

BOROUGH OF KETTERING

Committee	Full Planning Committee - 06/12/2011	Item No: 5.1
Report Originator	Peter Chaplin Development Manager	Application No: KET/2011/0399
Wards Affected	Rothwell	
Location	36 High Street, Rothwell	
Proposal	Full Application: Change of use from retail unit to restaurant; new exterior door to west side; bricking up of existing door to ancillary building.	
Applicant	Mr M Dewirdag Yellowvale 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. 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 use hereby permitted shall not be carried out [The premises shall not be open to the public] before 11.00am hours or [remain open] after 22.00 hours on Mondays to Saturdays. There shall be no permitted use nor opening hours between 22.00 hours on Saturdays and 11.00am Mondays.

REASON: To protect the amenities of the occupiers of nearby properties in the interests of amenity in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

3. Notwithstanding the submitted details no restaurant or permitted use shall first commence unless and until details of the proposed extraction systems including their position and appearance, and the means to satisfactorily control noise and odour, have been first submitted to and approved by the Local Planning Authority. Thereafter, the use or development shall not proceed or continue other than in accordance with the approved extraction systems/ flues being in place and being maintained in good working order.

REASON: In the interest of residential amenity and in accordance with CSS Policy 13

4. The proposed internal first floor level shall not be first brought into use until a means for screening at eye level at the first floor inside the south facing windows

(looking toward High Street, has been put in place and thereafter retained, in accordance with details first submitted to and approved by the Local Planning Authority.

REASON: In the interest of residential amenity and in accordance with CSS Policy 13.

5. The use hereby permitted shall not take place at any time on any exterior roof area, and there shall be no external smoking area within the property.

REASON: In the interest of residential amenity and in accordance with CSS Policy 13

6. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2008 or as amended nor the Use Classes Order 2005 or as amended, the use hereby approved shall be for a restaurant or use within A3. Uses within Classes A4 and A5 are not permitted.

REASON: In the interest of residential amenity and in accordance with Policy 13 of the CSS

Notes (if any) :-

NONE

Justification for Granting Planning Permission

The proposal is in accordance with national and local policies as set out in Planning Policy Statements/Guidance PPS1, PPS4, PPG24 Policy 3 and para 4.1.8 of The East Midlands Regional Plan, Policies 1,9,13 of the North Northamptonshire Core Spatial Strategy The proposal is also in accordance with adopted Supplementary Planning Document Sustainable Design. The background papers for the emerging Site specific proposals has been noted. There are material considerations including that of parking and amenity issues that have been raised and examined, but none are considered as overriding so as to indicate against the proposal.

Officers Report

3.0 Information

Relevant Planning History

KET/2001/0591 Proposed change of use for made to measure tailoring with garments on show for retail. Temporary consent till 2004.

Signage at the property shows “Marton Rose Interiors” which may have been the use.

An existing application under fer KET/2011/0398 re Express Advertisement Consent fo externally iluminated fascia and 2 No. illuminated hanging signs. Implementation of any approved signage being dependent on the proposed change of use being allowed

Site Description

Officer's site inspection, accompanied by the Agent was carried out on 12 August 2011. The site is located close to Rothwell Town Centre, near to the junction of the former A6 with Bridge Street, and between the former A6 and School Lane, which is a turning off the north side of Bridge Street.

The site includes (former bank) principal building, somewhat monumental in size relative to surrounding area, and of red brick with a classical stone façade. It fronts the junction and is the dominant visual point looking north from High Street. The building is currently vacant or unused. It sits at the back of the footway. The former bank building has a large area of flat roof behind a parapet (stone at the front and brick to sides. Outside the parapet at the rear of the principal building the area of flat roof is close to Ashgate cottage, see below.

Attached to the main building at the west side, but set back is a modest single storey redbrick extension. In front of the smaller building and around the west side is a small area of incidental open space. This is behind an ironstone boundary wall in which is a pedestrian gate alongside the street.

Neighbouring the site beyond the north side, land is in residential use. The closest properties are the more modern dwelling at 2 Desborough Road to the west side; and Ashgate Cottage, a traditional dwelling in the local ironstone to the east side. The latter is also a Grade II Listed Building. These dwellings are a few metres from the site.

Other uses to the south and east are typical town centre retail activities.

