

PLANNING AND DEVELOPMENT COMMITTEE

A meeting of the Planning and Development Committee was held on 6 September 2019.

PRESENT: Councillors Councillors J Hobson (Chair), D J Branson, D P Coupe, L Garvey, M Nugent, J Rostron and J Thompson and G Wilson

PRESENT AS OBSERVERS: J Cain

ALSO IN ATTENDANCE: F Farooqui, S Finch, Councillor L Lewis and J Richards

OFFICERS: P Clarke, A Glossop, G Moore and J Youngs

APOLOGIES FOR ABSENCE Councillors J McTigue and J Platt.

DECLARATIONS OF INTERESTS

There were no declarations of Interest made by Members at this point in the meeting.

19/16 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 26 JULY 2019**

The minutes of the Planning and Development Committee meeting, held on 26 July 2019, were taken as read and approved as a correct.

19/17 **SCHEDULE OF REMAINING PLANNING APPLICATIONS TO BE CONSIDERED BY COMMITTEE**

The Head of Planning submitted plans deposited as applications to develop land under the Town and Country Planning Act 1990 and the Development Control Manager reported thereon.

19/0219/FUL Erection of six storey building consisting of 49no self-contained student accommodation flats (Sui Generis) with flexible commercial unit on ground floor (A1,A2,A3) (Demolition of existing building) at 87 - 89 Linthorpe Road, Middlesbrough TS1 5BU for 87-89 Linthorpe Road Ltd.

The Development Control Manager advised that the above application had been identified as requiring a site visit by Members of the Planning and Development Committee. Accordingly, a site visit had been held on the morning prior to the meeting.

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework.

The Development Control Manager advised that the application sought planning consent for the demolition of the existing 'Maplins' store on Linthorpe Road and the erection of a six storey building in its place. It was commented that the application site was located within the town centre boundary and formed part of the primary shopping frontage (as identified in the Council's Local Plan). The site was situated within the pedestrianised area to the western side of Linthorpe Road at the junction with Davison Street.

The new building was intended to be used as a flexible commercial use on the ground floor (A1 retail, A2 professional services, A3 restaurant / cafe) and 49 student flats on the upper floors. In respect of the site, the committee was advised that an application had been previously approved in May 2018 - 18/0168/COU Change of use from Use Class A1 (Retail) to Use Class A3 (Cafe/Restaurant).

The main four storeys planned to present similar massing to the opposing prominent corner building (No.91-93 Linthorpe Road), creating a new book end to the row of terraced buildings.

It was indicated that the main four storeys would be no higher than the ridgeline of the attached terraced properties. The committee heard that whilst the fifth and sixth floors would sit higher than the adjacent buildings they had been designed so that they were set back at roof level to appear lighter in appearance and reduce prominence. Furthermore, the building was not readily viewed at a distance, instead most views were achieved at close proximity where the additional height was less obvious.

The Development Control Manager advised that tall buildings in the right place, which were sensitively designed, could make a positive contribution to an urban area. It was also added that, in the right location, tall buildings could act as a beacon of regeneration and stimulate further investment.

The committee was advised that the building would sit higher than the immediate adjacent buildings. However, it was added that through the reduction and set back of the two upper floors of the building, the development would achieve its mass and scale without unduly dominating the surrounding properties, which were a mix of varying scales and heights.

The committee was advised that the proposed mixed-use development comprised of a flexible commercial unit on the Ground Floor, which would provide an active street frontage. Residential accommodation was set at a raised level over the five upper floors with a residential entrance to the side of the building, off Davison Street. The entrances were planned to be distinct and visible, easy to identify and directly accessible from the public realm.

Members were advised that the initial submission had showed 4 student rooms on the ground floor with windows facing onto the side street. In view of the proposed building being within a town centre location and the side elevation being on a side street that leads to a back street, both of which were neither a main pedestrian or vehicular thoroughfare, officers recognised the challenges that may be experienced in the location. It was indicated that there was no defensible spaces between where the windows would have been and the public realm. Given windows serving those rooms would have needed to open, officers and the Police Architectural Liaison Officer had raised concerns. It was considered that at the location, ground floor student bed space would not have been appropriate. Through negotiation, the applicant agreed to remove the ground floor flats from the scheme and instead provide a communal/break out space. That amendment was considered to be a significant improvement to the living conditions of the future residents.

