

BOROUGH OF KETTERING

Committee	Full Planning Committee - 20/02/2018	Item No: 5.7
Report Originator	Natalie Westgate Senior Development Officer	Application No: KET/2017/1036
Wards Affected	Northfield	
Location	103A Rockingham Road, Kettering	
Proposal	Full Application: Change of use from A1 to A5 (hot food takeaway), extraction duct to side and creation of bin store	
Applicant	Mrs O Aytac	

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 and details shown on drawing numbers KET/2017/1036/1, P-102-4 and P104A.

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

3. The premises shall not be open to the public before 12.00 noon or remain open after 22:00 hours on Mondays to Saturdays, nor open before 16:00 hours or remain open after 21:00 hours on Sundays or Bank Holidays.

REASON: In order to protect the amenities of the occupiers of nearby properties in the interests of amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

4. Prior to commencement of the use hereby approved, the ventilation system and flue hereby permitted shall be implemented in full accordance with the details on Drawing Number P-102-4 unless otherwise agreed in writing by the Local Planning Authority.

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

5. The refuse and recycling area hereby approved as depicted upon Drawing Number P-102-4 shall be implemented prior to the commencement of the use hereby permitted and shall be retained and used as permitted at all times thereafter.

REASON: In the interest of public health and safeguarding residential amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

6. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture, those on the existing building.

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

7. During the hours of operation, a waste bin shall be provided near to the front door for customers to use. The bin shall be emptied after every shift.

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

Officers Report for KET/2017/1036

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

3.0 Information

Relevant Planning History

KET/2017/0618: Change of use from A1 to A5 hot food takeaway. Erection of external flue – Refused 15/12/2017 for the following reasons:

1. The application site does not contain an external amenity area that could be used for the storage of waste. It has not been adequately demonstrated that acceptable internal arrangements can be made for waste storage in order to provide for the site's amenity needs arising from the proposed use as well taking account of the amenity of the immediate area. The proposal would therefore be non-compliant with Policy 8 of the North Northamptonshire Joint Core Strategy and the policy guidance contained within the National Planning Policy Framework, particularly given the odour arising from and the extent of the waste that could realistically be expected to be generated by a hot food takeaway use.
2. The proposed external flue, by virtue of its scale, prominent position and appearance would fail to respect the character of the area and would have an unacceptable visual impact in non-compliance with Policy 8 of the North Northamptonshire Joint Core Strategy and the policy guidance contained within the National Planning Policy Framework.
3. The application site does not provide off-street car parking or servicing opportunities in an area typified by restricted on-street car parking opportunities. The proposed hot food takeaway use would require servicing and would undoubtedly attract custom by way of private car trips during evening hours when on-street car parking in this residential area is in highest demand. The proposals therefore prejudice highway safety in non-compliance with Policy 8 of the North Northamptonshire Joint Core Strategy and the policy guidance contained within the National Planning Policy Framework.

KET/2006/0797: Change of Use: From ground floor retail and first floor flat to ground floor retail and first floor office and 3 bedroom house – Approved 17/11/2006

KET/1991/0111: Change of use of first floor residential to office and storage in connection with ground floor retail use (Existing) – Approved – 02/04/1991

KET/1989/1110: Change of use from retail to restaurant within Class A3 – Refused 16/01/1990 for the following reasons:

1. The establishment of a restaurant, because of its lack of off-street parking would encourage vehicles to stop and park on the highway and would thus give rise to conditions which would not be in the interests of public and highway safety having regard to the location of the premises at a junction with Duke Street and Rockingham Road, Kettering.

2. By reason of its location in an area with nearby residential properties it is considered that the restaurant would be likely to have a seriously detrimental effect upon the residential amenities of the area, particularly with regard to evening parking, customer activity and noise.

