

PLANNING COMMITTEE: 26th July 2016
DIRECTORATE: Regeneration, Enterprise and Planning
DIRECTOR: Steven Boyes

APPLICATION REF: N/2016/0605

LOCATION: 54 Wellingborough Road

DESCRIPTION: Creation of Shisha area to rear including covered seating

WARD: Castle Ward

APPLICANT: Mr J MAHMOOD
AGENT: Design Board-Architectural Services

REFERRED BY: Councillor D Stone
REASON: Concerned about refuse storage, neighbour amenity and health issue

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

1.1 **APPROVAL** subject to the conditions as set out below and for the following reason:

The proposed development, as a temporary measure and subject to conditions, would have a neutral impact upon the character and appearance of the surrounding area, the Boot and Shoe Quarter Conservation Area and neighbour amenity. The development is therefore in conformity with the requirements of the National Planning Policy Framework; Policies BN5 and S10 of the West Northamptonshire Development Corporation and Policy 1 of the Northampton Central Area Action Plan.

2. THE PROPOSAL

2.1 The applicant seeks permission for the erection of a covered canopy to the rear of the site, which would be utilised as a shisha area.

3. SITE DESCRIPTION

3.1 The application site consists of a commercial property located within the town centre as defined by the Northampton Central Area Action Plan. The site also falls within the Boot and Shoe Quarter Conservation Area.

3.2 The building itself is of substantial proportions and features a large area to the rear, which is currently used for car parking and refuse storage. This includes direct access from St Edmunds

Road, which runs to the south of the site. This rear area features substantial walls as boundary treatments, which have a height of approximately 1.8m.

- 3.3 As a consequence of the town centre location, a number of the surrounding properties are in use for commercial purposes. This includes restaurants and public houses, which contribute to a general character of evening/late night activity. Notwithstanding this, there are number of residential properties in the form of flats above commercial units within the vicinity, whilst St Edmunds Road is more residential in character.

4. PLANNING HISTORY

- 4.1 N/2016/0308 – Change of use of shop to restaurant – Approved

5. PLANNING POLICY

5.1 Statutory Duty

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 Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014) and Northampton Central Area Action Plan (2013).

- 5.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities when considering development to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

5.3 National Policies

The National Planning Policy Framework (NPPF) sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document; however, the following paragraphs are of particular relevance.

- 5.4 Paragraph 17 states that planning seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings and to conserve heritage assets in a manner appropriate to their significance. Paragraph 129 also requires that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal.

5.5 West Northamptonshire Joint Core Strategy (2014)

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

- 5.6 Policy S10 (Sustainable Development Principles) requires that developments be of a good design and the occupiers of neighbouring properties are not unduly impacted through noise.

- 5.7 Policy BN5 also requires that heritage assets are conserved in manner that it consistent with their significance.

5.8 Northampton Central Area Action Plan 2013

The Central Area Action Plan (CAAP) provides specific planning policy and guidance for the town centre and adjoining areas where significant regeneration and investment is proposed in the period up to 2026 and is in conformity with the objectives of the NPPF. Relevant policies include:

- 5.9 Policy 1 (Promoting Design Excellence) requires that developments be of a good design and makes efficient use of the land, whilst providing a wider range of choice for users.

6. CONSULTATIONS/ REPRESENTATIONS

Comments received are summarised as follows:

- 6.1 **Conservation** – No objections.
- 6.2 **Environmental Health** - Concerns are raised about noise and disturbance, even though a noise assessment has been submitted and it is recommended that temporary consent is granted for the development only. Furthermore, it is suggested that concerns are attached to any approval relating to access arrangements, hours of usage, controls over music and maximum numbers of people that can use the shelter at any one point.
- 6.3 **Cllr. D. Stone** – Requesting that the application be determined by the Planning Committee on the grounds that the development would make waste storage difficult and the development would have an adverse impact upon neighbour amenity. Concerns are also raised regarding the impacts on health.

