

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 14/03/2017</b>	<b>Item No: 5.4</b>
<b>Report Originator</b>	<b>Sean Bennett Senior Development Officer</b>	<b>Application No: KET/2017/0048</b>
<b>Wards Affected</b>	<b>St. Michaels and Wicksteed</b>	
<b>Location</b>	<b>26/28 Lewis Road, Kettering</b>	
<b>Proposal</b>	<b>Full Application: Single storey flat roof room in garden</b>	
<b>Applicant</b>	<b>Mrs V Foulks</b>	

### 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 (including their finish) of all external facing and roofing materials to be used 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 roof/surface and waste (including foul) 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.

5. The development shall be used only for purposes incidental to the enjoyment of the dwellinghouses at 26 and 28 Lewis Road shown within the red-line on the approved location plan numbered 01 and shall inure for the benefit of those properties for as long as they are occupied by members of the same family. In the event that 26 and 28 are not occupied by members of the same family its use shall cease and the building hereby approved shall be removed from the site unless its retention is otherwise approved by planning permission.

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

6. No works should be undertaken to trees which would result in disturbance or loss of habitat of nesting birds (Bird nesting season March-August inclusive).

REASON: In the interest of nesting birds and in accordance with Policy 4 of the North Northamptonshire Joint Core Strategy and the provisions of the Wildlife & Countryside Act of 1981.

## **Officers Report for KET/2017/0048**

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

### **3.0 Information**

#### **Relevant Planning History**

The application was subject to pre-application advice under reference PRE/2016/0166 where the case officer advised that they were broadly supportive of the principle of the development but recommended that the amount of domestic facilities proposed within the building is reduced.

Whilst the proposal was generally submitted in accordance with the advice given the internal facilities proposed is unchanged.

#### **Site Description**

Officer's site inspection was carried out on 26/01/2017

The site is located within the rear shared garden, toward its northern extent, of 26 and 28 Lewis Road. The applicant resides at 26 Lewis Road which is on the upper floor of the host property with the ground floor (28 Lewis Road) in the same ownership and occupied by the applicants mother. The surrounding area consists of residential uses with Lewis Road also giving access to Southfield Girls School to the east.

The flanking neighbouring properties to the east and west also have similar purpose built arrangements with a residential unit to the ground floor and a separate unit to the upper floors.

#### **Proposed Development**

The application seeks full planning permission for a single storey flat roof timber clad building nearly the full width of the garden and involves the felling of a mature leaning Willow tree with the internal facilities including a kitchenette, shower room and a lounge/living area. A roof lantern is proposed above the shower room and the plans depict a double bed within the living space. The building is set-off the boundaries to a height of 2.750m excluding the lantern rooflight and measures approximately 10.5m by 5.5m. The building would function as a garden room associated with 26 and 28 Lewis Road.

#### **Any Constraints Affecting the Site**

None

### **4.0 Consultation and Customer Impact**

**Neighbours:** One third party **objection** received from the occupiers of 32 Lewis Road which comprises the first and second floors of the neighbouring building to the west. The objection spanned three separate letters with the following summarised reasons:

- Loss of view and outlook particularly in light of the loss of the 'beautiful' Willow tree which has been there over 30 years – a number of photographs of the tree have been provided
- The loss of the tree would have a negative impact on the areas visual amenities
- The tree may be on their land with the possibility of the boundary having changed overtime
- The tree provides habitat for birds which adds to the areas *peaceful atmosphere*
- Fear that the building will be used as a residential unit
- Loss of privacy from the rear elevation of the Rosemount Drive dwellings with the tree currently acting as a screen - particularly toward their garden
- The building is too large for the size of garden – overdevelopment
- Lack of consultation from the applicant prior to submission – which could have resulted in a compromised proposal
- Access to their garden will not be permitted – which is not granted by planning approval

## 5.0 **Planning Policy**

### **National Planning Policy Framework:**

Core Principles

7. Requiring good design

10. Meeting the challenge of climate change, flooding and coastal change

11. Conserving and enhancing the natural environment

### **Development Plan Policies**

#### **North Northamptonshire Joint Core Strategy (JCS) Policies:**

1. Presumption in favour of sustainable development

4. Biodiversity and Geodiversity

5. Water environment, resources and flood risk management

8. Place shaping

9. Sustainable buildings

11. The network of urban and rural areas

#### **Local Plan (LP) Policy:**

35. Housing: 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 the development
2. Impact on residential amenity
3. Impact on the character and appearance of the area
4. Impact on flooding and drainage
5. Impact on biodiversity
6. Response to objector comments

### 1. The principle of the development

The application proposes a garden room which has been designed to offer some habitable facilities akin to those within a dwelling. Notably this includes the provision of a WC, shower and a kitchenette. These facilities appear to be proposed for the convenience of its users (the applicant) residing in the upper level of the host building.

There is no reason to believe that the intended use of the building is other than incidental, although it is noted that a kitchenette and WC is proposed, which implies a level of separation of use.

It is noteworthy to mention here that if the property was a single dwelling house, with normal householder rights that a building only 0.250m lower with the same footprint would be permitted development. Whilst this is not a fall-back position in this case it gives an example of the level of ancillary residential curtilage development that could normally be accepted by the General Permitted Development Order without planning permission being needed.

The building would not be acceptable for occupation as a separate dwelling. As such the imposition of a condition requiring the building to remain ancillary for the use of 26 and 28 Lewis Road is imposed. Thereby and 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. This is consistent with the Core Principles of the NPPF which amongst other things seeks a good standard of amenity for all existing and future occupants

The application proposes an ancillary building associated with the domestic activities of 26 and 28 Lewis Road. The living arrangements of the premise and some of those surroundings are not typical with the ground floor and the upper levels functioning as two separate and independent residential units with

shared frontage parking and a shared rear garden. This offers the opportunity for a type of living arrangements that would suit certain types of occupation requirements. For instance, as is the case here, the building as a whole is occupied by an extended family with the applicant on the upper floor and their mother on the ground floor. This arrangement enables a level of independent living whilst also giving the opportunity for convenient family interaction, particular in the shared rear garden.

Given the shared garden arrangements there would ordinarily have to be care taken when permitting development that would increase the usage of the rear garden, particularly where the development relates to the upper unit as this could have an impact to the lower unit and its residential amenity in terms of loss of privacy and general disturbance. In this case, however, given that both units are occupied by members of the same family with the application stating that the building is ancillary to both 26 and 28 Lewis Road there is no adverse residential amenity issues associated with either dwelling. This type of living arrangement however may not continue going forward. As such and in order to protect the residential amenities of future occupiers a condition is recommended to ensure that the proposal inures to the benefit of both 26 and 28 Lewis Road and in the event that the units are no longer occupied by member of the same family the building is removed from the site. This condition is considered reasonable given the timber construction of the building and therefore its relative ease of removal.

Whilst the building would be overlooked from the upper levels of surrounding dwellings, given the ancillary nature of the proposal and that the applicant would be aware of this relationship this issue is not considered to pose a constraint to development. As such and as a sizeable garden (approx. 120sqm) would remain the proposal would not have a negative impact to the residential amenities of the host building.

Turning to the impact of the development to surroundings dwellings; given the low profile of the building, existing boundary screening and its proximity and orientation, at an obtuse 10m, to the rear elevations of flanking neighbours the proposal would not have a direct impact to the residential amenities of neighbouring dwellings as a result of loss of privacy, light or outlook. Whilst the garden as a result of the proposal may be used more intensively than the existing, there is no reason to believe that the level of activity and therefore disturbance would be over and above that expected in a normal domestic situation. In addition; as has become enshrined within planning law there is no third party rights to a view, which is the one of the objectors cited reasons for objecting.

The objector also contends that the Willow tree, that would be felled to make way for the development, effectively serves as a privacy screen between them at 32 Lewis Road and the rear elevations of Rosemount Drive dwellings, presumably 14 Rosemount Drive, and in particular its rear garden. Whilst the removal of the tree would constitute a change to the objectors existing perceived level of privacy, the separation distance between 14 Rosemount Drive and the rear elevation of 32 Lewis Road is at least 26m and more to

habitable room windows at an obtuse angle with the garden at least 12m away. This level of separation is consistent with normal residential spacing's and as such, irrespective of the tree would respect mutual residential privacy in the area. In any event the tree could be removed at any time as it is not within the objectors control or subject to any other special protection.

As such and pursuant to the imposition of a condition requiring the building to inure for the benefit of both 26 and 28 Lewis Road and its domestic ancillary use 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 also 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 Lewis 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. The use of timber as an external material also helps the proposal to sympathise with the verdant character of the rear area and is consistent with its ancillary intent.

The objector asserts that the proposal would result in harm to the character and appearance of the area. In terms of absolute harm the proposal would change the appearance of the area where the building would be placed. Such harm, by itself however is not considered to result in a fundamental change to the areas character which comprises of residential gardens with domestic ancillary structures and paraphernalia common which includes a notable and more conspicuous neighbouring garage to the west. The proposal would also result in the loss of an attractive Willow tree. This tree however is not subject to a preservation order, within a conservation area or subject to any other special protection. As such and given that the tree has limited visual amenity value within the public realm the tree could be felled at any time with no Council approval required. Thereby whilst the loss of any healthy tree is regretful it is not protected and its felling would not significantly harm the areas fundamental spacious garden character.

As such the proposal sits sympathetically and comfortably within its context and respects the character and appearance of the area and the host property. Thereby the proposal accords with the relevant parts of the 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 or drainage concerns it nevertheless is a consideration that should apply to all development.

The drainage of the flat roof would likely be provided through accepted drainage techniques that may include a scupper drain or standard guttering to the sides of the building. The submitted drawings appear to show that the shower and kitchen units would connect up to the existing water inlet/outlet infrastructure. Given however that this and the method of foul and method of draining away the run-off is not altogether clear a condition requiring details of how the foul, surface and resource water is to be dealt with is considered reasonable and therefore recommended. As such the proposal is unlikely to result in drainage or flooding concern and therefore is considered to be acceptable in this respect and therefore complies with policy 5 of the JCS.

#### 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.* JCS Policy 4 and Chapter 11 of the NPPF also seek the protection of biodiversity and the natural environment.

The site generally consists of well-used and kempt garden with no indication that it is species rich or comprises suitable habitat for protected species. The site does however include a mature tree which whilst not a species worthy of protection it is likely to be subject to nesting birds in the nesting season. As such, subject to the imposition of a condition preventing the felling of the tree during the bird nesting season and with no evidence that would support a different approach the proposal would not result in harm to biodiversity and as such is considered to be acceptable in this regard.

#### 6. Response to objector comments

The objectors comments with respect to visual appearance, overdevelopment, loss of the tree, loss of privacy, harm to biodiversity and fear that the building would become a new dwelling 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.



The issue with respect to ownership and the position of the boundary has not been supported by documentation that would refute the applicant's ownership claim over the land. As such there is no reason to believe that the proposal has not been submitted correctly in this regard. In addition; whilst it would always be advisable for an applicant to consult with neighbours prior to submission of a planning application, there is no legislative or policy requirement to insist that this takes place. Lastly; the decision of the objector to grant permission to their land, should it be required, is a civil matter between the two interested parties and therefore not a material planning consideration.

### **Conclusion**

In light of the above subject to the imposition of constraint and safeguarding conditions the application is considered to comply with the Development Plan and therefore is recommended for approval subject to the imposition of the conditions discussed above.

#### **Background Papers**

Title of Document:

Date:

Contact Officer:

#### **Previous Reports/Minutes**

Ref:

Date:

Sean Bennett, Senior Development Officer on 01536 534316