The site lies within the designated Rothwell Conservation Area

Proposed Development

- The application (as amended) seeks a change of use to form a restaurant utilising the large space inside with the introduction of a new internal floor which would be visible from outside through the large glazed openings of the classical façade.

As revised the hours of operation/ open to the public are stated as Monday to Saturday 11.00am-11.00pm.

- A door opening is proposed to the west side of the principal building changing an existing window opening which has a stone surround.
- A door facing the front of the ancillary building is intended to be bricked up.
- Extraction units, details to be approved. The provisional position is shown as proposed to be located at the rear of the single storey secondary building, though this is subject to approval following submission of final details.
- The open area at the west side , behind the frontage boundary wall, is intended for bin storage;

All other physical alterations, apart from proposed signage which is subject to a separate application, are internal and not subject to planning controls, rather building regulations. However, the introduction of an internal first floor across the openings has raised an objection from a resident at 33 High Street about overlooking, see below. The planning response is explained in the relevant part of this report.

NB (1) An initial proposal to create a rear terrace for customers on the flat roof of the principal building was withdrawn, after Officers advised that this would be unacceptable in terms of neighbouring residential amenity.

(2) A proposed smoking area was designated indicated on the submitted plan behind the frontage boundary wall, but this element has been withdrawn too

Any Constraints Affecting The Site

Implications of proximity to neighbouring dwellings and considerations arising from any proposed physical changes on the Conservation Area; Close to junction with no immediate parking on street

4.0 Consultation and Customer Impact

Rothwell Town Council

Whilst Rothwell Town Council would not object to the proposed change of use from retail unit to restaurant, we do oppose this particular application on the following grounds:-

- (1) A roof terrace would be totally inappropriate here because people on the terrace would overlook the surrounding properties, especially No.2 School Lane, and the noise would also carry and create a disturbance for neighbouring residents.
- (2) We are concerned that there is inadequate parking provision in the area for customers and for delivery vehicles.
- (3) No permission should be given for the premises to be open later than 12 midnight on any day.
- (4) There must be an adequate air conditioning system to ensure no cooking smells permeate into the surrounding area.

Highway Authority

In principle, no highway objection subject to standard conditions regarding any ground floor doors that may open over the highway, ie these to open inward

They also advise: "No works of any nature may commence within the highway without their expressed permission.

Neighbours:

Letters received with following objections or strong objections from:

- the two closest neighbours at Ashgate Cottage and 2 Desborough Road;
- 2 properties in Ashgate Court;
- the owner of a property in Ashgate Court who is residing elsewhere;
- 3 properties in Leys Avenue;
- additional letter from the daughter (living elsewhere) of a lady who lives in Leys Avenue;
- 2 properties in High Street,
- Town Farm Stables, and another property (No.8) in Desborough Road;
- 1 property in School Lane;
- one from a person in Rushton;

Parking/deliveries/ road safety

- Overriding and ever present of lack of parking facilities/ no parking within easy distance near the property, customers cars and delivery vehicles would be a real hazard on a busy junction; School Lane is always heavily congested; Rothwell Market Hill is frequently full;
- No consideration given to parking/ Market Square is already very busy/ conceivable that customers will use Town Farmhouse property for parking as when E-on worked on the (electricity) sub station at the rear (of application site)
- Increased traffic/ congestion/ contributes to traffic dangers in the area;
- School Lane is a small road and at most times cars are parked on both sides: where are delivery vehicles going to park, case of an ambulance going to property not being able to park because of existing parking on School Lane;
- Customers will not wish to walk from car park (which is very often full) so park in School Lane/Leys Ave; chronic parking problem in Bridge Street, School Lane and Leys Ave; abuse of parking eg outside ATM on corner of Bridge; "police have less interest in doing something about it"
- Promise that traffic measures would be provided never happened when other proposed building work planned (residents in this immediate area complained on numerous occasions about parking when other planning applications have been agreed);
- 200m from infants school so delivery vehicles could be a safety hazard;
- Taxis and delivery vehicles would still use the road as drop off. Pick up parking area which would make the roundabout and public footpaths of Desborough Rd/ School Lane extremely dangerous;
- Dangerous when deliveries occur as it is on a roundabout/ bus

route/narrow pavement will make walking difficult when young parents collect children from school;

- “An earlier application, circa 2000, before the bank was converted to retail/ tailors was refused by Kettering Council on safety issues. The safety issues have got considerably worse over the years, as vehicles and lorries do not use the by pass as intended.

Originally proposed Roof terrace

- Loss of privacy: Objection to overlooking of Ashgate Cottage/2 Desborough Rd from proposed roof terrace;
- Overlooking of bungalow in Ashgate Court;
- Take away availability to spend time in garden because of overlooking;
- Roof terrace will overlook my neighbours house/ bedrooms and garden;
- Intrusion of privacy from open terrace of restaurant into main family bedrooms/ family sitting rooms/ dining room;
- Noise of open terrace during use of main family bedrooms;
- Letter of objection from 2 Desborough Road stating that main objection was the proposed roof terrace: with late night open air dining/smoking/drinking it would be an unacceptable intrusion into family life from noise, smells etc If the roof terrace was omitted the occupiers of 2 Desborough Road would not object.

NB: Officer also identified this as unacceptable impact, and this element has been removed from application as stated previously)

Other amenity issues/comments:

- Impact on 33 High Street: Illumination of terrace and restaurant into all front facing rooms; Intrusion of privacy from first floor of restaurant into main family bedrooms/ sitting rooms/dining room; Noise from late night closing into all facing rooms;
- (Subject to separate application: Occupier of 33 High Street states illuminated signs and building lighting glare directly into bedrooms, lounge and dining room of No.33)
- Application stated that would be open from 11.00 am-midnight (M-Sat) by time customers cleared could be 1.00am or later with severe impact on homes in vicinity; noise/ kitchen smells;
- Opening hours impact on predominantly residential area: parking, noise pollution and customers smoking outside premises will congest the pavement on a very busy corner;
- Although on edge of town this is a relatively quiet area: “The presence of a licensed premises opposite our house will cause the occasional noise as customers come and go;
- Noise from proposed business late at night;
- “Late night opening will have a huge impact on me and my neighbours” cooking smells and noise to contend with;
- Proximity to several households: The disturbance and violation to privacy to neighbouring households, plus residents in other nearby properties would be extreme;
- “It is felt that our premises (Town Farm Stables) would be affected by

people parking up our private entrance opposite in search for a convenient place to park and our privacy would be invaded”;

- People leaving the premises who are intoxicated a real danger exists of people falling into road;
- One neighbour has commented on the revised proposal: “Whilst welcome the removal of the terrace from the plans, we feel that the noise and air pollution resulting from the newly proposed smoking area will be a disturbance and disruption to the local environment;
- Litter associated with takeaways

Other:

- Appalled that neither of the two residents in the immediate area knew absolutely nothing about this proposed development.
- “devalue my property”
- In a Conservation Area
- Rothwell has enough eating places; within the vicinity of this proposal there are 13 businesses, can the town support another one or will some businesses close?
- Road surface is already under strain from non Leys Avenue users and this will get worse;

Northamptonshire Police: No formal objections adding that if the establishment is going to sell alcoholic beverages they will need to apply for a liquor licence and comply with all regulations

5.0 Planning Policy

National Policies

PPS 1 Delivering Sustainable Development’

PPS 4: Planning for Sustainable Economic Development

PPG 24 Planning and Noise

Development Plan Policies

East Midlands Regional Plan:

Policy 3: In assessing the suitability of sites for development priority should be given to making the best use of previously developed land and vacant or underused buildings in urban and other sustainable locations.

Para 4.1.8 The smaller towns of.....Rothwell... will seek to consolidate and extend their roles in providing local services.

North Northamptonshire Core Spatial Strategy

Policy 1: Strengthening the network of settlements: The smaller towns of.... Rothwell....will provide secondary focal points for development within the urban core;

Policy 9: Preference will be given to locations that are accessible by a choice of means of travel.

Policy 13:Development should meet need (flexible designs for buildings, design

out anti-social behaviour) have satisfactory means of parking, servicing, manoeuvring in accordance with adopted standards; not have an adverse effect on the highway network and will not prejudice highway safety, conserve and enhance designated built environment assets and their settings

Local Plan: **Saved Policy** R4. Rothwell: Area of Special Advertisement Control

Emerging Policies (Local Development Framework) Site Specific proposals for Local Development Document (LDD) Background papers and consultation proposals considered at Planning Policy Committee on 4 October 2011

SPD: Sustainable Design

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires Planning Authorities to determine applications in accordance with the Development Plan unless material considerations indicate otherwise.

The key issues for consideration in this application are:-

1. The principle of development:

National policy guidance and the Development Plan policies stated are the starting point for considering sustainability in regard the re use of this property. The site's location is sustainable. In principle, subject to the issues discussed below, a suitable re use is welcomed.

The site lies outside the defined established shopping area as defined by the Rothwell inset plans from the Local Plan of 1995. However, it is close to the town centre and previously professional services/tailors appears to have taken place at the site.

There was recognition of this site in the papers that following the Planning Policy Committee on 4 October 2011 are to be considered material, ie in a background paper for the emerging policy Site Specific proposals of the Local Development Document, (LDD) this site's relationship to the town centre was identified when this site was included in a possible revised boundary for the town centre. With its former commercial or professional services uses, and as a visually significant building for the town, a suitable reuse of this property is desirable. Furthermore, due to its size and property boundary, it seems unlikely to be brought forward for a residential use.

However, an open permission for some forms of retail especially hot food takeaway may be unsuitable, including for some of the reasons that objectors have pointed out. The principle of a sit down restaurant in this building though would fit with its possible inclusion in the town centre, subject to specific

amenity issues being satisfactorily resolved.

2. Noise and odour control

Critical to the recommendations of the Environmental Health Officers is assessing the impact of the proposed use in terms of control of noise and odour from the kitchen, and the location of extracts and odour control equipment for the kitchen.

The applicants have commissioned a Noise assessment (dated 4th Nov 2011) in accordance with BS4142:1997. This concluded that the calculated noise level of the proposed kitchen extract system equates to 32 dBA outside the nearest residential windows, with the measured ambient noise level in the locality at the time of the survey (02/11/11 from 22 00 hours to 23.00 hours, the most sensitive time of day) The report's author adds that "when the extract ventilation system is finalised the fan silencing should be checked to ensure the silencing is correct for the fan and system.

The odour risk assessment is dependent upon the height and position of the discharge, and consideration of cooking type. The applicant's agent has stated that the external pipe would be taken up above the parapet of the raised flat roof of the former and smell to be controlled. The final design and position to be conditioned

Subject to these issues being resolved as anticipated, it is anticipated that the Environmental health officer will be able to confirm that the matters are to be addressed in ways that will control noise and smell to enable the use to take place without detriment to the local area.

3. Highway parking and traffic generation

I note the concerns raised by the Town Council and residents of the locality about parking in the area. Given the proximity to the town centre, reliance on public car parking is expected to be the only way in the short term for this site to be serviced. Some limited on street parking exists, in addition to the car parks in the centre. It is inevitable that comings and goings would have to be carefully managed, including that of the expected 4 full time, 6 part time staff. The deliveries would be one van (approx 35cwt up to 5 deliveries, approx once a day during the hours 9.00am-5.00pm

I note that the Highway Authority have not raised an objection on ground of lack of parking etc. On balance, I conclude that as in recognition of its proximity to the town centre, it would not be sufficient to refuse the proposals on the basis of the lack of on site or street parking; a situation not uncommon in many towns.

4. Comments on other points raised by proposal

As the applicant has agreed to also omit the proposed out door smoking area, I am satisfied that this deals with a potential nuisance in that regard.

The comments made by the town Council have raised specific concerns The lack of parking is a matter for judgement given that the proposed use is not

untypical in locations of this sort where close parking is limited. In other respects concerns are to be addressed through the revised submission and by conditions.

Some comments made by third parties eg people dropping litter are not so likely to occur from a sit restaurant use.

I have considered that concerns raised by the residents of 33 High Street about potential overlooking from the proposed first floor. The minimum distance of 13 metres across the road between the two first. If necessary some screening up to eye at first floor could be provided.

Bin storage behind the exterior wall will provide some appropriate screening.

Conclusion

Issues of amenity have been considered, with the removal of the proposed external terrace and outside smoking area, and subject to the conditions stated, I am able to support this revised proposal

Background Papers

Title of Document:

Date:

Contact Officer:

Peter Chaplin, Development Manager on 01536 534316

Previous Reports/Minutes

Ref:

Date:

SITE LOCATION PLAN

36 High Street, Rothwell
Application No.: KET/2011/0399



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