KET/1987/0796: Change of use: from shop to restaurant and takeaway – Refused 21/10/1987 for the following reasons:

1. The establishment of a restaurant and takeaway because of its attraction to “passing trade” would encourage vehicles to stop and park on the highway and would thus give rise to conditions which would not be in the interests of public and highway safety having regard to the location of the premises at a junction with Duke Street and Rockingham Road, Kettering.
2. By reason of its location in a primarily residential area and relationship with adjoining residential property it is considered that the restaurant and takeaway would be likely to have a seriously detrimental effect upon the residential amenities of the area.

Site Visit

Officer's site inspection was carried out on 09/01/2018.

Site Description

The application site consists of a corner two-storey premises with a frontage to the western side of Rockingham Road and a frontage to the south side of Duke Street. The premises are currently vacant. The ground floor was previously used as a retail shop selling alarms and shutters and offering locksmith services with an ancillary storage area at first floor level. There is no off-street parking or servicing space associated with the premises.

To the south of the site fronting onto Rockingham Road, there are an off licence shop at No.103, hairdressers at No.101 and a café at No. 99. There is a flat above the neighbouring retail shop and a flat above the hairdressers and café. There are flats to the rear and along the side of the site. There are residential properties on Duke Street and on the opposite side of Rockingham Road. The site is located outside of the central area of the town as defined by the Town Centre Area Action Plan (2011).

Proposed Development

The application seeks planning permission for a change of use from an A1 retail shop to an A5 hot food take-away. The application also seeks permission for an external flue at roof level fronting onto Duke Street and an internal refuse area with an external door fronting onto Duke Street.

Following a recent refused application KET/2017/0618, the internal refuse store has been added and the flue with the exception of its roof level outfall has been moved internally.

Any Constraints Affecting the Site

None

4.0 **Consultation and Customer Impact**

Highway Authority

Plans were amended following objections with a door opening outwards in the public highway.

The Local Planning Authority should satisfy itself on parking and servicing of the site.

KBC Environmental Health Officer

No comment. Recommends informative on food registration.

KBC Refuse Officer

The bin store area is sufficient enough space. Potential concern of food hygiene with the storage of the refuse so close to the kitchen.

KBC Health Protection Officer

There is potential for contamination from the refuse store if a door opening **directly** inside the food preparation area is installed. Ideally it would be better if there was no door opening into the food preparation area and the waste was carried into the bins from the front of the premises. This is providing that the fire officer would have no objections in terms of means of escape in case of a fire.

Due to the size of the premises food safety and health & safety has the potential to become compromised if it is not managed appropriately. Consideration on the location of food washing, hand washing and equipment washing sinks must be had. The fact that there is a staircase without a door opening into the kitchen may also bring possible contamination into the food room.

Crime Prevention Design Advisor

Northamptonshire Police made no objection subject to a condition on the business providing a public litter bin to ensure there is no littering from the new business. There are recommendations for consideration on hours of opening. There are recommendations for informatives on provision of CCTV and an intruder alarm system. The rear and side doors should be made secure where only authorised personnel have access.

Northamptonshire Fire and Rescue Fire Protection Officer states that the shop is a small premise. There should be some form of warning such as an air horn. Detection would need to have consideration of the smoke and heat produced from cooking. Fire service access is not an issue. Waste storage should not impact on escape routes and ability to exit the premises. Waste should be contained within the storage area. There should be no sleeping within the premises.

Ward Councillor

There was an objection from a Ward Councillor. The objections are on the following:

- Provision of inadequate parking/loading/turning spaces
- Increase of traffic generation and associated pollution
- Flue would be an eyesore on the streetscene and out of keeping with the style and age of the building
- Increase of noise, disturbance and smell within the residential area
- Lack of waste storage facility
- No evidence of healthier eating to tackle childhood obesity.

Neighbours

A petition with 605 signatures objecting to the proposed development on the grounds of parking issues, waste storage and opening hours was submitted.

There are objections from 7 neighbouring properties. The objections were:

- The flue would be an eyesore on the streetscene
- Already lack of parking in the Rockingham Road/Duke Street/Petherton Court. It is noted that Petherton Court is a private parking area
- Increase in traffic to locality
- Increase in footfall past residential properties
- Increase in disturbance, litter, pollution, and noise in the evening
- Concern of smell from the takeaway and bins
- Concern that fast food outlet will not be healthy eating and increase childhood obesity to the locality within close proximity to two schools
- Lack of external area for refuse bins to be left outside the premises
- Over concentration of food outlets in Rockingham Road

5.0 Planning Policy

National Planning Policy Framework

Core Principles

Policy 1. Building a strong, competitive economy

Policy 7. Requiring good design

Development Plan Policies

North Northamptonshire Joint Core Strategy

Policy 1. Presumption in favour of sustainable development

Policy 8. Place shaping

Policy 11. The network of urban and rural area

Policy 22. Delivering economic prosperity

Policy 23. Distribution of new jobs

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

The key issues for consideration in this application are:-

1. Principle of the development
2. Impact on the character and appearance of the area
3. Impact on residential amenity
4. Impact on highway safety and parking
5. Comments on other points raised by proposal

1. Principle of the development

The application site is located within the urban area of Kettering and seeks consent for an A5 (hot food takeaway) use. 'A' class uses are defined as being main town centre uses within the National Planning Policy Framework. There are other 'A' uses within the immediate locality. Notwithstanding the sites location just outside the defined central area of the town, the location is considered to be sustainable.

The principle of the development is therefore considered to be in accordance with the locational sustainable policies of the North Northamptonshire Joint Core Strategy (JCS) and the guidance within the National Planning Policy Framework.

2. Impact on the character and appearance of the area

The proposed development includes the introduction of an external flue outfall at roof level. This would have a very modest visual impact in comparison to what was proposed under KET/2017/0618, i.e. with the flue positioned externally upon the side elevation. It has now been moved internally. This would not have a harmful adverse impact on the character and appearance of the building.

The proposed development includes removal of a ground floor side window fronting Duke Street and there would be two new external white painted timber doors fronting onto Duke Street serving the refuse area. The proposed doors are modest in scale and similar in design and scale to the adjacent door serving No.3A Duke Street. This would not have a harmful adverse impact on the character and appearance of the building.

The proposal would comply with Policy 8 (d) of the North Northamptonshire Joint Core Strategy, which seeks to ensure that new development respects and enhances the character of its surroundings.

3. Impact on residential amenity

The site is located within the urban area of Kettering close to the town centre within close proximity to other provisions of 'A' uses, including shops, cafes and takeaways. The impact of the use and only noise arising is considered in regard to proposed opening hours and the operation of the flue. In both respects these are regulated respectively by condition and the need to comply with standards overseen by Environmental Health.

Given that there are nearby residential properties, an unrestricted use with no hours limitation would not reasonably protect occupiers' residential amenity. The application form proposes the hours of 12.00 noon to 22.00pm Mondays to Saturdays and 16.00pm to 21.00pm Sundays and Bank Holidays. It is considered that these hours are reasonable given the nearby residential properties. Taking into account the opening hours of similar uses within the town, as secured through recent planning consents, the proposed hours are considered to strike the correct balance so as to safeguard amenity.

The proposal includes details of the ventilation system and extraction flue. The Environmental Health Officer is content with the details provided and the recommended informative is attached. The impact from cooking odours would therefore be adequately mitigated.

Following the previous refused application KET/2017/0618 this application now includes a refuse area within the site to overcome a previous reason for refusal. Following concerns of the Health Protection Officer, Plan P-102-4 was submitted. There is recognition that site has limited size and therefore management of the site is critical. Some changes to the layout has been made to address this. There is a separate door to the outside to enable the refuse to be taken outside to the refuse store without enabling access to the refuse area from within the food preparation area. There is a door separating access to the stairwell to avoid food contamination. These changes will assist with the management of the operation.

Northamptonshire Police and comments from neighbouring properties noted concerns because of the likely increase in littering and recommended the provision of a public bin, in which a condition is attached. Northamptonshire Police also noted that rear and side doors should be made secure where only authorised personnel have access. Northamptonshire Police recommended informatives are attached and reads as follows:

The Crime Prevention Design Advisor recommends the installation of an appropriately placed public litter bin and that the proprietor must take some liability to clear any associated litter lying around in the immediate vicinity.

The Crime Prevention Design Advisor recommends that CCTV should be considered covering the counter and takeaway areas, this is for staff and customer safety. The camera system should be capable of being enhanced during the hours of darkness with infra-red lighting or similar. Images should be stored for a minimum of 31 days and be in-line with the Home Office CCTV operational requirements manual. Signs should be displayed in the shop to make customers aware of the system.

The Crime Prevention Design Advisor recommends that the building would benefit from an intruder alarm system installed in compliance with Association of Chief Police Officers (ACPO) Security Alarm Policy. This ensures that the technical aspects of the alarm specification will result in a police response to a confirmed activation on site. It is suggested that an internal alarm is installed that can be zoned. This will allow areas that are not being used (staff areas) to be shut down and protected, while allowing other areas to be used.

The Northamptonshire Fire and Rescue Fire Protection Officer recommends that waste storage would not impact on escape routes and ability to exit the premises, and waste would be contained within the storage area. The Northamptonshire Fire and Rescue Fire Protection Officer's recommended informative with respect to fire warning devices is attached as follows:

It is advised that some form of fire warning be installed, such as an air horn. Detection will need to have consideration of the smoke and heat produced from cooking.

The proposed development would comply with Policy 8 (e) of the North Northamptonshire Joint Core Strategy, which states that development should not result in an unacceptable impact on the amenities of future occupiers or neighbouring properties.

4. Impact on highway safety and parking

Policy 8 (b) of the North Northamptonshire Joint Core Strategy, requires that developments have a satisfactory means of access and provide for parking, servicing and manoeuvring in accordance with adopted standards and states that developments must not have an adverse impact on the highway network or prejudice highway safety.

The Highways Officer states that there would not be an intensification of the use in respect to parking and similar traffic clientele in comparison to the permitted use of an A1 retail. There is provision of off-street parking in the locality. There is no objection from the Highways Officer. The relevant informatives recommended by the Highways Officer are attached as follows:

The applicant should be reminded that any advertising or equipment (the extrator ducting) overhanging the highway (includes the footway) will require a highway license and that advertising should not be placed within the highway (sandwich boards etc) without a highway license to do so.

The applicant should be reminded that any alterations to the frontage will require workmen (gender inclusive) to operate within the highway footway, to do this will require highway licenses and sufficient public indemnity insurance.

Although double yellow lines exist to the site frontage, there are numerous parking opportunities within the vicinity of the site. There are no double yellow lines starting at the adjoining No.3A Duke Street and no double yellow lines on both sides of Rockingham Road in the locality. Given it is on a corner junction to a secondary road at Duke Street, then there is an opportunity for the site to be serviced from Duke Street without causing additional pressure to an already busy Rockingham Road.

The proposed development would comply with Policy 8 (b) of the North Northamptonshire Joint Core Strategy. This is in accordance with the officer recommendation put forward with respect to the previously refused application (KET/2017/0618).

5. Comments on other points raised by proposal

Concentration of types of businesses, menu options and potential childhood obesity are not material planning considerations.

Conclusion

The change of use from A1 (retail) to A5 (hot food takeaway) is considered to be principally acceptable being in a sustainable location. Subject to the recommended conditions it is considered that the proposal will not adversely impact on the residential amenity of existing occupiers or the character or appearance of the locality, and would not prejudice highway safety and would comply with the policies of the North Northamptonshire Joint Core Strategy (JCS) and the guidance within the National Planning Policy Framework.

Background Papers

Title of Document:

Date:

Contact Officer:

Previous Reports/Minutes

Ref:

Date:

Natalie Westgate, Senior Development Officer on 01536 534316