

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 11/03/2014</b>	<b>Item No: 5.4</b>
<b>Report Originator</b>	<b>Marie Down Assistant Development Officer</b>	<b>Application No: KET/2014/0013</b>
<b>Wards Affected</b>	<b>William Knibb</b>	
<b>Location</b>	<b>43 Alfred Street, Kettering</b>	
<b>Proposal</b>	<b>s.73A Retrospective Application: Fencing to roof terrace. Replace first floor window with door</b>	
<b>Applicant</b>	<b>Mrs J Sparks</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

## **Officers Report for KET/2014/0013**

This application is reported for Committee decision because there are unresolved, material objections to the proposal.

### **3.0 Information**

#### **Relevant Planning History**

##### 43 Alfred Street:

ENFO/2013/00210 – Conversion of window to doorway onto flat roof, erection of fence

##### 13 – 15 Thorngate Street:

KE/1989/0124 – Alterations to existing retail area, convert one side of premises back into a dwelling with a small extension – Approved

KE/1982/0312 – Provision of additional storage facilities at first floor – Approved 26/05/1982

KE/1974/0633 – Alteration to first floor of commercial premises to form a self contained flat and erection of a spray room - Refused

KE/1957/0590 – Alterations and additions and conversion of flat into stock rooms and staff room – Approved

##### 13 Thorngate Street:

KE/1993/0233 – Change of use of store to rear of existing two storey house into additional residential accommodation – Approved

#### **Site Description**

Officer's site inspection was carried out on 03/02/2014. The application relates to a first floor flat with an address of 43 Alfred Street, Kettering. The flat is situated above a hairdressing salon which has an address of 15 Thorngate Street. The application retrospectively seeks approval for the replacement of a first floor window with a door in the northern side elevation of the property. The door is white uPVC with an obscure glazed panel in the top half. The application also retrospectively seeks approval for the erection of a close boarded fence on the flat roof immediately north of No. 43 Alfred Street and east of No. 13 and 15 Thorngate Street. The fence is 1 metre in height and encloses approximately 10.4 square metres of the flat roof which the applicant has stated is within her ownership. This has facilitated the creation of a small roof garden which contains a small table and 3 no. chairs along with a number of potted plants. The occupiers of No. 13 Thorngate Street also use the flat roof extending over their property as a roof garden. It appears that a window in the rear elevation of No. 13 has also been replaced with a door to facilitate access to the flat roof. No. 13 has a number of chairs within their roof garden area as well as a kettle style barbeque and potted plants.

### **Proposed Development**

This is a retrospective application seeking approval for the replacement of a first floor window in the northern side elevation of the property and the erection of a 1 metre high fence on the flat roof.

### **Any Constraints Affecting The Site**

None.

## **4.0 Consultation and Customer Impact**

### **Neighbours**

One comment received in support of the application.

One comment received objecting to the application on the following grounds:

- The doorway and fence cause a loss of privacy.
- The fence facilitates access to the roof and through usage causes noise and disturbance.
- The fence has been bolted to the flat roof impacting on the integrity of the flat roof. There is also concern that the bolting of the fence to the flat roof will cause water damage to the roof.
- The neighbour also states that he owns the land enclosed by the fence rather than the applicant. The neighbour has been made aware that boundary disputes are not a material planning consideration and are a civil matter which needs to be settled privately.

## **5.0 Planning Policy**

### **National Planning Policy Framework**

Paragraph 17 – Core Planning Principles

Policy 7 – Requiring Good Design

### **Development Plan Policies**

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

Policy 13 – General Sustainable Development Principles

#### **Local Plan**

Policy 35 – Within Towns

## **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 Amenity
4. Comments on other points raised by the proposal

### **1. Principle of Development**

The application site is located within the town boundary of Kettering as defined by Policy 35 of the Local Plan. Policies in the development plan support alterations to residential properties subject to the satisfaction of certain criteria. Policy 13 of the North Northamptonshire Core Spatial Strategy supports alterations provided there is no adverse impact on character and appearance or neighbouring amenity. The principle of development is therefore established subject to the satisfaction of the development plan criteria 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 and to respect and enhance the character of its surroundings. The replacement door is white uPVC which is consistent with the existing window in the rear elevation of No. 43 Alfred Street. The fence is a traditionally constructed close boarded fence, one metre in height. The alterations, although visible from the neighbouring property, are not visible from any public vantage point. As such it is considered that no adverse impact on the character and appearance of the area has occurred and the development 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**

Policy 13 (l) of the North Northamptonshire Core Spatial Strategy requires development not to result in an unacceptable impact on neighbouring amenity by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking. The development consists of the replacement of a window with a door in the northern side elevation of the property and the erection of a 1 metre high close boarded fence along the boundary between the property and No. 13 Thorngate Street. The neighbour at No. 13 has objected on the grounds that the development results in loss of privacy, that access to the roof causes noise and disturbance and that the bolting of the fence to the flat roof

will cause water damage to the roof.

This application resulted from an enforcement investigation given that the alterations carried out did not fall with permitted development rights set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended). An examination of the planning history of the site does not reveal any conditions which would prohibit use of the flat roof area as incidental amenity space. It appears use of the flat roof as incidental amenity space has been relatively longstanding over a number of years. The applicant indicated through the application form that she has used the flat roof as amenity space since 2011 and the fence was erected as a result of specific activities, such as parties and barbeques, which resulted in the accumulation of rubbish on the element of the flat roof within her ownership. The above leaves me to conclude that no planning contraventions have arisen relating to use of the flat roof as incidental amenity space.

It is considered that the replacement of a window with a door in the side elevation of the property does not result in an unacceptable impact on neighbouring amenity in terms of loss of privacy. The top half of the door is glazed with obscure glass and as such does not facilitate any over looking of the flat roof area from within the property. While the door does facilitate access to the flat roof, the area that has been enclosed by the fence is relatively small in size measuring approximately 5.8 metres in length by 1.8 metres wide.

At the time of the site visit there was a small table and 3 no. chairs situated on the roof garden. These were located to the eastern end of the roof garden, at the furthest point from No. 13 Thorngate Street. There was nothing else in place within the roof garden which would facilitate noise disturbance to neighbouring properties. Considering this and the limited size of the enclosed area it is considered that there is limited opportunity for noise generating activity. In terms of loss of privacy it should be noted that No. 13 Thorngate Street has a similar arrangement in place whereby it appears that a window in the rear elevation has been replaced with a door to create access to the flat roof. Given this arrangement it is considered that the loss of privacy experienced by the occupants of No. 13 is no worse than that which is experienced by the occupants of the application site. Furthermore, the situation which is currently in place is no different to what one would expect to find in the rear amenity space of any terraced properties. As such it is considered the proposal does not result in a significant adverse impact on neighbouring amenity to warrant a refusal of planning permission in this instance.

The neighbours to the east, No. 45 Alfred Street, have one no. window in its side elevation which is visible from the roof garden area. However, the window is glazed with obscure glass and as such there will be no adverse impact in terms of overlooking or loss of privacy to these neighbours. Furthermore, the roof garden area of No. 43 Alfred Street

does not provide any views of the rear amenity space of the surrounding properties, namely No. 45 Alfred Street and Nos. 9 and 11 Thorngate Street. As such it is considered that the proposal complies with Policy 13 (l) of the North Northamptonshire Core Spatial Strategy.

#### 4. Comments on other points raised by proposal

The question of land ownership has been raised at various stages throughout this application and the preceding enforcement investigation. The neighbour at No. 13 Thorngate Street states that the land enclosed by the fence is within his ownership. He has provided Land Registry searches for both No. 13 and No. 15 Thorngate Street in support of his argument. However, the applicant has signed Certificate A on the application form which indicates that she is the sole owner of the land. Following the concerns raised by the neighbour the Council requested that the applicant provide evidence which would support her claim that she is the sole owner of the land enclosed by the fence. The applicant has provided the Land Registry search for No. 15 Thorngate Street which shows the land in question outlined in red with the documentation states that the applicant is the owner of the land covered by the red line. The applicant has also provided a letter from her solicitor which states that the boundary of the fence is coterminous with the boundary of the property and therefore the land enclosed by the fence is owned by the applicant. Boundary disputes are not a material planning consideration. This is beyond the remit of the Local Planning Authority and is a civil matter which needs to be settled privately. Nevertheless, the Council is satisfied that the applicant is the owner of the land and the application can be determined on this basis.

#### Conclusion

The development complies with policies in the development plan and there is no adverse impact on character and appearance or neighbouring amenity. As and ownership and boundary disputes are not a material planning consideration the development is therefore recommended for approval.

#### **Background Papers**

Title of Document:

Date:

Contact Officer:

Marie Down, Assistant Development Officer on 01536 534316

#### **Previous Reports/Minutes**

Ref:

Date: