



**PLANNING COMMITTEE:** 18<sup>th</sup> December 2012  
**DIRECTORATE:** Planning, Enterprise and Regeneration  
**HEAD OF PLANNING:** Susan Bridge

**N/2011/0867:** Change of use of cellar to extend Restaurant / Café / Bar use on upper floors at 199 Kettering Road

**WARD:** Castle

**APPLICANT:** Mr Paul Hepworth

**REFERRED BY:** Cllr D Stone  
**REASON:** Impact on residential neighbour amenity

**DEPARTURE:** No

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**APPLICATION FOR DETERMINATION:**

**1. RECOMMENDATION**

**1.1 APPROVAL** subject to conditions and for the following reason:

The use would be in keeping with the character of Kettering Road as a Local / District Centre and would not lead to any undue adverse impact on adjoining residential properties or on highway safety. The proposal thereby complies with Policy E28 of the Northampton Local Plan and the guidance in the NPPF.

**2. THE PROPOSAL**

2.1 Planning permission (N/2011/0360) was granted by Planning Committee in June 2011 for change of use of the ground and first floor of the premises from a letting agency to restaurant with ancillary takeaway. The applicant now seeks consent to extend the use into the basement forming a bar and seating area (up to 22 covers) ancillary to the café/pub/restaurant on the ground and first floors. Work on the cellar has been on-going for some months and the works to this are now nearing completion. Notwithstanding this it is understood that the areas of the cellar which are substantially complete are now in use on Friday and Saturday evenings only. This has been approved by

Environmental Health under temporary event licences but planning permission is still required also.

### **3. SITE DESCRIPTION**

3.1 Former shop now in use as restaurant / bar on the ground and first floors. This was brought into use following the approval of planning permission in June 2011 . The unit is located within the Kettering Road local / district centre which comprises a broad range of shop and takeaway uses as well as one restaurant (Mumtaz) and The Picturedrome comedy club which includes a busy bar use.

3.2 There are residential flats above the neighbouring shops at 197 Kettering Road and in the basement area adjacent to the proposed bar use. There are further flats above other shops on the road as well as a nursing home on the other side of Kettering Road. To the rear of the site on Colwyn Road there are residential houses including a bungalow immediately behind the application site.

### **4. PLANNING HISTORY**

4.1 94/0245 - Change of Use from Retail Shop & Office to Insurance Brokers - Approved 18-05-1994.

4.2 N/2011/0360 - Change of Use from Letting Agency (Use Class A2) To Restaurant and Takeaway (Use A3/A5) - Approved 22-06-2011.

### **5. PLANNING POLICY**

#### **5.1 Development Plan**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the East Midlands Regional Plan, the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997.

#### **5.2 National Policies:**

National Planning Policy Framework (NPPF).

#### **5.3 Northampton Borough Local Plan**

E19 – Implementing Development

E28 – Use of upper floors above commercial premises

#### **5.4 Supplementary Planning Guidance**

Northamptonshire County Parking Standards SPG 2003

Planning out Crime in Northamptonshire SPG 2004

### **6. CONSULTATIONS / REPRESENTATIONS**

6.1 Letters of **objection** received from **42 Colwyn Road** and the landlords

of the adjoining flats / chalet bungalow at **195 and 197 Kettering Road** and **102 Hood Street** making the following points in summary:

- No rear access for delivery of food and drink, will cause congestion on an already busy road and disturbance in the general area.
- Smoking in the street, there is no outside area, again this is a busy road and pavement area and as a local resident I am concerned about smoke in the area and cigarette butts left on the ground,
- Although the application is for Restaurants and café and bar the primary intended use is clearly a bar.
- The proposed bar extends under the greengrocers shop, at no time has this been an A2 use.
- The application states that no waste or effluent would be produced, this appears questionable.
- All adjoining and surrounding properties in Kettering Road, Hood Street and Colwyn Road are residential, the proposed use would be inappropriate and an unnecessary intrusion into the lives of residents.
- The party wall of the proposed bar is hared by the bedroom of the adjoining residential flat.
- The residents of the care home diagonally opposite are likely to be affected (Noise and reduced car parking facilities).
- 199 Kettering Road already has permission for a restaurant, this further application will effectively create a public house resulting in the potential number of persons using the premises increasing to 100 or more.
- We question why this application was not part of the previous proposal and subsequent permission.
- There is no rest room / recreation area for staff.
- There is no external area for customers or staff.
- The plans do not show an external area for the storage of waste.
- There is insufficient car parking within the immediate and surrounding area to meet the existing requirements of local residents.
- The road immediately outside 199 /199B is restricted with double yellow lines
- The car park at the racecourse is regularly full to capacity at evenings and weekends.
- A new bar in this primarily residential corner of Kettering Road will be detrimental to residents, their visitors and users of the racecourse facilities and the car park.

