

BOROUGH OF KETTERING

Committee	Planning Committee	Item 6.2	Page
Report Originator	Anne Dew	ENFO/2012/00010	
Wards Affected	Queen Eleanor and Buccleuch	Date	
Title	Authorisation for Planning Enforcement Action at 33 Longfellow Drive, Kettering		

1. PURPOSE OF REPORT

To seek authorisation to issue an Enforcement Notice in respect of unauthorised development at 33 Longfellow Drive, Kettering, shown in bold outline for identification purposes on the site plan attached to this report.

2. BREACH OF PLANNING CONTROL

Without planning permission, the making of a material change use of the land from a dwelling house to a mixed use comprising a dwelling house and use for the provision of swimming instruction.

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 pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) requiring the step(s) to be taken within the specified time period(s); and for the reason(s) which are set out below:

3.1 Steps to be Taken

1. Cease the use of the property for swimming instruction.
Time for compliance: 3 months

3.2 Reasons For Issuing the Notice

This breach of planning control has occurred within the last 10 years. It is considered that the change of use has increased the level of activity at the property and resulted in an adverse impact on the residential amenity of occupiers of nearby dwellings. As such, the unauthorised use conflicts with the aims and objectives of the following planning policies:

Policy 13 (h) of the North Northamptonshire Core Spatial Strategy

The Council considers that planning permission should not be given, because planning conditions could not overcome these objections to the development.

4. INFORMATION

Site Description

The application site is a large detached dwelling which is located at the end of a cul-de-sac within a residential estate. Large detached residential dwellings characterise the area and there are no other businesses apparent within the vicinity. The front garden has been block paved and provides for off street parking provision for 5 – 6 cars.

Relevant Planning History

KET/2006/1041 Two storey side extension and single storey rear extension: Pool house. Approved 02.02.2007

KET/1998/0262 Approval of Reserved Matters: Residential Development 63 houses (Amended Scheme) Approved 28.04.1999

Planning Policy:

National Policies

National Planning Policy Framework

Policy 1 – Building a Strong Competitive Economy

Policy 2 – Ensuring the Vitality of Town Centres

Development Plan

Local Plan for Kettering Borough (LPKB)

Policy 58 – Employment within Towns

North Northamptonshire Core Spatial Strategy (CSS)

Policy 1 – Strengthening the Network of Settlements

Policy 9 – Distribution and Location of Development

Policy 13 – General Sustainable Development Principles

East Midlands Regional Plan

Policy 3 – Distribution of New Development

Supplementary Planning Documents

Sustainable Design SPD

5. APPRAISAL

The application site is a detached dwelling which has a large indoor swimming pool with its own separate access to the side of the dwelling. The swimming pool is being hired out to a private instructor who runs swimming lessons from the pool. The owner of the property has provided a timetable which shows the instructor uses the pool Monday to Friday during the school holidays between the hours of 9.00 - 18.00 with the number of people attending a lesson on a daily basis varying between 3 – 10 a day, with some sessions having up to 4 pupils. The complainant has also provided a detailed log which confirms this level of activity and has recorded on a regular basis 5 – 6 vehicles arriving at any one time for a swimming session. This use of the swimming pool by a swimming instructor combined with the regularity of the

sessions, constitutes a material change of use, resulting in a mixed use of a dwelling and the provision of a swimming instruction which requires planning permission.

In some cases, businesses can be operated from home without constituting a material change of use and as such not requiring planning permission. In this case, the house occupier might be able to run some swimming instruction for a number of pupils, without materially affecting the residential character of the property, such that no material change of use would occur. However, the level of activity being undertaken at the dwelling far exceeds this, and the pool is hired out to a non resident swimming instructor and the number of pupils in attendance on any day can be as many as 10. This level of activity and hiring out of the pool result in a use which is materially different to that associated with the residential occupancy of a dwelling and as such planning permission is required for a change of use.

It is considered that the level of activity associated with the use results in adverse levels of noise and disturbance to occupiers of nearby dwellings, particularly from noise from vehicles parking and noise from pupils arriving and departing from the swimming pool. This level of noise is considered to be far greater than noise levels likely to be experienced from the ordinary residential occupation of a single dwelling house.

In conclusion, it is considered that the operation of this business constitutes a material change of use, and has an adverse impact on residential amenity, contrary to the requirement so policy 13 (h) of the North Northamptonshire Core Spatial Strategy.

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.

Expediency

Planning enforcement action is a discretionary power which may be exercised where there has been a breach of planning control which affects public amenity or otherwise affects land or buildings meriting protection on the public interests. In this case it is considered to take enforcement action because of the impact the noise and disturbance that is created from the use, which is far greater than would be associated with the residential occupancy of the dwelling alone and the impact this has on the residential amenity of occupiers of nearby dwellings.

Background Papers:

Title of Document:

Date:

Contact Officer: Anne Dew

Previous Reports/Minutes:

Ref:

Date: