

BOROUGH OF KETTERING

Committee	Full Planning Committee - 24/09/2013	Item No: 5.3
Report Originator	Marie Down Assistant Development Officer	Application No: KET/2013/0474
Wards Affected	All Saints	
Location	75 - 83 Bath Road, Kettering	
Proposal	Full Application: Change of use from Club to Public House	
Applicant	Mr J Somal	

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 before 10am or after 10pm on Mondays, Tuesdays, Sundays or any recognised public holidays nor before 10am or after 11pm on Wednesdays to Fridays, nor before 10am or after 11.30pm on Saturdays.

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 approved plans prior to first use of the development hereby permitted full details of a scheme for a smoking shelter shall be submitted to and approved in writing by the Local Planning Authority. The approved smoking shelter shall be erected in accordance with the approved scheme prior to first use of the building and shall be retained as approved thereafter.

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

4. Prior to first use of the development hereby permitted the vehicle parking area shall be marked out in accordance with the approved details shown on drawing number 4077.13.03A received by the Local Planning

Authority on 19/08/2013. This shall thereafter be permanently reserved for the parking of vehicles.

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

Officers Report for KET/2013/0481

3.0 Information

Relevant Planning History

KET/2013/0295 – Car park to hand car wash – Withdrawn 21/6/2013

KET/2007/0667 – Erection of a smoking shelter – Approved 22/11/2007

KET/2007/0394 – Erection of a smoking shelter and patio – Withdrawn 24/07/2007

KE/1999/0380 – Demolition of two storey entrance, single storey replacement – Approved 20/08/1999

Site Description

Officer's site inspection was carried out on 31/07/2013.

The application site is located on the junction of Bath Road and Bath Lane, approximately 390 metres east of Kettering town centre. The application site was previously in use as a Miniature Rifle Club, affiliated with the Federation of Working Men's Clubs but this use ceased in 2010. The site consists of a two storey building, which has been extended over time. There is a car park to the rear of the application site. A smoking shelter, granted planning permission in 2007, has been constructed at the rear elevation and is currently being used for storage of empty beer barrels. Development surrounding the site consists primarily of residential properties while to the south-east of the site, on the opposite side of Bath Lane, is a light industrial site.

Proposed Development

The proposal involves a change of use from D2 (club) to A4 (Public House). No external alterations or extensions are proposed.

Any Constraints Affecting The Site

None.

4.0 Consultation and Customer Impact

Highway Authority

No objection. Issues surrounding parking which are currently causing problems are matters for the enforcement agencies.

Northamptonshire Police

No objection.

Environmental Health

No comments or objections. Any concerns are covered by the Premises Licence, which has relevant conditions attached.

Environmental Care

No comments received.

Neighbours

Two objections received as follows:

- Patrons of the former club would smoke outside the front door of the premises, smoke would drift into neighbouring dwellings and therefore there are health implications for occupiers of neighbouring dwellings. (1)
- Noise from patrons smoking outside and from patrons leaving the premises late at night. (1)
- Noise will be emitted from the premises, particularly when music will be played. (1)
- Litter from discarded cigarettes. (1)
- Vandalism is likely to occur. (1)
- Although there is a car park within the site people will continue to park on the already congested streets. (2)
- Patrons of a nearby Club park at Bonham Court on the pavements opposite other cars and block the route for emergency services. (1)

5.0 Planning Policy

National Planning Policy Framework

Paragraph 14 – The Presumption in Favour of Sustainable Development

Paragraph 17 – Core Planning Principles

Policy 2 – Ensuring the Vitality of Town Centres

Policy 7 – Requiring Good Design

Policy 8 – Promoting Healthy Communities

Development Plan Policies

North Northamptonshire Core Spatial Strategy

Policy 1 – Strengthening the Network of Settlements

Policy 9 – Distribution and Location of Development

Policy 13 – General Sustainable Development Principles

Local Plan

Policy 58 – Employment Within Towns

Kettering Town Centre Area Action Plan

Policy 3 – Primary Shopping Area and the Evening Economy
Town Centre Boundary

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 Character
3. Impact on Neighbouring Amenities
4. Parking and Highway Safety

1. Principle of Development

The National Planning Policy Framework sets out a presumption in favour of sustainable development. It requires that planning authorities should approve development proposals that accord with the development plan without delay. The application site is within the town boundary of Kettering, as defined by Policy 58 of the Local Plan. Policy 1 and Policy 9 of the North Northamptonshire Core Spatial Strategy state that development should be directed towards the growth town of Kettering.

The proposal involves a change of use of a club (D2) to a public house (A4). Annex 2 of the National Planning Policy Framework classifies public houses as a main town centre use. The application site is located approximately 390 metres from the town centre boundary as defined by the Kettering Town Centre Area Action Plan and while within the urban area is considered to be an out of centre location. To ensure the vitality and viability of town centres Paragraph 24 of the National Planning Policy Framework states that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre. Local Planning Authorities 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. Guidance on undertaking a sequential assessment is set out in the "Planning for Town Centres – Practice Guidance on Need, Impact and the Sequential Approach" (CLG, December 2009).

The requirement to provide a sequential test may be negated where an application demonstrates that the proposal is intended to serve a local catchment area and that there are no other such uses serving that area.

The applicant has provided various pieces of information to demonstrate the above but the information does not unequivocally demonstrate that there are no sequentially preferable sites or that the use is intended to serve a local catchment area. Paragraph 27 of the National Planning Policy Framework states that where an application fails to satisfy the sequential test it should be refused. The Practice Guidance also states that failure to undertake a sequential assessment may constitute a reason for refusal. However, it goes on to say that if the Local Planning Authority proposes to refuse an application on the basis of the sequential approach then it should be on the basis that it considered there is, or may be, a reasonable prospect of a sequentially preferable opportunity coming forward which is likely to be capable of meeting the requirements of the proposal.

Policy 3 of the Kettering Town Centre Area Action Plan strictly prohibits any additional A4 units within the Primary Shopping Frontage (PSF) and thus any vacant sites in the Primary Shopping Frontages can be immediately discounted as suitable locations for this proposed development. Policy 3 also imposes restrictions on A4 units in the Secondary Shopping Frontages (SSF) to ensure such uses do not become excessive and erode the retail function of the SSF. Policy 3 states that proposals should not result in more than three consecutive A3, A4 or A5 frontages in a row and should not result in more than 17% of the total frontages within the SSF being in A4 use. As the annual Kettering Town Centre Healthcheck is underway and the current percentage of A4 frontages in the SSF is not yet available. However, the Healthcheck carried out in August 2012 indicates that 16.19% of frontages in the SSF were in A4 use and therefore it is likely that further A4 uses in the SSF would be resisted in accordance with policy. Therefore, due to policy restriction it is considered that there is no reasonable prospect of a sequentially preferable opportunity coming forward which meets the requirements of the proposal. There is also no evidence to suggest that this proposal would have a significant adverse impact on the town centre which continues to perform well as evidenced in the 2012 Healthcheck.

Paragraph 70 of Policy 8 of the National Planning Policy Framework states that to deliver the social, recreational and cultural facilities and services the community needs, planning decisions should plan positively for the provision and use of community facilities to enhance the sustainability of communities and residential environments. It lists public houses as one such community facility. A further material consideration is the permitted use of the site as a licensed members club and that the proposal would not constitute a significant deviation from the permitted use of the site. On balance, the principle of A4 development on this site, which is within the growth town of Kettering, is established. It is considered that there is no reasonable prospect of a sequentially preferable site coming forward given the policy restrictions relating to this type of use in the town centre. It is also considered that the proposal will not result in an adverse impact on vitality and viability

of the town centre or on trade within the town centre. The proposal is therefore acceptable in principle subject to the satisfaction of development plan criteria in respect of design and character, neighbouring amenity and parking and highway safety as discussed below.

2. Design and Impact on Character

Policy 7 of the National Planning Policy Framework requires good design while Policy 13 (h) of the North Northamptonshire Core Spatial Strategy requires development to be of a high standard of design, architecture and landscaping and to respect and enhance the character of its surroundings. The proposal involves a change of use from a licensed members club to a public house, no external alterations or extensions are proposed. The premises has been vacant since 2010 and has been subject to some vandalism in that time. There are a number of boarded up windows in the south and east elevations with graffiti on these elevations also. As such the premises makes a poor contribution to the street scene. It is considered that the change of use of the unit to a public house will not significantly alter the character of the building given its previous use as a licensed members club. It is also considered that the re-use of the building will deter further vandalism and prevent the building from falling into more significant disrepair. As such it is considered that the proposal complies with Policy 7 of the National Planning Policy Framework and Policy 13 (h) of the North Northamptonshire Core Spatial Strategy.

3. Impact on Neighbouring Amenity

Paragraph 17 of the National Planning Policy Framework requires development to secure a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 13 (l) of the North Northamptonshire Core Spatial Strategy requires development not to result in an unacceptable impact on neighbouring amenity or the wider area by reason of noise, vibration, smell, light or other pollution loss of light or overlooking.

The application states that the public house will be open on Monday and Tuesday between 10am and 10pm and Wednesday to Friday between 10am to 11pm, on Saturday between 10am and 11.30pm and Sundays and Bank Holidays between 10am and 10pm. A condition will be attached to the permission restricting the opening hours to that outlined above. Development in the immediate vicinity of the application site is primarily residential in nature and third party representations received highlight concerns regarding the level of noise that will be associated with the proposed change of use. However, the permitted use of the application site is a D2 club and until 2010 it operated as a licensed members club and as such it is considered that the proposed change of use will not result in a significant additional adverse impact in terms of noise. Furthermore, Environmental Health has raised no objections to the proposal and has advised that any concerns regarding noise are covered through the premises licence and conditions attached to the

licence at Appendix C.

With regard to noise the licence conditions, in summary, require:

1. An electronic sound limiting device shall be installed in the premises prior to first use of the licence to control the level of noise breakout. Details of installation shall be submitted to the Licensing Authority for approval; the sound level shall be agreed and shall not be adjusted without the prior approval of the Licensing Authority. No regulated entertainment shall take place on the premises unless the device is used to control the level of sound.
2. Upon completion of installation a report shall be issued to the Licensing Authority certifying the agreed levels have been set and evidence of its tamper proof integrity. Electronic contacts shall be fitted to windows and emergency exits and connected to the power supply to the sound system to ensure the system will cut out should the contacts be broken.
3. All external doors and windows shall be kept closed when any noise generating entertainment function is being provided except for access egress or in an emergency.
4. Notices shall be placed at all exits from the premises in a place where they can be seen and easily read by the public requiring customers to leave the premises quietly and to refrain from the unnecessary revving of engines or sounding of car horns.
5. The handling of refuse, beer kegs and bottles and other items external to the fabric of the building shall only be permitted between the hours of 07.00 and 21.00 hours daily.
6. Refuse shall not be collected between the hours of 21.00 and 07.00 on any day.
7. Rowdy behaviour will be controlled by staff/security staff. Use of the car park will be controlled.

In addition to the above, the Licence permits the performance of live music on Fridays and Saturdays between 7pm and 11pm and Sundays between 6pm and 10pm only. Playing of recorded music is permitted on Wednesdays between 7.30pm and 10.30pm, on Fridays between 7pm and 10.30pm and on Saturdays between 7pm and 11pm only. While noise is a material planning consideration it is considered that its impact on neighbouring amenity is adequately controlled through the Licensing Act 2003. As such it is considered that the application of additional planning conditions is not appropriate or necessary.

The proposal does not make provision for a smoking shelter. While planning permission was granted for a smoking shelter to the rear of the property in 2007 the application states that the shelter does not form part of this application and is currently used for storage of empty beer barrels by another company. Concern has been expressed through third party representations that patrons of the proposed public house will smoke at the front of the premises and there will be health implications for occupants of neighbouring dwellings. The proposed plans indicate

that there will be a smoking area on the driveway to the north of the application site. However, this is inadequate as it is adjacent to residential properties. In the interests of the amenity of occupiers of neighbouring dwellings a condition will be attached requiring details of an alternative smoking shelter to be submitted to and approved in writing by the Local Planning Authority prior to the first use of the building. The proposal does not involve any external alterations and it is considered that the use of the building as a public house will not result in a significant additional adverse impact on the amenity of the surrounding area over and above the permitted use as a licensed members club. The proposal therefore complies with Policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

4. Parking and Highway Safety

Policy 13 (d) of the North Northamptonshire Core Spatial Strategy requires development to have a satisfactory means of access and provide for parking, servicing and manoeuvring in accordance with adopted standards. Policy 13 (n) requires development not to have an adverse impact on the highway network or to prejudice highway safety.

There is a car park to the rear of the application site and plans submitted in support of the application indicate that the car park has capacity for ten vehicles. Third party representations received raise concerns regarding parking. They contend that although there is a car park people will nevertheless park on the already congested streets. One of the representations received also highlights that patrons of another nearby club already park at Bonham Court on the pavements opposite other cars which blocks the route for emergency services. The Highway Authority has been consulted on the application and has raised no objections as the proposed use is in line with the existing permitted use on the site. With regard to issues surrounding parking elsewhere, e.g. at Bonham Court, this is a matter for the enforcement agencies and can not be solved through this proposal.

An application was submitted in April 2013 seeking planning permission for a change of use of the car park to a hand car wash. This application was subsequently withdrawn but there are indications that it may be resubmitted for consideration in the future. To ensure there will be parking capacity within the curtilage of the application site a condition will be added to the planning permission requiring the car park to be marked out in accordance with the details submitted and permanently reserved for parking thereafter. Subject to the addition of this condition it is considered that the proposal complies with Policy 13 (d) and 13 (n) of the North Northamptonshire Core Spatial Strategy.

Conclusion

The proposal is acceptable in principle and complies with the relevant policies of the development plan. The proposal is, therefore, recommended for approval subject to conditions.

**Background
Papers**

Title of Document:

Date:

Contact Officer:

Marie Down, Assistant Development Officer on 01536
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Previous Reports/Minutes

Ref:

Date: