

BOROUGH OF KETTERING

Committee	Full Planning Committee - 08/11/2016	Item No: 5.7
Report Originator	Sean Bennett Senior Development Officer	Application No: KET/2016/0618
Wards Affected	William Knibb	
Location	17 Durban Road, Kettering	
Proposal	Full Application: 2 no. dwellings	
Applicant	Mr F Woodcock	

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 demolition or site clearance shall take place during the bird nesting season, March to August inclusive, unless a suitably qualified ecologist concludes that the development would not contravene protection afforded within the Wildlife and Countryside Act (As Amended). In the event that demolition is to be undertaken during the bird breeding season, no demolition shall take place until a copy of the ecologists' report confirming the acceptability of the demolition program and process has been submitted to and approved by the Local Planning Authority. Demolition/ site clearance shall be carried out in accordance with the approved details.

REASON: To afford suitable protection to wild nesting birds, in accordance with the provision of the Wildlife and Countryside Act 1981 (As Amended) and Policy 4 of the North Northamptonshire Joint Core Strategy.

4. 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 d have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition d has been complied with in relation to that contamination.

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,
 - 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.

D. Reporting of Unexpected Contamination

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 requirements of condition a, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition b, which is 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, which is subject to the approval in writing of the Local Planning Authority in accordance with condition c.

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: A contamination survey is required prior to development commencing to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with policy 6 of the North Northamptonshire Joint Core Strategy.

5. No development shall commence on site until details of the types and colours of the wall and roofing materials to be used, together with samples, and details of the render finish 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 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.

6. 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 and shall include a wall to the front footway boundary. No dwelling shall be occupied until the approved scheme has been fully implemented in accordance with the approved details.

REASON: Details of are necessary prior to the commencement of development in the interests of the amenity and protecting the privacy of the neighbouring property in

the interests of amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

7. Prior to the commencement of development a scheme for the provision of the surface and waste water drainage 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 and waste water drainage 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.

8. No development shall take place on site until full architectural details of all windows and doors (and their surrounds), verge, eaves, chimney and other brick detailing and rainwater goods 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 are required prior to commencement of development in the interests of visual amenity and in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

9. Prior to first occupation of the dwellings a scheme of landscaping which shall specify species, planting sizes, spacing and numbers of trees and shrubs to be planted and details of hard surfacing shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in the first planting and seeding seasons following the occupation of the building, unless these works are carried out earlier. 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 8 of the North Northamptonshire Joint Core Strategy.

10. 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 Class A-E of Part 1 of Schedule 2 of the Order shall be built on the application site.

REASON: In the interests of visual amenity and to protect residential amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

11. The upper floor dormer windows on the south-east front elevation of the building shall be glazed with obscured glass. The windows shall thereafter be maintained in that form.

REASON: To protect the privacy of the opposite property and to prevent overlooking in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

12. The upper floor windows in the side elevations shall be glazed with obscured glass and any portion of the window that is within 1.7m of the floor of the room where the window is installed shall be non-openable. The windows shall thereafter be maintained in that form.

REASON: To protect the privacy of the adjoining property and to prevent overlooking and in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

13. 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 Classes A or C shall be made in the upper floor side elevation or roof plane of the building.

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.

Officers Report for KET/2016/0618

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

3.0 Information

Relevant Planning History

None relevant to site

18 Durban Road

KET/2016/0186 – three dwellings – APPROVED – 27/04/2016

24 Durban Road

KET/2016/0322 – one dwelling – APPROVED – 30/06/2016

Site Description

Officer's site inspection was carried out on 15/09/2016 and 04/10/2016

The site comprises a rectangular piece of dis-used commercial land measuring 260sqm with an established Printers business adjacent to the west and residential to the north, east and opposite to the south.

The land was formerly used for car repairs and vehicle storage over ten years ago with the use ceasing following fire damage. The site has been left largely vacant and unused since that time and has become overgrown. A derelict open building exists to the rear northern edge of the site.

Proposed Development

The application seeks full planning permission for a pair of semi-detached dwellings, consisting of two and a half storeys to the front street elevation with dormer windows and a rear facing three storey gabled element.

Any Constraints Affecting the Site

None

4.0 Consultation and Customer Impact

NCC- Local Highway Authority (LHA): *No objection* stated saying that *there is ample space on Durban Road to accommodate the parking required.*

Neighbours: Five third party letters received including one letter of **support** from the adjacent neighbour at 19 Durban Road on the basis of the design being acceptable and given that it would replace a *burned out barn.*

In addition six letters of **objection** have been received from five different addresses from other surrounding neighbours on the following summarised grounds:

- Loss of privacy and light

- Loss of pleasant outlook
- Lack of parking exacerbating existing congestion problems and cause highway safety concerns at the junction with Linden Avenue
- Question the validity of the parking beat survey claiming that it is not a 'true reflection' of the levels of parking congestion within the street saying that at certain times of day particularly early in the mornings demand out-weighs availability. Photographs showing this have also been provided.
- The design of the dwellings would be *overbearing* and *out-of-scale* within the street and to existing dwellings in the area. Out of character with the area.
- Overdevelopment of the site
- Noise disturbance
- Loss of trees
- Harm to wildlife including bats and birds in particular
- Disturbance caused as a result of removing the trees from the site in terms of excavating their roots

5.0 **Planning Policy**

National Planning Policy Framework (NPPF):

Core Planning Principles

Chapter 7 - Requiring good design

Development Plan Policies

North Northamptonshire Joint Core Strategy (JCS):

Policy 4 – Biodiversity

Policy 6 – Development on brownfield land

Policy 8 – Place Shaping

Policy 9 – Sustainable Buildings

Policy 28 – Housing requirements

Policy 29 – Distribution of new homes

Policy 30 – Housing mix and tenure

Local Plan (LP):

Policy 35 (Saved) Within Towns

6.0 **Financial/Resource Implications**

None

7.0 **Planning Considerations**

The key issues for consideration in this application are:-

1. The principle of development
2. Impact on the character and appearance of the area
3. Impact on residential amenity
4. Impact on highway safety and appearance

5. Impact on biodiversity
6. Impact of possible contamination
7. Response to objection

1. The principle of the development

The principle of proposing a residential property within Town confines is consistent with saved Local Plan policy 35, and Policy 29 of the JCS that seek to focus development in Towns in the interest of sustainability and to safeguard rural areas. In addition the proposal is consistent with Policy 6 of the JCS and the NPPF which, amongst other things, seek to *encourage the effective use of land by reusing land that has been previously developed (brownfield land)*.

Whilst the site technically has a commercial/employment use, it has no notable useable buildings on the land following fire damage approximately ten years ago and therefore for planning purposes is considered to have a 'nil' use. Furthermore a 'Business Planning Statement' that accompanied the application opined that a reinstatement of the lawful commercial use would be unlikely for the following reasons; (1) such a small site at this location would not likely attract or be a viable prospect for any commercial activity and (2) a reinstated commercial use would likely conflict with the surrounding residential uses. Although these statements have not been supported by demonstrable evidence there is no reason to dispute these claims especially given the proximity of domiciles to the site.

As such disposal of the remnant commercial/business use and its replacement with housing is considered to be acceptable in principle and consistent with the development plan.

2. Impact on the character and appearance of the area

Chapter 7 of the National Planning Policy Framework and Policy 8 of the JCS requires development to be of a high standard of design and respect the surrounding area.

Whilst the existing site contributes openness to the area it is an unkempt run-down site that overall has no benefit to the visual quality of the locality. Thereby if handled sensitively development of the site would result in enhancement to the visual amenities of the site and the area.

The streetscape is largely defined by Victorian red-brick terraces and also the old shoe factory. There is also a latter house type opposite the site and adjacent to the east which comprise a short row of terraced dwellings that respect the slope of the road and comprising of red brick to the ground level, then a pronounced stretcher course, then a rendered pebble-dash external treatment to the first floor under a brown roof-tile and including chimneys. The dwellings to the east also include ground floor bays and an open porch. It is these later dwellings that the development should look to take its cue from.

The two proposed dwellings respect the established built form and rhythm of the street and whilst they include dormers these are small in scale and would

not be the dominant feature to the roof plane or within the streetscape and are consistent with a 2009 appeal decision on a site opposite and nearby permissions granted earlier this year. Their design respect the vernacular with brick to the ground floor elevation with render above and a brick string brick course and chimney with sash windows and stone headers and sills.

Whilst the rear three storey element is not consistent with other residential houses in the area it is subservient to the main part of the house and would not be readily visible from the public realm and as such would not result in an unacceptably alien addition to the streetscape. The density is consistent with that evident in the locality and therefore is not considered to constitute overdevelopment.

As a whole the proposal sits comfortably in the street and provides visual enhancement to the site which has become derelict and also to the street frontage through the continuation of the adjacent row of terraces. Suitable conditions will be imposed to ensure that a good standard of finish is delivered including the prior approval of architectural detailing and render finish and matching materials. A condition will also be included requiring the prior approval of boundary treatments where it is envisaged a low red-brick wall to the highway edge will be instated to match that adjacent to form a defensible front space.

As such the proposal is considered to be in accordance with policy 8 of the JCS and policy 7 of the NPPF and therefore the development is considered to be acceptable in this respect.

3. Impact on residential amenity

Policy 8(e) of the JCS requires that development does not result in an unacceptable impact on the amenities of neighbouring properties or the wider area, by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking.

Firstly with respect to the impact on the closest neighbour at the adjacent property; 19 Durban Road. There would be no significant adverse impact to the privacy of this property as the single casement facing upper floor window serving a non-habitable landing will be conditioned to be fitted with obscured glaze and non-opening above an internal height of 1.7m from ground floor level. A further safeguarding condition shall also be attached to ensure that no further upper floor openings can be inserted in the upper floor side elevation without planning permission. As such there are no overlooking concerns with respect to 19 Durban Road.

With respect to overshadowing and overbearing to 19 Durban Road; the windows to the ground floor extension in 19 Durban Road would be the most affected by the proposal, especially towards the end of the day. The rear wall of the proposed dwelling would run broadly in-line with the rear wall of the neighbour's rear extension and project approximately 2.5m beyond the rear wall of the original dwelling and therefore its upper floor windows. As a result the proposal conforms to the widely recognised 45 degree angle test and

mindful of the rear element being higher than a normal two storey building, comfortably accords with the 60 degree angle test with respect to the upper floor windows. This test involves drawing a 45 and 60 degree line from the middle of the nearest ground floor or in this case upper floor window serving a habitable room of an adjacent property. Whilst this test generally relates to the impact experienced from an extension proposed to an adjacent property it is a useful benchmark when considering the overshadowing impacts of any proposed neighbouring building to the side of an affected property.

With regard the impact of the proposal to the front facing dwellings opposite the site at 10-16 (even) Durban Road; the proposed resulting separation gap between the front of the proposed dwellings and 10-16 (even) Durban Road at the closest point would be approximately 14m. Such a separation gap is consistent generally with facing properties in a terrace street and elsewhere in Durban Road which actually have a closer arrangement at 12m separation to the east. As such whilst the residents of 10-16 (even) Durban Road would experience a change any change to their light would be minimal given that the dwellings are proposed to their north and therefore not in the arc of the sun. In addition any change to their privacy and outlook would be consistent with that evident elsewhere in the street with the dormer in the roof serving an en-suite and therefore fitted with obscured glass. Furthermore the objectors at 10 and 12 Durban Road, who cite loss of privacy and loss of light as a concern, are not directly facing the proposal and therefore any impacts are lessened by their increased distancing from the proposed dwellings and obtuse angling. As such the proposal would not have a detrimental impact to the amenities of the facing properties.

Moving on to the impact of the proposal to neighbour dwellings to the north fronting Sydney Street. Objections have been received from the residents at 10, 14 and 16 Sydney Street citing loss of privacy, overshadowing and loss of outlook as a concern. Whilst the Council does not have adopted standards for back-to-back separation distances recognised accepted distances for two storey dwellings is between 21-22m. Given that the development has a rear three storey element it is reasonable to insist upon a greater separation distance to protect the amenities of those dwellings to the rear.

The closest affected window serves a rear facing kitchen/diner window at the bungalow; 14 Sydney Street and is measured at a separation distance of approximately 28m. The other rear facing windows serving various habitable rooms at 10, 14 and 16 Sydney Street are a minimum of 30m from the rear facing windows of the proposed dwellings. Taking into account the recognised separation distances of 21-22m for two storey back-to-back dwellings an increased separation distance of a further 6-9m is considered reasonable distance to protect the affected neighbours from detrimental loss of amenity.

Whilst this gap is considered to be sufficient to protect residential amenities the possibility of amending the second storey bedroom to instead serve a bathroom, which could reasonable be conditioned to be fitted with obscure glaze, was explored with the applicant. The applicant unfortunately failed to

take the opportunity available to make this change due to complications that would be encountered with the changed internal layout and fear over having a harmful impact to facing dwellings opposite and as such the proposal is considered as submitted. Nevertheless the proposal is considered to be acceptable whether this change was made or not, however given the objections raised it was an amendment that was worth exploring.

It should, however, be acknowledged that the residents to the rear will experience change to their residential amenities and a change that would not be positive. These impacts however are not considered to be so detrimental to the quality of life of the occupiers to justify refusal of the application on those grounds particular in light of the separation distances involved. In addition and in consideration of one objection; there is no reason to believe that the noise associated with two dwellings would be over that expected from any other domestic property and as such the proposal would not likely result in an adverse impact to neighbours amenities as a result of noise with the construction period only lasting for a limited time over the life-span of the development.

The neighbouring property adjacent to the west hosts an established Printers business and as such there would be no harm to residential amenities with respect to this property. In terms of ensuring the continuation of this business, consistent with paragraph 123 of the NPPF, whilst the proposal would result in two additional sensitive residential receptors in its vicinity the business currently operates in close relationship to other residential receptors and therefore operates in a manner that is not in conflict with surrounding uses. There is no reason to believe that this arrangement will not endure. As such the neighbouring Printers would not likely have a harm impact to the amenities of future occupiers or compromise the continuation of that business going forward.

Thereby the proposal would not have a detrimental impact to residential amenities or harm the continuation of the adjacent business and as such is considered to be acceptable in this respect consistent with Policy 8(e) of the JCS.

4. Impact on highway safety and appearance

Policy 13(b) of the JCS requires developments to have a satisfactory means of access and provide for satisfactory parking, servicing and manoeuvring and to not have an adverse impact on highway safety

Whilst the proposal does not make any provision for off-street parking the application was supported by a 'parking beat survey' with a view to demonstrating that the street has capacity to accommodate the level of parking that would be associated with the two proposed dwellings. It is also worth bearing in mind, when considering the streets capacity to cope with additional cars, that there exist extant approvals, in close proximity to the site for three additional houses without off-street parking provision. At the times of those approvals it was considered that the on-street parking arrangements could cope and therefore would not result in highway safety concerns. However it

was considered that with the accumulation of these residential consents in the vicinity that the ability of the street to accommodate further housing should now be captured and evidenced.

The parking beat survey was carried out on the 21st and 24th September 2016 and therefore covered a typical midweek (Wednesday) and a weekend day (Saturday) and was carried out every hour on the hour from 7am until 9pm within Durban Road and was supported by photographs. The survey was carried out within the parameters laid out by the Local Highway Authority. During the study period it was revealed that the maximum amount of cars parked was 19 which meant 11 spaces available and the minimum amount of cars parked was 8 which meant 25 spaces available.

It is clear therefore that there is a range in the availability of spaces within the street throughout the day. The minimum availability of 11 spaces however would be sufficient to accommodate the proposed development if the usual 2 spaces per dwelling were to be applied (4). In addition the street could also accommodate the spaces that would be associated with the extant approvals in Durban Road for 3 dwellings (without parking provision) which would equate to 6 spaces. This therefore gives a total reasonable requirement for 10 additional spaces which would be met by the identified minimum availability of 11 spaces in the street. It is acknowledged that occupiers may not always be able to park in front of their property; however this is the nature of such terraced street with not that same level of expectation of the residents that parking would always be availability within immediate proximity of their property.

The survey also revealed that the street would be close to capacity and therefore any further planned development within this area of Durban Road may be expected to provide off-street parking.

A point of third party objection to the proposal sought to bring into question the validity of the survey, to evidence this photographs of a small southern section of the street were provided. Whilst the street was shown to be at or very close to full capacity in those photographs it showed only a portion of the street and was not supported by a parking beat survey that contradicted the one submitted in support of the application.

In addition the case Officer has had call to visit Durban Road approximately eight times over the last five/six months for various reasons and at various times throughout the day. Whilst the availability of parking fluctuated significantly during those visits there was always parking available in close proximity to the development and notably other spaces available in the vicinity. As such the Officers own cognisance would support the findings of the provided parking beat survey. As such and with no evidence to suggest otherwise, the survey, which was carried out in accordance with local highway authority (LHA) advice, is considered to be an accurate representation of the streets ability to cope with the additional demand including both the proposed and other extant residential permissions in the area.

As such and with no objection from the LHA the proposal is considered maintain the safety and convenience of the local highway network and therefore is considered to be acceptable in this respect.

5. Impact on biodiversity

Paragraph 99 of Circular 06/05 states that: *it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.* Likewise section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that: *every public authority must in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity.*

Whilst the application has not been accompanied by a protected species survey the site is surrounded on all sides by development, consists of relatively immature trees and a ramshackle open and draughty building with little roof space. As such and consistent with Natural England's standing advice the site is considered to be species poor and does not consist of suitable habitat that would support protected species, most notably bats. As such and although objections have been received citing impact on bats and birds as a concern no evidence has been provided and there is no evidence on site to suggest that there is a reasonable likelihood of protected species, in particular bats being disturbed as a result of its development. However a suitable habitat directive informative should be included for information purposes in the event that a protected species are found during construction and also a suitable condition imposed preventing the felling of trees within the bird nesting season unless it can be shown that birds are not present. As such the proposal would not result in harm to species, protected or otherwise.

6. Impact of possible contamination

Given the previous use of the site, its fire damage and Northamptonshire comprising strata of naturally occurring arsenic there is potential for site contamination to harm health and ground water. As such safeguarding conditions are included to protect against this harm requiring the approval of a phased environmental risk assessment.

7. Response to objection

The objectors concerns with regard the impact of the proposal to highway safety, impact on residential amenity and the character and appearance of the area have been discussed above and considered to be acceptable in those regards subject to the imposition of certain safeguarding conditions.

The other issues arising from the objection with respect to loss of view and stability of the property are not considered to be material planning considerations and therefore are not discussed.

Conclusion

In light of the above the proposal is considered to be in accordance with

Development Plan policy in particular its encouragement for the re-use of developed land in urban areas and as such is recommended for approval.

Background Papers

Title of Document:

Date:

Contact Officer:

Previous Reports/Minutes

Ref:

Date:

Sean Bennett, Senior Development Officer on 01536 534316