on the site but such a request is not within the remit of the Council as local planning authority and additionally the trees referred to are outside the current application site.

Conclusion

The proposed development, in the context of a part implemented planning permission for two detached dwellings in the rear garden allowing the two houses to be constructed at

any time in the future, represents a material consideration to grant planning permission for a development that in the absence of this permission would be contrary to those policies that seek to safeguard the character and appearance of the area. Therefore planning permission can be granted subject to conditions.

Background Papers	Previous Reports/Minutes
Title of Document:	Ref:
Date:	Date:
Contact Officer:	John Hill, Development Officer on 01536 534316