6.2 **Conservation** – Given that the use of the upper floors has already been established and that the proposal to change the use of the cellar has no material impact upon the building or the conservation area, I have no objections.

6.3 **Highway Authority (NCC)** – Concerned at the lack of on site parking but recognise that there is public parking in the area.

6.4 **Environmental Health (NBC)** – Consider that the basement area

would be suitable for background music only, with no live bands. Concerned also that the premises are not suitable as a general public house use and suggest a personal permission to the current applicant.

- 6.5 **Police Crime Prevention Design Adviser** – Concerned that the bar and adjoining bedroom will represent a “conflict of interest” as described in “safer Places”, the companion guide to PPS1.
- 6.6 **Cllr D Stone** – One wall of the proposed bar is a party wall and next door is the bedroom of an occupied flat. A next door tenant is a doctor who works on shifts and her sleep is likely to be disturbed. Another next door tenant has a 2 year old and is pregnant and her sleep is likely to be disturbed. The proposed venue has no outdoor space so smokers will be forced on to the street on the corner of Hood Street and Kettering Road. This will cause a nuisance to residents and make women and vulnerable people returning home feel unsafe. I have been to the area and seen the flats in question and support the objections of the landlord of the neighbouring residential units. Please can the Committee take this into account when they look at the planning application.

## 7. APPRAISAL

- 7.1 The key issues to consider are the impact on the local / district centre and especially the impact on the amenities of adjoining and nearby residents.
- 7.2 The unit is located within the Kettering Road local / district centre as identified in the Local Plan. This centre contains a mix of uses including one restaurant as well as the Picturedrome (comedy club / music venue) close to the application site as well as some takeaway uses. The majority of the remaining units are shops (Use Class A1). The unit the subject of this application was previously in use as a letting agent (Use Class A2) and had become vacant. The ground and first floors were the subject of a previous application which was approved by the Planning Committee in 2011, for use as a restaurant. The cellar was not included in that application however it is now proposed to include this area, as a second bar area with additional seating, as well as cellar storage. This work on this area has now been largely completed and temporary event licences have been applied for. Given that the ground floor use is established, it is considered that the proposed additional use would not be out of keeping with the character of the local / district centre.
- 7.3 The impact of the proposals on adjoining occupiers’ amenity is of greater concern and it is the issues surrounding this matter that need careful consideration. There are two principal areas of concern. Firstly, there is the impact as a result of the use of the basement area for bar seating adjacent to a residential flat. Soundproofing has been installed and this has been the subject of testing, and comments from Environmental Health indicate that it is now considered that the playing

of background music only in this area would be acceptable. It is important that the sound insulation scheme be retained at all times the cellar is in use as a bar area, and a condition to this effect is proposed. A further condition is proposed to ensure that only music at a background level is played.

- 7.4 Of more concern is the potential impact from increased comings and goings from the premises, particularly of late night movements. However, it is considered that although the number of customers has now increased, these will merge quickly with customers of other premises on Kettering Road. It is not considered that the level of increase would cause an unacceptable impact on nearby occupiers.
- 7.5 Concerns have been raised as to disturbance from customers who wish to smoke during their visit to the premises, as there are no facilities within the site for this. The proprietor has stated that those customers who do smoke rarely go far from the door of the premises. The nearest residential doorway is some distance away, beyond two neighbouring shops and there is a doorway associated with the premises nearer than this. Whilst there is reportedly a problem with persons loitering in residential doorways there is no evidence that these are associated with the application site as it currently functions, and it is not considered that the increased floorspace proposed would increase this problem.
- 7.6 The upper floors of the premises are already in restaurant use. The basement area is intended to provide additional seating for customers wishing to drink only, and would allow the seating area on the upper floor to be available for those wishing to eat.
- 7.7 In terms of parking, due to its scale it is considered that the use would be unlikely to lead to significant additional pressure on on-street parking in nearby residential streets, as the adjacent street to the premises is one way onto Kettering Road, making use of this for parking inconvenient. Parking is available close to the premises on the Racecourse car park and it is considered that many customers would be likely to arrive on foot as is reportedly the case at present. The site is served by public transport.
- 7.8 In conclusion, officers have considered the potential impact of the proposed intensification and diversification of the use of this property, however due to its ancillary nature and limited scale it is considered that the proposal is acceptable in this local / district centre and would not lead to a significant additional impact which would warrant a refusal.

## **8. CONCLUSION**

- 8.1 It is considered that the proposed use would enhance the vitality and viability of the Kettering Road local / district centre and would not lead to any undue adverse impact on adjoining residential properties.

## **9. CONDITIONS**

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
- (2) Within three months of the date of this permission a scheme shall be agreed with the Local Planning Authority which specifies the sources of noise on the site, whether from fixed plant or equipment or noise generated within the building, including any music played, and the provisions to be made for its control. The agreed scheme shall be implemented prior to the development coming into use and shall be maintained thereafter.  
Reason: In the interests of residential amenity in accordance with NPPF.
- (3) The sound insulation as installed in the premises shall be retained and maintained for so long as the use hereby approved remains in existence unless otherwise approved in writing by the Local Planning Authority.  
Reason: In the interests of residential amenity in accordance with NPPF.
- (4) The use hereby approved is for a bar area ancillary to the approved use of the upper floors as restaurant/café and shall not be used as a separate planning unit.  
Reason: In the interests of the amenity of the surrounding locality in accordance with NPPF.

## **10. BACKGROUND PAPERS**

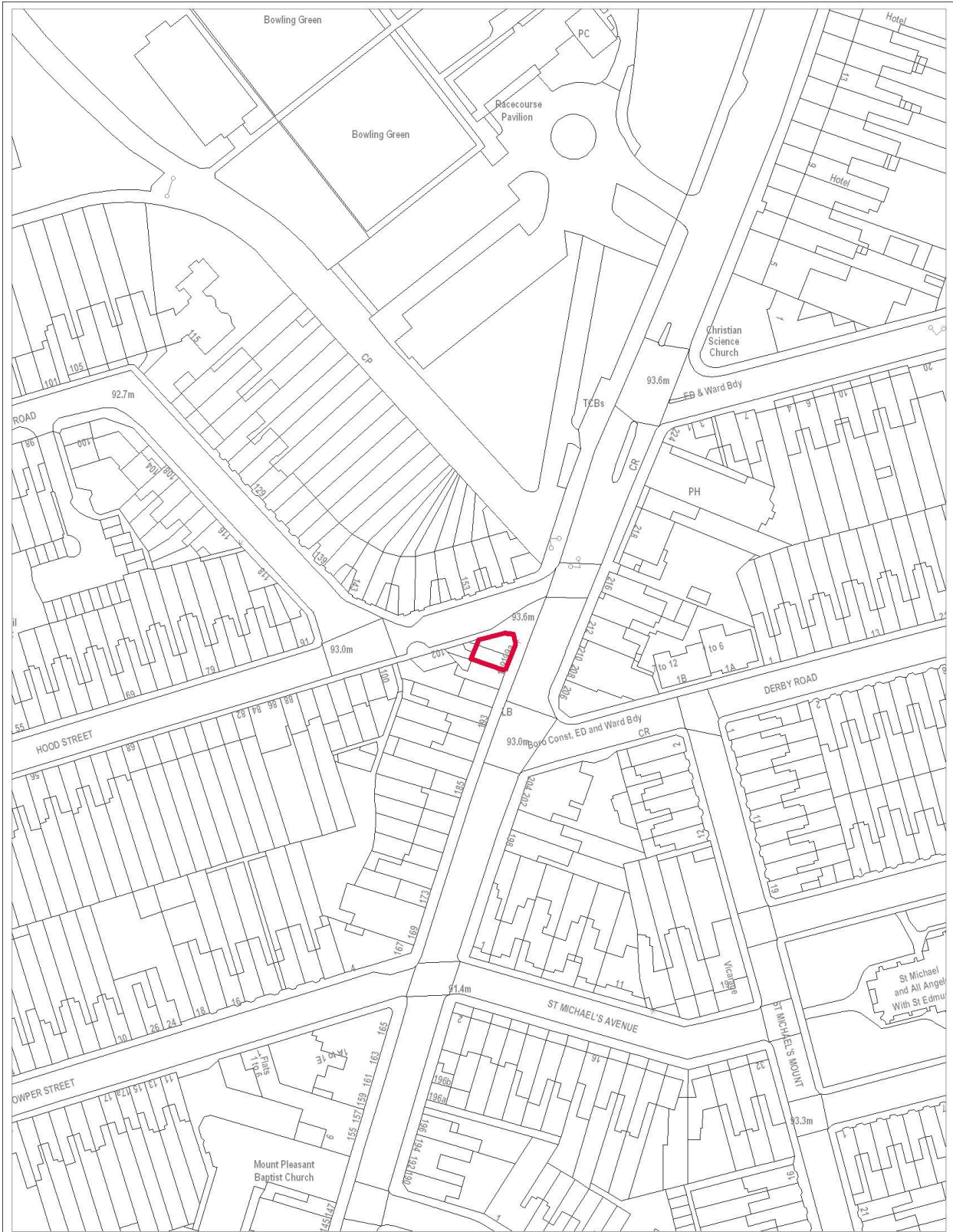
- 10.1 N/2011/0360 and N/2011/0867.

## **11. LEGAL IMPLICATIONS**

- 11.1 None.

## **12. SUMMARY AND LINKS TO CORPORATE PLAN**

- 12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Name: Becky Gittins  
 Date: 7th December 2012  
 Scale: 1:1250  
 Dept: Planning Support  
 Project: Location Plan

Title  
**199 Kettering Road**

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