



PLANNING COMMITTEE: 2 July 2013
DIRECTORATE: Regeneration, Enterprise and Planning
HEAD OF PLANNING: Susan Bridge

N/2013/0445 **Change of use of ground floor from retail (Class A1) to hot food takeaway (Class A5) and create 1 no. self-contained flat on first floor and second floor; installation of extraction flue to the rear and alteration of shop front including access to upper floor flat and alteration to existing roller shutter to front.**

WARD: Kingsley

APPLICANT: Mr E Ismailanji
AGENT: N/A

REFERRED BY: Cllr Mennell
REASON: Impact on amenity arising from potential litter from the premises

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

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

Whilst the change of use of the premises to a hot food takeaway would result in the loss of a shop use within the Local Centre there would remain a sufficient number of units and frontage in retail use within the locality such that the shopping character of the Local Centre would be retained. The proposal would bring back into use a vacant premises on a prominent shopping frontage in line with government objectives to encourage economic growth. Sufficient parking provision is available such that highway conditions would not be adversely affected and subject to the conditions proposed surrounding amenity would not be adversely affected and would also allow for suitable residential accommodation on the upper floors of the premises. The proposal is therefore in accordance with Policy R9, Policy H7 and Policy H26 of

the Northampton Local Plan and NPPF paragraphs 17, 18, 19 & 49 and is considered acceptable.

- 1.2 The statutory consultation period does not expire until 26 June. Any additional comments received will be reported to Committee as an addendum.

2. THE PROPOSAL

- 2.1 The application proposes the conversion of the existing shop to a hot food takeaway and the conversion of the first and second floor above to living accommodation including a home office. The shop front would be altered to insert a new front door providing separate access to the flat and the existing roller shutter reduced in size. A flue, approximately 4.6m in height would be installed to the rear of the property for the extraction of cooking odours. Two parking spaces would and an area for refuse storage would be available to the rear of the property. Proposed hours of use would be Monday to Saturday 8am to 11pm and Sundays and Bank Holidays 8.30am to 10.30pm with two full time employees.
- 2.2 Details have been submitted with the application advising that the property has been marketed since September 2012 with the previous owner having marketed the property for six months prior to this. After eight months of marketing there has been no interest shown in using the premises for retail use.

3. SITE DESCRIPTION

- 3.1 The application site forms part of a row of retail and commercial premises fronting onto Kettering Road within Kingsley Local Centre. No. 70 is a 3-storey property currently vacant but previously used as a shop at ground floor with ancillary storage and office on the upper floors. A parking area to the rear of the premises is accessed via Shelley Street serving the application site and the adjoining shops with two parking spaces allocated to No. 70. A bus stop is located directly to the front of the premises on Kettering Road. The immediate adjacent uses are a shop and Chinese takeaway. Properties on the opposite side of Kettering Road are predominantly residential interspersed with some commercial uses.

4. PLANNING HISTORY

- 4.1 74/0475 – Change of use of part ground floor and upper floors from residential to office. Approved 31.07.74.

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 saved policies of the Northampton Local Plan 1997.

5.2 **National Policies:**

National Planning Policy Framework (NPPF):

- Paragraph 17 – Core Planning Principle
- Paragraphs 18 & 19 – Economic growth
- Paragraph 49 - Housing

5.3 **Northampton Borough Local Plan:**

R9 – Retail

H7 – Housing

H26 – Flats above shops

5.4 **Supplementary Planning Guidance:**

Northampton Shopfront Design Guide

6. **CONSULTATIONS/ REPRESENTATIONS**

6.1 **Environmental Health** - a tall stack will be an essential part of an extraction system, the visual amenity of which will be a point for consideration. Conditions are suggested requiring the agreement of schemes in relation to the identification and control of external and internal noise sources on the site, the control of cooking odours, disposal of fats, oils and grease, refuse storage and the restriction of “bottling out” times.

6.2 **Highway Authority** - no objection.

6.3 **Councillor Mennell** - expresses concern regarding the proximity of a hot food takeaway to the bus stop which is directly outside the premises and the potential for rubbish to be dropped littering the street. If the application is approved the new shop owners should be required to put new waste bins outside.

6.4 A letter has been received from the occupier of No. **72 Kingsley Park Terrace** together with a **petition containing the signatures of 213** shopkeepers, residents and customers objecting the to the proposal as follows:

- There are already numerous hot food takeaways, restaurants and coffee shops on the Kingsley front. It would be nice to see a diversity of shops rather than another food shop.
- There is limited parking for existing customers causing parking on side roads and at the bus stop directly outside No. 70.
- There seems to be a lot of litter on the Kingsley front which would be exacerbated by another food takeaway.
- Concern regarding waste disposal. Our waste is collected from Shelley Street twice a week however there have been problems with refuse vehicles gaining access to Shelley Street due to cars parked on the junction resulting in waste not being collected on time and bins left causing obstruction. Another bin would be a further obstruction.

- Concern regarding anti-social behaviour. There have been numerous groups of teenagers hanging around the bus stop outside No. 70 which at times is very stressful to passers-by and customers. A fast-food takeaway at No. 70 would perhaps encourage a 'hangout' area at the bus stop.

6.5 The consultation period has not expired at the time of writing this report. Any additional consultation responses or representations will be reported to Committee via the Addendum report which is circulated at the Committee meeting.

7. APPRAISAL

7.1 The main issues for consideration are the impact on the retail character of the Local Centre as a shopping area, impact on neighbouring amenity and existing highway conditions, the principle of residential use and the impact on the appearance of the existing property and surrounding area from the proposed external alterations.

Impact on retail character of Local Centre

7.2 A Core Planning Principle of NPPF is to proactively drive and support sustainable economic development. Paragraphs 18 & 19 highlight the government's commitment to securing this advising that significant weight should be placed on the need to support economic growth with planning operating to encourage and not act as an impediment to growth.

7.3 Retail Policy 9 of the Local Plan seeks to protect the shopping character of District and Local Centres by ensuring that non-shop uses within a total frontage do not increase to an unacceptable proportion of the total frontage such that the shopping character of the area is adversely affected. The impact of the proposal on traffic conditions and the amenity of neighbouring properties and the area as a whole should also be considered.

7.4 No. 70 Kingsley Park Terrace forms part of a terrace of 11 units (Nos. 56-80). The use of these units currently comprises of six shops (A1) including the application site, one pub (A4), two estate agents (A2), one restaurant (A3) and one takeaway (A5). In broadening this assessment to include the frontage of the terraced blocks either side of and including the application site in the wider Centre (i.e. from Kingsley Park Methodist Church to the Tesco's store) there are currently three hot food takeaways, one pub and a restaurant with a further four units occupied by estate agents and a betting shop (A2) and the remaining 16 units in use as shops (A1) out of a total of 26 units.

7.5 Whilst the proposed takeaway use would sway the balance towards non-shop uses along the immediate section of frontage adjoining the application site, the overall frontage including the adjoining terraces which form the central body of the Local Centre would as a whole

remain predominantly shop uses retaining 61% of the units in retail use.

- 7.6 On balance, the overall shopping character of the Local Centre would be retained whilst bringing back into use a vacant property on this prominent frontage. The proposal is in line with the government's aims to encourage business development and economic growth and subject to acceptable impact on amenity and highway conditions the use of the premises as a hot food takeaway is considered to comply with policy and is therefore acceptable.

Impact on neighbouring and local amenity

- 7.7 Residential uses are predominantly concentrated on the opposite side of Kettering Road although some of the upper floors of premises adjacent to the application site are in residential use and therefore impact on residential amenity is a material consideration particularly with regard to noise and odours arising from the proposal.
- 7.8 The proposed hours of use are not considered unreasonable in view of adjacent uses and the site's location within the Local Centre where a greater degree of activity is to be expected. Some details of odour control, including a flue to the rear of the premises, have been submitted and an area for refuse storage is available to the rear of the premises. Further specific details for the control of noise, cooking odours and the management of refuse can be agreed by condition as recommended by Environmental Health to ensure that the proposal does not lead to any significant adverse impact on adjacent residential amenity.
- 7.9 Concerns have been raised about the potential for the proposed takeaway use to generate litter problems within the vicinity of the premises and the adjacent bus stop. There are three litter bins within the vicinity of the site along this terrace of shops with additional litter bins located along the remainder of Kingsley Park Terrace which is considered sufficient for both the proposed and surrounding uses.
- 7.10 A condition requiring the submission of details for the storage of refuse is recommended to ensure satisfactory waste disposal.
- 7.11 The comments of the Crime Prevention Officer are awaited regarding the proposed use and concerns raised about anti-social behaviour and will be reported as an addendum to this report.

Impact on highway conditions

- 7.12 The premises has two parking spaces to the rear for use by the occupiers with general parking available on Kettering Road where there are designated on-street bays. The site is located in a sustainable location on a main road with good access to public transport. The Highway Authority has no objection and it is not considered that the

proposal lead to any significant highway impacts in addition to those of the previous use.

Principle of residential use

- 7.13 NPPF paragraph 49 advises that housing applications should be considered in the context of a presumption in favour of sustainable development. Local Plan Policy H7 allows for residential development outside of primarily residential areas providing a satisfactory residential environment can be achieved and there are no highway concerns. Policy H26 promotes the use of upper floor above shops for residential uses. The proposed residential use is in a sustainable location with good access to local facilities and public transport. Sufficient parking is available to the rear. Whilst details of a flue system have been submitted a condition is proposed for further details to be submitted to ensure a suitable extraction system is installed that would protect both the proposed and neighbouring amenity.

Impact on appearance

- 7.14 The proposed alterations to the existing shopfront to insert a new doorway would have minimal impact on the appearance of the frontage and predominantly retain an active frontage to the street.
- 7.15 The proposed flue would be sited to the rear of the property sitting below the ridge line and would not be visually prominent from any public vantage points.
- 7.16 None of the alterations proposed would not have any significant adverse impact on the character or appearance of the existing building or the surrounding area and are considered acceptable.

8. CONCLUSION

- 8.1 It is considered that the proposed change of use would not lead to any significant impact on the shopping character of the Local Centre as a whole. The site has sufficient parking provision such that existing highway conditions would not be adversely affected and, subject to the conditions proposed, both existing and proposed residential amenity and the general amenity of the area would be protected.

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) The premises shall be open only between the hours of 8am to and 11pm Monday to Saturday and 8.30am to 10.30pm Sundays and Bank Holidays.

Reason: In the interests of the amenity of the area and to comply with the requirements of Policy R9 of the Local Plan.

- (3) Notwithstanding the submitted details before the A5 (hot food takeaway) use hereby permitted commences a scheme shall be approved in writing by the Local Planning Authority that specifies the external and internal noise sources on the site and the provision for their control. The scheme shall be implemented in accordance with the approved details, confirmation of which should be sought by Environmental Health, prior to the commencement of the use hereby permitted and maintained throughout the life of the use hereby approved.

Reason: In the interests of the amenity of the area and to comply with the requirements of Policy R9 of the Local Plan.

- (4) The practice of “bottling out” (i.e. the tipping of empty bottles or cans into refuse bins), shall not take place between the hours of 23:00 and 08:00.

Reason: In the interests of the amenity of the area and to comply with the requirements of Policy R9 of the Local Plan.

- (5) Notwithstanding the submitted details before the A5 (hot food takeaway) use hereby permitted commences a scheme shall be submitted to and agreed in writing with the Local Planning Authority that specifies the provision to be made for:

1. The collection, treatment and dispersal of cooking odour.
2. The on-going maintenance of the odour abatement plant.
3. The provisions to be made for the collection, treatment and disposal of fats, oils and grease (e.g. by the provision of grease interceptors to BS EN 1825:2002 standards) and the maintenance of the plant.

The scheme shall include information in accordance with the requirements of Paragraph 10 of Annex B and a detailed assessment in accordance with Annex C of the Defra Guidance on the ‘Control of Odour and Noise from Commercial Kitchen Extract Systems’. The scheme shall be carried out in accordance with the approved details and maintained throughout the life of the use hereby permitted.

Reason: In the interests of the amenity of the area and to comply with the requirements of Policy R9 of the Local Plan.

- (6) Notwithstanding the submitted details before the A5 (hot food takeaway) use hereby permitted commences details for the provision for the storage of refuse and materials for recycling shall be submitted to the Local Planning Authority for approval in writing. The scheme shall be carried out in accordance with the approved details and maintained throughout the life of the use hereby permitted.

Reason: In the interests of the amenity of the area and to comply with the requirements of Policy R9 of the Local Plan.

Informative:

With regard to Conditions 3 external noise and internal noise sources might include but are not exclusively air conditioning units or extract fans, music, factory processes. Where the site shares a party wall with an adjacent site this then the provision for improving sound insulation should be specified.

10. BACKGROUND PAPERS

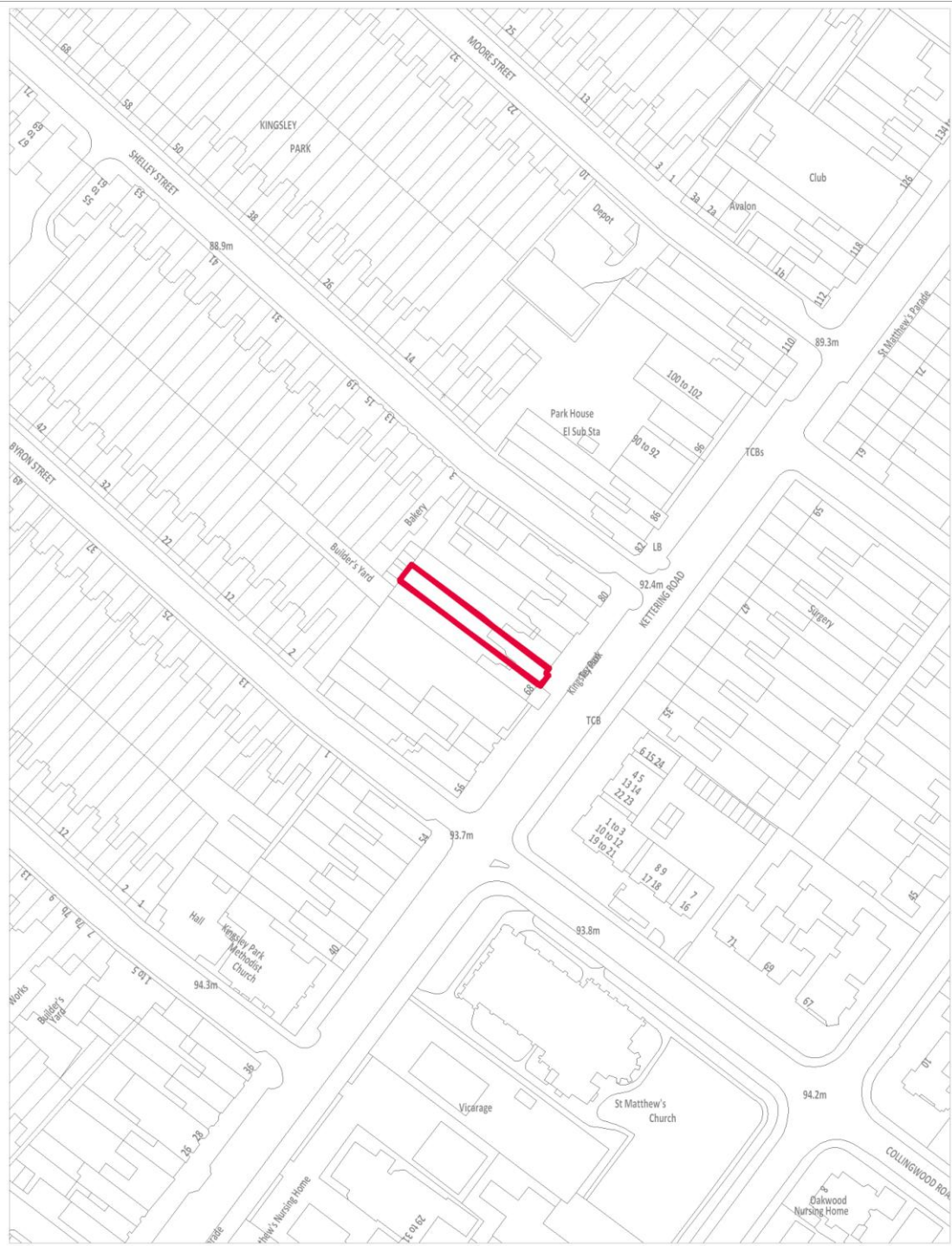
10.1 N/2013/0445.

11. LEGAL IMPLICATIONS

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: Planning
 Date: 18th June 2013
 Scale: NTS
 Dept: Planning
 Project: Committee

Title
N/2013/0445

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