

**PLANNING AND DEVELOPMENT COMMITTEE**

A meeting of the Planning and Development Committee was held on Friday 15 January 2021.

**PRESENT:** Councillors J Hobson (Chair), D Coupe (Vice-Chair), D Branson, C Dodds, L Garvey, M Nugent, J Platt, J Rostron, J Thompson and G Wilson

**ALSO IN ATTENDANCE:** Councillor R Arundale, Councillor S Dean, K Dixon, M Easie, D Hardcastle and K Richardson

**OFFICERS:** P Clarke, A Glossop, D Johnson, E Loughran, C Lunn, G Moore and S Thompson

20/27 **DECLARATIONS OF INTEREST**

<b>Name of Member</b>	<b>Type of Interest</b>	<b>Item/Nature of Interest</b>
Councillor J Platt	Non-Pecuniary	Agenda Item 5, Item 1, Ward Councillor.
Councillor J Rostron	Non-Pecuniary	Agenda Item 5, Item 1, Chair of Environment City, based at Former Natures World site.

20/28 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 4 DECEMBER 2020**

The minutes of the meeting of the Planning and Development Committee held on 4 December 2020 were submitted and approved as a correct record.

20/29 **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.

**20/0566/FUL Erection of school building (Class F1) with associated outdoor-sports areas, parking and landscaping at Land at Former Natures World, Sandy Flatts Lane, Middlesbrough, TS5 7YN for Interserve Construction Ltd**

The Head of Planning advised that planning permission was sought for the erection of a Special Educational Needs (SEN) school on a site to the north of Sandy Flatts Lane, at the southern end of the former Nature’s World site.

The application was for the erection of a single storey school building and the proposed scheme included the school building along with the associated facilities and amenities, including car parking area, multi-use games area, landscaping and boundary treatments.

Access to the SEN school would be taken off Sandy Flatts Lane.

Following the consultation period, 25 representations had been received, including 22 letters of objection, 1 letter of support and 2 other representations.

- The two issues that required consideration by the committee included:
- The development site being within a designated Green Wedge; and
  - The transport implications.

The application site was allocated on the adopted Local Plan Proposals Map as part of the Green Wedge. As well as the Green Wedge, the western side of the site was identified as Secondary Open Space, and the eastern side of the site was identified as Primary Open Space. The general principles of those allocations was to protect the open and green character and appearance and to resist most developments.

The Head of Planning commented that the benefits of the proposed SEN school to the local

community were considered to outweigh the loss of part of the Green Wedge. It was also concluded that the application site occupied a relatively small area of the larger Green Wedge allocation and that the green character and open appearance of the Green Wedge was not significantly harmed. It was considered that if tree planting and landscaping were to be incorporated, along the south western boundary of the site, that would reduce the visual impact of the development on the Green Wedge.

In terms of transport implications, it was explained that due to the nature of the school, the applicant had advised that most pupils would arrive in either arranged taxis or minibuses. The number of pupils that would arrive in private car was negligible and, as such, it was not envisaged that there would be the type of parking issues that could be seen at other schools. It was advised that there would be only 84 pupils on the school roll.

With regards to the proposal, it had been identified that there would be a material impact at the junction of Sandy Flatts Lane/Ladgate Lane. Further investigation had identified that the issue at the junction was due to the operation of the adjacent Blue Bell roundabout and the interaction of queues between those junctions. Therefore, officers had negotiated and secured a contribution of £22,500 from the school. If approval was granted, that funding would be secured through a Section 106 legal agreement. The majority of the contribution would be used towards feasibility, design and estimate studies for a mitigation scheme at the Blue Bell roundabout. Funding to deliver the mitigation scheme would then come forward proportionately from other sources that could include other S106s, capital funding or grants.

It was also added that £2,500 of the £22,500 contribution would be used towards the provision of School Keep Clear markings and zig-zags to assist in keeping the school frontage clear of any on-street parking.

Whilst it had been analysed that there would be an impact on the operation of the network, it was not at a level that would be considered as severe, which was the test in the NPPF against which a refusal could be considered.

The officer recommendation was to approve conditionally, subject to the signing of a Section 106 legal agreement.

It was advised that condition 10, which was outlined in the submitted report and related to the implementation of Traffic Regulation Orders, would no longer be required due to the signing of a Section 106 legal agreement.

The Agent was elected to address the committee, in support of the application.

In summary, the Agent explained that:

Objectors had commented on the impact of the proposed development on highways, ecology and the loss of trees. In response to those concerns, the Applicant had agreed to:

- provide £22,500 to mitigate the highways impact of the scheme;
- retain parts of the tree belt along the eastern boundary of the site, which would assist in screening and limiting the visual impact of the proposed building on the wider Green Wedge; and
- provide boundary planting for the southern part of the site to better integrate the proposed development with the surrounding natural environment.

It was also added that the school was looking into providing bat boxes and tubes within the building elevations and barn owl loft boxes.

The following benefits were outlined by the Agent:

- There was an evident need for the proposed development, as the temporary accommodation for the school was nearing capacity.
- There was a number of children with SEN that had been required to access education outside the area.
- The number of children with SEN was increasing.

The proposed development would:

- provide high-quality, specialist education for those children with SEN;
- reduce the number of children being educated outside of the borough, which would

- result in financial savings for the Local Authority;
- would create 64 direct and 96 indirect jobs during the construction period;
- be high-quality and sustainable; and
- achieve ecological net gains.

The Agent commented that the benefits of the proposed school to the community, as a whole, outweighed the loss of the Green Wedge.

A Ward Councillor was elected to address the committee.

On balance the Ward Councillor was in favour of the proposed development but shared the concerns of residents in respect of the highway implications. It was commented that concerns had been raised in respect of the width of Sandy Flatts Lane, it being insufficient to enable two-way traffic flow and it included a blind bend where there had been a number of accidents in the past. The Ward Councillor also questioned the spending of the Section 106 monies and expressed concern that a substantial amount was being used to fund a mitigation scheme at the Blue Bell roundabout, rather than mitigating the highway impact for nearby residents in the immediate vicinity of the site.

A discussion ensued and Members discussed the highway impact of the scheme. One Member suggested that the spending of the Section 106 monies should be revisited to ensure that a sufficient amount of work would be undertaken to mitigate the impact of the scheme on nearby residents. In response, the Head of Planning explained that the majority of the money would be allocated to a mitigation scheme at the Blue Bell roundabout as the material impact at the junction of Sandy Flatts Lane/Ladgate Lane was due to the operation of the roundabout and the interaction of queues between those junctions.

The Head of Planning advised that although the proposed development could be considered contrary to Policy E2 (Green Wedge), it was considered that the benefits of the proposed special educational needs school outweighed the loss of the Green Wedge. Moreover, the site area was a relatively small area of the larger Green Wedge allocation, which extended as far north as Linthorpe and as far east as Marton Road. As for the lost piece of Green Wedge, it was considered that tree planting and landscaping along the south western boundary of the site would reduce the visual impact of the development on the Green Wedge.

Overall, the officer recommendation was to approve the application, subject to conditions and the signing of the Section 106 agreement.

**ORDERED** that the application be **Approved on Condition** for the reasons set out in the report, subject to the signing of the Section 106 agreement and further discussion regarding the allocation of funding.

**20/0594/FUL Social garden and community hub comprising of single storey building including workshops, cafe and shop with parking and ancillary spaces at Land at Corner of Stockton Street/Commercial Street Middlesbrough for Mr Denny**

The Head of Planning advised that planning permission was sought for the erection of a building and creation of a site to provide a therapeutic support and opportunities hub, which allowed individuals and groups of differing backgrounds and abilities to engage with outdoor activities. The building planned to provide facilities for growing various fruit and vegetables, a street-front shop and cafe, and craft workshops.

The building proposed was a single storey L shape structure, parking would be provided along the eastern boundary served off Commercial Street and the majority of the site was garden space. The boundary was intended to be created by a fence interspersed with short sections of wall.

The committee were shown various images that provided information on the location, floor plans, elevations and artist impressions.

The Head of Planning advised that there had been no objections to the application. It was explained that the reason the application required consideration by the committee was due to the fact that the proposal was a departure from the adopted Local Plan.

There were two issues that required consideration by Members:

- the principle of the development; and
- the impact on the historical environment.

The proposal was in an area of Middlehaven identified in the Local Plan for residential uses. However, the scheme was considered to be a good fit with the wider aspirations for Middlehaven and planned to support the delivery of the remainder of the area for a high quality residential offer. In particular, the proposal would provide an important buffer and transitional zone between the surrounding industrial uses and any future residential development, enhancing the environment and the attractiveness as a place to live. Importantly, the proposal was not considered to have any adverse impacts upon the heritage assets of the Middlehaven area.

An important consideration had been how the proposal would interact with the historic environment. The closest listed structures were the Old Town Hall and Clock Tower (Grade II) and Customs House (Grade II) and those were within a relative close proximity to the site, whereby their setting and significance would be affected by the proposed development.

The application site was the north western most plot within the Middlehaven Regeneration Area, a cleared and vacant site of multiple development plots centred around the old Middlesbrough Town Hall. Stockton Street was located to the west, Commercial Street to the north and a grouping of 2 storey historic buildings known as 'My Place' to the east. Vacant land was located to the south. The site sloped up from a low northwest point to a high southeast point towards the Middlesbrough Old Town Hall, which was located within the centre, and highest part within the Middlehaven area.

The impact of the proposed scheme had been considered against a number of key listed buildings in the locality and the historic grid pattern of the Middlehaven area. Importantly, the proposal was considered to have a positive impact on the setting and long-term viability for the Old Town Hall. Overall, it was considered that the proposed social garden would be a positive addition to the Middlehaven area that respected the key principles of the grid pattern, did not result in harm to the heritage of the area and planned to allow a modern development to take place and frame the northwest corner of the Middlehaven regeneration area.

The proposal was considered acceptable and it was officer recommendation that the application be approved, subject to conditions.

In response to a Member's query regarding parking, the Principal Transport Engineer advised that 20 car spaces were proposed, together with some cycle parking. Whilst the nature of development was bespoke, a combination of using first principles with regards to staffing/visitors and the Tees Valley Design Guide had demonstrated that the level of parking proposed was realistic.

Members welcomed the proposed scheme, in particular the role of the development in securing the wider aspirations for the successful regeneration of Middlehaven.

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

**20/0623/FUL Change of use from dwellinghouse (C3) to residential institution (C2 - Children's Home) 24 Church Lane Acklam, Middlesbrough, TS5 7EG for GAC Family Services Ltd**

The Head of Planning advised that planning permission was sought for the change of use of 24 Church Lane from a dwellinghouse (C3) to a children's home (C2 use). The site was a semi-detached four bedroomed property located on a corner plot at the junction of Church Lane and Thirlmere Avenue. The property was sited within a predominantly residential area of Acklam.

The proposed children's home planned to provide accommodation for a maximum of three children between the ages of 8 and 18 years with 24 hour adult support, provided on a shift basis. Two members of staff would be present at the premises with an Ofsted registered manager living close by. There would be no external alterations to the property, with an existing detached garage located within the curtilage of the property and a large area of hard

standing located to the east side of the property.

The Head of Planning advised that if Members were minded to approve the application, a condition would be attached stating that the premises shall be used for a three person children's home and for no other purpose, including any other purpose in Class C2.

Following the consultation process, there had been 46 letters of objection received. The objections related to an increase in the volume of traffic and off-street parking, noise, light, privacy, litter, anti-social behaviour/ crime, the impact on character and appearance of the streetscene and the community, not suitable location for the use, no requirement for the facility, devaluation of properties, wider consultation should take place and not in accordance with the National Planning Policy Framework (NPPF) and local plan policies.

There had been 2 letters of support received for the proposal, which related to the proposal being a worthwhile cause and good for the community in helping out children and keeping them safe from harm and abuse with high-quality care and support in education and healthcare.

The proposal had been considered against national and local policy. It was considered that the proposed use was acceptable in the area of Acklam and the loss of a single dwellinghouse would not have a significant impact on the Council's Housing Delivery Strategy. It was considered that the level of the intended use, as a three person occupancy children's home, and the fact there would be no external alterations to the property meant the proposed change of use would have no significant impact on the character and appearance of the area or the amenity of the neighbouring properties.

The officer recommendation was to approve the application, subject to conditions.

A representative of the Applicant was elected to address the committee, in support of the application.

In summary, the Applicant's representative explained that:

- The number of children in care had risen by 28% over the last decade and was rising due to lockdown, therefore, there was an increased need for top-level care provision.
- GAC Family Services Ltd had the structure, knowledge and experience to provide high-level quality care for children and young people.
- The property was considered to be within a sustainable location, which provided good transport links and was close to local amenities, including a thriving community hub.
- All children and young people would be screened to ensure that the service could meet their individual needs.
- An Ofsted registered manager would be employed and two members of staff would be present at the premises. Staff members would all be fully trained.
- The home would be subject to robust risk assessments and behaviour management plans.
- The development would be fully regulated by Ofsted.
- GAC Family Services Ltd aimed to ensure that no noise, nuisance or disturbance would be encountered by neighbouring properties.

A discussion ensued and several Members commented on the Ofsted registration process. The Applicant's representative commented that if approval was granted:

- the property would be registered as a children's home and regulated by Ofsted;
- the home would be unable to open until it met Ofsted regulations;
- the Ofsted registered manager would live locally;
- the children's home would build links with the Local Authority; and
- the duration of placements would be dependent on each child or young person's care plan.

In response to a Member's query, the Applicant's representative explained that following a location risk assessment, given the lack of provision in the area and the increasing number of children in care, Middlesbrough had been identified as a suitable location to open a children's home.

A discussion ensued regarding the application, the change of use and the potential impact on

amenity of neighbouring properties. The Applicant's representative responded to queries put forward by Members and advised that a multi-agency response would be taken when dealing with anti-social behaviour.

The Head of Planning explained that assessing the change of use was separate to the process for registering and monitoring the care home facilities. Registration and management of the children's home were not material planning considerations. Members were advised that the only issue that required consideration by the committee was the impact of the proposal on the surrounding area.

An Objector was elected to address the committee, in objection to the application.

In summary, the Objector explained that:

- 47 residents had submitted objections to the proposal, which was a considerable number.
- The area had already been subjected to a number of other developments, including Acklam Hall, Tees Valley Hospital and housing developments.
- The site was a semi-detached dwelling and an elderly gentleman resided next door.
- The shift rota proposed, with sleep in or awake carers overnight, was likely to have a detrimental impact on the occupier of the neighbouring property in respect of noise and disturbance.
- It would be more appropriate for the children's home to be located in a detached dwelling, where the impact on neighbouring properties could be minimised.
- The large area of hard standing located to the east side of the property was deceptive on the photographs shown to the committee and could only accommodate two vehicles.
- The property was located on an extremely busy junction.
- An application considered by Leeds County Council in 2020 had been refused due to the desirability of maintaining an area's prevailing character and setting. Similar reasoning could apply to the current application.
- The proposed location was a quiet residential area and the proposed commercial use would impact on the character of the area.
- The change of use from residential to commercial would set a precedent in the area.
- GAC Family Services Ltd had three homes in Northampton and the current proposal would be there fourth.
- GAC Family Services Ltd was a limited company, motivated by profit.

A Ward Councillor was elected to address the committee.

In summary, the Ward Councillor explained that:

- The safety and wellbeing of every resident was paramount.
- Previously, the Local Authority had commissioned children's homes through the NE12 Framework. The 12 local authorities in the northeast had made a commitment to commission placements through the framework to ensure that children and young people gained access to high-quality placements. The Local Authority's Children's Services now no longer operated within the framework and now commissioned placements via the Tees Valley Framework.
- GAC Family Services Ltd did not appear to be a provider for either of those frameworks. Therefore, aside from Ofsted, there would be no quality assurance in place to ensure the safety of children and young people placed in the home.
- There was a need for the home to provide placements for Middlesbrough's children and young people.
- The shift rota proposed, with awake carers overnight, gave the impression that children and young people placed may have complex needs, which could impact greatly on the occupier of the adjoining property.
- It would be more appropriate for the children's home to be located in a detached dwelling.

In light of the comments raised, the Development Control Manager advised that the needs of, and behaviours displayed by, the children and young people placed in the proposed children's home were not a material planning consideration. It was also added that, if Members were minded to refuse the application, a reason would need to be put forward. It was explained that, from a planning perspective, there was a need to view the proposal as a residential use

in a residential area.

A discussion ensued and a Member commented that although there was stigma attached to children's homes, a high number of properties in the borough had children and young people residing in them. It was commented that the proposal would provide a home to vulnerable children and young people in need. Another Member commented that with adequate supervision, the impact on the neighbouring property, in respect of noise, nuisance and disturbance, would be no more than another dwelling that was occupied by a family with children.

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

**20/0629/COU Change of use from retail A1 [E(a)] to hot food take away A5 (Sui Generis) at 2 Newport Crescent, Middlesbrough, TS1 5EP for Mr A Shahzad**

The Head of Planning advised that planning permission was sought to change the use of the premises from retail A1 (E (a)) to an A5 (sui generis) hot food takeaway use and for the installation of a flue on the side elevation of the building. The application site was identified as being within the retail sector of Middlesbrough town centre, where there was a mixture of retail, restaurants, drinking establishments and professional services.

The application site was 2 Newport Crescent, an end of terraced commercial two-storey building located within the town centre. The site was located within the defined retail sector of the town centre, as identified within the local plan.

The proposal was for the change of use of the ground floor into a hot food takeaway with the upper floor being utilised for storage. The only external alteration proposed was a flue on the side elevation of the building.

The application site was located within a predominantly commercial area of the town centre with no residential properties within the immediate vicinity.

Following consultation, three objections had been received from the Ward Councillors, which primarily focused on the impact of the proposal on public health.

The main considerations with the change of use application were the principles of the development, the impacts on the character and appearance of the streetscene, the impacts on the amenity of the occupiers of the neighbouring premises and highway safety.

It was explained that planning permission for A (hot food takeaways) was considered suitable where they were complimentary and would not harm the principle function of the sector.

The Head of Planning advised that the proposal complied with the Interim Hot Food Takeaway Policy, which aimed to manage the location of hot food takeaways in certain locations. The policy stated that hot food takeaways would only be permitted where:

- the total proportion of the A5 uses within the centre would not exceed 10%;
- the use would result in no more than 2 adjacent hot food takeaways or be within a primary shopping frontage area; and
- the use should not be located within 400m walking distance of a secondary school.

The most recent monitoring data (March 2019) had shown the town centre as having a proportion of 4% hot food takeaways. It had not been possible to update the information in March 2020, using the established methods, due to the Covid 19 lockdown restrictions. A desktop study suggested that a maximum of 5.2 % of units could be hot food takeaways (based on previous planning approvals). As such, the application would not result in the proportion of A5 uses exceeding 10%.

The application site was not located adjacent to existing A5 uses so would not result in more than 2 adjacent A5 uses within the street, was located just outside of the primary shopping front area and was located more than 400 metres from a secondary school. The proposal was therefore considered to be compliant with the Interim Hot Food Takeaway Policy.

The Head of Planning advised that the application was considered to be an acceptable form of

development, fully in accordance with the relevant policy guidance and there were no material considerations that would indicate that the development should be refused.

The officer recommendation was to approve the application, subject to conditions.

In response to Members' queries, the Head of Planning explained that:

- There was not a concentration of hot food takeaways in the general location of the premises.
- There were no residential properties nearby.
- The Northern School of Arts provided post-16 education, therefore it was not considered as part of the policy.
- There was a number of restaurants in the locality that were now operating as takeaways due to the current Covid-19 crisis. It was confirmed that restaurants had a different use class, therefore, they were not identified as takeaways in the town centre. The extended permitted development for hot food takeaways enabled restaurants to change their use class to allow for the provision of takeaway food, but that was only temporary and would come to an end.

A Member expressed concern that:

- The applicant would be responsible for ensuring the waste receptacles were collected.
- The proposal planned to remove the existing external bin store and provide an internal bin store area within the building itself.

The Head of Planning commented that conditions on the proposal required a noise and odour assessment that would ensure there were no significant impacts on the amenity of neighbouring premises, in terms of noise and odour. Members were advised that if there were issues in respect of the disposal of waste, enforcement action could be taken.

In response to a Member's query regarding updating the Hot Food Takeaway Policy, the Head of Planning advised that the Local Plan was currently being reviewed. As part of the review, the Hot Food Takeaway Policy would be revisited, improved, developed and incorporated into the plan. However, it was highlighted that there was a need for the committee to consider the application in relation to the current policy framework.

In response to a Member's query, the Head of Planning advised that Greggs was classed as a retail use.

A discussion ensued and Members:

- expressed concerns in respect of the impact of the proposal on public health;
- disputed the definition of hot food takeaway;
- expressed concern with regard to the proliferation of hot food takeaways and other retail units that sell hot food in the vicinity of the premises; and
- commented that the number of premises selling hot food was excessive.

Concerns were also expressed in respect of the storage of waste. The Development Control Manager advised that the unit was an existing premises and mismanagement of waste could be enforced against.

**ORDERED** that the application be **Refused** for the reasons outlined below:

***In the opinion of the Local Planning Authority the proposed Hot Food Takeaway will result in a proliferation of Hot Food Takeaways and other fast food type outlets within the area which is considered to be contrary to the principles of the Council's Interim Hot Food Takeaway Policy which seeks to limit the number of Hot Food Take-away uses and to maintain a predominantly retailing function to the town centre.***

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).

**NOTED**

20/31

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

A Member requested that a report be submitted to the next meeting of the committee, outlining the progress made with reviewing the Local Plan.

**NOTED**