

BOROUGH OF KETTERING

Committee	Full Planning Committee - 17/12/2019	Item No: 5.2
Report Originator	Richard Marlow Senior Development Officer	Application No: KET/2019/0203
Wards Affected	William Knibb	
Location	Prince of Wales (land adj), Jobs Yard, Kettering	
Proposal	s.73A Retrospective Application: Erection of 1 no. A1/ A2 retail unit and 7 no. apartments	
Applicant	Mr M Fielding Michigan Construction Ltd	

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 two months of the date of this decision full details of the types and colours of all external facing, roofing and facing materials to be used, together with samples, 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 in the interests of the visual amenities of the area in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

2. Within one month of the date of this decision a plan prepared to a scale of not less than 1:500 showing details of existing and proposed ground and finished floor levels 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 levels are required to preserve the character of the area in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

3. In the event that unexpected contamination is found at any time when carrying out the development hereby approved, it must be reported immediately to the Local Planning Authority. Development works at the site shall cease and an investigation and risk assessment undertaken to assess the nature and extent of the unexpected contamination. A written report of the findings shall be submitted to and approved by the Local Planning Authority, together with a scheme to remediate, if required, prior to further development on site taking place. Only once written approval from the Local Planning Authority has been given shall development works recommence.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policies 6 and 8 of the North Northamptonshire Joint Core Strategy.

4. No development above first floor level shall take place on site until a scheme for boundary treatment has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved scheme has been fully implemented in accordance with the approved details.

REASON: Details of boundary treatment are required in the interests of the amenity and protecting the privacy of the neighbouring property in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

5. Prior to the first occupation of the development hereby permitted full details of cycle parking facilities including their location, design, materials and dimensions shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall provide space for a minimum of 8 cycles. The cycle stores shall be provided in accordance with the approved details prior to the first occupation of the development and shall be permanently retained in that form for the purposes of storing cycles only.

REASON: Details of cycle storage facilities are required to ensure adequate amenities are provided for this development in accordance with policy 8 of the North Northamptonshire Joint Core Strategy and policy 6 of the Kettering Town Centre Local Action Area Plan.

6. Prior to the installation of any external plant and/or ventilation equipment details thereof along with proposed noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. Thereafter any approved scheme shall be implemented in full.

REASON: To ensure appropriate living conditions for future residents in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

7. The ground floor retail unit hereby permitted shall not be open to the public outside of the hours 08.00 to 19.00 Mondays to Saturdays or 09.00 to 18.00 on Sundays and Bank Holidays.

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

8. No deliveries to or collections from the retail unit hereby approved shall take place outside the hours of 07.00 to 19.00 Monday to Saturday and not at all on Sundays and Bank Holidays.

REASON: To safeguard the amenity of the neighbouring residential occupiers in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

9. No construction activities on the site and no construction deliveries shall enter or leave the site except between the hours of 08.00 to 18.00 Mondays to Fridays and between the hours of 08.30 and 13.30 hours on Saturdays. There shall be no construction or construction deliveries on Sundays or Bank Holidays.

REASON: To safeguard the amenity of the neighbouring residential occupiers in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

10. Notwithstanding any of the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) the ground floor retail unit hereby approved shall be only for purposes falling within either Class A1 Shops or A2 Professional Services of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose.

REASON: To ensure redevelopment in the Yards quarter is retail focussed in accordance with policy 17 of the Kettering Town Centre Area Action Plan.

11. Prior to the first occupation of the development a report demonstrating that the noise levels outlined in BS8223:2014 with regard to the residential units has been met along with any measures necessary to ensure that the levels are thereafter met in perpetuity shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter retain all of the identified measures for the lifetime of the development.

REASON: The noise level details are required in the interests of safeguarding the amenity of future occupants of the development hereby approved in accordance with policy 8 of the North Northamptonshire Joint Core Strategy.

12. Prior to the first occupation of the development hereby approved, refuse storage and collection facilities shall be made available for use. The refuse storage area shall be in a separate room not connected to any habitable area. These facilities shall be retained at all times thereafter, unless otherwise agreed in writing with the Local Planning Authority.

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

13. Prior to the commencement of the A1(retail)/A2 (professional services) use hereby approved a scheme for the storage and collection of commercial waste shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details and retained 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.

Officers Report for KET/2019/0203

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

3.0 Information

Relevant Planning History

KET/2008/0876 4 no. A1/A2 shopping units with 6 no. one bed flats above APPROVED 20/01/2009 (lapsed)

KET/2012/0465 4 no. A1/A2 units with 6 no flats above APPROVED 8/11/2012 (lapsed)

KET/2015/0580 Erection of 1 no. A1/A2 retail unit and 7 no. apartments APPROVED 03/12/2015 (lapsed)

AOC/0580/1502 Approval of conditions in association with KET/2015/0580 2 (materials to be submitted), 3 (levels) 4 (contamination), 5 (boundary treatment), 6 (cycle storage), 7 (sustainable construction), 8 (external plant and ventilation details), 13 (archaeological programme required) and 14 (noise protection)
Application submitted 16/11/2018 all condition approvals refused 05/12/2018

KET/2019/0062 14 no. apartments REFUSED 02/04/2019

KET/2019/0264 10 no. apartments REFUSED 20/08/19

Site Visit

Officer's site inspection was carried out on 07/05/19 and 21/11/19

Site Description

The site comprises a previously vacant piece of brown field land that was largely unkempt for a number of years before development commenced on site at the end of 2018. A public house stands immediately adjacent to the east with an associated garden stretching along the northern boundary, beyond which commercial properties are sited, including a car repairs garage and taxi business. A 4 storey block of flats abut Jobs Yard to the south while Toller Church Meeting Rooms and a club occupy Meeting Lane to the west. Surrounding development is high density and there are numerous 3-4 storey buildings in the vicinity. Land levels slope downwards slightly to the west towards Meeting Lane and the site itself sits slightly above the highway level. The site is accessed from Jobs Yard, which is a no through route. Traffic along the narrow highway of Jobs Yard is limited to access only, including the car park of the Toller Church Meeting Rooms.

Proposed Development

This application seeks consent for 7 apartments and 1 A1/A2 ground floor unit within a three-storey building. There is no landscaping or parking proposed with the development site.

The scheme mirrors that of the approval through KET/2015/0580. This application was approved on the 3rd December 2015 with a condition requiring development to commence within 3 years. The applicant submitted a package of information on the 16th November 2018 seeking the discharge all conditions for the site. Given the limited time to resolve all conditions it was not possible to discharge the conditions by the expiration date of the permission, to enable the developer to lawfully commence development. The application to discharge conditions was therefore refused on 5th December 2018 and therefore the permission lapsed.

Limited works had been undertaken on the site and subsequently the applicant was advised to submit a fresh application for the site. In the intervening period two alternative, and larger applications, have been submitted for the site and refused due to their scale and design which result in over development of the site and overbearing impacts on surrounding development. Works have continued on site at slow pace with the blockwork of the ground floor in place.

Any Constraints Affecting the Site

Setting of Conservation Area

Consultation and Customer Impact

Highway Authority: Object

Substandard access for site and no information provided regarding parking provision, servicing for the site or turning for users/occupiers of the site.

Police Crime Design Advisor: object

The application does not meet the requirement to create safe, accessible environments where crime and disorder, and the fear of crime do not undermine quality of life. In order for the development to provide safe and secure accommodation the applicant would need to follow the following guidance:

- Set back the building providing front defensible space
- Front communal doorset to have minimum security rating LPS 1175:SR2
- Ground floor glazing should have minimum of one pane of laminated safety glass.
- There should be a secure lobby area which includes mail delivery boxes or through the wall
- Recommend a CCTV camera is installed.
- Entry system should be vandal resistant colour/audio to allow residents to vet visitors.

Northants Fire and Rescue:

The lane appears to be too narrow for a fire appliance and the top floor flat is outside of the 45m hose length (given that closest parking area is outside of Prince of Wales at best if no cars there).

Environmental Protection:

The submitted noise report, which includes the provision of double glazing and mechanical ventilation, is satisfactory

Anglian Water:

Have recommended conditions and informatives related to the development should be imposed.

Advised that the foul drainage from this development is in the catchment of Broadholme Water Recycling Centre which doesn't have capacity to treat the flows from the site.

Officer comment Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment.

Neighbours:

Two letters of objections were received regarding:

- the scale of the development
- overshadowing
- over dominance
- harm to the character of the area
- harm to residents of Jobs Court
- overdevelopment
- making the area darker
- lack of sufficient access
- issues with access to Meeting Lane

Planning Policy**National Planning Policy Framework**

2. Achieving Sustainable Development
5. Delivering a sufficient supply of homes
7. Ensuring the vitality of town centres
8. Promoting healthy and safe communities
11. Making effective use of land
12. Achieving well-designed places
16. Conserving and enhancing the historic environment

North Northamptonshire Joint Core Strategy

- 1 Presumption in favour of Sustainable Development
- 2 Historic Environment
- 6 Development on Brownfield Land and Land affected by contamination
- 8 North Northamptonshire Place Shaping Principles
- 28 Housing Requirements
- 29 Distribution of new homes

Kettering Town Centre Area Action Plan 2011-2021

- 1 Regeneration Priorities
- 2 Urban Quarters and Development Principles
- 6 Residential
- 12 Heritage, Conservation and Archaeology
- 17 The Yards

6.0 Financial/Resource Implications

None

7.0 Climate Change Implications

Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. The National Planning Policy Framework emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. National planning policy and guidance is clear that effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, local planning authorities should ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment. The adopted Development Plan for Kettering Borough is consistent with and supports these national policy aims and objectives.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprising the North Northamptonshire Joint Core Strategy, Local Plan and Kettering Town Centre Action Plan makes clear the importance of climate change and seeks to create more sustainable places that are naturally resilient to future climate change. This will be further amplified by the emerging Site Specific Part 2 Local Plan once adopted which is being prepared within this context. Policies contained within the Part 2 Local Plan will help contribute towards a reduction in greenhouse gas emissions and will secure that the development and use of land contributes to the mitigation of, and adaption to, climate change

8.0 Planning Considerations

The key issues for consideration in this application are:-

- Principle of Development
- Impact on Residential Amenity
- Noise/Environmental Issues
- Design
- Parking and Highway Matters
- Crime and Disorder
- Archaeology
- Implications of the proposal being retrospective
- Other Matters

Principle of Development

The application site is located within the Kettering Town Centre and is therefore within a location that is generally considered to meet the locational criteria for sustainable development for residential provision.

The principle of mixed-use development on this site, as proposed as part of this application, has been accepted previously as evidenced by the three previous planning permissions. The site comprises part of allocation Y1 set out in policy 17 of the Kettering Town Centre Area Action Plan (KTCAAP) and is allocated for A1 retail/ B1(c) craft workshops at ground floor with residential and commercial uses above.

In policy terms the position remains fundamentally the same as it was when application KET/2015/0580 was approved on the 03 December 2015.

Impact on Residential Amenity

The Joint Core Strategy, NPPF and material considerations require that developments provide acceptable amenity for future residents and avoid unacceptable impact on the amenities of existing properties or the wider area.

The scheme is the same as the previously approved scheme in terms of the overall design of the building externally and internally. The scheme was historically considered acceptable and as such this scheme is considered acceptable on the following grounds.

In considering the potential impacts of the proposed development on the amenity of neighbouring properties, the existing character of the surrounding area was noted. This is characterised by 3-4 storey, buildings in proximity close to one another and residential uses with no outdoor amenity spaces. Given this context it was considered that the development would not have had an unacceptable negative amenity impacts on residents of the proposed flats or existing surrounding properties by virtue of overlooking, loss of light or overbearing physical impact. It was also considered that the levels of living space would be acceptable and on the whole accord with space standards for the size of units specified on the application form.

Noise/Environmental Issues

The site is adjacent to a late licence music venue and public house and its beer garden. This will generate noise which would be to the detriment of the amenity of the occupiers of the proposed flats.

Environmental Health have highlighted this relationship and requested survey information. The submitted report identifies the significant noise generation of the adjacent site and the need for high level of noise attenuation. The submitted report requires the provision of double glazing and mechanical ventilation to ensure appropriate amenity for residents. A condition is necessary to cover these items in perpetuity.

Further conditions are also necessary regarding contamination and the permissible hours of construction on site. Such restriction is necessary due to the close proximity of the existing block of flats, to whom further significant harm to their amenity would result from construction noise during unsociable hours.

Design and character

The proposed building is the same as the previously approved scheme and therefore it follows that the Council should consider that the design and impact on the setting of the adjacent conservation area also acceptable. A street scene has been provided to show how the proposal would sit in its surroundings with the stepped ridged to the east of the scheme reducing the height of the scheme adjacent to the Prince of Wales Public House.

Parking and Highway Matters

The proposed development does not incorporate any on-site parking provision. The site is located at the centre of Kettering town centre whilst as such, it is reasonable that occupants will not be reliant upon private motorised transportation. The provision of cycle parking is to be secured by condition, with space available within the rear area. This approach was deemed acceptable on previous schemes.

Crime and Disorder

Northamptonshire Police have stated that the proposed development gives cause for concern from a crime, disorder and anti-social behaviour perspective and fails to appropriate address them in this location.

The proposal is the same as previously approved and therefore whilst there are concerns regarding the development, it would be difficult to conclude that there has been a material change in the level of crime since the 2015 approval that would require the necessary level of amendments that could overcome these issues.

A number of matters highlighted including locking mechanisms and glazing would fall outside the remit of planning. Key elements highlighted including the need for a set back of the building have been incorporated with the proposal, consistent with the previously consented scheme.

Archaeology

Whilst previously archaeological investigation was required, as this work has been undertaken on site and the findings approved by the County Archaeologist, this matter on site has now been resolved.

Implications of the proposal being retrospective

As the proposal is retrospective, if 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.

On three occasions, starting in January 2009, development of the site with retail and commercial uses at ground floor supplemented by residential uses above have been found to be acceptable. In this case and in light of the above considerations the proposal has been found to be acceptable subject to the imposition of conditions. As such by granting this application it would not be expedient to take enforcement action against the limited works that have taken place on site this year. The third party objections on the scheme are noted in this regard although are not considered to change this view.

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, which is evident by the 3 applications submitted this year, and therefore the retrospective nature of the proposal should not unduly count against them with the application considered on its planning merits.

Other Matters

Northamptonshire Fire and Rescue have highlighted concerns regarding the narrowness of Jobs Yard and potential access difficulties. This proposal is set back from the back edge of the highway and therefore does not impinge on access down the lane. The pinch point in the road is created by existing development comprising the Prince of Wales Public House and Jobs Yard flatted development, and is not exacerbated by this scheme. In an emergency access could also be made via Gold Street and Meeting Lane which is secured by two small bollards, as would be the case for any of the existing properties on Meeting Lane and Jobs Yard, including the retail premises with Flats above at nos. 1-4 Meeting Lane, Toller Meeting Rooms or the Crispin Club. Fire aspects would be picked up through the Building Regulations process which for this scheme is being overseen by Kettering Borough Council Building Inspectors.

Conclusion

Whilst the previous application KET/2015/0580 has lapsed, this submission is the same as the previous approval and there have not been notable changes in planning policy since the previous approval that give rise to a different recommendation on the application compared to the Council's previous decision.

Background Papers

Title of Document:

Date:

Contact Officer:

Richard Marlow Development Team Leader on 01536
534316

Previous Reports/Minutes

Ref:

Date:

