

BOROUGH OF KETTERING

Committee	Full Planning Committee - 12/03/2019	Item No: 5.5
Report Originator	Sean Bennett Senior Development Officer	Application No: KET/2018/0937
Wards Affected	Slade	
Location	4 Richardsons Lane, Loddington	
Proposal	s.73A Retrospective Application: Change of use to run a mail order business from home workshop which include using the workshop for light engineering operations associated with the sale of bird related equipment	
Applicant	Mr J Westwood	

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. Within five months from the date of this permission the feather-board horizontal timber cladding attached to the front/south facing elevation of the workshop/store/garden shed building hereby approved shall be completely replicated and installed to its rear and side elevations. In addition within 5 months from the date of this permission the single aviary building currently in the position where the 'bench' is shown on the approved drawings shall be removed from the outlined red and blue site shown on the approved plans.

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

2. Within two months from the date of this approval a detailed scheme of landscaping and boundary treatment including species, planting sizes, spacing and numbers of trees and shrubs to be planted and the precise heights, locations and external appearance of any boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out within 5 months from the date of this permission. Any newly approved trees or plants which, within a period of 3 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. The approved boundary treatment scheme shall be

completed with 5 months of the granting of this permission and shall remain in that form thereafter.

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.

3. No further development shall take place until visibility splays of 2.4 metres by 2.4 metres have been provided either side of the access with the public highway, and these splays shall thereafter be permanently kept free of all obstacles to visibility over 0.9 metres in height above carriageway level and a positive means of drainage to ensure that surface water from the parking area does not discharge onto the highway shall be provided.

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

4. The mail order business use and its associated light industrial operations hereby approved taking place at the site shall enure for the benefit of the Applicant (Mr J Westwood) only and shall not enure for the benefit of the land and the use hereby permitted shall be discontinued on the date when Mr J Westwood ceases to occupy the premises where at which point the workshop building and the site as a whole shall have residential use only.

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

5. The workshop building, hereby approved shall only be used for business purposes associated with the mail order sale and manufacture of 'Falconry' equipment and for no other purpose whatsoever. For clarification this does not include the sale of birds.

REASON: In the interests of neighbour's amenity and in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

6. The operation of any machinery associated with the business shall not take place anywhere on the application site except within the workshop building shown on the approved plans.

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

7. No equipment, materials, products, parts, containers, waste or any other articles associated with the business shall be stacked or stored on the site at any time except within the workshop building.

REASON: In the interests of the appearance of the site and the visual amenities of the surrounding area in the interests of amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

8. No plant or machinery shall be operated at the site (including within the workshop), except between the hours of 10:00-16:00 Mondays to Fridays and between

the months of October and February (inclusive) only. There shall be no operation of plant or machinery at the site, on Saturdays, Sundays or recognised public holidays or between the months of March to September (inclusive). No customers shall be permitted to visit the site.

REASON: To minimise noise disturbance to neighbouring residents in the interests of amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

Officers Report for KET/2018/0937

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

3.0 Information

Relevant Planning History

KET/2018/0572 - Section 73A Retrospective Application - Change of use to falconry business including workshop and aviaries – REFUSED – 24/10/2018 for the following reasons:

1. *By reason of their incongruous design, ramshackle external appearance and extensive footprint the workshop building and aviaries, together with a lack of screening, the proposal fails to respect the character and appearance of the area. The proposal therefore is harmful to the visual amenities of the streetscape, character of the village and the setting of the adjacent Conservation Area and a nearby Grade II Listed Building.*
2. *The application has failed to provide sufficient information or otherwise demonstrate that the business use would not have an adverse impact to residential amenities as a result of noise and general disturbance.*

Site Visit

Officer's site inspection was carried out on 20/12/2018 and 16/01/2019

Site Description

The site consists of side garden land associated with an end of terrace property and comprises a timber workshop building which is sought to be retained through this application together with its mail order business use which includes some light engineering operations. To the front is an area of partly-made hard surfacing for vehicular parking and toward the rear are two rows of aviaries which are associated with the applicant's hobby

Proposed Development

The application seeks retrospective planning permission for retention of the timber workshop and its business operations which are associated with the occupant's mail order business. The business specifically relates to the sale and light manufacture of products associated with Falconry including bird anklets, lure lines, leashes, gloves, perches and hoods amongst other things. The business is web-based.

The Council's planning department became aware of the site's activities and associated built operations in mid-2018 and invited a planning application. This application was submitted and subsequently refused for the reasons laid-out above. Ordinarily at that point Planning Enforcement would be taken, however in this case the property was then Council owned and thereby action could not reasonably be taken as landlord powers were available to regularise the breach of planning control. Recently however the property was sold to the applicant, which has prompted this re-submission.

The business is currently trading and the operational work is substantively complete although the landscaping works and some facia work to the workshop building are not in a finished state and have ceased on Officers advice. The workshop proposed to be retained measures approximately 5x10m in floor area and is subdivided internally into two rooms with a front double brown upvc doors and rear double door white upvc doors with a window serving each room directly facing the host dwelling. The front face of the workshop has been clad in timber feather boarding and stained brown and the plans show that this finish will also be applied to the other elevations of the workshop.

An undulating closed board fence with trellis has been erected along the boundary with the host property as well as two panels forward and to the side of the workshop and the front area consists of an unfinished car parking area for domestic vehicles associated with the applicant. Following Officer advice significantly more information regarding the nature and extent of the business has been provided and revised plans supplied which now shows that much of the recently erected fencing will be removed, the front area will be block-paved and planting added. A smaller timber building to the rear is also shown as being removed.

Considerations of the application are thereby based on the retention of the business and the workshop as currently seen on site together with the amendments and landscaping works shown on the proposed drawings. The poor quality of the drawings submitted in support of the application is acknowledged, however given the mostly retrospective nature of the proposal they are considered to be of sufficient clarity of intent for a determination on them to be made. In addition the original development description given by the applicant has been extended and modified as read to be more precise to the particular activities associated with the business proposed.

The rear aviary does not form part of the applications considerations as they do not form part of the business relating instead to the applicants hobby for keeping and showing birds; in much the same way that pigeons are kept as a hobby.

Any Constraints Affecting the Site

Within the setting of a Conservation Area
Within the setting of a Grade II Listed building

4.0 Consultation and Customer Impact

Loddington Parish Council: Requested further information as to the nature of the business, although no further comments received with respect to this provided information.

KBC Environmental Protection: *“No comments”* stated

Neighbours: Three third party letters of **objection** received from surrounding occupiers on the amended and additional information provided; comments are summarised:

- Question the wording of the proposal as a ‘mail order business’ as the use also includes workshop activities
- Highlight the removal of the aviaries from this application having been included the previous application
- Question the need for the size of workshop space
- Hours of working not provided and time of machinery operation
- No details given on collection arrangements for items produced off-site
- Items have been seen delivered to the site including pallets of goods
- Question as to what happens with the bird waste
- The workshop will generate noise – particularly during the summer months when the workshop windows are open
- Screening could have been achieved through retention of a pre-existing boundary hedge
- Question how periods of business ‘down-time’ will be monitored
- Fails to describe the feather board finish to all elevations with no precise details of the gate provided
- The gate is oversized
- Insufficient information provided
- The proposal is not in-keeping with the area
- No difference in this submission compared to the refused
- The lack of planning action to the unlawful structures is questioned
- Poor visibility for pedestrians at the access
- The fence is not in keeping

5.0 Planning Policy

National Planning Policy Framework (NPPF):

2. Achieving sustainable development

6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
12. Achieving well-designed places
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

Development Plan Policies

North Northamptonshire Joint Core Strategy (JCS):

1. Presumption in favour of sustainable development
2. Historic environment
8. Place shaping
11. The network of urban and rural areas
22. Delivering economic prosperity

Saved Policies in the Local Plan for Kettering Borough

RA3. Rural Area: Restricted Infill Villages

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 character and appearance
3. Impact on residential amenity
4. Impact on highway safety
5. Implications of the proposal being retrospective

1. The principle of the development

The site is located within the confines of a restricted infill village as defined by Saved Policy RA3 of the LP. Policy 11 2(a) permits, in principle, small scale infill development subject to site suitability. Policy 25 of the JCS is also generally supportive of small scale business and live/work units in the rural area. As such in its broadest terms the proposal is acceptable in principle.

2. Impact on character and appearance

Policy 8 (d) of the JCS seeks development to respect the site's immediate and wider context and local character.

As the site is located within the setting of a Grade II Listed Building at Loddington Farmhouse the proposal falls to be considered under Section 66

of The Planning (Listed Buildings and Conservation Areas) Act 1990 which sets out the duty of Local Planning Authorities (when considering whether to grant planning permission for development which affects a listed building or its setting) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In addition given that the site is located within the setting of the village Conservation Area opposite it also falls to be considered under Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 which sets out the duty of Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

Policy 2 of the JCS consistent with Chapter 16 of the NPPF seeks development to conserve heritage significance and setting.

The site contributes to the spaciousness of the area and in particular provides a gap between 4 and 5 Richardson's Lane which enables visual linkages with the open countryside beyond.

In terms of impacts derived from the physical presence of the workshop; the building comprises an unfinished timber building of loose construction conspicuous in the streetscape and within limited viewpoints where the nearby listed building and conservation area are experienced. Since the 2018 refusal the applicant took steps to improve the visual appearance of the workshop within the streetscape and also provided screen fencing. This act, whilst it may have taken place with best intentions, was a continuation of an unlawful development and has now ceased pending this decision. The works however undertaken has improved the frontage appearance of the workshop and replaced its ramshackle appearance with feather boarding. This has resulted in the workshop having a tidier appearance and is read more as a purpose built ancillary building typically associated with domestic use rather than as a collection of timbers collected together to form a contrived structure.

It is also the intention of the applicant (as annotated on the submitted drawings) to have this same external cladding system installed to all elevations of the building. As such and given that the workshop building has a modest profile and is not excessively scaled, akin to a domestic workshop/shed building or a timber garage the development is considered to sit relatively comfortably in its context and would not have an adverse impact on the area or pose a significant change to the setting of the heritage assets in the locality and how they are experienced. A condition shall be attached requiring that the feather board cladding currently seen on the front elevation to be installed on all elevations of the building within five months of an approval being issued.

In attempting to screen the proposal in the streetscape by fencing this has resulted in the site appearing to have been subdivided to create a separate building plot with a physical separation between the host dwelling and the land to the side where the workshop is located. The creation of a separate parking area has also added to this impression. In any event the erection of such high and visually prominent structures forward of the established building line has had a negative impact to the areas spaciousness and rather than providing an effective screen to the proposal has caused its own harm to the areas visual amenity. This perceived harm has been fed back to the applicants. They have responded by providing a revised drawing which removes the first three fence panels back of the highway edge and lowering the heights of the two fence panels to the front and side of the workshop together with the provision of shrubs and planting. Given the quality of the drawings provided the precise nature of the boundary treatment proposed to remain and the extent of the planting is not entirely clear although it does provide an indication of the applicant's willingness to work with the Council to come up with an acceptable outcome. That being the case a fully worked up and detailed boundary treatment and landscaping (including hard surfacing) plan shall be required to be submitted within two months of an approval and be required to be completed within five months of any approval.

It is considered therefore that in light of the foregoing that the physical appearance of the proposal and its impact on the streetscape and the setting of heritage assets are acceptable particular through the imposition of the recommended conditions to require completion of the remedial work within five months of the granting of a planning permission. This approach is consistent with paragraph 54 of the NPPF which advocates the use of conditions where otherwise there is an unacceptable development. Whilst the retrospective nature of the proposal is recognised as being unfortunate equally the applicants should not be unduly prejudiced where a proposal can be made to be acceptable through the imposition of conditions.

Moving on to the use element of the proposal and its impact on the character and appearance of the area; the area is characterised by different types of family-sized dwellings arranged in a linear pattern to the northern side of Richardson's Lane with open frontages and paddock land to south and agricultural land to the north. The site is to the edge of a rural village and has a quiet character in a rural setting with low-intensity residential activity an overriding feature.

The application seeks retention of the site's mail order business, which predominately is run from the workshop building discussed above. The information provided by the applicant in relation to the scale of the business operation is as follows:

- The business consists of mail order web based business using eBay and the applicants own website relating to the sale of bird equipment. There are no visitors/customers to the property at any time.
- The business employs the applicant and his wife only
- The operations involved in the production of the sale equipment includes; use of a sewing machine (ranging from 10minutes to an hour at a time), a lathe (up to 2hrs per month) and use of a leather press and heat sealer. Printing of labels as required also occurs.
- The business also involves buying articles in bulk and re-packaging for sale in smaller quantities
- The manufacture of the items and their despatch predominately take place during the 'hunting' season which runs for four months from October until January with little activity outside of those months.
- During those months business related activities either involve intense period of working for up to two days a week or otherwise is spread out by up to three hours per day.
- Any steel work, associated with the welding of perches occurs off site
- All business supplies are brought to the site by the applicant – no deliveries
- All out-going products are taken to the post office by the applicant – no collections
- The amount of waste created is small and is dealt with by taking to the recycling centre – scrap leather can be sold
- Confirm that the workshop operations are quiet and neighbours respected
- The aviaries to the rear have also been confirmed as relating to the applicants hobby and are '*nothing to do with the business*'

The types of activities associated with the use are consistent with the size of the workshop used for its operational needs, which is fairly modest at 50sqm (size of a double garage). Some of the third party objectors to the scheme suggest that the scale of operation is more intensive than laid out and in particular can be experienced during the summer months when workshop windows are open. Be that as it may the applicant does not propose a business that operates significantly outside of months October- January going forward.

It is considered that the nature of the use, with the scale and type of use of light manufacturing equipment that is not altogether uncommon in a domestic situation and that the level of use is not so significant that it would be felt in a way that conflicts with the areas quiet residential character. Whilst the use is considered to require planning permission, its continuation on the basis of the information provided is not considered to be an unsuitable prospect that would adversely harm surrounding character subject to the imposition of conditions to control the level of activity. These controlling conditions would include:

- Making the permission personal to the applicant only

- Restricting hours of light engineering (including use of the sewing machine, lathe, presses etc...) between the hours of 10:00-16:00 Mondays-Fridays and at no time whatsoever on Saturdays, Sundays or Bank Holidays and between the months of October – February (inclusive)
- Restricting the business to the sale of items available on a 'mail-order' basis only and not make items available for sale by collection and does not allow for the sale of birds associated with the site's business operations

These conditions are considered to be reasonable, enforceable and precise (consistent with para. 55 of the NPPF) as they have been prepared on the basis of the information provided by the applicant, are suitably worded with no sensible misinterpretation possible and if beached can be experienced on site including by surrounding receptors, which means an evidence base can be compiled.

It is thereby considered that the continuation of the small-scale business, with the imposition of the various safeguarding and requiring conditions above means that the proposal would not have an adverse impact to the areas character and appearance.

As such and with no objections received by the Council's Environmental Protection department in this regard the proposal is considered to be consistent with Policy 2 and 8 (d) of the JCS and therefore is acceptable in this regard.

3. Impact on residential amenity

Policy 8(e) of the JCS seeks to ensure quality of life by seeking development that protects the amenity of neighbouring properties, consistent with paragraph 127 (f) of the NPPF.

The built form of the development is modest and together with its position toward the middle of the site and its relationship to surrounding property would not have an adverse impact to residential amenity in terms of loss of light, outlook or privacy.

In terms of impacts to residential amenity derived from the use as a result of nuisance and disturbances caused; the nature of the business and its intensity of use are discussed above in Sub-Section 2. It is considered that on that basis together with the raft of safeguarding conditions laid out that the proposal would not cause an adverse impact to neighbouring occupier's amenity.

The proposal therefore is considered to comply with Policy 8 (e) of the JCS and therefore is acceptable in this regard.

4. Impact on highway safety

Policy 8 (b) of the JCS seeks to make safe and pleasant streets by, amongst other ways, ensuring satisfactory means of access and provision for parking.

The submission states that the proposal does not result in the delivery and collection of items associated with the business. Whilst the business use would result in some movements in terms of post office trips and the collection of materials, given that the operator lives at the site these movements would not likely be significantly more than those associated with a typical dwellinghouse.

A condition shall be added requiring provision of suitable visibility splays and positive means of drainage at the access.

As such the proposal would not have an adverse impact to highway safety and therefore is acceptable on this matter.

5. Implications of the proposal being retrospective

As the proposal is retrospective, in the event that an application is refused the Local Planning Authority would be obliged to take enforcement action. As such the expedience of whether or not to take enforcement action is a material planning consideration in such circumstances and if it is considered that it would not be expedient to take enforcement action then this would amount to weight that should be applied in favour of the proposal.

In this case in the event that the proposal was to proceed without the benefit of planning permission and the controls that could be reasonably applied through the granting of permission Enforcement Action would likely be pursued as it would be expedient to do so given the level of harm that could be attributed to an uncontrolled light-engineering use in a residential area. The information provided however has shown that the operations associated with the business are small in scale and therefore through the use of safeguarding conditions can be made to be acceptable and therefore would not justify enforcement action in the event that the application is approved.

As such and whilst the carrying out of unlawful operations is not condoned, the applicant has been shown to be keen to regularise the situation and therefore the retrospective nature of the proposal should not unduly count against them with the application considered on its planning merits.

Conclusion

In light of the above the proposal is considered to comply with the Development Plan and the aims of objectives of the NPPF and therefore subject to the imposition of the conditions laid-out is recommended for approval.

Background Papers

Title of Document:

Date:

Contact Officer:

Sean Bennett, Senior Development Officer on 01536
534316

Previous Reports/Minutes

Ref:

Date: