

BOROUGH OF KETTERING

Committee	Full Planning Committee - 16/08/2016	Item No: 5.7
Report Originator	Sean Bennett Senior Development Officer	Application No: KET/2016/0465
Wards Affected	St. Michaels and Wicksteed	
Location	Fletton House, 56 Pytchley Road, Kettering	
Proposal	Full Application: Enclosed swimming pool	
Applicant	Mr & Mrs M Whitehouse	

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. The development hereby permitted shall not be carried out other than in accordance with the approved plans detailed below.

REASON: In the interest of securing an appropriate form of development in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

3. No development shall commence on site until details of the types and colours of all external facing and roofing materials to be used and details of boundary treatment 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 8 of the North Northamptonshire Joint Core Strategy.

4. Prior to the commencement of development a scheme for the provision of the surface/roof and waste water drainage and arrangements to deal with a system breach shall be 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 scheme.

REASON: Details for the provision of surface/roof and waste water drainage and system breach arrangements are necessary prior to commencement of development to prevent pollution of the water environment in accordance with policy 5 of the North Northamptonshire Joint Core Strategy.

5. No development shall take place on site until a scheme and a noise survey has been submitted to and approved in writing by the Local Planning Authority which specifies the provisions to be made for the control of noise from plant or machinery emanating from the site and expected noise levels. The development shall not be carried out other than in accordance with the approved scheme and survey and shall remain in place thereafter.

REASON: Noise control measures are required prior to commencement to ensure that the buildings, structures and plant are adequately sound proofed in the interests of the amenities of the occupants of nearby premises in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

6. No development shall take place, until details of the method of construction have been submitted to, and approved in writing by the local planning authority. The details shall include arrangements proposed for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; measures to control the emission of dust, dirt and light during construction; and delivery and construction working hours, together with details of the arrangements that we will put in place to works necessary on others land. The approved details shall be adhered to throughout the construction period for the development.

REASON: In the interests of residential amenities and required prior to the commencement of development in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

7. 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 shall be made in the north/south side or the rear/west elevations of the building hereby permitted.

REASON: To protect the amenity and privacy of the occupiers of adjoining property in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

8. The development shall be only for purposes incidental to the residential occupation of the single dwelling house at 56 Pytchley Road, Kettering and not for any business or commercial use.

REASON: In the interests of the visual amenities of the area in the interests of amenity in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

Officers Report for KET/2016/0465

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

3.0 Information

Relevant Planning History

KE/1994/0146 – Extension – APPROVED - 03/05/1994

KB/1968/0128 - Garage and carport – APPROVED – 28/03/1968

Site Description

Officer's site inspection was carried out on 15/07/2016 and 29/07/2016.

The site is located in a residential area toward the southern extent of the Town and forms part of a linear development of mostly detached dwellings of varying styles. The proposal is located to the most eastern part of the dwellings rear garden and shares its boundaries with surrounding residential gardens.

Proposed Development

The application seeks full planning permission for a swimming pool enclosure measuring approximately 9.3m along its longest side elevation by 12.2m which is the full width of the garden to a maximum height of 2.6m with a large roof lantern atop a flat-roof above fair-faced brickwork. The side and rear walls of the enclosure would form a new shared boundary with its neighbours.

Any Constraints Affecting the Site

None

4.0 Consultation and Customer Impact

Neighbours: One third party **objection** received from 1 Bryant Road to the rear/east on the following summarised grounds:

- Would involve replacing their fence – for which no contact has been made
- Would result in the rear curtilage comprising two different materials which is [visually] unacceptable
- There is a significant difference in ground levels which raises concern as to whether the footings would encroach on their land and affect a retaining wall for which no details have been provided and would also involve loss of valuable plants along that boundary
- Potential noise disturbance caused by pump and filtration system
- Asks what protection measure would be put in place to guard against flooding in the event of failure of the system as the lie of the land would mean that the water runs their way
- Security concerns during construction
- Possible legal implications of building on the boundary

5.0 Planning Policy

National Planning Policy Framework

Core Principles and Chapter 7: Requiring Good Design

Development Plan Policies

North Northamptonshire Joint Core Strategy (JCS)

Policy 5: Water resources, environment and flood risk management

Policy 8: Place Shaping

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

The key issues for consideration in this application are:-

1. The principle of the development
2. Impact on residential amenity
3. Impact on the character and appearance of the area
4. Impact on flooding and drainage
5. Fall-back position
6. Response to objector comments

1. The principle of the development

As the proposal relates to an existing residential property, is in relation to this use and is located within the confines of the Town the proposal is considered to be acceptable in principle.

2. Impact on residential amenity

Policy 8 of the Joint Core Strategy (JCS), amongst other things, requires that development does not result in an unacceptable impact on the amenities of neighbouring properties, by reason of noise, vibration, pollution, loss of light or overlooking.

The existing fences that are proposed to be removed to the shared boundaries of the site are approximately 1.8m in height. It is proposed to effectively replace these with the side and rear walls of the proposed building. The height of the brick walls that would form part of the rear boundary at 1 and 3 Bryant Road and the rear most part of the side shared boundaries of 54 and 58 Pytchley Road would be to a maximum height of 2.3m from existing ground level. It is worth noting however that the ground levels to 1 and 3 Bryant Road are lower in the region of 0.5m compared with the ground levels of the development site with a retaining wall evident and as such this would extenuate the heights of any boundary treatments from these properties.

Firstly with respect the impact of the development toward the flanking neighbour's at 54 and 58 Pytchley Road. These properties are 14m and 20m, respectively, from the closest part of the development. As a result of this separation distance, its obtuse angling to the rear elevations of these properties, it being only 0.5m higher than the existing fencing and given that there are no windows proposed in the side elevations the proposal would not have an adverse impact to the residential amenities experienced at 54 and 58 Pytchley Road.

Moving on to the impact of the development toward the neighbour's to the rear/west at 1 and 3 Bryant Road. Their rear facing elevations are a minimum angled distance of 10m from the rear wall of the proposed structure. 1 Bryant Road has objected to the proposal, although their concerns are not related to direct impacts that would be caused by the building. In the interests of reducing impact to neighbours (also to take account of the drop in land levels across the site) the structure has been undercut into existing land levels by 0.45m closest to the rear boundary with the Bryant Road properties. This in turn, together with a slight mono-pitch to the rear element of the proposal has resulted in the rear wall of the building facing 1 and 3 Bryant Road being 1.9m in height which is only slightly higher than the existing fence and is actually slightly lower than a wall or fence that could be erected under permitted development rights (2m). The lantern element of the proposal which sits 0.8m higher than the height of the brick structure is set approximately 4.5m off the boundary and is glazed.

As such given the separation distance of 10m plus, and another 4.5m to the glazed roof lantern from the rear facing windows of 1 and 3 Bryant Road to the rear wall of the proposed building; together with the building not being the full rear boundary of those neighbours and to a comparable height of the existing fence and notably that a wall of the same size could be erected without planning permission, the proposal would not have a significantly adverse impact toward the residential amenities of 1 and 3 Bryant Close in terms of privacy, light and outlook. There is also a legitimate fall-back position that should be taken into account. This is discussed further below.

Given that the proposal would involve the use of plant machinery the proposal has the potential to cause nuisance to neighbouring properties, specifically as a result of noise disturbances and particularly with respect to 1 Bryant Road given that it is the closest property and also that the plant room is proposed to their boundary. The plant would relate to a domestic sized swimming pool and would be suitably housed so as to limit noise. In this instance, however, given the relatively close relationship of the plant room to the neighbour on its boundary it is considered to be reasonable in accordance with paragraph 123 of the NPPF and Defra's 'Noise Policy Statement for England' (NPSE) to impose a suitable condition requiring a noise survey to be approved prior to commencement and noise mitigation measures that are proposed.

The objector at 1 Bryant Road also has concern with respect the logistics involved in the building of the enclosure, given that the wall would be

constructed very close to the boundary, given the drop in land levels and that access to their property would likely be required. As a result and in light of the objector having specific personal circumstances, in this instance, it is considered reasonable to impose a condition requiring the approval of a construction method statement prior to commencement. This is considered to protect the neighbouring occupiers from harmful levels of disturbance that may be caused during construction, which in any event would be carried out over a relatively short timescale over the life of the development and would not therefore sustain a reason for refusal.

Whilst the proposal would result in the loss of a significant area of private garden land associated with the host property the remaining space (approximately 150sqm) is considered to remain sufficient garden provision.

As such and pursuant to the imposition of a condition preventing the insertion of any openings in the side/rear elevations of the proposal and the other conditions discussed above it is considered that the development would respect residential amenity and therefore comply with Policy 8 of the JCS and therefore is acceptable in this regard.

