

BOROUGH OF KETTERING

Committee	Full Planning Committee - 04/12/2012	Item No: 5.3
Report Originator	Anne Dew Senior Development Officer	Application No: KET/2012/0144
Wards Affected	St. Michaels and Wicksteed	
Location	196 London Road, Kettering	
Proposal	Full Application: Demolition of former petrol station and construction of 3 no. units, to include retail, A2 (financial and professional services) and hot food takeaway uses	
Applicant	Redleaf (Newcastle) 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. No development shall commence on site until details of the types and colours of all external facing and roofing materials to be used, together with samples, have been 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: In the interests of the visual amenities of the area in accordance with policy 13 (h) of the North Northamptonshire Core Spatial Strategy.

3. No development shall take place until a plan prepared to a scale of not less than 1:500 showing details of existing and intended final ground and finished floor levels has been 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: To preserve the character of the area and to protect the privacy of the occupiers of adjoining properties in accordance with policies 13 (h) and (l) of the North Northamptonshire Core Spatial Strategy.

4. No development 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: In the interests of the amenities and privacy of the neighbouring properties and in the interests of general amenity in accordance with policy 13 (h) and (l) of the North Northamptonshire Core Spatial Strategy.

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping which shall specify species, planting sizes, spacing and numbers of trees and shrubs to be planted. The approved scheme shall be carried out in the first planting and seeding seasons following the occupation of the building. Any trees or plants which, within a period of 5 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.

REASON: To improve the appearance of the site in the interests of visual amenity in accordance with policy 13 (h) of the North Northamptonshire Core Spatial Strategy.

6. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts a to d have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition d has been complied with in relation to that contamination.

A. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11(or any model

procedures revoking and replacing those model procedures with or without modification)'.

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition a, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition b, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition c.

E. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed in advance, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning

Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'(or any model procedures revoking and replacing those model procedures with or without modification.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy and paragraphs 120 and 121 of the National Planning Policy Framework.

7. Prior to the commencement of any A5 use, the cooking equipment installed shall have an associated air extraction and odour control system, details of which shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme and any required works shall thereafter be maintained in accordance with the approved details.

REASON: In the interest of residential amenity with regard to odour in accordance with policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

8. Prior to the commencement of the A5 use hereby approved, a scheme for sound insulation of any kitchen extraction system shall be installed, in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. Upon completion of these approved works and prior to first use of the unit, a report shall be submitted to and approved in writing by the Local Planning Authority which verifies the effectiveness of the approved scheme. The approved scheme for sound insulation shall thereafter be maintained.

REASON: In the interests of residential amenity in accordance with policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

9. Prior to the first use of each unit, that unit and any external plant shall be acoustically insulated in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the background noise level at the boundary of the site or the nearest noise sensitive dwelling do not increase these existing background noise levels. For the avoidance of doubt calculated noise levels at the measurement point should be 10dBA below the existing background level.

REASON: To prevent an increase in background noise levels and protect the amenity of nearby residents in accordance with policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

10. Other than the delivery of newspapers to drop boxes located on the premises, no deliveries to or collections from the development hereby approved shall take place outside the hours of 07.00 - 21.00 on any day.

REASON: In the interest of residential amenity in accordance with policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

11. The A5 use hereby permitted shall not take place other than between the hours of 10.00 and 23.00 on any day.

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

12. The A1, A2 and A1 convenience store uses hereby permitted shall not be open to the public before 07:00 or after 23:00 on any day.

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

13. No development shall take place until a Demolition & Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the demolition & construction periods and the approved measures shall be retained for the duration of the demolition & construction works unless otherwise agreed in writing by the Local Planning Authority. The Statement shall detail the following:

- i. the parking and turning of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v. details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- vi. wheel washing facilities;
- vii. measures to control the emission of dust and dirt during demolition & construction;
- viii. a scheme for waste minimisation and recycling/disposing of waste resulting from the demolition & construction works.
- ix. design of access
- x. hours of demolition & construction work
- xi. measures to control overspill of light from security lighting

The approved method statement shall be adhered to throughout the demolition & construction period and the approved measures shall be retained for the duration of the works.

REASON: In the interests of highway safety and residential amenity in accordance with Policy 13 (l) and (n) of the Core Spatial Strategy.

14. Unit 1 hereby approved shall not be used other than as an A1 convenience store and for no other purpose and the net retail sales area to this unit shall not exceed 279 square metres.

REASON: To reflect the terms of the application in the interests of general amenity and the vitality and viability of Kettering town centre in accordance with policy 2 of the NPPF, policies 2 and 22 of the East Midlands Regional Plan and policies 1, 9, 12 and 13 (l) of the North Northamptonshire Core Spatial Strategy.

15. Unit 2 hereby approved shall be first used for a purpose within either Class A2

or A5 of the Use Classes Order. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no change of use permitted by Class A or D of Part 3 of Schedule 2 shall take place on unit 2.

REASON: To reflect the terms of the application in the interests of general amenity and the vitality and viability of Kettering town centre in accordance with policy 2 of the NPPF, policies 2 and 22 of the East Midlands Regional Plan and policies 1, 9, 12 and 13 (l) of the North Northamptonshire Core Spatial Strategy.

16. Unit 3 hereby approved shall be first used for a purpose within either Class A1 or A2 only and for no other purpose.

REASON: To reflect the terms of the application in the interests of general amenity in accordance with policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

17. No development shall commence on site until details of a scheme for the storage of refuse from the three units hereby approved has been submitted to and approved in writing by the Local Planning Authority. The use of the buildings shall not commence until the approved scheme has been fully implemented and the provision shall be retained as approved thereafter. No equipment, materials, products, parts, containers, waste or any other articles shall be stacked or stored on the site at any time except within the buildings, other than in accordance with the approved scheme.

REASON: In the interests of general amenity in accordance with policy 13 (h) and (l) of the North Northamptonshire Core Spatial Strategy.

18. Prior to the commencement of development, a scheme for the provision of secure cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first use of the site and thereafter retained.

REASON: To encourage the use of cycling and reduce the reliance of the private car in accordance with policy 13 (e) of the North Northamptonshire Core Spatial Strategy.

19. The development hereby permitted shall not be carried out other than in accordance with the amended plan number 16-08-12-002b received on 12 October 2012.

REASON: For the avoidance of doubt and in the interests of highway safety, visual amenity and residential amenity in accordance with the requirements of policy 13 of the North Northamptonshire Core Spatial Strategy.

20. There shall be no external illumination on the site at any time other than in accordance with a detailed scheme which shall first have been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of the amenity of occupants of neighbouring properties in accordance with policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

21. Prior to the commencement of development, a scheme demonstrating how the development will incorporate techniques of sustainable construction, energy efficiency, provision for waste reduction and recycling and provision for water efficiency and recycling shall have been 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: In the interests of energy efficiency and sustainable construction in accordance with policy 14 of the North Northamptonshire Core Spatial Strategy.

22. Prior to first occupation of the development hereby permitted, the means of access, vehicle crossing, parking and servicing shown on the approved plans shall be constructed and thereafter maintained for these purposes.

REASON: In the interests of highway safety in accordance with policy 13 (d) of the North Northamptonshire Core Spatial Strategy.

23. Pedestrian visibility splays of 2.0m x 2.0m both sides of the access shall be provided prior to first use of any unit hereby approved and thereafter permanently maintained. The splays are measured from the side of the access along the highway boundary and from the highway boundary along the sides of the access. No feature within the resultant triangular visibility splay shall exceed 0.6 metres in height.

REASON: In the interests of highway safety in accordance with policy 13 (d) of the North Northamptonshire Core Spatial Strategy.

24. The vehicular access gradient from the highway boundary shall not exceed 1 in 15.

REASON: In the interests of highway safety in accordance with policy 13 (d) of the North Northamptonshire Core Spatial Strategy.

25. Prior to the commencement of development, details of the hard surfacing material to the car parking, access and turning areas shall be submitted to and approved in writing by the Local Planning Authority. Development shall not be carried out other than in accordance with the approved details.

REASON: In the interests of the character of the area in accordance with policy 13 (h) of the North Northamptonshire Core Spatial Strategy.

26. Delivery vehicles serving the 3 units hereby approved shall not exceed 12.3 metres in length.

REASON: In the interests of highway safety in accordance with policy 13 (d) of the North Northamptonshire Core Spatial Strategy.

27. Prior to the commencement of development, details of security and crime prevention measures for the development shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to first occupation of the development.

REASON: To reduce crime and the fear of crime in accordance with policy 13 (b) of the North Northamptonshire Core Spatial Strategy.

Notes (if any) :-

- In pursuance of condition 6, the applicant is advised that due to the underlying geology present throughout Northamptonshire at which the levels of some naturally occurring contaminants frequently exceed the levels at which the risk to human health would be considered acceptable for residential land use; it is expected that there may be unacceptable risks to future occupiers of the site therefore the required investigations must take naturally occurring contaminants into consideration. Further guidance on Contaminated Land investigations can be found in the Northants Contaminated Land Group Developers Guide. This

document is downloadable at
http://www.kettering.gov.uk/downloads/developers_guide_may_04.pdf

If you wish to discuss the requirements of the investigations further please contact Mrs Alex Gratrix, Team Leader (Environmental Protection) on (01536) 534348; or email at contaminatedland@kettering.gov.uk

In pursuance of condition 8, the applicant is advised that in submitting schemes for the control of fumes, odours and noise, regard should be given to the 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems', a report prepared by Netcen on behalf of the Department for Environment, Food and Rural Affairs, and published in January 2005.

The provisions of the scheme shall include physical controls, operational restrictions and administrative controls, where appropriate. The noise survey informing the scheme shall be carried out in accordance with BS4142:1997 and shall ensure that the rating level of the noise emitted from the proposed kitchen extraction equipment shall be lower than the "night-time" existing background noise level by at least 5 dB (and shall have no significant tonal component within any 1/3 Octave Band Level. Where any 1/3 octave band level is 5 dB or above the adjacent band levels the tone is deemed to be significant) between 23:00 and 07:00 hours daily, and shall not exceed the existing "daytime" background noise level at any time (and shall have no significant tonal component within any 1/3 Octave Band Level. Where any 1/3 octave band level is 5 dB or above the adjacent band levels the tone is deemed to be significant) between 07:00 and 23:00 hours daily, by measurement or calculation. The scheme shall include proposals for ensuring that the guideline levels set out in British Standard 8233:1999 for residential accommodation are complied with.

Should consent be given the applicant is reminded that the food premises must be registered with Environmental Health at least 28 days before opening. An application form and additional information is attached. Further information regarding food safety and hygiene can be obtained by contacting healthprotection@kettering.gov.uk or by telephone on 01536 410333.

www.hse.gov.uk/business/must-do.htm contains information on starting a new business and the requirements under certain Health & Safety regulations.

Justification for Granting Planning Permission

The proposal is in accordance with policy 7 and paragraphs 14, 17, 18 and 19 of the National Planning Policy Framework, policies 3 and 22 of the East Midlands Regional Plan, policies 1, 9, 13 and 14 of the North Northamptonshire Core Spatial Strategy and saved policies 58 and 99 of the Local Plan. Although there is some conflict with Policy 12 of the National Planning Policy Framework and policy 12 of the North Northamptonshire Core Spatial Strategy, in this instance the positive impact the development would have by bringing forward a heavily constrained, derelict, brownfield site, is a material consideration which, having carefully weighed all considerations, outweighs this conflict.

Officers Report

3.0 Information

Relevant Planning History

KET/2006/0400 - Conversion of existing petrol station forecourt to car wash centre with retention of existing shop control building and existing car and jet wash, WITHDRAWN, 06.06.2006

KET/2006/0820 - Conversion of existing petrol filling station forecourt to car wash centre with retention of existing shop control building and existing car wash and jet wash, APPROVED, 05/01/2007

KET/1987/1086 – Proposed redevelopment of existing petrol filling station with car wash facilities. APPROVED, 23.12.1987

KET/1987/0269 – Demolition of existing showrooms and workshop and erection of a petrol filling station and car wash. APPROVED, 30.04.1987

Site Description

Officer's site inspection was carried out on 30/03/2012.

The site is located in a prominent location on London Road and forms the entire frontage to London Road between Silverwood Road and Boddington Road. The site was formally used as a petrol filling station, however this use ceased some years ago and the site is now vacant and its condition has deteriorated. There are two existing accesses serving the site both from London Road. There are a number of trees within the site adjacent to the north, south and west boundaries of the site.

Properties on Boddington Street and Silverwood Street to the west are primarily residential in character, with properties on London Road comprising a mix of residential and commercial uses, including a garden centre, a funeral directors and a hair dressers.

Proposed Development

The scheme provides for the demolition of the existing forecourt building and canopy on the site and their replacement with three units. Unit one is a convenience store with an external floor area of 475 square metres, and two smaller units (units 2 and 3), each with an external floor area of 80 square metres. Unit 2 will be used for either A2 (financial and professional services) or A5 (takeaway) and unit 3 will be used as A1 (retail) or A2 (financial and professional services). Vehicular access to the site is proposed from a single access off London Road.

Any Constraints Affecting The Site

A Road

Contamination

Anglian Water Apparatus

4.0 Consultation and Customer Impact

Highway Authority

Comments on original plans. Car parking provision for the development is acceptable. Further consideration needs to be given to the access and delivery areas to the convenience store.

2nd Consultation response – Improved changes to the access location, still have reservations about manoeuvring which shows trucks overrunning a large part of the entrance width in order to squeeze through the pedestrian refuge and kerb.

3rd consultation response – No objections subject to conditions restricting vehicle length to 12 metres.

Highways Agency

No objection. This is not expected to have a material impact on the closest strategic route, the A14.

Police

Comments on original scheme – Suggest informatives and conditions attached providing for automatic barriers restricting access out of business hours. Pedestrian entrance from Silverwood Road is unnecessary, all external doors, windows and letter boxes to meet security standards, provision of an intruder alarm system and CCTV system.

2nd Consultation response- The applicant has failed to demonstrate what measures have been applied to help prevent crime and disorder issues. Concerns over pedestrian access point from Boddington Street – this area is not overlooked and will become a gathering point for graffiti and criminal damage. Boundary treatment and landscaping details and illumination need to be conditioned. Bollards should be installed to the front of the buildings for security. CCTV should be considered and security doors and windows.

Environmental Health

No objections subject to conditions covering contamination, kitchen ventilation and extraction, acoustic impact, insulation of buildings and external plant, hours restriction for deliveries and collection and the take away and construction and demolition method statement.

Environmental Health (Health Protection)

Comments on original scheme. Delivery restriction timers and suitable extraction systems need to be considered. Food premises need to be registered. Security lighting will need to be away from neighbouring residential properties. There may be a need for clear routes to protect both pedestrian/ vehicular access.

Neighbours

3 third party representations received on original scheme. Objections are on the grounds of:-

- Concerns over the access. Access to the larger store delivery bay requires some encroachment into car parking bays. If these car parking spaces are utilised it may result in vehicles reversing back onto the main road.
- No details of provision for delivery vehicles to the two smaller units are shown
- What actions will be taken to prevent vehicles parking on the wide paths on London Road
- Inconsistency between Transport Statement plans and application plans
- Will there be an increase in litter bins
- The site should be developed for just the larger store which will provide for an improved car park, access and manoeuvring area
- Visibility issues need to be taken into account, particularly that of local residents
- Increase in traffic congestion as has resulted with the Tesco Express
- Highway safety concerns, particularly for local school children crossing the road safely.
- There is no demand or urgency for the store. There are ample local shops and supermarkets within walking distance
- The scheme will affect smaller businesses and their ability to make a profit and stay open
- The development will almost double the number of retail units in the area and will draw customers from beyond the immediate vicinity to the site, particularly car borne traffic
- Noise and disturbance from car borne traffic during hours of 0700 to 2300 daily
- Noise and disturbance from air conditioning and plant/ chillier units
- A2 end user would not serve the shopping needs of the immediate locality and will attract visitors from the town centre and thus be in conflict with the town centre
- Noise and disturbance from the takeaway use, particularly in the evenings , to will be detrimental to residential amenity, particularly from car engines and customers returning to their vehicles
- No details of an extract system for the take away use have been provided. A flue will be located to the rear of the building, given its proximity to residential properties will result in adverse noise disturbance
- Noise impact from all extract systems for the 3 uses needs to be considered cumulatively
- No emission details submitted for take away use. Concerns over pollution to nearby dwellings
- The application fails to address the requirements of policy 13(l) of the NNCSS and the NPPF which requires that developments should improve the conditions in which people live

3 third party comments on 2nd consultation exercise raising the additional

following concerns:-

- No provision has been made to stop cars parking on the verge
- No loading bay provision is provided for the two smaller units
- Opening hours – 23.00 closing time is too late, 22.00 is the latest the units should be opened.
- Boundary treatment should be provided so the loading bay is out of site
- Only one store should be built
- The hot food takeaway is not warranted in the local community and will have no positive effect in creating a neighbourhood centre
- Take away use will attract street revellers creating safety concerns for the local community
- No need for a takeaway
- No details of extractor systems are provided
- Smell from the take away into nearby gardens and open windows of adjacent residential units
- The scheme is contrary to the requirements of the NPPF

5.0 Planning Policy

National Planning Policy Framework

Policy 2 - Ensuring the vitality of town centres

Policy 7 – Requiring good design

Paragraph 14 – The presumption in favour of sustainable development

Paragraph 17 – Core planning principles

Paragraphs 18 & 19 - Building a strong, competitive economy

Development Plan Policies

East Midlands Regional Plan

Policy 3 - Distribution of new development

Policy 22 - Regional Priorities for Town Centres and Retail Developments

North Northamptonshire Core Spatial Strategy

Policy 1 - Strengthening the Network of Settlements

Policy 9 - Distribution & Location of Development

Policy 12 – Distribution of Retail Development

Policy 13 – General Sustainable Development Principles

Policy 14 – Energy Efficiency and Sustainable Construction

Kettering Town Centre Area Action Plan (AAP)

Proposals Map

Policy 15 – The Shopping Quarter

Local Plan

Policy 58 - Employment: Within Towns

Policy 99 – Class A3 uses

Site Specific Proposals Local Development Document – Options Paper

Consultation March 2012

Option 37 – Sequential assessment will not be required for small scale proposals (less than 250 square metres) not in an existing centre.

Option 38 – Not to include a local threshold for sequential assessments

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

The key issues for consideration in this application are:-

1. Principle of Development
2. Design and Impact on Street Scene/Character of Area
3. Impact on Residential Amenity
4. Highway Safety Implications
5. Contamination
6. Sustainable Development

1. Principle of Development

Policy 3 of the East Midlands Regional Plan states that development and economic activity should be directed towards the growth town of Kettering. Policy 9 of the North Northamptonshire Core Spatial Strategy and policy 22 of the East Midlands Regional Plan state that the town centre will be strengthened as the focus for retail and other town centre uses. Policy 12 of the North Northamptonshire Core Spatial Strategy requires that, where there is an identified need for retail development which cannot be accommodated within the defined town centres, a sequential approach will be followed with preference first to well connected edge of town centre locations, followed by district and local centres and then existing retail areas that are well served by a means of transport.

The National Planning Policy Framework is also a material consideration in the determination of this application. Paragraph 14 of the National Planning Policy Framework (NPPF) is clear that at the heart of the policy framework is a presumption in favour of sustainable development. This means that development proposals that accord with the development plan should be approved without delay. Paragraphs 18 and 19 of the NPPF further underline the Government's objective to foster sustainable economic growth and stipulate that planning must encourage, rather than impede, such growth.

Section 2 of the NPPF requires Local Planning Authorities to pursue policies and take decisions to support town centre viability and vitality. Paragraph 24 of the NPPF sets out a requirement for a sequential approach, stating that Local planning authorities should apply a sequential test to planning applications for

main town centre uses that are not in an existing centre and are not in accordance with an up to date Local Plan. This sequential test should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. In addition, paragraph 26 of the NPPF states that for developments over a threshold of either above 2,500 square metres or above that specified locally, retail impact assessment should be submitted. The supporting text to policy 12 of the NPPF sets out a threshold of 1,000 square metres, with developments above this floor area having to include an impact assessment. Paragraph 27 of the NPPF states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on town centres vitality/ viability or impact or committed investment, the application should be refused.

The application site falls within the town boundary of Kettering Borough as defined by saved policy 58 of the Local Plan for Kettering Borough. The site is however not a town centre location, instead classified as out of centre, given it is located 760 metres from Kettering Town Centre and not being located within a defined local centre.

The proposal is for the redevelopment of the site with 3 commercial units: a principle A1 convenience retail store of 279m² net retail floorspace (480m² gross external floor area); a unit of 69.72m² internal floorspace with flexible A1/A2 use; and a unit with flexible A2/A5 use, also of 69.72m² internal floorspace. The uses in question are considered to be 'main town centre' uses, as defined in the NPPF, which should, in the first instance be located within town centres.

The floor space proposed falls well below the 1,000 square metre threshold set out in supporting text to policy 12 of the North Northamptonshire Core Spatial Strategy and as such there is no requirement for a Retail Impact Assessment to be submitted.

Policy 15 of the Kettering Town Centre AAP does however state that any retail based development other than that allocated in the AAP, either within or outside the town centre, which would adversely affect the potential to enhance and redevelop shopping facilities within the town centre's Shopping Quarter will not be supported. The applicant has submitted a Supporting Retail Statement (dated 24th October) which includes a sequential test. This document aims to satisfy the requirements of, and demonstrate compliance with, the above policy framework. The Retail Statement states strongly that the proposed offer from the 3 units is to serve the convenience and day-to-day needs of the local catchment area which surrounds this site (roughly within 500m of the site). In terms of the convenience store the statement goes on to evidence an identified need for such convenience retail, citing a limited local provision. The report includes details of existing convenience stores within 850 metres of the site and concludes that with the exception of the Tesco Express (which is 850 metres away) the floor area of the units is small, with a limited range of goods / convenience products sold. The report does not include the Premier Convenience store on Broadway which is within the defined 500 metre

catchment and also excludes a number of smaller A1 uses that fall within 800 metres of the site (these include a fish and chip shop on Broadway, a sports shop and beauty saloon on Argyll Street and a florist, butchers and bakery on Hawthorn Road). Notwithstanding these exclusions, given the small floor area of these units, it is considered that the convenience store proposed will meet a need for a larger unit within the 500 metre catchment area which sells a greater choice of convenience goods. In addition, evidence from the North Northamptonshire Retail Capacity Update (February 2011) suggests a low overall market share of convenience goods expenditure for local shops in Kettering and identifies a quantitative need for convenience goods floor space within the North Northamptonshire area of 8,653 sq m for 2010 – 2016 and 3,217 sq m for 2016 – 2021. This evidence is considered reasonable and the assertion that the convenience store will serve a local catchment area is accepted.

The scale of units proposed is considered appropriate to the target market specified – i.e. general local, convenience shopping for day-to-day items and top-up shopping for residents in the immediate vicinity. This Statement also states that the smaller units will also serve a similar local need and will complement the larger convenience store. The exact uses of these two units currently remain unknown, and could be a mix of either A1, A2 or A5 uses. It is considered that the A5 (takeaway use) is likely to serve a local catchment and is not a use that is encouraged within the town centre. No information has been submitted with the application to demonstrate that the potential A2 and A1 used proposed for units 2 and 3 will not serve more than a local catchment.

As part of the Retail Impact Assessment a sequential assessment has been submitted. The assessment considered both sites for the principle convenience store and the two smaller units. In respect of the larger unit 1, three sites were identified within the town centre, however these have been discounted as the sites would not meet the need for local convenience stores within the 500 metre catchment area and no more suitable or more accessible sites have been identified. This argument and assessment is accepted given that the need for a local convenience store in this area has been recognised. With respect to the smaller units, 18 sites have been identified within the town centre boundary. A number of these units identified are only slightly larger than the size of floor area proposed and for these smaller units. The assessment states that the proposed units are aimed at small, local businesses which do not require the high footfall, or could meet the high rents, associated with a town centre location, for example local takeaways, dry cleaners or laundrettes. However the exact uses proposed are not limited to uses that would just meet a local need, as any A1 or A2 operator could occupy the unit. For these reasons, the submitted sequential assessment fails to put forward compelling reasons as to why a number of units in the town centre are not suitable.

In terms of impact on the town centre, given the principal convenience store will serve a local need, it is not considered that this unit will have any material impact on the vitality and viability of the centre, subject to conditions restricting the use to a convenience store. With respect to the 2 smaller units given each

unit will comprise only 69 square metres of floor space, even if such uses served more than a local need, it cannot reasonably be considered that commercial development on this scale, with the uses proposed, would not have any tangible detrimental impact on town centre vitality and viability.

Whilst paragraph 27 (which states proposals which fail to satisfy the sequential test should be refused) is a material consideration in this application, it is the view of the case officer that in this instance there are other material considerations that outweigh this conflict. Consideration must also be given to the current use and condition of the site, which is vacant and derelict. The site has been such for a considerable period of time and currently makes a very negative contribution to the appearance, character, vitality and viability of the area. The site is also subject to significant constraints in respect of contamination and Anglian water apparatus crossing the site. Redevelopment of the site with an economic use, which will generate activity and employment, must, therefore, be considered positively in principle and is deemed to be in accordance with the spirit of the NPPF. The scheme will maximise the development potential of a constrained brownfield site. NPPF Paragraph 17 encourages the effective use of land by reusing land that has been previously developed. Objective 9 of the CSS requires the maximisation of the use of brownfield land for new development; and Paragraph 3.81 prioritises the reuse of suitable brownfield sites within urban areas.

In conclusion, in respect of the principal convenience store the need in this locality is accepted and the requirements of the sequential assessment have been fulfilled. In respect of the A1/ A2 unit and A2/ A5 unit there is an argument that the A5 use may serve a local need, however the application has failed to demonstrate that an open A1 or A2 use would not serve more than a local need. In respect of the proposed A1 and A2 use, the assessment fails to satisfy the sequential test, as there are vacant units in the town centre of a not dissimilar size. Whilst the scheme in part conflicts with policy 12 of the North Northamptonshire Core Spatial Strategy and paragraph 27 of the NPPF, in this case this conflict is outweighed by other material considerations. The scheme will not have a significantly harmful impact on the vitality and viability of the town centre, and it will bring forward the development of a vacant, heavily constrained brownfield site which detracts from the area. Therefore, on balance the principle of this development is considered acceptable.

2. Design and Impact on Street Scene/ Character of Area

Policy 13(h) and policy 7 of the NPPF require that developments be of a high standard of design, architecture and landscaping and enhance the character of its surroundings.

The layout of the site is heavily constrained by the location of Anglian Water apparatus that runs east to west centrally through the site, for a 4 metre easement requirement. In addition, given the site's former use as a petrol filling station, there are significant levels of contamination in the site. These constraints along with meeting the required highway standards and not compromising residential amenity have dictated that unit 1, the large convenience store, cannot have a full frontage facing onto London Road.

Instead the main frontage to unit 1 is on the northern elevation of the unit which faces internally into the site. Attempts have been made to provide a more active frontage with the glazed entrance to the building wrapping around the corner to the London Road frontage and the introduction of a glazing panels on the Boddington Street frontage. Units 2 and 3, whilst set back from London Road, have a frontage that faces London Road and provides for an active frontage.

In terms of the design of the buildings, officers' have worked with the agent to improve the overall design of the buildings so as to make a positive statement on the street scene and character of the area. Unit 1 provides for a curved roof, single storey building, which uses a palette of materials comprising brick, timber, powder coated metal and glazing, all of which will help break the building up and add interests to the street scene. Units 1 and 2 form one unit which is single storey. The building has a mono pitch roof, and full glazing on the front elevation facing London Road. These units will read as the same development as unit 1 and will use the same palette of materials proposed for unit 1. It is considered that the design of the units are acceptable and will enhance the character of the site and surrounding area.

Given the constraints on site noted above, the only options for the delivery area to unit 1 is to the east of the building, immediately adjacent to London Road. This is not ideal, however, having explored alternatives, this is the only workable option. The provision of a green fence on the corner of London Road and Boddington Street will help to hide some of this delivery area, particularly when viewed from the south along London Road. Details of this green fence can be secured by condition.

The scheme will result in the loss of a number of trees on the site which are located adjacent to the north, west and south boundaries of the site. These trees, whilst having amenity value, are not worthy of protection via a Tree Preservation Order. It is considered that the loss of these trees can be mitigated by the implementation of a landscaping scheme and this will also enhance the appearance of the development, which can be secured by condition

In conclusion, subject to samples of materials being approved, landscaping and boundary treatment, it is considered that the design and layouts of the units is acceptable and in accordance with policy 13(h) of the North Northamptonshire Core Spatial Strategy.

3. Impact on Residential Amenity

Policy 13(l) of the North Northamptonshire Core Spatial Strategy requires that development does not result in an unacceptable impact on the amenities of neighbouring properties or the wider area, by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking.

In terms of the physical impact of the development, the main properties affected are 1 and 3 Boddington Mews and number 7 Silverwood Court. All other nearby dwellings are located sufficiently far away not be affected by

either overshadowing, overbearing impact or loss of light.

Numbers 1 and 3 Boddington Mews are located immediately to the west of unit 1. There are no windows or glazing elements proposed on the western elevation, thus unit 1 will not result in any overlooking into windows or garden area to Boddington Mews properties. Unit 1 has a depth of approximately 18.5 metres which will run adjacent to 1 and 3 Boddington Mews, and 7.5 of this will project beyond the rear elevation of 1 and 3 Boddington Mews. This will result in some overbearing impact and overshadowing impact to the occupants of 1 and 3 Boddington Mews, however this impact is not considered to be sufficiently harmful to warrant refusal of the application. There will be a separation distance of between 2.6 metres and 4.5 metres between Unit 1 and the shared boundary 1 and 3 Boddington Mews. This separation distance, combined with the single storey nature of the building (the building has a ridge height of between 4.5 metre and 5.5 metres) along with the existing boundary treatment (a 2 metre high brick wall) will reduce the extent of overshadowing and overbearing impact that will result. Currently on this boundary, adjacent to numbers 1 and 3 Boddington Mews there is a 3 – 3.5 metre high screen which as a result of the development will be removed. It is considered that the loss of this screen directly on the boundary will greatly improve amenity of occupiers of these properties.

Numbers 1 and 3 Boddington Mews are located sufficiently far away from units 2 and 3 not to result in any adverse amenity implications in respect of overbearing impact, overshadowing or overlooking.

Number 7 Silverwood Court is located immediately to the west of units 2 and 3. There are no windows or glazing elements proposed on the western elevation of either units 2 or 3 and as such no overlooking will result into number 7 Silverwood Court. Units 2 and 3 have a total depth of approximately 17.7 metres which will run adjacent to the boundary with 7 Silverwood Court, and 9 metres of this will project beyond the rear elevation of 7 Silverwood Court. This building will also result in some overbearing impact and overshadowing on the occupants of number 7 Silverwood Court, however this impact is not considered sufficiently harmful to warrant refusal of the application. There will be a separation distance of between 2.4 metres and 3.7 metres between the building and the shaded boundary with number 7 Silverwood Court. This separation distance, combined with the single storey nature of the building (the roof has a height of between 4.7 metre and 5.5 metres) along with the existing boundary treatment (a 2m high brick wall and a hedge on the side of number 7 Silverwood Road of between 3.5 and 4 metres) will ensure the building has no significant adverse impact. Number 7 Silverwood Road is located sufficiently far away from unit 1 not to be affected by overbearing impact, overshadowing or overlooking.

Concern has been expressed by neighbours that the take-away use will result in adverse levels of noise and disturbance, particularly at later times in the evening. The application proposes that the take-away use will operate between the hours of 12:00 to 23:00 Monday to Sunday. With the car parking and the entrance to the potential take away unit being located on the London Road frontage, most of the activity associated with the take away will take

place within this area. Whilst inevitably some noise and disturbance will be created from the takeaway use, nearby residential properties on London Road are located sufficiently far away from the site not to be immediately affected. Whilst no objections have been received from neighbours regarding noise and disturbance from the convenience store and the A2/ A1 unit, which are both proposed to be open between the hours of 07:00 to 23:00, noise is also likely to result. The main noise likely to be generated from these uses is within the car park from customers manoeuvring and leaving and returning to their vehicles. With existing boundary treatment and the separation of the car parking spaces from the western boundary with landscaping, it is not considered any noise and disturbance that would result would be sufficiently harmful to warrant refuse. In the determination of this application, it needs to be borne in mind that the former use of the site as a petrol filling station had no restrictions limiting the hours of use, and whilst it may well not have done, under the planning permission could operate on a 24 hours basis.

Environmental Health have been consulted on the scheme, and in terms of noise and disturbance associated with customers have raised no objections subject conditions restricting hours of use to those proposed uses and restricting hours of delivery to all the units to 07:00 to 21:00 Monday to Sunday including Bank and Public Holidays.

Concern has also been expressed by third parties regarding the lack of information submitted regarding the kitchen ventilation and extraction equipment to the proposed take-away use and the result noise and odour that will result. As there is no end user in place for this proposal, no details of the equipment that will be installed as been submitted with the application. However, from the information submitted with the noise assessment, Environmental health are satisfied that subject to details being submitted of the kitchen ventilation and extraction system, a scheme for sound insulation of the kitchen extraction system and the insulation of buildings and plant could be secured. No adverse impact will result to residential amenity of occupiers of nearby dwellings.

No details have been provided within the submitted layout which show how and where refuse bins will be located. There is sufficient space within the site for all three uses, however to ensure that such provision creates no adverse general or residential amenity implications, a condition is recommended requiring details to be submitted for approval.

In conclusion, subject to conditions covering hours of use, hours of delivery, and details of kitchen ventilation and extraction systems, sound insulation of the kitchen extraction system and insulation of buildings and plant, it is not considered that any significant adverse impact will result to the occupiers of nearby dwellings and the scheme is considered to be in accordance with 13(I) of the North Northamptonshire Core Spatial Strategy.

4. Highway Safety Implications

Policy 13 (d) of the NNCSS requires that developments have a satisfactory

means of access and provide for parking, servicing and manoeuvring. In addition policy 13 (n) of the NNCSS requires that developments will not have an adverse impact on the highway network and will not prejudice highway safety.

Vehicular access for both customers and delivery vehicles is proposed from a new central point of access which is located centrally within the London Road frontage. Negotiations have taken place with the agent and the highways authority to provide for a satisfactory access and manoeuvring space for HGV vehicles. The applicant has submitted a Transport Statement which concludes that the number of trips generated by the proposed redevelopment will be below those associated with the former use of the site as a petrol filling station. In addition, swept path analysis has been submitted which demonstrates that a 12.3 metre long HGV can safely enter and leave the site without resulting in any adverse highway safety implications. The Highways department have been consulted on the scheme and raised no objections to the access arrangement, subject to a condition restricting the length of delivery vehicles to 12 metres in length.

The scheme provides for 23 off street car parking spaces. This level of car parking is considered by the highway Authority to be satisfactory for the range and size of uses proposed in this location. The level of provision accords with the standards set out in the former supplementary planning guidance on parking prepared by NCC, which provides a useful guideline on provision required.

Policy 13(e) of the North Northamptonshire Core Spatial Strategy requires that developments incorporate measures to contribute to a target of 5% modal shift over the plan period. To ensure that the development contributes to this modal shift, a condition has been recommended requiring the provision of cycle parking.

In conclusion, subject to conditions limiting the length of vehicles and the provision of cycle parking, the scheme is considered to be in accordance with the requirements of policy 13 (d), (e) and (n) of the North Northamptonshire Core Spatial Strategy.

5. Contamination

Policy 13(l) of the North Northamptonshire Core Spatial Strategy requires that developments do not result in pollution or contamination. Given the sites former use as a petrol filling station, the site is likely to be highly contaminated. In support of the application, a Phase 1 Desktop Study and Site Investigation, a Remediation Statement and an Environmental Review have been submitted. Environmental Health have been consulted on the scheme. These reports recommend that further investigation is required and this investigation could be undertaken as a preliminary phase to the construction works. This approach has been accepted by Environmental Health and it is recommended that the standard contamination condition is attached to any grant of planning permission.

6. Sustainable Development

Policy 14(b) of the North Northamptonshire Core Spatial Strategy requires that developments incorporate techniques of sustainable construction and energy efficiency, there is provision for waste reduction/ recycling and there is provision of water efficiency and water recycling. The scheme provides little information with respect to this policy, however, the incorporation of measures to provide for energy efficiency and sustainable construction can be controlled by condition.

Comments on other points raised by proposal

The police have commented on the scheme and previously raised concerns about a pedestrian access point from Boddington Street. This pedestrian access point has been removed from the revised plans. Other comments raised by the police regarding security have been addressed by recommended conditions and informatives.

Conclusion

The scheme is in the main in accordance with national and local policy, however there is some conflict with policy 12 of the North Northamptonshire Core Spatial Strategy and paragraph 27 of the NPPF. This conflict is outweighed however by the positive impact the development will have by bringing forward a heavily constrained, brownfield site, which currently has a negative impact on the character of the area. Subject to conditions, the scheme provides for an acceptable highway arrangement and will not have any significant impact on residential amenity.

Background Papers

Title of Document:

Date:

Contact Officer:

Anne Dew, Senior Development Officer on 01536 534316

Previous Reports/Minutes

Ref:

Date:

SITE LOCATION PLAN

196 London Road, Kettering
Application No.: KET/2012/0144



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

LA078344

Date: 23/02/2012 Do not scale from this map. For illustrative purposes only.

