

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Planning Committee</b>	Item	Page
<b>Report Originator</b>	Mark Coleman	ENFO/2009/00012	
<b>Wards Affected</b>	St Andrews Ward	Date 14.08.12	
<b>Title</b>	Authorisation for Planning Enforcement Action at Vermont Standing 50 Bath Road Kettering		

### 1. PURPOSE OF REPORT

To seek authorisation to issue an Enforcement Notice in respect of a breach of planning condition which has resulted in unauthorised development at Vermont Standing 50 Bath Road, Kettering, shown in bold outline for identification purposes on the site plan attached to this report.

### 2. BREACH OF PLANNING CONTROL

Breach of condition 4 of planning permission KET/2006/1007 which required the following:

*Prior to the first occupation of any of the units, the access and layout indicated on the approved plan, including the road up to the junction with Bath Road, shall be completed including surface finish in accordance with details to be submitted to and approved by the Local Planning Authority. The access, road and layout shall be retained in the approved form thereafter.*

*REASON: In the interests of Highway Safety in accordance with policy 84 of the Local Plan for Kettering Borough and Policy T3 of the Northamptonshire County Structure Plan.*

The development of 12 flats and 8 dwellings is complete and has been occupied since as early as 2006. However, the top surface of the footpath and carriageway remains incomplete.

### 3. RECOMMENDATION

That in respect of the breach of planning control described above, the Head of Development Services be authorised to issue an Enforcement Notice alleging a breach of condition pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) requiring the following steps to be taken within the specified time period; and for the reasons which are set out below:

#### 3.1 STEPS TO BE TAKEN

1. Complete the top surfacing of the highway (to include carriageway and footway) in accordance with the following requirements:

A) Plane and regularise the existing base course to form a uniform surface, free from damaged or loose material, with any repairs carried out at this stage.

Time for compliance: 2 months from the date the notice is effective

B) Apply binder in accordance with the attached Northamptonshire County Council specification attached as table 3: Carriageway construction thickness.

Time for compliance: 2 months from the date the notice is effective

C) Apply wearing course in accordance with the Northamptonshire County Council specification attached as table 3: Carriageway construction thickness.

Time for compliance: 2 months from the date the notice is effective

### **3.2 REASONS FOR ISSUING THE NOTICE**

The development has been substantially completed within the last 10 years and the flat units and dwelling houses are now occupied. By virtue of the unfinished condition of the highway which includes the carriageway and footway, the development fails to deliver a high standard of design and has an unacceptable impact on the safety of pedestrian users and fails to respect and enhance the character of the area and is to the detriment of the historic qualities of the townscape including the setting of the adjacent grade II listed Globe Works Building.

As such the unauthorised development conflicts with the aims and objectives of the following planning policies:

National Planning Policy Framework

Policy 7 (Requiring Good Design): Para's. 56 – 58, 60 – 61, 64

North Northamptonshire Core Spatial Strategy

Policy 13 (General Sustainable Development Principles); criteria (d), (h), (i), and (n).

East Midlands Regional Plan

Policy 2 (Promoting Better Design)

It is considered that the unauthorised development has an unacceptable adverse impact which conflicts with the Development Plan and therefore it is recommended that enforcement action is authorised.

## **4. INFORMATION**

### **4.1 SITE DESCRIPTION**

The site comprises of an 'L' shaped piece of land which lies centrally within the settlement boundary of Kettering to the northeast of the town centre, directly off from Bath Road. The site was a former warehouse/factory site, and was re-developed during the mid 2000's to provide residential accommodation in the form of 8 dwellings and 12 flats. The dwellings were built under planning permission KET/2004/1253, with amendments to the site layout contained within the later 2006 application for the 12 flats. All residential units have now been completed and are occupied. The footpath and highway across the area of the site to be adopted has not been completed, with the top surface layer of tarmac outstanding. As a result, kerb edges and ironworks are raised. Abutting the site to the south is the Globe Works (Tailby house) which is a grade II listed former boot and shoe factory.

### **4.2 RELEVANT PLANNING HISTORY**

KET/2006/1007 - Erection of 12 No. residential units with access road and parking and revision of parking provisions for existing dwellings (phase 1). (approved 25.01.07)

KET2004/1253 – Demolish industrial unit and erect eight new single bedroom starter homes (approved 06.04.05)

### **4.3 PLANNING POLICY**

#### **National Planning Policy**

Policy 7 (Requiring Good Design): Para's. 56 – 58, 60 – 61, 64  
Decision Taking: Para. 206 (Planning Conditions and Obligations)  
Decision Taking: Para. 207 (Enforcement)

Circular 10/97 Enforcing Planning Control - legislative provisions and procedural requirements

#### **Development Plan**

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

Policy 13 (General Sustainable Development Principles)

#### **East Midlands Regional Plan**

Policy 2 (Promoting Better Design)

#### **SPD**

Sustainable Design SPD.

#### **4.4 ENFORCEMENT HISTORY**

The LPA are aware that negotiations with a third party are under way to sell the freehold to the site and remain in contact with them about the outstanding issues on the site. However, as no informal compliance has been achieved, authorisation is sought to secure compliance with the condition referred to in paragraph 2.1 of this report, in order that the existing/future owners resolve the breach of planning control.

#### **4.5 HUMAN RIGHTS IMPLICATIONS**

Service of an enforcement notice in this instance is not a breach of the property owner's human rights. Whilst it does affect their property rights they will have an opportunity to challenge the decision by way of an appeal against the enforcement notice and that provides adequate safeguards in accordance with the Human Rights Act 1998 incorporating the European Human Rights Convention.

#### **4.6 APPRAISAL**

The granting of planning permission KET/2006/ 1007 subject to condition 4 was to ensure Highway Safety in accordance with Policy 84 of the Local Plan. This policy has since been replaced by policies 6, 13 and 16 of the North Northamptonshire Core Spatial Strategy. Policy 84 of the Local Plan concerned itself with 'new development access and layout considerations' and sought to control amongst other things, a satisfactory provision for people with disabilities, and a satisfactory relationship between highway standards, safety and the environment. Policy commentary highlights design as being an important element of this. Policy 13 (CSS) replaces this part of the policy, and seeks for development to have a satisfactory means of access, servicing and manoeuvring in accordance with adopted standards. It also seeks for development to be of a high standard of design and landscaping which respects and enhances the character of its surroundings. The unfinished condition of the existing highways within the site is not acceptable, particularly given that the development has been occupied for some time and sits within close proximity of the grade II listed Globe Works building. The present condition of the highway has a detrimental impact on safety of pedestrian users and on the character and appearance of the area and is therefore in conflict with national, regional and local plan policies referred to in section 3.2 of this report.

Title of Document:  
Date: 02.08.12  
Contact Officer: Mark Coleman

Ref:  
Date:

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**TABLE 3 CARRIAGEWAY CONSTRUCTION THICKNESS**

LAYER	MATERIAL	MINIMUM THICKNESS OF LAYER (mm)		
		ROAD CATEGORY *		
		A	B	C
SUB-BASE	Granular sub-base material Type 1 to SHW clause 803	Not less than 150mm {refer to Table 2 and sub-Clause 1.3(d)}		
BASE	BSEN13108-1AC40densebase 00/150 or	120	90	N/A
BASE	BSEN13108-1AC28densebase 100/150 or	N/A	90	70
BASE	BSEN13108-1 AC20densebase 100/150	N/A	N/A	70
BINDER	BSEN13108-1 AC20densebin 100/150	60	60	60
SURFACE	BSEN13108-1 AC14close surf 100/150 psv55 or	N/A	40	40+
COURSE	BSEN13108-4 HRA30/14surf 40/60des § HRA30/20surf 40/60des §	40	40	N/A

- \* Category A - Local Distributor
- \* Category B - Access Collector
- \* Category C - Access Area

§ With applied 20mm nominal size coated chippings for Category A roads and 14mm nominal size coated chippings for Category B roads.

+ Surface finish of Category C roads (Access Areas) shall contrast from other categories of road. Coloured macadam and coloured asphalt would be accepted by the Engineer. The colour shall be RED unless otherwise agreed by the Engineer. The carriageway is NOT to be surface dressed.



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