The committee was advised that the application site currently had no in-curtilage car parking provision and no parking provision would be provided by the proposed development, which was considered to be acceptable in a town centre location. The ground floor layout of the proposed development included an internal rear cycle store, which would be accessed from the rear road and would provide a Josta two-tier system to meet a 1:1 ratio. It was commented that the property was within walking distance to both the main bus and train stations, the retail shops/services and the University.

The Development Control Manager advised that both commercial and residential refuse would be provided for by internal stores, positioned at the rear of the site with all doors opening inwards to avoid conflict with the highway. For the residential units, refuse stores had been positioned in close proximity to the main stair core and shared circulation space, with convenient and secured internal access. The commercial refuse store was located at the rear of the development accessed externally as it had not been possible to provide an internal route. However, given the size of the unit and its corner position and short walking distance to the rear refuse store, on balance its location was considered to be acceptable. It was conveyed that the location of the rear refuse and recycling stores off Whin Street would also allow for the refuse lorry to pull up directly outside the development.

Following a public consultation exercise, there had been three objections submitted from Central ward councillors.

The Agent spoke in support of the application. The committee was advised that existing building had been vacant since its former tenant. Furthermore, there had been no other

commercial businesses who had expressed an interest in occupying the vacant building. In summary, the Agent commented that the proposed development demonstrated high-quality design, would greatly improve the streetscape and would re-energise the immediate area. It was commented that the location was highly sustainable, being within walking distance to both the main bus and train stations. It was also added that the development would contribute to the character of the area and the vitality and viability of the town centre.

Members raised concerns in respect of the design of the development, the Agent explained that a 'fabric first' approach was taken and sustainability was a key consideration when designing the development. It was commented that taking that approach involved maximising the performance of components and materials to improve energy efficiency and reduce carbon emissions.

A ward councillor spoke in objection to the application. The objections and concerns were based on several matters including - the overall scale/height of the building, vehicular access, lack of parking, refuse collection and storage. Photographs of vehicles parking illegally, which were located in close proximity of the proposed development, were tabled at the meeting. The ward councillor also advised that planning permission, to develop student accommodation, had previously been granted in respect of the building adjacent (91 to 93 Linthorpe Road) to the proposed application site. Members were advised that, following approval, the site had not been developed.

A discussion ensued and Members raised a number of concerns in respect of:

- **The scale/height of the proposed development.** The Development Control Manager advised that whilst there would be a clear contrast between the proposed building and the immediately adjacent buildings, a contrast was already in existence for the building and the opposing Cleveland Centre. A contrast between buildings was not uncommon within a town/city centre environment and it was considered to be in keeping with the overall character of the town centre. Therefore, the proposed development was considered to be acceptable in general terms. A Member queried whether the Applicant would consider reducing the height of the building. The Agent responded and advised that to reduce the development further would not be financially viable, as 4 of the initially proposed units had now been replaced with a communal area.
- **The stalled development at the adjacent site.** The Development Control Manager advised that the adjacent development planned to make use of the existing building, which was an ornate structure and subsequently the layout options for student accommodation were restricted/limited. The committee was advised that former approval of the adjacent building demonstrated that the principle of development was acceptable in that location.
- **Highway safety.** The Development Control Manager advised that given the sustainable location of the property and the fact the proposed development planned to provide adequate enclosed cycle storage within the curtilage, meant the proposal was considered to have no significant impact on highway provision/safety.

The Development Control Manager advised that the application was satisfactory in that the design of the proposed six storey commercial/student accommodation building accorded with the principles of the National Planning Policy Framework (NPPF) and local policy requirements. In particular, the proposed development was designed so that its appearance was complementary to the existing buildings within the town centre. It was commented that the development would not have a detrimental impact on the amenity of any adjoining or nearby resident or prejudice the appearance of the area. It was also commented that the proposed development did not significantly affect any landscaping nor prevent adequate and safe access to the surrounding buildings. It was explained that there were no material considerations that would indicate that the development should be refused.

The Development Control Manager advised that if the Members were minded to refuse the application, reasons for refusal would need to be stipulated and those would need to be reasonable and capable of being defended on appeal.

The Chair invited the committee to vote on the application. Members initially abstained, however, following further consideration a Member proposed to approve the application, which was seconded and then voted on.

ORDERED that the application be **Approved on Condition** for the reasons set out in the report.

19/0441/COU Change of use from mixed use, retail with ancillary kitchen on ground floor and sunbed shop on first floor (A1,Sui Generis) to hot food takeaway (A5) with extraction flue/chimney to rear at 106 Russell Street Middlesbrough TS1 2AD for Mr Terence Agiadis

The Development Control Manager advised that the above application had been identified as requiring a site visit by Members of the Planning and Development Committee. Accordingly, a site visit had been held on the morning prior to the meeting.

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework.

An addendum report was tabled at the meeting, which referenced 5 letters of support that had been received in respect of the application.

The Development Control Manager advised that planning permission was sought for the change of use of 106 Russell Street from a retail use with ancillary kitchen on the ground floor and sunbed shop on the first floor (A1/sui-generis use class) to hot food takeaway (A5 use class). It was commented that the proposal would include internal alterations to provide a service area, preparation area and store room/w.c on the ground floor with an external chimney/flue to be placed on the rear elevation.

The site was a two storey, end terraced commercial property located to the western side of Marton Road at the junction with Russell Street.

Members were made aware that a change of use application - from mixed use, retail with ancillary kitchen on ground floor and sunbed shop on first floor (A1, Sui Generis) to hot food takeaway (A5) - had previously been submitted for the site and refused. The Development Control Manager explained that the previous application had been refused as the proposed positioning and design of the chimney/flue was not appropriate for the development.

The Development Control Manager advised that the proposal did include the installation of an extraction flue. The property was located on a relatively prominent corner and the flue, which was required to extract odours from the kitchen area, would be relatively visible within the streetscene. It was commented that officers had initially raised concerns with the applicant's agent on the matter. The flue had now been designed so that it was enclosed, presenting itself as a chimney breast, which was a relatively common feature for a property of that age. Members heard that the proposed chimney breast would be build using bricks that matched the host property, therefore ensuring it would be in keeping with surrounding properties.

The Development Control Manager advised that whilst it was likely the use would have some impact on surrounding residential dwellings, it was considered that the level of activity associated with the use would not be too dissimilar to that of its current and previous uses or some of those in the immediate surroundings. It was considered necessary, however, to restrict the opening hours of the premises (by condition) to be between the hours of 8am - 9pm Monday to Thursday and 8am - 10pm Friday to Sunday, which was earlier than would normally be the case in more centrally located premises.

Members heard that the submission indicated that the proposed use would be open predominately during the day time, which should prevent the negative impact of a shuttered frontage on the character of the immediate area. It was also commented that the applicant intended to serve Greek food. The committee was advised that, whilst it was not possible to control those issues through planning conditions and the end-user of any commercial

premises could be subject to change, those were recognised as being positive elements to the proposal.

The Development Control Manager advised that the Council had developed an 'Interim Hot Food Takeaway Policy'. The interim policy recognised the potential for takeaways to create problems within town centres in relation to noise, odours, traffic, parking and litter as well potentially resulting in frontages being closed during daytime hours. The interim policy highlighted that Middlesbrough had high levels of child obesity and in order to improve that, specific locations of hot food takeaways should be carefully managed. In assessing the application against the interim policy, it was advised that the proposal:

- would not result in A5 uses exceeding 10% of units within the town centre;
- was not adjacent to an existing hot food takeaway;
- was not within the designated shopping frontage areas of the town centre;
- was not within 400m of a secondary school.

In view of all the matters highlighted in the interim policy, the proposed use was considered to accord with the criteria.

Members were advised that the application site had been used for a number of commercial operations over recent years including a cafe, shop, tattoo/beauty parlour and more recently as a protein supplement shop with sunbed shop to the upper floor. The application site was located within a mixed use area containing several commercial and residential uses nearby with unrestricted opening hours. It was therefore considered that the proposed takeaway would complement the local businesses and would not be considered to unduly alter the present mixed commercial and residential character of the area.

Following a consultation exercise, four objections had been submitted, three from Central ward councillors and one from the Elder and Hazel Grove Residents Association. 5 letters of support had also been received in respect of the application.

The Agent spoke in support of the application. In summary, the Agent provided information on the various measures that would be put in place by the applicant to mitigate potential issues associated with the change of use, such as noise, anti-social behaviour, odours and litter.

A ward councillor and the Secretary from the Elder and Hazel Grove Residents Association spoke in objection to the application. The objections and concerns were based on several matters including - the number of takeaways in the area, concerns on public health, highways safety issues, litter, and anti-social behaviour. Concerns were expressed in respect of the impact the change of use would have on the nearby residents.

A discussion ensued and Members expressed concerns regarding:

- **Litter.** The Agent advised that the applicant would install a refuse litter bin outside the property and clear up any litter from the premises. In response to a Member's query, the committee heard that private contractors would collect the main food waste from the premises via the rear alleyway, which was presently the case. The Development Control Manager advised that litter problems were already in existence in that area and the committee was unable to mitigate a situation that was already in existence.
- **Lack of parking.** The Development Control Manager advised that the proposed change of use would not have a material impact in demand for car parking, nor would it in terms of the level of traffic generation when considering the fall back use of the property as a retail unit, which could continue without the need for further planning consent. As photographic evidence had been received by Members, which demonstrated that vehicles had been parking illegally at the front of the application site, the committee was in agreement that a condition should be formulated that prevents occupiers parking illegally.

Further concerns were raised regarding refuse collection. The Secretary from the Elder and Hazel Grove Residents Association had previously indicated that refuse collection for fast food outlets occurred during unsociable hours. That was of particular concern to the committee.

Members were in agreement that time restrictions for refuse collection would be beneficial. The Development Control Manager advised that a refuse management plan with time restrictions could be imposed through the formulation of a planning condition.

In light of the site visit, Members also expressed concern in respect of the amount of waste that was located in the alleyway at the back of the application site. The committee was in agreement that installation of alley gates would assist in preventing waste being dumped in the alleyway. The Development Control Manager advised that the installation of alley gates was a waste management issue.

The Development Control Manager advised that the change of use would not prejudice the character and function of the area and did not significantly affect any landscaping or prevent adequate and safe access to the site. It was explained that the change of use would be consistent with the existing commercial uses of the location and it would not be detrimental to any adjoining or surrounding properties. The traffic generated, car parking and noise associated with the change of use would not be of a level likely to result in an unacceptable impact on nearby premises.

The application was therefore considered to be an acceptable form of development, fully in accordance with the relevant policy guidance and there were no material considerations, which would indicate that the development should be refused.

The committee highlighted the importance of the proposed additional condition in respect of a refuse management plan.

ORDERED that the application be **Approved on Condition** for the reasons set out in the report and **subject to inclusion of the additional condition** detailed below:

Waste Management Plan

The use hereby approved shall not commence until a Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Waste Management Plan shall provide details of a waste bin being provided on site externally to the building and the method of waste removal from the site, including the hours for waste collections. The use hereby approved shall be operated in perpetuity in accordance with the approved Waste Management Plan.

Reason: In order to limit the impacts of refuse and refuse collection on the amenity of nearby residential properties in accordance with requirements of Local and National Policy.

19/18 **APPLICATIONS APPROVED BY THE HEAD OF PLANNING**

The Head of Planning submitted details of planning applications which had been approved to date in accordance with the delegated authority granted to him at Minute 187 (29 September 1992).

In response to a Member's query regarding retrospective planning permission and enforcement, the Development Control Manager advised that the Council's Enforcement Officer was responsible for enforcing planning law and planning regulation in a proportionate way. It was added that issuing an enforcement notice and associated time-limits had to be reasonable and justified.

NOTED

19/19 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

The Chair advised Members that a training session on highways matters, in respect of the planning process, had been arranged. The session was scheduled to take place on Thursday 12 September 2019 at 10:00 a.m.

NOTED