

BOROUGH OF KETTERING

Committee	Full Planning Committee - 09/04/2013	Item No: 5.5
Report Originator	Mark Coleman Assistant Development Officer	Application No: KET/2013/0120
Wards Affected	Slade	
Location	19A High Street, Broughton	
Proposal	s.73 Application: Variation of Condition 4 of KET/2010/0727 (hours of operation)	
Applicant	Mr M Dainty	

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 on or before 3rd March 2014.

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 hot food takeaway use hereby permitted shall be carried out in full accordance with details of the air extraction and odour control system, associated with the installed cooking equipment and flue to be used in conjunction with them, which was submitted to the Local Planning Authority under application AOC/0727/1002 and approved in writing by the Local Planning Authority on 10th January 2012.

REASON: For the purpose of protecting the amenity of neighbouring properties and the surrounding area in terms of odour, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

3. The hot food takeaway use hereby permitted shall be carried out in full accordance with the scheme for sound insulation of the kitchen extraction system required by condition 2 of this planning permission which was submitted to the Local Planning Authority under application AOC/0727/1002 and approved in writing by the Local Planning Authority on 19th January 2012.

REASON: For the purpose of protecting the amenity of neighbouring properties and the surrounding area in terms of noise, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

4. The hot food takeaway use hereby permitted shall not operate outside the hours of 11.30am and 21.30 Monday to Saturday and Easter Good Friday Bank Holiday and at no time whatsoever on Sundays and other recognised Bank/Public Holidays. No customer shall be admitted to the premises outside the specified hours of operation.

REASON: For the purpose of protecting the residential amenity in terms of odour and noise, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

5. No deliveries to or from the premises shall take place outside the hours of 07.00am - 21.30 Monday to Saturday and at no time whatsoever on Sundays and recognised Bank/Public Holidays

REASON: For the purpose of protecting residential amenity with regard to noise, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

6. The hot food takeaway use hereby permitted shall not be carried out other than in accordance with the scheme for the storage and management of recycling/refuse which includes details relating to method of containment for individual materials (including screening of the storage area), frequency of collection arrangements, and demonstrates that recycling/waste reduction is achieved, as submitted to the Local Planning Authority under application AOC/0727/1002 and approved in writing by the Local Planning Authority on 10th January 2012.

REASON: For the purpose of protecting the amenity of neighbouring properties and the surrounding area in terms of odour control and nuisance from pests, and improve the environmental performance of the use in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 and 14 of the North Northamptonshire Core Spatial Strategy.

7. No materials, goods, consumables, or refuse shall be stored in outside areas, unless in accordance with the approved scheme for recycling/refuse storage specified by condition 6 of this planning permission.

REASON: For the purpose of protecting the amenity of immediate neighbouring properties in terms of odour and nuisance from pests, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

Justification for Granting Planning Permission

The proposal is in accordance with national and local policies as set out in Section 4, 8, 11 of the National Planning Policy Framework, Policy 2 of The East Midlands Regional Plan, Policy 13 of the North Northamptonshire Core Spatial Strategy and Saved Policy 99 of the Local Plan for Kettering Borough. The issues relating to Noise, Odour, High Safety, and Litter are material planning considerations and, in reaching the decision to approve the proposal, have been carefully weighed against all relevant policy considerations.

Officers Report

3.0 Information

Relevant Planning History

KET/2010/0727 – Change of Use of Ground Floor from retail to hot food take-away (Approved: 4th March 2011)

Site Description

Officer's site inspection was carried out in March 2013. The site is located in the centre of Broughton, directly on the High Street leading through the village. The site is occupied by a two storey building erected in 1907. The building has significant architectural merit, constructed from ironstone, with limestone quoins, date stone, lintel and surrounds, and stone moulded shop front (pilaster, console brackets, stall riser). The roof is constructed to traditional ridge design, with low rising gable centrally located to the front providing relief to the roof slope. Above the eaves, the gable ends are finished with a Canterbury Spar render incorporating ornate timber relief details.

A 1.5 storey and single storey wing extends from the rear of the property, providing rear access/storage to the Co-op supermarket next door (north). This wing also includes dormer loft hatch to the first floor. Immediately abutting the premises to the south is a shared access, which provides access rights to the application site, the Co-op, and the residents of no.17 High Street. A tradesman's entrance to the site leads from this access, as does a secondary lounge window to No.17 High Street; the main customer entrance to the application site is located on the north elevation adjacent the Co-op.

To the rear of the application site is a storage yard shared between the application site and the Co-Op, and is currently used for storing trade waste. The principal garden area serving no.17 abuts this area.

The surrounding area has a distinctive character, typified by two storey buildings constructed from natural stone, slate, and built directly abutting the highway boundary providing strong sense of enclosure in the street. The area is predominantly residential in character with dwellings surrounding the application site to the northeast round to the west (clockwise).

Proposed Development

Vary condition 4 of planning permission KET/2010/0727 which controls the hours of operation. The applicant would like to open on a single bank holiday date (Easter Good Friday).

Any Constraints Affecting The Site

C Road

4.0 Consultation and Customer Impact

Broughton Parish Council

No objection

Highway Authority

No objection

Environmental Health, Kettering Borough Council

No objection

Neighbours

Objection from occupiers of 30 High Street, Broughton on the grounds that the existing takeaway use has resulted in traffic problems, and opening an additional day will exacerbate the issue.

Objection from the occupiers of 17 High Street, Broughton on the grounds that further variation of opening hours may be sought, and will give rise to issues such as illegal parking, loitering children, litter and strong smells on a public bank holiday.

Objection from the occupiers of 36 High Street, Broughton on the grounds that allowing the premises to open for an additional day will exacerbate noise, illegal parking and litter issues, and impact on the enjoyment of the public bank holiday.

5.0 Planning Policy

National Planning Policy Framework

Section 3: Supporting a prosperous rural economy

Section 4: Promoting Sustainable Transport

Section 8: Promoting Healthy Communities

Section 11: Conserving and Enhancing the natural Environment

Development Plan Policies

East Midlands Regional Plan

*Policy 2: Promoting Better Design

*The East Midlands Regional Plan is to be revoked on 12th April 2013. As a result, all policy referred to are currently material considerations; after this date none of the East Midlands Regional Plan will be saved.

North Northamptonshire Core Spatial Strategy

Policy 13: General Sustainable Development Principles

Saved Policies of the Local Plan for Kettering Borough

Policy 99: Class A3 Uses.

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

The key issues for consideration in this application are:-

1. Principle of Development
2. Impact on neighbouring amenity in terms of noise and odour
3. Other material considerations

1. Principle of Development

The principle of development to operate a hot-food takeaway use from the ground floor of the application site has already been established in principle by the granting of planning permission KET/2010/0727 subject to conditions. This application relates specifically to variation of condition 4 to extend the hours of operation, with all other matters remaining unchanged. As a result, no further consideration is given to these matters. The impacts of extending the opening hours are further discussed below.

2. Impact on neighbouring amenity in terms of noise and odour

Condition 4 of planning permission KET/2010/0727 sought to control the hours of operation of the hot food takeaway use in order to protect neighbouring residential amenity in terms of odour and noise impacts. The condition referred specifically to Policy 2 (EMRP) and Policy 13 (CSS) within the reason for the condition. One of the principle aims of Policy 13 (CSS) is to ensure that development does not result in an unacceptable impact on the amenities of neighbouring properties, which includes noise and odour. Policy 2 (EMRP) seeks for continual improvements in design which maintains amenity and privacy and benefits the quality of life of local people.

Condition 4 of planning permission KET/2010/0727 sought to restrict the hours of operation of the hot food takeaway between 11:30 – 14:00 and between 16:30 – 21:30 Monday to Saturday only. Third party comments object to this proposal to extend the opening hours to include Easter Good Friday on a number of grounds including noise and odour impacts which if this application were granted would increase the potential exposure hours to these impacts. One third party objector lives directly next door to the application site.

However, since the hot food takeaway use commenced, Kettering Borough Council's Environmental Protection Team has received no complaints with respect of noise disturbance, and a small number of complaints with respect of odour impacts. Those odour complaints which have been investigated were unable to evidence a negative impact on residential amenity. As a result, the Environmental Protection Team has no objection to extending the operational hours to include Easter Good Friday.

Considered in the context of national planning policy, Policy 8 (NPPF) seeks for planning decisions to ensure that established shops, facilities and services

are able to develop...in a sustainable way. Policy 11 (NPPF) also seeks for decisions to avoid noise giving rise to significant adverse impacts on health and quality of life.

Taking into account the lack of evidence to support demonstrable odour or noise impacts arising from the existing use, it is concluded that extending the hours of operation to include a single Bank Holiday will not give rise to a significant impact on the amenity of neighbours. It is considered therefore that the proposal accords with the relevant parts of Policies 8 and 11 (NPPF), Policy 2 (EMRP) and Policy 13 (CSS) with respect of neighbouring amenity in terms of noise and odour.

3. Other material considerations

Third party objections have been received with respect of highway safety, illegal parking, loitering customers and litter. NCC Highways have provided a consultation response of no objection, indicating that operation of the hot food takeaway use on an additional bank holiday will not give rise to unacceptable impacts on highway safety.

Illegal parking was raised as an issue in the original application (KET/2010/0727) where it was determined that existing traffic regulations would adequately deal with parking offences. This position is unchanged. Whilst it is acknowledged that extending the opening hours will result in visiting members of the public on this one additional day, it is considered unlikely that this will result in a significant increase in customers loitering if opening hours remain controlled by planning condition. The Police Authority raises no objection to the proposal. In addition, the active frontage associated with the use will also act as a deterrent for anti-social behaviour within proximity of the site whilst in operation. Whilst the generation of litter is a material consideration, the issue of litter control has not been demonstrated to be a problem which would give rise to objection from KBC Environmental Protection Team. Limited weight is therefore attached to this issue. As a result, it is considered that the material considerations referred to do not provide sufficient reason for refusing the application given the limited additional hours of opening proposed (1 day per year). As such the proposal accords with the relevant parts of Sections 4, 8 (NPPF), Policy 2 (EMRP), Policy 13 (CSS) and saved Policy 99 (Local Plan).

Public concern that the grant of this permission could result in further applications to vary planning conditions relating to the existing use. Further amendments to the permission would require new planning applications, which would be determined in accordance with adopted planning policies and other material planning considerations.

Conclusion

The proposal is considered acceptable in principle and in terms of its impact on neighbouring amenity and other material considerations and in accordance with the statutory duty of Section 38 (6) of the Planning and Compensation Act 2004 Act, is acceptable. Subject to the transfer of conditions and details already approved by condition on the original consent together with the varied condition 4, the application is recommended for approval.

Background Papers

Title of Document:

Date:

Contact Officer:

Mark Coleman, Assistant Development Officer on 01536
534316

Previous Reports/Minutes

Ref:

Date:

SITE LOCATION PLAN

19A High Street, Broughton
Application No.: KET/2013/0120



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