
APPLICATION DETAILS

Application No:	19/0613/COU
Location:	118-120 Linthorpe Road, Middlesbrough, TS1 2JR
Proposal:	Change of use from betting shop (sui generis) to mixed restaurant/bar (A3/A4), with new frontage and installation of extraction equipment at rear
Applicant:	Law
Agent:	Miss Sophie Pascoe
Company Name:	Studio Severn
Ward:	Central
Recommendation:	Approve with Conditions

SUMMARY

Planning permission is sought to change the use of the premises from a betting shop (sui generis) to a mixed restaurant/bar (A3/A4). The application site is identified as being within the Retail sector of the Town Centre on the adopted Proposals Map, where there is a mix of retail, professional services, restaurants and drinking establishments.

The main issues to consider with the application are the potential impacts of the restaurant/bar use on the vitality and viability of the local area of Linthorpe Road, and the impacts of the extraction equipment on visual amenity.

The report concludes that the proposed use is largely in line with local policy. Although A4 uses (drinking establishments) are not specifically mentioned in the relevant policy for this part of the Town Centre, the use would not be considered as harmful to local vitality of viability and would complement similar uses in the area that serve the night-time economy.

Following officer concerns over the implications of the visual impacts of the extraction equipment, revised drawings have been submitted to show its screening from the nearest public vantage points. This solution is deemed to be acceptable.

On balance, the proposed use and the associated equipment are deemed to be acceptable and accord to local policy, and the officer recommendation is for conditional approval.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application site is a double-fronted unit situated on the eastern side of Linthorpe Road between its junctions with Bedford Street and Baker Street.

The application seeks planning permission for the change of use of the premises from a betting shop (*sui generis*) to a mixed restaurant/bar (A3/A4). Associated with the proposed use, the application also seeks to introduce a new frontage including bi-fold doors and retractable canopies over-sailing the adopted highway, and to install extraction equipment on the roof of the existing two-storey offshoot.

PLANNING HISTORY

There is no relevant planning history.

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 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:

- The provisions of the Development Plan, so far as material to the application
- Any local finance considerations, so far as material to the application, and
- Any other material considerations.

Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- 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).

National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,
- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and
- Facilitating the sustainable use of minerals.

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

H1 – Spatial Strategy

CS4 – Sustainable Development

CS5 – Design

CS13 – A Strategy for the Town Centre, District Centres, Local Centres and Neighbourhood Centre

DC1 – General Development

REG20 – Principal Use Sectors

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

The application was subject to the standard notification of neighbouring properties, which included 41 addresses. After the consultation period, no comments, objections or other representations were received.

Responses from Internal Technical Consultees

MBC Planning Policy

The use as a restaurant/bar in this location is not expected to harm the principal function of the sector, and the reuse of the vacant unit will contribute to the vitality and viability of the centre. No objections.

MBC Environmental Health

No objections subject to restrictions on refuse collections and the hours of opening.

MBC Waste Policy

Waste storage provision is identified within the covered area at the back of the site, which is shared with the neighbouring site. No objections.

MBC Highways

Given the previous use of the building and the sustainability of the location, there are no objections.

Public Responses

Number of original neighbour consultations	41
Total numbers of comments received	0
Total number of objections	0
Total number of support	0
Total number of representations	0

PLANNING CONSIDERATION AND ASSESSMENT

1. The main considerations with this proposal are the principle of the change of use in this location, the impacts on the vitality and viability of the Linthorpe Road area of the Town Centre, and the potential impacts of the proposed extraction equipment on the visual amenities of the surrounding area. These and other material planning considerations are discussed below.

Planning Policy Context

2. The application site lies within the Retail Sector of the Town Centre boundary, as defined on the Middlesbrough Local Plan Proposals Map (adopted 2014) and is specifically covered by Local Plan policies CS13 of the Core Strategy, and REG20 of the Regeneration DPD. Other general policies to be considered are DC1, CS4 and CS5 of the Core Strategy.
3. Policy CS13 (A Strategy for the Town, District, Local and Neighbourhood Centres) aims to protect and enhance the identified hierarchy of centres, their vitality and viability, advising that development within the town centre will only be considered acceptable providing it meets local needs, is of an appropriate scale and will not adversely impact on the vitality and viability of other nearby centres
4. Policy REG20 (Principal Use Sectors) aims to support the role of the town centre, and direct appropriate uses to the principal use sectors (including the Retail Sector). Specifically for the Retail Sector, the policy states that A1, A2 and A3 uses would be considered appropriate, although other uses may be acceptable provided they are complementary and will not harm the principal function of the sector.
5. Policy CS4 (Sustainable Development) states that the proposal will be required to contribute to sustainable development. Inclusive in this policy is the requirement to make the most efficient use of land, with priority being given to development on previously developed land, in particular vacant and derelict sites and buildings. Also relevant to this application, this policy also requires development to be located so that services are accessible on foot, bicycle and public transport.
6. Policy CS5 (Design) comments that any new development requires a high quality design in terms of layout and appearance whilst Policy DC1 (General Development) supports development that is of a high quality that minimises the impacts on the surrounding area.

7. Middlesbrough's Urban Design Guide, specifically Paragraph 7.23, provides guidance on external extraction equipment and advises that planning permission would be granted where there are no material changes to the appearance of the building, the equipment is not oversized, they are installed on secondary elevations/roofs, and use matching colours.

Appraisal of Development – Principle of Use

8. The application site is identified on the adopted Proposals Map as being within the 'Retail sector' of the Town Centre where A1, A2 and A3 uses are deemed to be appropriate, as they would safeguard the retail character and function of the Retail Sector. Uses that may detract from the vitality and viability of the centre should be discouraged.
9. Whilst part of the proposed use (A4) is not specifically identified within the Policy as being an appropriate use in this area, the Policy notes that other uses may be acceptable within the Sector provided they are complementary and will not harm its principal function.
10. The proposal is for the premises to be open during the day from 08:00 until 23:00. These proposed hours of opening will provide an active frontage to the non-A1 premises which will assist in ensuring the vitality and viability of the area, and prevents a closed daytime appearance. Such an appearance will allow the use to complement the sector, without harming its overall function.
11. It is also noted that since the Policy was written, there has been considerable changes to the composition of the town centre due to the national economic climate, changes in shopping trends, and the growth of online retailing. Section 7 of the National Planning Policy Framework (NPPF) acknowledges this and advises that decisions should *'promote the long-term vitality and viability of town centres by allowing them to diversify in a way that can respond to rapid changes in the retail industry, allows a suitable mix of uses'*. Mindful of this guidance from central government and the continuous challenges to town centre retail, it is considered that the proposed non-A1 use would be acceptable and not harmful to local vitality.
12. As well as enhancing the daytime vitality and viability of the Town Centre, the proposed use would be considered to contribute to the night-time economy by being situated within the recognised bar and cafe quarter of Linthorpe Road.
13. The re-use of a vacant unit within the Town Centre, as well as its location within walking distance of the main bus and rail stations and other services within the town centre, is deemed to be in line with the Sustainable Development policy.

Appraisal of Development – Impacts of Design

14. As well as the change of use, the application also seeks permission to alter the front elevation to create an appropriate frontage for a restaurant/bar use. The proposed elevation would include bi-folding doors to replace the existing fenestration, and retractable awnings that would project over the adopted highway. In planning terms, these are deemed to be acceptable in this location in principle, as they would not materially harm the frontage and complement the similar façades of other night-time uses.
15. Notwithstanding the above, however, officers raised concerns regarding the potential clearance above ground and the proposed housing for the retractable awnings. Revised drawings have been submitted which show the canopies providing a clearance of 2.45 metres from ground level and a projection no greater than 1.2 metres over the adopted

highway. Such a clearance meets the Design Guide, and the reduced projection allows the majority of the pavement to remain open.

16. Along with the restaurant use, it is proposed to have an ancillary element for hot food takeaway purposes, which results in the need for fume extraction equipment. This equipment would be positioned on the roof of the existing two-storey rear offshoot of the building. Despite not being perceptible from the main frontage along Linthorpe Road, this equipment would be plainly visible to passers-by from parts of Baker Street owing to its size (approximately 5.1 metres in length, 3.3 metres in width and 1.1 metres in height). If the equipment is not adequately screened or finished in appropriate materials, there would be potentially detrimental impacts on the general amenities of the area.
17. Owing to concerns of officers, the agent has submitted a scheme for screening in the form of horizontal slats. This is proposed around the roof-based equipment as well as the existing air conditioning units on the side elevation. In principle, this is considered to be acceptable subject to details of the materials to be used. A condition is recommended to secure these details.

Residual Matters

18. Being situated in a mixed-use environment, it is noted that there are residential uses nearby to the site, and the living conditions and general amenities of occupiers need to be safeguarded. As well as detailed drawings of the proposed extraction equipment, the application is supported by a competent ventilation, noise and odour assessment, which has been considered by technical officers in the Council's Environmental Health service. Overall, this assessment is deemed to provide assurance that the extraction equipment will not be harmful to the residential amenities of nearby occupiers. A suitable condition is recommended to ensure the agreed equipment is implemented and retained in perpetuity.

Conclusion

19. On balance, the proposed change of use at this location is considered to represent acceptable and appropriate development. As a main town centre use, it is not expected to harm the main function of the sector, and the re-use of a vacant unit will contribute to the centres overall vitality and viability.
20. Details have been submitted to provide reassurance that the associated issues of noise and odour will not significantly affect the general amenities of the area. Whilst officers initially had concerns over the potential impact of the extraction equipment on the Baker Street streetscene, the agent has submitted information to provide suitable screening.
21. The officer recommendation is for conditional approval.

RECOMMENDATIONS AND CONDITIONS

Approve with Conditions

1. Time Limit
The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Approved Plans

The development hereby approved shall be carried out in accordance with the following plans and specifications:

- a) Location and Block Plans (drawing no. 2051.LP.001)
- b) Proposed Plans (drawing no. 2051.GA.001 Rev E)
- c) Proposed Elevations (drawing no. 2051.EL.001 Rev B)
- d) Proposed Shop Front Elevations (drawing no. 2051.EL.002 Rev B)
- e) Ventilation Detail (drawing no. umi-01)

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

3. Hours of Opening

The hours of opening shall be restricted to between the hours of 08:00 and 23:00 Monday to Sunday.

Reason: To ensure the amenity of the nearby residential premises and to accord with local Policy DC1.

4. Refuse Collections

Collections from the refuse store shall be kept at the rear of the premise between the hours of 08:00 and 19:00 Monday to Saturday, and between 09:30 and 18:30 Sunday.

Reason: In the interests of the amenities of the nearby residential occupiers.

5. Ventilation, Noise and Odour Assessment

The fume extraction equipment for the use hereby approved shall be implemented and operated in complete accordance with the approved drawings, the ventilation detail and specifications, as well as the submitted Ventilation, Noise and Odour Assessment (by Concept, dated 11th October 2019) and retained as such in perpetuity.

Reason: In the interests of the amenity of the neighbouring premises and to accord with Core Strategy Policy DC1.

6. Screening Details

Prior to the first operation of the use hereby permitted, details of the finishing materials to be used for the screening of the extraction equipment (as detailed on the approved plans) shall be submitted to and approved in writing by the Local Planning Authority. Any approved finishing materials for the screening shall then be retained as part of the approved development in perpetuity.

Reason: In the interests of the visual amenities of the area in accordance with local Policy DC1.

REASON FOR APPROVAL

This application is satisfactory in that the change of use from betting shop (sui generis) to mixed restaurant/bar (A3/A4) accords with the principles of the National Planning Policy Framework (NPPF) and the local policy requirements (Policy H1, DC1, CS4, CS5, CS13 and REG20 of the Council's Local Development Framework). Where appropriate, the Council

has worked with the applicant in a positive and proactive way in line with paragraph 38 of the NPPF (2018).

In particular, the change of use from betting shop to restaurant/bar use will not prejudice the character and function of the area and does not significantly affect any landscaping or prevent adequate and safe access to the site. The change of use from betting shop to restaurant/bar will be consistent with the existing commercial uses of this location and it will not be detrimental to any adjoining or surrounding properties. The traffic generated, car parking and noise associated with the change of use will not be of a level likely to result in an unacceptable impact on nearby premises.

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

INFORMATIVES

Informative: Structure over Highway

The development proposes a structure which will project over the adopted highway, which will require a licence under the Highways Act 1980. The applicant should contact the Highway Authority (Tel: 01642 728153) to discuss the details required to allow a licence to be issued.

Case Officer: Peter Wilson

Committee Date: 6th December 2019

