

BOROUGH OF KETTERING

Committee	Full Planning Committee - 28/06/2016	Item No: 5.2
Report Originator	Alison Riches Development Officer	Application No: KET/2016/0230
Wards Affected	Northfield	
Location	1-9 Bayes Street, Kettering	
Proposal	s.73 Application: Variation of condition 13 of KET/2012/0646 in respect of approved plans, as amended by KET/2015/0948 (insertion of roof lights)	
Applicant	Mr Odunaiya PlayNest Ltd,	

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 external materials used in the construction of the development hereby approved shall be Weinerberger Warnham Red stock bricks and Cembrit Jutland fibre cement slate tiles in Black. The walls of the south elevation bay above the brick plinth, the dormers above the eaves line on the east elevation and the gable wall on the north elevation adjacent to No.13 Bayes Street shall be cream render and the dormers on the west elevation shall be imitation lead sheet on wood cored rolls. All materials shall be permanently retained.

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

2. The hard surfacing materials shall be Bradstone Peak 600mm x 600mm riven paving slabs and are to be laid out in the locations shown on the planting layout received on 7th December 2015 and approved by the Local Planning Authority on 10th December 2015.

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

3. The final ground and finished floor levels shall be as shown on plan 15-056-20A received by the Local Planning Authority on 3rd May 2016.

REASON: To preserve the character of the area and to protect the privacy of the occupiers of adjoining properties in accordance with policies (h) and (l) of the North Northamptonshire Core Spatial Strategy.

4. The boundary treatment details shall be as shown on plan 15-056-01A, received on 6th October 2015 and approved by the Local Planning Authority 6th November 2015.

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

5. The site shall be landscaped in accordance with the planting layout received on 7th December 2015 and approved by the Local Planning Authority on 10th December 2015.

The approved scheme shall be carried out in the first planting and seeding seasons following the occupation of the building. 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 (h) of the North Northamptonshire Core Spatial Strategy.

6. Due to the previous potentially contaminative use of the site and the underlying geology present throughout Northamptonshire at which the levels of some naturally occurring contaminants frequently exceed the levels at which the risk to human health would be considered acceptable for residential land use; it is expected that there may be unacceptable risks to future occupiers of the site.

The development hereby approved shall be carried out in accordance with the Wesson Environmental Phase 1 Site Investigation report 001AODU110 dated June 2015, and approved 24th September 2015.

Remediation of the site shall be carried out in accordance with the proposed remediation strategy contained in Chapter 7.0 'Conclusions and Recommendations' and this part of the condition may be discharged on receipt of a validation report confirming that all works have been completed in accordance with the proposed strategy.

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 in accordance with the Wesson Environmental Phase 1 Site Investigation report 001AODU110 dated June 2015, approved 24th September 2015, and where remediation is necessary Remediation of the site shall be carried out in accordance with the proposed remediation strategy contained in Chapter 7.0 'Conclusions and Recommendations'. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy 13 (l) and (q) of the North Northamptonshire Core Spatial Strategy and policy 11 of the National Planning Policy Framework.

7. A scheme for insulating the residences from noise sources both within and outside the properties shall be carried out in accordance with the recommendations of the

RandTech Consulting initial noise assessment report MDR/J2698a dated 31st July 2015, and approved by the Local Planning Authority on 24th September 2015.

REASON: In the interests of the amenities of future occupiers in accordance with policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

8. The development hereby approved shall be carried out in accordance with the techniques of sustainable construction and energy efficiency, provision for waste reduction and recycling and provision for water efficiency and recycling detailed in the Site Waste Management Plan dated 28th September 2015, received and approved on by the Local Planning Authority on 16th December 2015.

REASON: In the interests of energy efficiency and sustainable construction in accordance with policy 14 of the North Northamptonshire Core Spatial Strategy.

9. 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 amenity in accordance with policy 13 (h) and (l) of the North Northamptonshire Core Spatial Strategy.

10. The provision of bin and cycle storage facilities shall be provided prior to first occupation in accordance with the details shown on plan 15-056-01A, received on 6th October 2015 and approved by the Local Planning Authority on 6th November 2015, and shall be retained in that form thereafter.

REASON: In the interests of residential and general amenity in accordance with policy 13 (l) and (h) of the North Northamptonshire Core Spatial Strategy.

11. The pedestrian access gate on Northall Street shall be hung open inwards only and should be capable of being locked when not in use and shall be retained in that form thereafter.

REASON: In the interests of amenity and security in accordance with policy 13 (l) and (b) of the North Northamptonshire Core Spatial Strategy.