7. APPRAISAL

- 7.1 The physical development consists of the erection of a flat roofed, wooden structure with open sides that would be constructed within the rear area of the property. As this structure exceeds the height of the existing boundary treatment by a limited amount, the overall impact upon the visual amenity of the locality and the character and appearance of the Boot and Shoe Quarter Conservation Area would be neutral. In addition, the limited proportions of the structure also sufficient to prevent any significant loss of amenity of the occupiers of neighbouring properties in terms of considerations such as light, outlook and privacy.
- 7.2 It is recognised that the proposed development has the potential to create some noise. The applicant has submitted a noise assessment, which concludes that the development is unlikely to cause a significant adverse impact upon the occupiers of neighbouring properties in terms of noise and disturbance. In order to provide certainty of these impacts, it is recommended that a condition is imposed that limits the hours of the usage of the shelter and preventing the use of amplified music within the confines of the development.
- 7.3 Notwithstanding these measures, it is noted that there are relatively few developments of the type proposed currently within the Borough. Therefore in order to enable the Local Planning Authority to monitor the impacts of the development and potentially revisit the above recommended conditions if needs be, it is recommended that a temporary consent is granted. This would run for a period of 18 months and would mean that if there was an intention to continue the development beyond this period a fresh planning application would be required.
- 7.4 It is noted that the Council's Environmental Health section have requested a condition that establishes a maximum number of people that can use the shelter at one time. In response to this, it is considered that such a condition would not be enforceable and would therefore not be reasonable as required by Government legislation. Notwithstanding this conclusion, it is considered that the aforementioned conditions and the temporary nature of any permission are sufficient to prevent any significant detrimental impact upon the amenities of surrounding properties.

- 7.5 Representations have been received which comment upon the impacts of smoking upon health levels. In response, it should be recognised that planning policies relating to health matters focus on the provision of opportunities to undertake a healthier lifestyle. Planning policies at neither national nor local level are structured in such a way so as to resist a development that may be used for an activity that is not necessarily healthy, but is legal and ultimately the responsibility of the individual concerned as to whether they participate in the activity. As a result of this, the impacts of the development upon health levels are not a matter that can be given a significant amount of weight within the determination of this planning application.
- 7.6 During the course of the application process, the applicant has provided clarification that an appropriate amount of refuse storage can be accommodated between the proposed shelter and the site's car parking. Given this situation and the fact that it can be secured by a condition, it is considered that the development would not cause an acceptable detrimental impact upon amenity arising from poor refuse storage.
- 7.7 It would be anticipated that the propose smoking area would operate in tandem with the restaurant that has previously gained planning permission, which when combined with the sustainable nature of the site's proposed location and the retention of three parking spaces, which is an appropriate number given the scale, use and location of the site. The existing yard is currently used for car parking and outside storage. As a consequence, the proposed development would not impact on deliveries made to the property. These circumstances when combined are sufficient to prevent any significant adverse impact upon the highway system.

8. CONCLUSION

- 8.1 It is considered that the proposed development, subject to conditions, would have a neutral impact upon amenity and the surrounding area. Furthermore, appropriate refuse storage would be provided and as a consequence, the development would be in conformity with national and local planning policies. In addition to these factors, a temporary consent would enable the Council to assess the development in situ and potentially revisit the decision in due course.

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 development hereby permitted shall be removed and the land restored to its original condition within 18 calendar months of the development first coming into use. The Local Planning Authority shall be notified in writing of this date at least 14 days in advance of the first use of the development hereby permitted.

Reason: In order to allow the Local Planning Authority to assess the impacts of the development in situ in accordance with the requirements of the National Planning Policy Framework.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: A425-SLPb; and A425-2b.

Reason: For the avoidance of doubt and to accord with the terms of the planning application.

4. Notwithstanding the details submitted, no live or amplified music shall be played within the development hereby permitted.

Reason: In the interests of the amenities of surrounding properties in accordance with the requirements of the National Planning Policy Framework.

5. The development hereby permitted shall only be used between the hours of 11am and 10pm on any one day on Mondays to Fridays and 11am and 11pm on Saturdays, Sundays, Bank Holidays and Public Holidays.

Reason: In the interests of the amenities of surrounding properties in accordance with the requirements of the National Planning Policy Framework.

10. BACKGROUND PAPERS

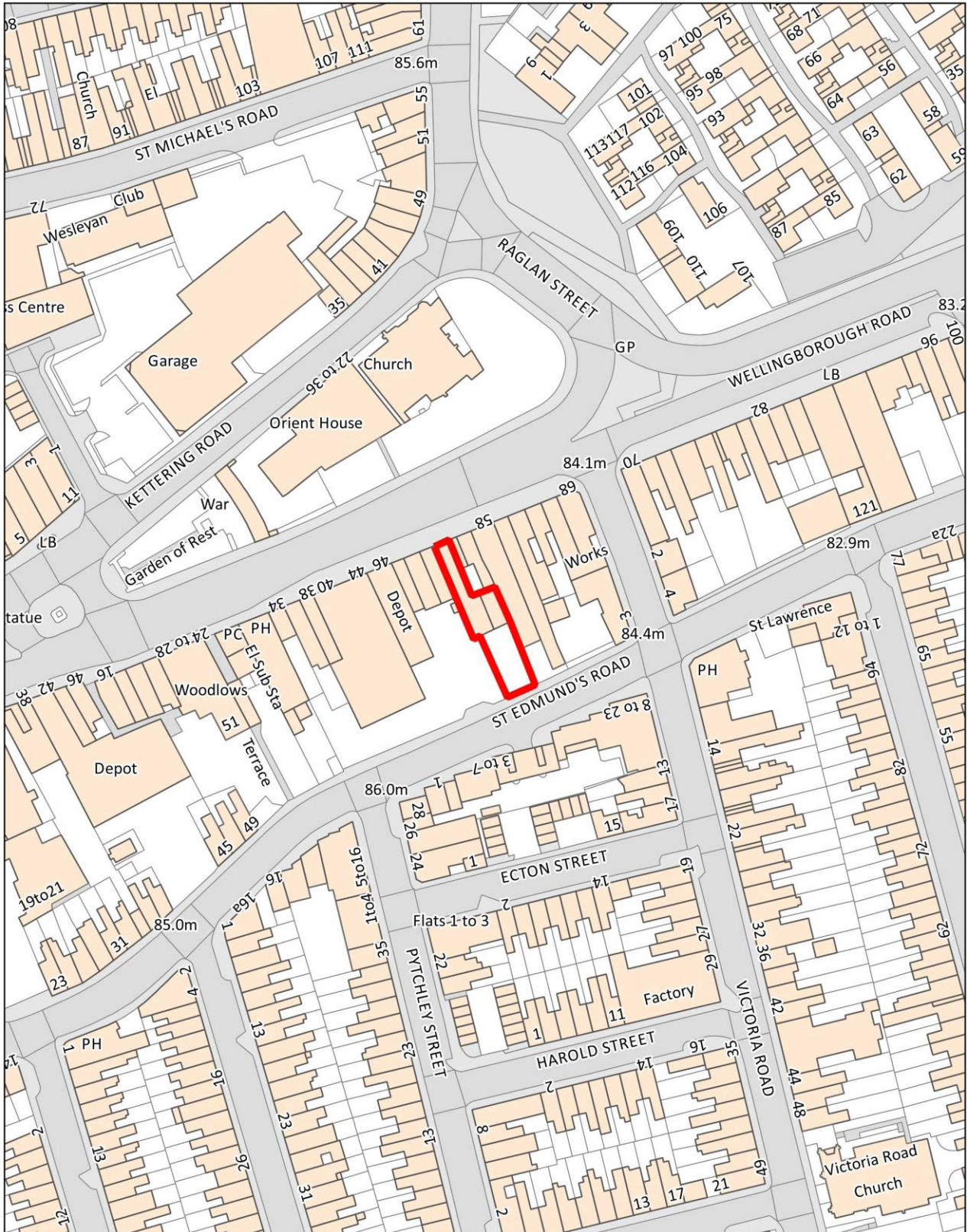
10.1 None

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.



Title: **54 Wellingborough Road**

© Crown copyright and database rights 2016 Ordnance Survey licence no. 10019655

Date: 14-07-2016

Scale: 1:1,250

Drawn by: -----