

**North Northamptonshire Area Planning (Kettering)
Committee
03/03/2022**

Application Reference	NK/2021/0872
Case Officer	Alan Chapman
Location	22 Bracken Close, Kettering
Development	Full Planning Permission: Change of use of outbuilding to salon
Applicant	Miss L Hayes & Mr R Munton
Agent	Miss L Hayes
Ward	Brambleside
Overall Expiry Date	03/01/2022
Agreed Extension of Time	04/03/2022

All plans and documents can be viewed using the application reference number at <https://www.kettering.gov.uk/planningApplication/search>

Scheme of Delegation

This application is brought to committee because it falls outside of the Council's Scheme of Delegation because there are unresolved, material objections to the proposal.

1. Recommendation

1.1 That planning permission be GRANTED subject to conditions.

2. The Proposal

2.1 Full Planning Permission: Change of use of outbuilding to salon

2.2 Due to issues raised by objectors, the Local Highway Authority, and the case officer over a safe means of pedestrian access without having to pass/re-

pass over private land not under the control of the Applicants, amended plans (received 14 February 2022) were submitted detailing the fenced and gated route to the proposed salon from the front of the property.

2.3 A short re-consultation (7 days) was actioned on the amended plans received 14 February 2022, such that further comments can be received and reported to Planning Committee as updates.

2.4 Background

Planning permission for a residential annex (KET/2020/0748) was approved on this site on the 27th January 2021. The approved plans for this decision show that the annex (currently under construction) has internal connecting doors to the existing dwellinghouse, thus indicating that the applicants propose to use the annex as additional living space to their home rather than using the annex as a self-contained and separate dwelling unit for sale or rent. Indeed, Condition 4 of KET/2020/0748 reads:

4. The annexe extension hereby permitted shall not be occupied other than as part of the single residential use of the dwelling known as 22 Bracken Close.
REASON: Subdividing the plot would lead to a cramped form of development, out of character with the form and pattern of development in the area with insufficient vehicular parking or amenity space contrary to Policy 8 of the North Northants Joint Core Strategy

Prior to the making of this NK/2021/0872 application the Applicant submitted a planning enquiry for the change of use of an outbuilding into a hair salon with the proposed hours of operation being: Tuesday to Friday 9am – 6pm, Saturday 9am – 12pm. On the 19th October 2021 a senior planning officer responded that support for such a proposal would be likely and invited the applicant to submit a planning application for the change of use. However, on the submitted application form (NK/2021/0872) the applicant proposes the hours of operation to be: Monday to Friday 9am – 6pm, Saturday 9am – 12pm.

3. **Site Description**

3.1 The application site comprises a two-storey detached dwelling with attached single garage located on the south side of Bracken Close on a corner plot located at the entrance of the cul-de-sac of Bracken Close. Adjacent to the west is a bungalow and to the east is an area of open space. To the south are other two-storey dwellings. There is an existing outbuilding at the bottom of the garden. The area is residential and within the built-up area of Kettering. The single storey side extension to create annexed accommodation (approved under KET/2020/0748) is currently under construction at the site. A new concrete post and timber panelled fence has been constructed around the site's western boundary.

3.2 Constraints:
Private road.

Lack of hard-surfaced footway within the publicly maintained highway.

4. Relevant Planning History

4.1 List all previous planning applications as follows:

Application No	Decision	Date	Address	Description
KET/1964/0590	APPROVED	26-02-65	Rockingham Road (Land off), Kettering Northamptonshire	Residential development
KET/1968/0061	APPROVED	30-01-68	Brambleside Estate (Off Rockingham Road), Kettering Northamptonshire	Residential development on land edged in red
KET/1980/0677	APPROVED	04-08-80	Brambleside, Kettering Northamptonshire	Residential development
KET/1982/0517	APPROVED	02-12-82	Rockingham Road (Land off), Kettering Northamptonshire	71 detached dwellings
KET/2004/0765	ZAC	19-10-04	22 Bracken Close, Kettering	Extension to side and rear
KET/2019/0797	APPROVED	30-07-20	22 Bracken Close, Kettering Northamptonshire	Remove conifers and replace with 2m high concrete post, gravel board and feathered edge fence panel
KET/2020/0748	APPROVED	27-01-21	22 Bracken Close, Kettering Northamptonshire	Single-storey side extension to create annexe

5. Consultation Responses

A full copy of all comments received can be found on the Council's website at:

<https://www.kettering.gov.uk/planningApplication/search>

5.1 Kettering Town Council

No comments received at time of writing.

5.2 Neighbours / Responses to Publicity

Three (3) OBJECTION letters have been received. The issues raised are summarised below:

Landownership boundaries.

Land registry disputes.
Construction details of proposed footpath.
Private deeds concerning maintenance and use of/parking on the private road.
Conflicts between manoeuvring/parking of vehicles and pedestrians visiting salon along the private road.
Proposed path be completed before salon opens.
Access arrangements for potential customers.
Non-lit proposed footpath hazard to pedestrians.
Recommend access to salon be through applicant's land inside the boundary fence.
Parking demands from development.
Noise from salon.
Proposed footpath on land outside applicant's control.
Possible confrontation between applicants/neighbours/customers.
Have no problem per se with salon.
Appearance of shop front.
Limit any signage and lighting to be small and discreet.
Retail development in residential area.
Application is retrospective – works on outbuilding have already commenced.
Visibility and highway safety.

5.3 Local Highway Authority (LHA)

Recommendations:

Should the LPA be minded to approve the application, they must satisfy themselves as regards parking and servicing of the site. It is suggested a suitably worded condition is emplaced to ensure the building remains ancillary to the dwelling.

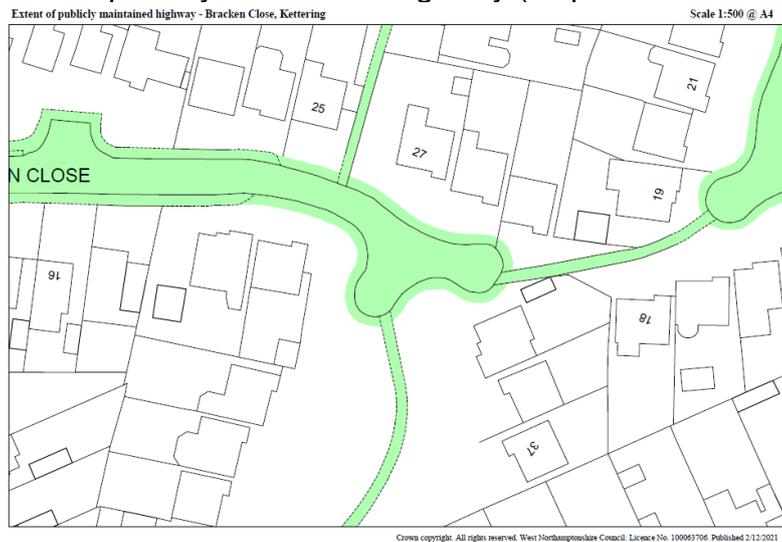
Based on the supplied information, it is thought the pedestrian access to the west of the salon would front onto a private road. A copy of the highways extents should be obtained and supplied from the Council's Land Searches team to accurately ascertain this. If indeed it does not front onto public highway, it is suggested the gate is re-located such that it is accessed directly off public highway land.

Recommendations (amended plans):

The revised plans now detail access adjacent to the shared private drive onto what is understood to be a private section of Bracken Close, as shown on the extract below from Northamptonshire Interactive Mapping tool by the absence of the blue line over the southern turning stub. The LPA should satisfy themselves the applicant has the appropriate approval to right of access from the landowner.



5.4 Land Searches' Team (Northamptonshire Highways)
Plan of publicly maintained highway (as per LHA advice):



5.5 Environmental Protection
There are no objections to the proposal or proposed working hours.

5.6 Environmental Care (waste)
No comments received at time of writing.

6. Relevant Planning Policies and Considerations

6.1 Statutory Duty
Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

6.2 National Policy
National Planning Policy Framework (NPPF) (2021)
Policy 1: Introduction
Policy 2: Achieving sustainable development
Policy 4: Decision-making
Policy 5: Delivering a sufficient supply of homes
Policy 6: Building a strong, competitive economy
Policy 9: Promoting sustainable transport

Policy 11: Making effective use of land
Policy 12: Achieving well-designed places
Policy 14: Meeting the challenge of climate change, flooding and coastal change

National Planning Practice Guidance (NPPG)
National Design Guide (NDG) (2019)

6.3 North Northamptonshire Joint Core Strategy (JCS) (2016)
Policy 1: Presumption in Favour of Sustainable Development
Policy 6: Development on Brownfield Land
Policy 8: North Northamptonshire Place Shaping Principles
Policy 11: The Network of Urban and Rural Areas

6.4 Kettering Site Specific Part 2 Local Plan (Adopted December 2021)
LOC1: Settlement Boundaries
EMP4: Live Work Units

7. Evaluation

The key issues for consideration are:

- Principle of Development
- Character and Appearance
- Impact on Living Conditions
- Highway Matters
- Other Matters

7.1 Principle of Development

7.1.1 The proposal is to convert an existing outbuilding that is incidental to residential use, to a work unit solely for the benefit of the applicant (residing at the property) to operate a hair salon, where the applicant is the sole employee/worker.

7.1.2 UK Government planning guidance states that 'working from home' (e.g., converting a garage into an office or place of work) may be permitted development where planning permission is not required. The guidance goes on to state that planning permission will probably be required if:

- a) The home no longer be used mainly as a private residence
- b) The business will result in a marked rise in traffic or people calling
- c) The business will involve any activities unusual in a residential area
- d) The business will disturb neighbours at unreasonable hours or create other forms of nuisance such as noise or smells

7.1.3 Due to the nature of the development proposed, then a hair salon at this residential location could give rise to a marked rise in traffic/people calling, unusual activities and disturbance to neighbours. Accordingly, this application was invited such that the above matters could be more fully assessed.

- 7.1.4 Policy 6 of the JCS encourages the reuse of suitable buildings within the urban areas.
- 7.1.5 Policy 11 of the JCS directs new employment development to be located in a hierarchical manner (the Spatial Strategy) to strengthen the network of settlements where the Growth Towns, such as Kettering, are placed at the top of the hierarchy.
- 7.1.6 Policy LOC1 of the Kettering Site Specific Part 2 Local Plan is generally supportive of employment development within settlement boundaries subject to their compliance with the listed policy criteria and all other development plan policies.
- 7.1.7 Policy EMP4 of the Kettering Site Specific Part 2 Local Plan is generally supportive of live/work units where small businesses (including professional services) are supported in mixed-use and residential areas outside the designated town centres subject to their compliance with the listed policy criteria (such as not resulting in loss of residential amenity or a significant increase in on-street parking, and being specifically designed to ensure the commercial use remains ancillary to the residential use) and all other development plan policies.
- 7.1.8 The general principle of development is considered acceptable but only in so far that the proposed development is located within an urban area, it would provide a live/work premises solely for the benefit of the applicant and would reuse an existing building. However, the proposed development is further assessed for its compliance with all other relevant Development Plan policies below.

7.2 Character and Appearance

- 7.2.1 Policy 8(d)(i) of the North Northamptonshire Joint Core Strategy requires new development to respond to the site's immediate and wider context and local character.
- 7.2.2 The character and appearance of an area is not only affected by physical changes to the built environment but also by the operational uses that occur within it.
- 7.2.3 The outbuilding is a single storey structure with a mono-pitched pan tiled roof sites in the rear garden and facing the open area of land to the east and next door to the side elevation of No.24 Bracken Close. Public views onto the outbuilding are very limited due to the 2.0 metre boundary fence that surrounds the site. However, views of the top half of the building can be achieved from the elevated ground to the east from the open grassed area.
- 7.2.4 It should be noted that the outbuilding has already undergone the external building works shown on the proposed drawings, but it is opined that such works would be permitted development as these are alterations to an ancillary residential outbuilding. The alterations already carried out comprise

of a new opening inserted in the front (east) elevation consisting of a set of patio doors with two narrow windows either side. The door and window openings in its side (north) elevation have since been bricked-up, as well as the other openings that once existed in its rear (west) elevation. No changes are proposed or have occurred to its side (south) elevation.

- 7.2.5 In her statements to justify the proposed development and to add clarity to the intensity of the business, the Applicant advises [in italics below] that:
- 7.2.6 *“The business will be purely hairdressing carried out by myself on a one-to-one basis. On average 4 people would be visiting the salon per day.*
- 7.2.7 *Work on the outbuilding [the ‘salon’] was happening regardless due to the unsafe condition it was left in from the previous owner, the works were carried out to make it a safe and useable space.*
- 7.2.8 *I shall be sending a message out to my clients the day before their appointments explaining where they need to park if they are coming in a car, which will be a space on our 3-car driveway. There will be 1 space minimum available at all times when the salon is open. I shall also be meeting and greeting my clients the first few times they come so they know exactly where to park and where to go. We will only let customers park on our drive when using the salon. I will be working on a one-to-one basis like I do now.*
- 7.2.9 *I currently have a salon in a residential area, Kingsley avenue. The building I’m renting is unfit for purpose due to the roof leaking with heavy downpours, which has been happening for some time. I am now the only person working in the salon and the salon will be closed when I get permissions to operate from home. I won’t be advertising the salon or having any signage as I already have my clientele and as it’s my home, I will be keeping it exclusive.”*
- 7.2.10 Due to concerns raised regarding pedestrian access to the outbuilding, the most recent amended plans (received 14 Feb.) show that the outbuilding will be contained behind the solid 2-metre-high timber panelled fence running along the property’s entire southern, and eastern boundary with a small return along the northern boundary. The amended plans (see 220/016/10 C) now show that pedestrian access to the proposed salon would direct from the driveway of 22 Bracken Close and along a footpath running along the inside of the current boundary fence and on the applicant’s land.
- 7.2.11 The above arrangements would help to ensure that the proposed salon remains largely screened from public view as well as screening the operational use of the site as ‘customers’ visiting the salon would only be visible in the street when at the front driveway to No.22.
- 7.2.12 To further limit the impact of the development then conditions shall be imposed requiring the boundary treatments and access arrangements to be implemented and always maintained thereafter. Furthermore, conditions shall also be imposed to prohibit the erection of any external lighting (unless at foot level and contained within the Applicant’s own land), signage on the

property and for no gates to be inserted in the curtilage boundary fence along the site's northern, eastern, and southern boundaries.

- 7.2.13 As it would be unreasonable and probably un-enforceable to impose conditions governing the number of visiting clients and not possible to predict precisely the future intensity of operations at the site, and taking into account that the area is purely residential then to safeguard local residents from possible and unforeseen nuisances arising from the development and also to allow the Local Planning Authority to monitor and apply reflective judgement on the proposal, then conditions shall be imposed to limit the hours of operation, make the planning permission personal to Miss Lucy Hayes and for the permission to be temporary and time limited to a maximum period of 3 (three) years.
- 7.2.14 For the reasons and conditions given above it is considered that the proposal will preserve the character and appearance of the area and, therefore, accords with Policy 8 of the North Northamptonshire Joint Core Strategy.

7.3 Impact on Living Conditions

- 7.3.1 Policy 8(e)(i) of the North Northamptonshire Joint Core Strategy seeks to ensure that development prevents harm to the residential amenities of neighbouring properties, such as by reason of noise, vibration, loss of light or overlooking.
- 7.3.2 Concerns have been raised by neighbours that the proposed development would give rise to nuisance such as noise, odours, and light pollution. In response the Environmental Protection officer (EPO) raised no objections to the proposal on these issues but advised the imposition of a condition to limit the hours of operation.
- 7.3.3 Based upon the scale of the development that the Applicant has provided details upon (see section 7.s above), and the comments of the EPO, then it is opined that the proposed development would not give rise to any significant impacts on the neighbours living conditions. It should be noted that the EPO have their own regulatory powers to address any statutory nuisances that may arise.
- 7.3.4 However, it is considered reasonable to impose a condition to restrict the hours of operation to that originally advised by the Applicant. Such a condition in conjunction with conditions relating to personal use and a temporary use, then these would ensure that living conditions are safeguarded.
- 7.3.5 For the reasons and conditions given above it is considered that the proposal accords with Policy 8 of the North Northamptonshire Joint Core Strategy in that it does not result in an unacceptable impact on the amenities of future and surrounding occupiers.

7.4 Highway Matters

- 7.4.1 Policy 8(b)(ii) of the North Northamptonshire Joint Core Strategy seeks to ensure a satisfactory means of access and provision for parking, servicing, and manoeuvring in accordance with adopted standards.
- 7.4.2 Various concerns/recommendations have been raised by neighbours and the Local Highway Authority (LHA) concerning parking, safe pedestrian access, and use of/access over private land.
- 7.4.3 To address all of these concerns the Applicant was invited to submit amended plans as well as statements on the scale and nature of the development.
- 7.4.4 To ensure as far as reasonably possible that visitors to the site were not inadvertently forced to walk across the private road or navigate along the unpaved and grassed parts of the public highway and to as far as possible direct them along the paved footways in the public highway, then the pedestrian access to the salon was revised so that such access would be direct off No.22's front driveway and would follow a fenced footpath enclosed within the Applicant's land by a solid curtilage boundary fence containing no gates along the southern, eastern and northern return curtilage boundary where they are boarded by the private road and the grassed public highway verge.
- 7.4.5 The Applicant has stated that they would have up to 4 client's a day, and that clients would be advised in advance of where to park their vehicles. It is reasoned that these are practical and reasonable measures to ensure that at most only one or two cars (associated with the salon visitors) may require parking in the area, and that there would sufficient capacity on the public highway (no parking enforcement measures observed) and or on the Applicant's driveway.
- 7.4.6 Also, Bracken Close has a turning head just east of the site where it is opined that there would be sufficient space for vehicles to turn/manoeuvre within the public highway without causing any severe impacts that could prejudice highway safety. The aforementioned conditions governing hours, personal use, boundary details (gates), and temporary 3-year life to the permission, would ensure that the perceived highway related conflicts are satisfactorily addressed.
- 7.4.7 For the above reasons and conditions, the proposal would accord with JCS Policy 8(b).

7.5 Other Matters

- 7.5.1 Matters raised concerning private deeds relating to the private road, and landownership boundaries/land registry disputes are noted.

- 7.5.2 However, with the amended plans to show the proposed access arrangements and suggested conditions as already discussed above, then it is opined that all reasonable and practicable measures have been put in place to safeguard against such private matter disputes. It is accepted that there could be very occasional occurrences where the use of the private road is contested by the relevant parties, but this would be a private matter for those parties to resolve.
- 7.5.3 It is believed that the alleged retrospective works that have already occurred (new boundary fence, external works to the outbuilding) are either permitted development (works to an ancillary residential outbuilding) or permitted by earlier planning permissions (KET/2019/0797 – new boundary fence) (KET/2020/0748 - Single-storey side extension to create annexe). The change of use of the outbuilding to a salon requires planning permission, but this operational part of the development was observed not to have commenced during the case officer's last visit to the site on the 10 February 2022.

8. Other Matters

- 8.1 None

9. Conclusion / Planning Balance

- 9.1 The proposal accords with national and local planning policy; it would not have a detrimental impact upon highway safety, living conditions or the area's character. The application is therefore recommended for approval subject to conditions.

10. Recommendation

- 10.1 That planning permission be GRANTED subject to conditions.

11. Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

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. This permission shall be limited to a period expiring on 4th March 2025. At or before the expiration of this period the use of the building hereby permitted shall be permanently discontinued and the building shall return to a use that is incidental to the enjoyment of the dwellinghouse known as 22 Bracken Close, Kettering, NN16 9BG

REASON: To enable the Local Planning Authority to re-assess the situation as this application is being granted as a "trial-run" to see what impacts it has on highway safety and residential amenities in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

3. This permission shall enure for the benefit of Miss Lucy Hayes of 22 Bracken Close, Kettering, NN16 9BG only and shall not enure for the benefit of the land, and the use hereby permitted shall be discontinued on the date when Miss Lucy Hayes ceases to occupy the premises or on the 4th March 2025 whichever is the sooner.

REASON: To ensure that a hair salon business does not persist at this site beyond the permitted timescales and to ensure that it does not become occupied by an operator who is independent of the property.

4. The development hereby permitted shall not be carried out other than in accordance with the approved plans and details listed below.

REASON: In the interest of securing an appropriate form of development in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

5. The development hereby permitted shall be used only for purposes ancillary to the enjoyment of the dwellinghouse as such.

REASON: In the interests of the visual amenities of the area and in the interests of residential amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

6. The conversion of the outbuilding into a hair salon shall be used only for the purposes of hairdressing undertaken by Miss Lucy Hayes of 22 Bracken Close, Kettering, NN16 9BG and for no other purpose whatsoever (including any other purpose in Classes A, B1 and E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any statutory instrument revoking and re-enacting that Order with or without modification).

REASON: To ensure that the use of this building, in a residential area, cannot change to another commercial use that has not been assessed, or be separated from the residential planning unit which is an ancillary part of in the interests of residential amenity and protection of the area's character and appearance in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

7. The use hereby permitted shall not be carried out before 0900 hours or after 1800 hours on Tuesdays to Fridays, nor before 0900 hours or after 1200 hours on Saturdays, nor at any time on Mondays, Sundays, or any recognised public holidays. The premises shall not be open to the public before 0900 hours or remain open after 1800 hours on Tuesdays to Fridays, nor before 0900 hours or after 1200 hours on Saturdays, nor open at any time on Mondays, Sundays, or any recognised public holidays.

REASON: To protect the amenities of the occupiers of nearby properties in the interests of amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

8. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no gates permitted by Schedule 2, Part 2, Class A shall be made in the curtilage boundary fence of the property.

REASON: In the interests of highway safety in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

9. No advertisements shall be displayed on the site.

REASON: In the interests of visual amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

10. No external lighting at a height in excess of 0.5 metres above ground level shall be erected or become operational on the site.

REASON: In the interests of visual amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

12. Informatives

Positive/Proactive - amendments
Building Regulations consent required
Party Wall Etc. Act

List of plans

The plans and documents, some of which may have been subsequently referenced by the LPA, are set out below and form the basis for this decision:

Title	NK Ref.	Agent's Ref	Received Date
Location plan	NK/2021/0872/1		26.10.21
Existing block plan	NK/2021/0872/2		02.11.21
Email statement 26 Nov 2021	NK/2021/0872/3		26.11.21
Email statement – floor plan	NK/2021/0872/4		30.11.21
Existing elevations and floor plans		220-016-09 B	10.02.22
Proposed elevations and floor plans		220-016-10 B	10.02.22
Proposed elevations and floor plans		220-016-10 C	14.02.22
Existing & proposed Layout plan		220-016-11 C	14.02.22



Title: 22 Bracken Close

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