3. Impact on the character and appearance of the area

Along with seeking to prevent harm to residential amenities Policy 8 of the JCS seeks development to respect the character of an area. The NPPF in Chapter 7 also states that development should *add to the overall quality of the area, be visually attractive and respond to local character.*

Given the rear location of the proposal together with any views from Bryant Road consisting of only the merest glimpse the proposal would not result in a material change to the character and appearance of the site as experienced from the public realm. Whilst relatively large, in terms of footprint, such ancillary structures are not uncommon in rear areas and given its low profile the proposal would not have a harmful impact on the openness of the rear area. There is also a legitimate fall-back position that should be taken into account. This is discussed further below.

The objector has concern that the proposal would result in two types of materials forming the rear boundary of their property and therefore would have harm to visual amenity as a result. Ordinarily rear/side boundaries would consist of just one material, usually fencing; it would however not be usual within a domestic situation to have more than one type of boundary material and would not appear especially alien. In any event the applicant could choose to erect a wall to the same height as that proposed, set off the boundary, without planning permission. It is also noted that whilst the overhang goes up to the boundary the wall would sit slightly off it and as such arrangements could be made to retain the existing fence or erect a similar fence. This information can be required by condition.

As such the proposal sits sympathetically in its context and respects the character and appearance of the area and the host property. Thereby the proposal accords with the relevant parts of Policy 7 (NPPF) and Policy 8 of the

JCS and therefore is considered to be acceptable in this respect.

4. Impact on flooding and drainage

Policy 5 (f) of the JCS states that *Development will only be permitted where it can be demonstrated that adequate and appropriate water supply and wastewater infrastructure is available.* This is consistent with paragraph 103 of the NPPF that seeks development to be *flood resilient and resistant.*

Whilst the site is not located in an area prone to flooding and ordinarily ancillary domestic developments such as this would not result in flooding concerns the nature of the proposal and the drop in land levels of the Bryant Road dwellings gives rise to concern in the event of failure of the pool and the resulting swash. It is considered that such an event would be unlikely, nevertheless and given that an objection has been raised on this point an appropriate condition is imposed requiring details of the drainage arrangements that will be put in place in the event of the pool being breached.

Roof water run-off from the building would be dealt with by guttering to connect to the existing combined drainage system. The drainage of the flat roof would be provided through accepted drainage techniques that may include a scupper drain or standard guttering to the sides of the building to connect to existing infrastructure within the site. As such the proposal is unlikely to result in drainage or flooding concerns and therefore is considered to be acceptable in this respect, however given the concerns raised a condition requiring full details of the drainage arrangement, specifically in the event of a system breach a suitable condition is included.

5. Fall-back position

Schedule 2 (Part 1) (Class E) of the Town and Country Planning Act (as amended) permits the provision within the curtilage of the dwellinghouse of (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse subject to it satisfying certain conditions. As the proposal is ancillary to the existing dwelling it can fall to be considered under the provisions of the Act.

The proposal is 2.6m in height from the lowered ground level. Permitted development rights allow a structure of the expanse proposed subject to it not exceeding 2.5m from ground level. As such a structure only slightly lower than that proposed here and by reducing the length of the lantern would result in the proposal being permitted without the requirement of planning permission. There is no reason to believe that this slight reduction in height cannot be achieved, which would result in much the same impacts as that discussed above. As such there is a reasonable fall-back position that could be implemented and would not be subject to the same safeguarding conditions that can be imposed through the granting of this planning permission.

As such, this adds weights in favour of the proposal and actually the approval of the application would result in a better outcome for neighbours than if the proposal was to be constructed as permitted development.

6. Response to objector comments

The objectors comments raised with respect to visual appearance, noise and construction disturbance and flood risk are discussed above and are considered to be either resolved through the imposition of conditions or otherwise are not considered to be of sufficient detriment, to justify refusal on that basis.

Whilst it is often recommended that applicants make contact with neighbouring occupiers, especially if the development is proposed to the boundary, prior to submission there is no planning requirement to insist that this takes place. Any legal implications arising as a result of the proposal being constructed to the shared boundary is covered by the Party Wall Act and therefore is not considered to be a material planning consideration. An appropriate informative, nevertheless, will be attached advising the applicant of their Party Wall responsibilities.

Conclusion

In light of the above and giving consideration to the fall-back position the application is considered to comply with the Development Plan and therefore is recommended for approval subject to the imposition of the conditions stated above.

Background Papers

Title of Document:

Date:

Contact Officer:

Previous Reports/Minutes

Ref:

Date:

Sean Bennett, Senior Development Officer on 01536 534316