12. The development hereby permitted shall not be carried out other than in accordance with the approved plans and details shown on drawing numbers 15-056-20A (Proposed Site Plan and Site Section) and 15-056-21B (Proposed Elevations) received by the Local Planning Authority on 3rd May 2016, and drawing number 15-056-22A (Proposed Floor Plans) received by the Local Planning Authority on 23rd May 2016.

REASON: To define the planning permission and to secure a satisfactory form of development in accordance with the character and appearance of the area and the amenities of surrounding occupiers in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

Officers Report for KET/2016/0230

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

3.0 Information

Relevant Planning History

KET/2009/0554. Outline. 9 no. flats. Approved 15/10/2009.

KET/2012/0646. Full. 9 no. dwellings. Approved 18/12/2012.

KET/2015/0948. Non-Material Amendment. (KET/2012/0646: 9 no. dwellings). Insertion of roof lights. Approved 15/12/2015.

Site Description

Officer's site inspection was carried out on 21/04/2016.

The application site is a 0.04 hectare Brownfield site on the corner of Bayes Street and Northall Street at the edge of Kettering Town Centre, as defined by the Local Plan for Kettering Borough.

The site historically had a building on it but this has long since been demolished.

At the time of the original planning application in 2012, the land was a flat tarmac covered area bounded by No.13 Bayes Street to the north and 1.8 metre high wire fencing and well established planting along the other boundaries. The occupiers of the commercial garage opposite had an informal arrangement for the parking of staff, customer and local residents' vehicles within the site boundaries.

The development approved by KET/2012/0646 for 9 no. flats, and amended by KET/2015/0948 to insert roof lights is currently under construction.

The application site has Victorian/Edwardian terraced housing to the north, a purpose built doctors surgery, pharmacy and car park to the east, part residential and part commercial development across Northall Street to the south and a petrol station, MOT garage, hand car wash and Quaker Meeting house across Bayes Street to the west.

Proposed Development

The development on site was approved by KET/2012/0646 for 9 no. flats and subsequently amended to include roof lights by the non-material amendment approved by KET/2015/0948.

The development commenced on site following the discharge of all pre-commencement conditions.

An enforcement complaint was made in respect of the works being carried out at the site, and it has been established that the development has not been built out in accordance with the requirements of the approval granted by KET/2012/0646.

Specifically, the development is in breach of three of the conditions attached to KET/2012/0646:

- Condition 2 – External facing and roofing materials
- Condition 4 – Existing and intended final ground levels
- Condition 13 – In accordance with approved plans 3103.09.05 (block plan), 3103.09.04 (proposed flats), and 3103.09.07 (roof plan)

The developers were invited to regularise the building works on site and address the breach of conditions and have made this application to vary condition 13 of KET/2012/0646 to amend the plans which the development is to be built out in accordance with. As KET/2015/0948 was a non-material amendment to the original application, this application will vary the plans condition on KET/2015/0948 also.

The plans and details submitted with the application also provide information in relation to the levels at the site and external facing which relate to conditions 2 and 4 of KET/2012/0646.

During the application process a roof plan was requested and submitted for consideration as was a plan showing the internal floor layout.

The initial floor layout plan submitted showed an additional room in the roof void. The applicants were requested to remove this as it was considered that the additional room would lead to amenity issues for existing surrounding occupiers as well as future occupiers of the site. An amended floor layout was subsequently received showing three floors as already approved with the room in the roof removed.

In summary, the proposal is for the variation of condition 13 (approved plans) of KET/2012/0646 as amended by KET/2015/0918 (insertion of roof lights).

Any Constraints Affecting The Site

None.

4.0 Consultation and Customer Impact

Highway Authority

- Objection.
- Bin presentation point to be clear of the highway.
- Cycle storage at 2 spaces per dwelling to have 900mm between each stand and be secured, covered and overlooked.

Environmental Health

- No comments received.

Neighbours

2 letters of **objection** were received. The material planning considerations are summarised as follows:

- White render is not in keeping with the look of the street and the rear view of other neighbouring properties from where it would be visible.
- The line of the roof to the rear is already not in line with the other properties in the street casting a shadow over our property and No.13.
- Limited space for the services at the rear of the building.

5.0 Planning Policy

National Planning Policy Framework

Policy 4. Promoting sustainable transport

Policy 6. Delivering a wide choice of high quality homes

Policy 7. Requiring good design

Development Plan Policies

North Northamptonshire Core Spatial Strategy

Policy 1. Strengthening the Network of Settlements

Policy 9. Distribution & Location of Development

Policy 10. Distribution of Housing

Policy 13. General Sustainable Development Principles

Policy 14: Energy Efficiency and Sustainable Construction

Local Plan

35. Housing: Within Towns

Supplementary Planning Documents

Sustainable Design SPD

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

Section 73 of the Town and Country Planning Act 1990 (The Act) applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

Section 73(2) of The Act requires the Local Planning Authority to consider only the question of the conditions subject to which planning permission should be granted and-

- (a) if planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or unconditionally, planning permission shall be granted, and
- (b) if planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, planning permission shall be refused.

The key issue for consideration in this application is:-

The impact of varying condition 13 of KET/2012/0646 to amend the plans under which the development can be built under, in order to regularise the development already carried out on site.

Condition 13 of KET/2012/0646 – Variation of the Approved Plans

Condition 13 of KET/2012/0646 states:

'The development hereby permitted shall not be carried out other than in accordance with the approved plans and details shown on drawing numbers 3103.09.05 (block plan), 3103.09.04 (proposed flats) received on 12.10.2012 and drawing number 3103.09.07 (roof plan) received on 23.11.2012.'

Planning approval was granted by KET/2012/0646 subject to a number of conditions to ensure the development would not adversely impact on the character and appearance of the area, the amenity of surrounding neighbours and the safety of the highway network and highway users.

The development commenced on site following the discharge of all pre-commencement conditions. An enforcement investigation determined that the development had not been carried out on site as approved, either by the initial planning permission, or the subsequent discharge of conditions.

The foundation pad at the site sits above the existing ground level, which is at a higher level than the final ground level approved by the discharge of the levels condition (condition 4), and rather than use traditional construction methods, the building is being erected using a prefabricated insulated timber panel construction system called SIPs (structural insulated panels).

The SIPs panels are made off-site using the measurements shown on the approved plans. The panels are then connected together on site to form the walls, floors and roof. When the SIPs panels were installed on site, due to the raised foundations, the whole building sits at a higher level than approved. The prefabrication method means that structure could not be corrected during construction to compensate for the initial error at foundation level.

The enforcement complaint was made as a result of the ridge line of the roof trusses sitting above the ridge line of the adjacent property at No.13 Bayes Street instead of at the same level, as was approved.

In order to regularise the development on site the developers have made modifications to the roof of the SIPs panels to bring the ridge line down in line with the ridge of No.13 Bayes Street. This means that the rest of the panels still reflect the original approved plans but the floor level and window levels are at a higher level than originally approved. The approved plans condition was added to the original permission to ensure the resulting development did not adversely impact on the character and appearance of the surrounding development or the amenities of surrounding neighbours.

It is considered that by virtue of the prefabrication method of construction, the resulting building is still fundamentally the structure approved and although there have been modifications to the roof; these are not so significant as to materially affect the character and appearance of the remainder of the development. This is in accordance with policy 13(h) of the North Northamptonshire Core Spatial Strategy which requires new development to reflect, respect and enhance the character of its surroundings, and policy 8(d)(i) of the emerging North Northamptonshire Joint Core Strategy which requires new development to respond to the site's immediate and wider context and local character

In addition, the reduction in the ridge height means that that any adverse impact in terms of loss of light or overbearing on surrounding neighbours has been reduced back to the same circumstances as was approved originally. As such, this is in accordance with policy 13(l) of the North Northamptonshire Core Spatial Strategy and policy 8(e)(i) of the emerging North Northamptonshire Joint Core Strategy which requires new development not to result in an unacceptable impact on the amenities of neighbouring properties or the wider area.

In terms of the materials, although render is not a material commonly found in the established residential development in Bayes Street and the surrounding area, the proposed development is a stand-alone development and as such it would be acceptable to introduce other materials. The use of render on the south elevation bay above the brick plinth, and on the dormers above the eaves line on the east elevation has already been approved by condition. The additional area proposed for the render is the gable wall end immediately adjacent to No.13 Bayes Street. As this is a small area, it is considered the use of render in this location would not adversely impact on the character and appearance of the surrounding development. An informative will be added to remind the applicants that any alternative materials used will need to be discharged by condition.

As such, the Condition 13 can be varied to include the amended plans as the development reflects policies in the Development Plan.

Conditions

This application will create a new stand-alone permission on the site. Therefore the conditions imposed through KET/2012/0646 will be re-imposed and updated to include the details already approved by condition.

Conclusion

Subject to the re-imposition of the conditions approved by KET/2012/0646 and updated to take into account the discharge of the pre-commencement conditions and the plans submitted for this application, the application to vary condition 13 of KET/2012/0646 is considered acceptable and is recommended for approval.

Background Papers

Title of Document:

Date:

Contact Officer:

Alison Riches, Development Officer on 01536 534316

Previous Reports/Minutes

Ref:

Date: