

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 28/02/2012</b>	<b>Item No: 5.6</b>
<b>Report Originator</b>	<b>Chris Rose Development Officer</b>	<b>Application No: KET/2012/0024</b>
<b>Wards Affected</b>	<b>Ise Lodge</b>	
<b>Location</b>	<b>3 St Stephens Road, Kettering</b>	
<b>Proposal</b>	<b>Full Application: Change of use from butchers to hot food takeaway</b>	
<b>Applicant</b>	<b>Mr S Ho</b>	

### **1. PURPOSE OF REPORT**

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

### **2. RECOMMENDATION**

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED subject to the following Condition(s):-

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and to prevent an accumulation of unimplemented planning permissions.

2. The use hereby permitted shall not commence until details of a ventilation system for the extraction and disposal of cooking odours, and the sound insulation of this system, has been submitted to and approved in writing by the Local Planning Authority. The use hereby permitted shall not commence until the approved details have been fully implemented.

REASON: In the interests of the amenities of the area in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

3. The use hereby permitted shall not commence until details of a scheme for the storage of refuse on the premises and the disposal of litter in the vicinity of it has been submitted to and approved in writing by the Local Planning Authority. The use of the building shall not commence until the approved scheme has been fully implemented.

REASON: In the interests of general amenity and to prevent annoyance from refuse, litter and odour emissions from the premises, in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

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 1 and 4, Policy 3 of The East Midlands Regional Plan, Policies 1, 9 and 13 of the North Northamptonshire Core Spatial Strategy, and Policy 99 of the Local Plan for Kettering Borough. There are no material considerations that indicate against the proposal.

## **Officers Report**

### **3.0 Information**

#### **Relevant Planning History**

KE/1969/0126 – 7 shops, flats, garage - Approved

#### **Site Description**

Officer's site inspection was carried out on 23/01/2012. The site is a unit in a small parade of units in commercial use at ground floor level, and a servicing area to the rear. The unit is currently in operation as a butchers (A1). The building is a 2 storey brick built terrace of functional architectural style typical of development in the 1960s/1970s. The 1<sup>st</sup> floor of the units are residential flats.

From north to south the uses in the parade are:

- A5 Chinese takeaway
- A1 butchers (application site)
- A1 beauty salon
- A1 hairdressers
- A5 Indian takeaway
- A1 (small supermarket)
- A4 detached public house

To the front there is an open forecourt area and off street parking bays for around 10 cars. To the rear is an area for servicing and storage associated with the commercial operations. There are several ventilation and extraction systems in operation.

Apart from the continuation of the parade of commercial premises, the site is predominantly surrounded by residential development.

#### **Proposed Development**

Change of use from A1 butchers to A5 (takeaway).

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

None

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

#### **Highway Authority**

No objection. Response stated that there is sufficient capacity on the local road network to accommodate the proposed change of use.

#### **Kettering Borough Council Environmental Health**

No objection subject to pre-commencement conditions being applied should permission be given, relating to installation of an extraction and ventilation system.

#### **Northamptonshire Police**

No objection.

### **Neighbours**

Objections received from 9 local residents. The following issues were raised:

- Too many existing takeaways in the vicinity
- Smell from the 2 existing takeaways
- Litter from the existing 2 takeaways
- Increased smells
- Traffic nuisance
- Parking problems
- Loss of daytime activity
- Detrimental impact on the community shopping area
- Unit should be retained as a butchers
- Butchers is well used
- Greater need for ordinary shops

## **5.0 Planning Policy**

### **National Policies**

PPS1 - Delivering Sustainable Development

PPS4 - Planning for Sustainable Economic Growth

### **East Midlands Regional Plan**

Policy 3 - Distribution of new development

### **Development Plan Policies**

#### **North Northamptonshire Core Spatial Strategy**

Policy 1 - Strengthening the Network of Settlements

Policy 9 - Distribution & Location of Development

Policy 13 – General Sustainable Development Principles

### **Local Plan**

99: Leisure: Class A3 uses

## **6.0 Financial/Resource Implications**

None.

## **7.0 Planning Considerations**

The key issues for consideration in this application are:-

1. Principle of development
2. Impact on residential amenity
3. Highways
4. Other issues

### **Principle of development**

PPS1 and PPS4 along with Policy 3 of the East Midlands Regional Plan and

Policies 1 and 9 of the CSS set out a presumption encourage sustainable economic development within existing built up areas.

PPS4 defines both A1 (butchers) and A5 (takeaway) uses as main town centre uses which should be located, in the first instance, in existing town centres, and sets out requirements for sequential and impact assessments for proposals for such uses which fall outside of existing centres. However, in this case, because both the existing and proposed use are main town centre uses and no net increase in town centre uses outside of Kettering town centre will result, the requirements for sequential and impact assessments are not considered to be necessary. It is clear that the small scale (50m<sup>2</sup>) A5 use proposed would serve a local catchment area only and that no negative impact upon the viability and vitality of Kettering town centre would result.

Moreover, the overarching spirit of PPS4 should be applied in that Local Planning Authorities are required to take a positive approach to proposals for economic development. Policy EC10 of PPS4 sets out the criteria against which economic development should be assessed. The application site is accessible via sustainable modes of transport and (despite its relatively small scale) the proposal would have a positive impact upon the local economy by retaining an economic use and employment on the site. The proposal therefore meets the requirements of policy EC10 of PPS4.

Saved Policy 99 of the Local Plan states that planning permission for proposals for A3 uses (now expanded to encompass A3, A4 and A5) will be granted where the site falls within the town boundary and is appropriate in terms of the size, form, character and setting of the settlements (subject to considerations of amenity issues, to be assessed below). The proposed A5 unit would be located within the town boundary of Kettering, within an existing run of units in commercial use which form an established focus for existing A1 and A5 units which serve the surrounding residential area. It is considered that the proposed A5 use would be in keeping with the commercial character of this area and that the principle of an 'A' use class is established.

The principle of the proposed development in this location is, therefore, considered to be established by national and local planning policy, subject to further planning considerations outlined below.

### **Impact on Residential Amenity**

Policy 13 (l) of the North Northamptonshire Core Spatial Strategy requires that development will not result in an unacceptable impact on the amenities of neighbouring properties, by reason of noise, vibration, pollution, loss of light or overlooking. Similarly criterion iv) of Saved Local Plan Policy 99 requires that proposals for A5 uses have no significant adverse affect on the amenity of neighbouring property including by virtue of the cumulative impacts of a local concentration of properties in such uses.

It is considered that the proposed commercial use would be in keeping with the commercial character of the immediate area and would not in principle have an adverse impact upon the amenity of the wider residential area. Noise and

activity will be generated by the proposed use but this is already the case for the existing commercial units operating in the parade. The proposal would not overly intensify the use of this parade, which is an established local focus for such uses. The proposed change of use would result in 3 of the 7 commercial premises which run from no. 1 St Stephens Road to St Annes Road being in A5 use, with 3 retained in A1 use (including a small supermarket) and 1 public house. This is considered to be a fair balance of uses and is not considered to be an unacceptable overconcentration of A5 uses.

Odours from cooking hot food for the proposed takeaway would require installation of a suitable kitchen extraction ventilation system. Kettering Borough Council's Environmental Health Department have proposed pre-commencement conditions requiring full information regarding the design and installation of the kitchen extraction ventilation system, and its sound insulation, to be provided, prior to the use beginning.

The nearest residential dwellings to the site are 26-31 metres away. There are numerous existing extraction and ventilation systems to the rear, side and roofs of the existing commercial units. The extraction system necessary for the proposed use would be to the rear of the unit in a servicing area characterised by such equipment. The unit currently has an exterior, auxiliary chiller unit housed in a temporary structure with associated cooling, extraction and ventilation equipment. It is considered that the separation distances from the site and surrounding dwellings are sufficient to protect residential amenity from odour nuisance; and that the proposed use and necessary extraction systems would not be greatly different from the current butchers use and its associated air extraction equipment, and the equipment on surrounding buildings. Therefore, subject to the imposition of the proposed conditions, it is considered that no adverse impact on neighbouring amenity by virtue of smell will ensue from the proposed development.

In terms of litter, it is recognised that the uses in the St Stephens Road parade (convenience retail and takeaways) can give rise to littering from their customers. However, there is no evidence to support a proposition that substantial numbers of customers of the proposed hot food takeaway would have any greater propensity to drop and disperse a significant amount of litter than those customers who already visit the area. It would be unreasonable to fetter a proposal for economic development on the proposition that some of its customers may go on to drop litter. It is considered that the proposed A5 use would not cause an unacceptable over intensification or concentration of uses which may create litter nor, on its own, create a significant amount of additional litter so as to cause an unacceptable impact on local amenities. Section 94 of the Environmental Pollution Act 1990 offers, through litter control notices, a mechanism whereby the Council could address a litter nuisance should one arise.

It is therefore considered that the proposal accords with policy 13(l) of the CSS and Saved Local Plan Policy 99 (criteria iv, v and x) and would not have an unacceptable impact upon the amenity of neighbours or the wider area .

## **Highways**

Criterion n) of Policy 13 of the Core Spatial Strategy states that development should not have an adverse impact on the highway network and not prejudice highway safety. Saved Policy 99 of the Local Plan states that proposals for A3 uses (now expanded to encompass A3, A4 and A5) should not give rise to significant additional traffic to the detriment of the amenities and highway safety of the area and should be in accordance with the standards of the local highway authority.

The parade of units in which the application site falls was designed to serve its current 'local centre' function, as a focus for small scale commercial units and to accommodate a fairly high frequency of short stay visitors. Provision is made for car parking in off street bays which can accommodate approximately 10-12 cars. It is not considered that the proposed A5 use will generate a materially different level of traffic and demand for parking than that of its A1 predecessor. Both are commercial uses and the existing highway, access arrangements and parking arrangements are considered adequate to support this use. The Highways Authority have stated that there is sufficient capacity on the local road network to accommodate the proposal and raised no objection.

## **Other issues**

The following further issues were raised in objections to the proposal:

- Loss of daytime activity / detrimental impact on the community shopping area – As the site has no planning designation, for example as a community shopping area, there is no planning policy to require the protection of daytime activity in this area. However, the application form states that the opening hours of the proposed takeaway would include lunchtime opening between 12pm-2pm, thereby retaining a degree of daytime activity. A reasonable mix of surrounding uses would be retained in the parade, including 3 A1 units which are open during the day. This objection would, therefore, not be a sustainable reason for refusing the proposal.
- Unit should be retained as a butchers / Butchers is well used / Greater need for ordinary shops – The current use as a butchers is not protected by any planning policy. The unit has no designation in any Development Plan document and as such there are no planning grounds to protect the A1 use in principle.

## **Conclusion**

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires the Council to determine applications in accordance with the Development Plan unless material considerations indicate otherwise. The proposed change of use is in accordance with the relevant policies of the Development Plan and there are no material considerations which indicate planning permission should not be granted. The principle of commercial development on this site is established and there would be no unacceptable detrimental impact on highway safety or neighbouring residential amenity, in accordance with criteria l) and n) of Policy 13 of the North Northamptonshire Core Spatial Strategy and criteria i) - x) of Saved Local Plan Policy 99. The proposal is recommended for approval,

subject to conditions.

**Background Papers**

Title of Document:

Date:

Contact Officer:

Chris Rose, Development Officer on 01536 534316

**Previous Reports/Minutes**

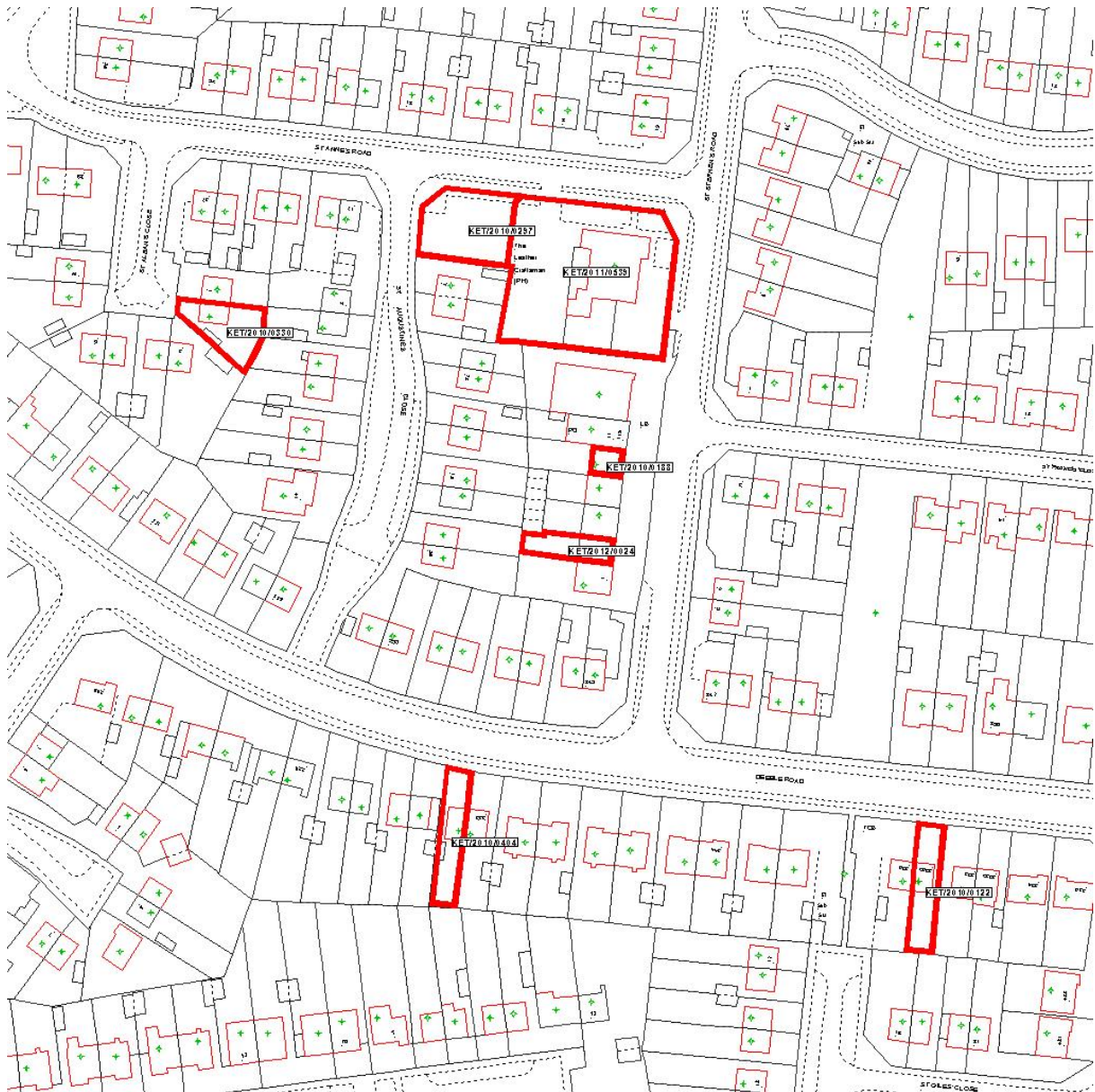
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# SITE LOCATION PLAN

3 St Stephens Road, Kettering  
Application No.: KET/2012/0024



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