
APPLICATION DETAILS

Application No:	17/0470/FUL
Location:	Former Community Centre Loxley Road Middlesbrough
Proposal:	Conversion of former place of worship and community building to 2no retail units (A1) with external alterations and associated access and parking.
Applicant:	Arifeen Property Development Ltd
Agent:	Mr Mario Minchella
Ward:	Brambles/Thorntree
Recommendation:	Approved with Conditions

SUMMARY

Planning permission is sought for the conversion of a vacant church to two shopping units and comprises minor cosmetic changes to the exterior of the building, creation of three access points and provision of associated parking.

Twelve individual objections, a 23 signature petition and an objection from two of the Ward Councillors were received in relation to the proposal. Concerns related to lack of parking, impact on amenity, impact on nearby local centres and highway safety.

The proposal has been considered against local policy and guidance and it is considered that the proposed retail use will have minimal impact on amenity of nearby residents or matters of highway safety. Although the proposal will have some impact on the vitality and viability of nearby local centres, it will bring back into use a vacant building and create four full time jobs. On balance, it is considered that the proposal reasonably accords with the guidance of relevant Local Plan Policies and that there is insufficient detrimental impacts of the scheme to justify refusal of planning permission.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The building subject of this application is a single storey building that was previously used as a church (D1 use class) and is currently vacant, being located in a residential area of Middlesbrough. The site is bounded by open land to the north and west, with highways to the east and south, beyond which lies residential properties. The proposal subject of this

application is to convert the building to two retail units (A1) (one 272.6sq m and one 101sq m) with associated parking and service area. The physical changes to the site are as follows:

- Blocking of windows to north, south and east elevations.
- Replacement of existing access lobby to east elevation with new shop front with double entrance doors and rendering of brickwork.
- New access door and steps to south elevation.
- 21 Parking spaces
- New Vehicular access to Loxley Road and to The Greenway.
- Widening of Loxley Road and alterations to radius of highway.

Plans originally submitted with the planning application indicated a hot food takeaway in the smaller unit, however following concerns raised by the Planning Officer, the hot food element was removed and substituted by a second retail unit.

PLANNING HISTORY

There is no relevant planning history associated with this site.

PLANNING POLICY

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- a) The provisions of the development plan, so far as material to the application;*
- b) Any local finance considerations, so far as material to the application; and*
- c) Any other material considerations.*

The following documents together comprise the Development Plan for Middlesbrough;

Middlesbrough Local Plan;

- *Housing Local Plan (2014);*
- *Core Strategy DPD (2008, policies which have not been superseded/deleted only);*
- *Regeneration DPD (2009, policies which have not been superseded/deleted only);*
- *Tees Valley Joint Minerals and Waste Core Strategy DPD (2011);*
- *Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011);*
- *Middlesbrough Local Plan (1999, Saved Policies only); and*
- *Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).*

The overarching principle of the National Planning Policy Framework (NPPF) is to support sustainable development, and that it should go ahead without delay. It defines the role of planning in achieving economically, socially and environmentally sustainable development and recognises that each are mutually dependent. The NPPF requires local planning

authorities to approach development management decisions positively, utilising twelve 'core planning principles', which can be summarised as follows:

- *Being plan led;*
- *Enhancing and improving areas;*
- *Proactively drive and support sustainable economic development to deliver homes, business, industry and infrastructure and a thriving local economy;*
- *Always seek a high quality of design and good standard of amenity for existing and future occupants;*
- *Take account the different roles of areas, promoting the vitality of the main urban areas whilst recognising the intrinsic character of the countryside;*
- *Support the transition to a low carbon future, taking full account of flood risk, resources and renewables;*
- *Contribute to conserving and enhancing the natural environment;*
- *Encourage the effective use of land;*
- *Promote mixed use developments;*
- *Conserve heritage assets in a manner appropriate to their significance;*
- *Actively manage patterns of growth making fullest use public transport, walking and cycling and focus significant development in sustainable locations; and*
- *Take account of local strategies to support health, social and cultural well-being and deliver community and cultural facilities to meet local needs.*

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

DC1 - General Development
CS4 - Sustainable Development
CS5 - Design
CS13 - Town Centres etc Strategy
REG29 - Local Centres

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

CONSULTATION AND PUBLICITY RESPONSES

Nearby neighbours were informed of the proposal under the usual consultation procedure. Twelve individual responses were received along with a petition containing 23 signatures. Comments can be summarised as follows:

- No need for take-away.
- Noise and fumes from extraction equipment.
- Attraction of vermin to the area.
- Anti-social behaviour.
- Impact on road safety
- Noise and disturbance
- Inappropriate use in a residential area.
- Impact on road surface
- Highway safety
- Sequential test not requested.
- Alternative locations not considered.

Some of the comments received relate to the hot food takeaway. Following removal of this element, neighbours were invited to amend their comments in view of the change. None of the contributors expressed a wish to amend comments and the Ward Councillors, Geraldine

and Peter Purvis, advised that their constituents wished their comments to stand. Comments relating directly to the hot food take away use are not addressed in this report.

WARD COUNCILLORS

Councillors Geraldine and Peter Purvis objected to the proposal on the following grounds.

- Retail use is too close to residential properties.
- Highway is too narrow to accommodate heavy goods vehicles

COMMUNITY COUNCIL

Thorntree Community Council objected to the proposal on the following grounds:

- Impact on Beresford Road shops.
- Enough existing hot food take-aways in area.
- Anti-social behaviour.
- Widened highway will still not be sufficient to accommodate HGV's.
- Lack of parking in area
- Noise
- Odours
- Lighting

WASTE POLICY

No objection.

HIGHWAYS

No objection.

ENVIRONMENTAL HEALTH

No objection subject conditions relating to:

- Noise assessment
- Restriction of opening hours to 6am to 11.00pm Monday to Saturday and the hours of 7am to 10pm Sunday;
- Deliveries and refuse collection to be restricted to the hours of 7am to 7pm Monday to Saturday and 9.00am to 7.00pm Sunday;
- Details of any flood lighting to be submitted to and approved by the Local Planning Authority.

Public Responses

Number of original neighbour consultations	26
Total numbers of comments received	13
Total number of objections	13
Total number of support	0
Total number of representations	0

PLANNING CONSIDERATION AND ASSESSMENT

Planning constraints

1. The proposal should be assessed against policies set out in the Development Plan, relevant ones in this case being Policies DC1, CS4 and CS5 which seek to ensure high quality sustainable development, ensure the amenity of nearby residents and that the character of the area and highway safety are not adversely affected by the development.

2. Although the site is not located within a Local Centre, the proposal relates to retail development which is classified as a 'town centre use' by the National Planning Policy Framework. In such circumstances, Policies CS13 and REG29 are also considered to be relevant. These policies seek to protect and enhance the vitality and viability of the local centre with the main National Policy thrust being to locate such development within existing defined centres and ensuring that retail development is of a scale appropriate for that centre.
3. These and other material planning considerations are as follows;

Vitality and viability of local centre

4. In line with the requirements of the National Planning Policy Framework, Policies CS13 and REG29 of the Local Development Framework set out a hierarchy of town, district, local and neighbourhood centres and advise that development which has the potential to undermine existing, established local centres will be resisted. Policy CS13 criteria c, states that this will be achieved by:

'Safeguarding the retail character and function of centres by resisting development that will detract from their vitality and viability. The sequential test will be applied when considering proposals for town centre uses.'

This principle is also underpinned by policy REG29

5. In accordance with the requirements of the NPPF and Policy CS13 of the Local Development Framework, the applicant submitted a sequential test to assess the availability of similar units in nearby district and local centres. The document identified two nearby centres; Beresford Buildings and Shelton Court Local Centre which are designated as small scale local centres in the Development Plan. It states that the Beresford Buildings centre is fully occupied and that, although there is a unit at Shelton Court that appears vacant, it is too small to accommodate the smaller of the proposed units and in any event is not being marketed at present. The sequential test concludes that there are no sequentially preferable sites available at present. A large building at Shelton Court, previously used by Erimus Housing, appears to be vacant and is large enough to accommodate the larger of the proposed retail units. Enquiries made by the Officer indicated that the unit is not being marketed and so is not available. In view of these matters, it is noted that there are no suitable and available units in the nearby centres and the principle of this building being used for retail purposes is therefore accepted.
6. In the case of retail development, the National Planning Policy Framework (NPPF) sets the threshold for carrying out an impact assessment for proposals of 2,500m² or more. Although the size of the proposed units falls significantly below that threshold, the applicant has provided a statement of impact. The Middlesbrough Retail Study (commissioned by the Council and carried out in 2016) identifies that retail units with a size of 200m² and above can have an impact on nearby local and neighbourhood centres. The smaller unit is below the 200m² threshold and so it is considered that it will have no perceptible impact on the function of nearby centres. At 272.6m² the larger of the units is over the threshold and so has the potential to impact the vitality and viability of the nearby centres.
7. The Retail Impact report submitted by the applicant states that, based on the findings in the Middlesbrough Retail Study, there is a predominance of convenience retail at Beresford Buildings centre which benefits from linked trips to other uses within the centre and that the centre is performing its function as a local centre successfully. It is inferred that due to the successful operation of the Beresford Centre the proposal will have minimal impact on the vitality and viability of the centre. However, it can also be argued that, even though the centre is operating well, it does not necessarily

follow that introduction of a retail unit outside of the centre will have no impact on its success. Based on a 400m radius (which is considered to be realistic walking distance for this size of unit) the proposed shop has the potential to attract customers from the Ringwood Road and Birkhall Road area who would currently visit Beresford Shops thereby reducing footfall.

8. The report goes on to identify that Shelton Court offers 'top up' shopping (catered for by convenience type stores) and, based on the findings of the Retail Study, that this type of shopping is increasingly taking place outside of the catchment area for Shelton Court. On that basis it is argued in the report that the proposal will draw shopping that is currently taking place outside of the area back rather than reducing trips to Shelton Court. Although it is accepted that this may happen to a certain degree, the proposed unit is located closer to Shelton Court centre than it is to Beresford Buildings and has a very similar catchment area to Shelton Court, it has therefore the potential to attract customers who currently use Shelton Court centre in addition to bringing shopping back into the area and may therefore reduce footfall at the centre.
9. It is difficult to assess with certainty the degree of impact that the proposed units may have on the vitality and viability of the nearby centres. Evidence in the Middlesbrough Retail Study and current occupancy rates do suggest that both Beresford Buildings and Shelton Court Centres are operating successfully, this may indicate that there is capacity to increase provision in the area. On balance, it is considered that it would be difficult to justify a refusal of planning permission based impact on the vitality and viability of the local centre.
10. In view of the above, it is considered that the proposed retail unit will not have a significant impact on the vitality and viability of the Penrith Road Local Centre in accordance with Policy CS13 (criteria c).

Sustainability

11. The proposed development is located close to local amenities and sustainable transport routes as well as residential areas which it would seek to serve and so is considered to be a sustainable form of development in accordance with Local Plan Policy CS4 and the National Planning Policy Framework in these regards.

Appearance

12. The massing of the building will not change significantly as a result of the development however, the existing entrance lobby to the eastern elevation (facing 'The Greenway' will be removed, a new shop front inserted into the elevation and the remaining wall rendered. Existing materials are brick and tile which match materials prevalent in nearby properties. It is considered that the introduction of rendering will complement existing materials and so will not have detrimental impact on the character of the area.
13. With the exception of three windows to the south elevation and one window to the west elevation, existing windows will be bricked up with matching bricks inset by 10mm. This will result in retention of the window features, adding interest to what would otherwise be blank elevations .
14. Provision of the access way to the rear and parking to the side will result in loss of the existing grassed area which currently helps to soften the appearance of the building. No landscaping proposals have been made as part of the application and there is limited space within the site to provide any meaningful landscape features. Whilst loss of the current landscaping is regrettable, there is open space lies to two sides of the site.

15. In light of the above it is considered that the physical changes proposed will have a limited impact on the character of the area, being in accordance with Local Plan Policies CS5 (test c) and DC1 (test b).

Amenity

16. Concerns have been raised regarding the potential of the proposed use to attract gangs of youths and a subsequent increase in anti- social behaviour, attraction of vermin and generation of litter. However, as these relate to specific actions of individuals, all these matters are dealt with under other legislation and are not material to the consideration of this application. Notwithstanding this matter, the introduction of a retail premises and car park with associated movement of traffic / people and servicing will have an impact on both the character of the area and on residential amenity and the impacts of the proper functioning of the proposed use on the surrounding area are material planning considerations. Concerns have been raised that the proposed use is too close to residential properties and will result in unacceptable noise, odours and lighting. Although some of the issues, particularly odours, were associated with the hot food take-away unit that has now been removed from the scheme, there is still potential for noise and disturbance from refrigeration and air conditioning equipment and from vehicular movements associated with the retail units. The applicant has submitted a noise assessment that indicates that the proposal will not result in noise levels exceeding background noise levels to a significant extent so as to result in noise complaints.
17. Concerns were raised regarding refrigeration and air conditioning equipment causing noise nuisance to nearby residents. The submitted noise assessment advises that, as all of the plant associated with both units will be located internally within the building, it is unlikely that there will be a significant increase in noise as a result of operation of the equipment. Also the plant is located on the north side of the building which is furthest from residential properties where any increase in noise will have minimal impact. A suitable condition limiting noise from equipment can be imposed to ensure that any noise associated with the plant is within acceptable limits.
18. The Councils Environmental Health Officer considered the noise report and made no objection providing a condition restricting delivery and opening times is imposed. The suggested times are:

***Deliveries: 7am to 9pm Mon to Sat and 9am to 7pm Sunday
Opening: 6am to 11pm Mon to Sunday***

19. The existing building is one which is unlikely to receive notable amounts of traffic on a continual basis, being a local provision which is unlikely to attract people from further afield and as such it's impacts through noise, traffic and general disturbance on the residential area and within which it is located and the associated privacy and amenity of residents, will be relatively limited. The proposed use will be likely to result in a more continual flow of traffic into and out of the site. All vehicular traffic (except service vehicles) will access the site from the side road of Loxley Road, rather than the main road to the front. This is likely to result in a noticeable change in the character of this residential area which is slightly stepped away from the character of the adjacent 'Greenway' as a main road corridor running through the estate.
20. The Beresford Buildings which are a nearby retail centre further along 'The Greenway' are more associated with the main road corridor, having their access directly from it and being less intimate with surrounding residential properties and therefore more suitably laid out to better separate the traffic and pedestrian movements from the residential area. Whilst this is noted, the 'Beresford Buildings'

Local Centre, is a much larger provision of units and is not therefore directly comparable to this current proposal. This current proposal is a small retail offer in comparison and its main frontage does face onto the main road with pedestrian visitors therefore not having to enter into the more residential site street. It is further noted that given the position of this unit, within the estate, it is likely to serve a very localised area and therefore will result in a notable amount of trips being made by foot. Servicing to the building, whilst it may be daily, it will not result in a significant number of vehicle movements to the site. In view of these matters, it is considered that, although the proposed use will notably change the character of the immediate area as viewed from the immediate residential properties, it is considered that this will not be to a degree by which would be so significantly detrimental so as to justify refusal of the application.

21. In respect of lighting, the Councils Environmental Health Department advised that details of any proposed lighting scheme including levels of illumination at the façade of the nearby house be submitted to and approved by the Local Planning Authority prior to implementation of the scheme. This will allow the Authority to control lighting levels so that they fall within acceptable limits and do not have a significant impact on nearby residents. The applicant is working towards submitting a scheme but at the time of compilation of this report, it had not been received.
22. In view of the above it is considered that, providing a suitable condition restricting operating times, a condition requiring submission of a suitable lighting scheme and a condition limiting noise levels associated with plant and equipment is imposed, the proposal will not have a significant impact on the amenity of nearby neighbours in accordance with DC1 (test c).

Highways

23. The proposal makes provision for an improvement to the existing vehicular access to the rear of the site off Loxley road, with 21 parking spaces being provided and a service vehicle layby internal to the site as well as a service vehicle exit which would allow the larger vehicles to drive out onto 'The Greenway' rather than having to turn within the site.
24. Many of the residential properties in the immediate vicinity of the site do not have off street parking provision and as a result cars currently park within the highway and residents and others concerns were raised that the conversion of the building to shops would exacerbate current parking problems within the area. Whilst these concerns are noted, the provision of 21 parking spaces within the site significantly exceeds the requirement of 9 spaces set out in the Councils Highway Design Guide and so it is considered that the proposal will not result in additional on street parking taking place.
25. Concerns were raised regarding suitability of the surrounding highway network to accommodate vehicular movements at the site. It is proposed that customer vehicles and delivery vehicles will enter the site via a newly created entrance at the south western end of Loxley Road, customer vehicles will leave via the existing entrance at the south eastern end of the site on Loxley Road, which is to be improved. Service vehicles will exit the site via a new access that is to be created on the eastern boundary of the site onto The Greenway. This exit will be gated and controlled by the manager of the shop to prevent customer vehicles exiting by this route thereby avoiding conflicting manoeuvres between customer and service vehicles. The existing bus shelter on the Greenway which sits in front of the proposed exit will be relocated 33m to the north. Swept path analysis drawings submitted with the application which demonstrate that HGV vehicles can safely enter and leave the site in a forward gear, the swept path analysis allows for HGV's to enter the site when vehicles are parked within the highway. The Council's Highway Engineer considered

the proposals and raised no objections in terms of highway safety and so it is considered that there will be minimal impact on highway safety in accordance with Policy DC1(test d).

Other matters

26. The proposal will also bring into use a vacant building and provide the equivalent of four additional full time jobs, this benefit should be balanced against any impact on amenity or vitality and viability of the nearby centres.
27. Comments made in relation to lack of sequential test and consideration of alternative sites were made before the sequential test was submitted, consideration of alternative sites is set out in the document.

Conclusion

28. The proposal has been assessed in terms of the principle of the use in this area and its impact on the vitality and viability of nearby local centres and it is considered that, it will have no significant impact on the function of the local centre. The proposal has also been considered in terms of effect on the amenity of nearby neighbours and highway safety and found to have no significant impact although it is accepted that it will change the character of this immediate area.
29. In view of the above, and subject to controlling conditions in relation to opening and servicing, amended access, works to the highway, servicing operations, lighting and other matters, the proposal is considered to be an acceptable form of development in accordance with National and Local policy and is therefore recommended for approval.

RECOMMENDATIONS AND CONDITIONS

Approved with Conditions

1. Approved Plans

The development hereby approved shall be carried out in complete accordance with the following plans and specifications and shall relate to no other plans.

Title	Drawing No.	Date received
Location Plan	A-00	8th August 2017
Proposed plans and elevations	A-04 (rev A)	8th August 2017
Proposed site layout	A-02(Rev R)	24th October 2017

Reason: To ensure a satisfactory form of development and for the avoidance of doubt.

2. Materials

The materials to be used in the refurbishment of the building shall match those used in the existing building with the exception of the eastern elevation which shall be carried out using materials set out in the application form received 8th August 2017.

Reason: To ensure the use of satisfactory materials.

3. Hours of opening

Hours of opening of the retail premises hereby approved shall be restricted to be between the hours 6am to 11pm Mon to Sunday

Deliveries shall be restricted to be between 7am to 9pm Mon to Sat and 9am to 7pm Sunday

Reason: In the interests of amenity

4. Highway Works

The proposed use shall not be brought into use until the highway related works as detailed on plan A02 rev R as received on the 24th October 2017 have been implemented in accordance with detailed drawings which have first been submitted to and approved in writing by the Local Planning Authority. Those details shall include matters of the construction and materials to be used on the proposed adoptable highway including finished levels, gulley positions, layout and material build ups.

Reason: In the interest of highway safety and to appropriately serve the development.

5. Servicing Management Plan

The proposed use shall operate in accordance with a customer and servicing vehicle management plan which has first been submitted to and approved in writing by the Local Planning Authority prior to the approved use commencing on site.

Reason: In order to ensure appropriate vehicle movements in close proximity to the existing junction.

6. Street Furniture

Before the use hereby approved commences, any street furniture, including the nearby bus stop, that requires removal/relocation must be completed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety

7. SUDS

Before the construction of the car park hereby approved commences a scheme for a Sustainable Drainage System (SuDS), which shall sustainably drain surface water, minimise pollution and manage the impact on water quality, shall be submitted to and approved in writing by the local planning authority and thereafter to be fully implemented in line with the agreed programme of works to the satisfaction of the local planning authority.

Reason: In the interests of sustainable development

8. Surface Water Management

A plan showing the surface water drainage that has been designed, by means of sustainable drainage, to prevent this water from flowing onto the highway to the detriment of all highway users must be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and the approved scheme shall be implemented on site in accordance with the approved details.

Reason: In the interests of amenity and highway safety.

9. Noise

Noise levels associated with any fixed plant and equipment shall be in accordance with the Noise Report MMA/LR/001 Issued 6th November 2017.

Reason: In the interests of the amenity of nearby residents in accordance with the requirements of Local and National Policy.

INFORMATIVES

The applicant is reminded that building materials shall not be deposited on the highway without the specific consent of the Highway Authority.

Case Officer: Maria Froggatt

Committee Date: 1st December 2017

