

PLANNING AND DEVELOPMENT COMMITTEE

A meeting of the Planning and Development Committee was held on Friday 16 July 2021.

PRESENT: Councillors J Hobson (Chair), D Coupe (Vice-Chair), D Branson, B Cooper, C Dodds, J Rostron, G Wilson, S Dean (Reserve) (Substitute for J Thompson) and A Waters (Reserve) (Substitute for L Garvey)

ALSO IN ATTENDANCE: A Lambert, A Metcalfe, S Sabin, R Tucker, L Victoria, K Wanless, J Warren and R Williams

OFFICERS: P Clarke, A Glossop, C Lunn, G Moore and S Moorhouse

APOLOGIES FOR ABSENCE: Councillors L Garvey, M Nugent and J Thompson

21/6 **DECLARATIONS OF INTEREST**

| Name of Member | Type of Interest | Item/Nature of Interest |
|---------------------|------------------|--|
| Councillor B Cooper | Non-Pecuniary | Agenda Item 4, Item 2, Executive Member for Environment and Finance & Governance |

21/7 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 11 JUNE 2021**

The minutes of the meeting of the Planning and Development Committee, held on 11 June 2021, were submitted and approved as a correct record.

21/8 **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.

21/0064/COU Retrospective extension to residential curtilage with boundary fencing and wall to front at Whimsey Nook, Stainton Way, Middlesbrough TS8 9DF for Mr & Mrs K Wanless

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 Head of Planning advised that retrospective planning permission was sought for the change of use of land to residential curtilage and erection of a boundary wall to the front. Extension to the curtilage had taken place on both the side and rear boundaries of the site, with a total land take of approximately 719m².

Whimsey Nook was a relatively isolated property located on the southern side of Stainton Way. The site was bounded on both sides and to the rear by open land. Cleveland Community Safety Hub was located to the west, the access road to the Community Safety Hub and the wider Hemlington Grange site was to the east with residential development beyond.

The site of the existing property (prior to the unauthorised expansion of residential curtilage) was not allocated for any specific purposes in the Local Plan and was in use for residential purposes. Land immediately abutting the site to the west, east and south was allocated as employment land and was part of the Hemlington Grange site identified in the Development Plan.

Consideration needed to be given to the principle of the change of use and whether that would restrict future development of the adjacent site, thereby hampering the implementation of the Council's policies in relation to the wider Hemlington Grange area.

It was considered that although the proposed use did not accord with the uses set out in Policy H24 of adopted Development Plan, the extension of the curtilage of that existing residential premises would not unduly impact the potential for future development of the wider site. Nor would it prevent the implementation of the Council's policies set out in the Local Plan. As such, the change of use to residential curtilage was considered to be acceptable in principle.

The Head of Planning advised that the recommendation was to approve the application, with conditions.

A Member raised a query regarding the purchasing of the land. In response, the Head of Planning advised that it was understood that the Applicant had been in negotiations with the Council, had agreed terms for purchasing the land and that planning permission was required before the transaction to purchase the land could be completed.

In response to a Member's query regarding the site being currently allocated as employment land, the Head of Planning advised that the use was under review and it was envisaged that the allocation would be changed to residential use.

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

In summary, the Applicant advised that:

- When the property was purchased in 2014, the existing boundary line was a combination of thick, overgrown bushes and trees that faced onto an open field area.
- When removing the existing boundary line, markers were placed on the outer edge of the boundary line.
- 4 years later notification was received of encroachment onto Council land.
- Upon receiving that unforeseen news, the Council was contacted immediately to address/resolve the issue.
- The encroachment was initially disputed, however, regrettably it had been difficult to pin point the actual boundary line given the fact the bungalow was rural and faced onto a wide open field area.
- Arrangements had been made to purchase the land and heads of terms had been accepted and signed, on the understanding that the land would be transferred from agricultural land to garden use.
- It then came to light that the land was allocated as employment land and not agricultural, meaning the application required consideration by the Planning and Development Committee.
- Given the circumstances of the unintentional and regrettable encroachment and the arrangements being made to purchase the land, it was hoped that approval would be granted.

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

21/0144/OUT Erection of 3 office buildings (Class E(c)) with potential for part ground floor use for restaurant/cafe (Class E(b)), and new public realm and associated landscaping, car and cycle parking with servicing including refuse storage and substations at Land at Central Gardens, Middlesbrough, TS1 2AZ for Ashall Projects Ltd

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 Head of Planning advised that the application sought outline planning permission for three commercial office buildings (use class E(c)) with potential for restaurant/cafe elements (use class E(b)) at ground floor level. The overall development would create nearly 11,942 square metres of office space and 540 square metres of restaurant/cafe space. As the application was outline with all matters reserved (layout, scale, access, landscaping and appearance), indicative drawings had been submitted to illustrate how the proposed development might be arranged.

The overall site area of this outline application pertained to three separate sites within the Centre Square area of Middlesbrough town centre.

The first site was a large rectangular-like parcel of land positioned to the south of the Combined Law Courts, to the west of constructed 'Building 2', to the north of Fountains Court and Grange Road, and to the east of Mima art gallery. The parcel of land would accommodate two buildings: 'Building 3' and 'Building 5'.

The second site was a smaller, linear rectangular plot of land situated at the northeast corner of Centre Square, to the east of the Combined Courts. That would accommodate 'Building 4'.

The third site was a small rectangular parcel of land situated to the south of the approved 'Building 6' development, to the west of 168 Borough Road (Race Furniture) and to the east of government buildings along Borough Road.

The principle of office development (with associated ancillary uses) was deemed to be acceptable in the location. The reserved matters application(s) would provide the detail of the architectural style and overall design and would determine how the development fits within the wider Centre Square area.

Following the consultation period, twelve letters of objection had been received at the time of writing and a summary of the points made and issues raised was contained in the submitted report. There had been no objections from statutory consultees.

The application was also the subject of a petition signed by 519 persons, initiated by Middlesbrough and Redcar Friends of the Earth, which stated:

- There was very little nature in the city centre. Albert Park was the nearest real space at 1 kilometre away.
- Since lockdown, nature had become more important to the public and improved their mental well-being.
- Were the offices needed? More people would be working part-time or at home following the pandemic.
- Instead of new office buildings, old office buildings should be renovated, which would be cheaper and more environmentally friendly.
- The pond provided a pleasant environment.
- The area was being rundown. It would have looked good if not earmarked for development.

An addendum report was tabled, at the meeting, for the committee's consideration. The addendum report contained information on additional consultation responses, comments from the Council's Highways Officer and the revised location and masterplan.

Members were advised that a similar development had been approved in 2017 (17/0195/OUT). The previously approved outline application was for 'five commercial office buildings with part ground floor cafés, public realm works, landscaping, car parking, cycle parking and other ancillary development'. That approved development was of a similar scale and massing, and on very similar red line boundaries within Centre Square. Two of the five approved buildings had been constructed, Buildings 1 and 2, whilst the other three remained unimplemented. Members heard that the outline application, submitted and approved in 2017, had since expired.

The sites were currently occupied by greenspace, a pond and part of the Centre Square park (Central Gardens). All were within Middlesbrough town centre, part of a number of municipal and court buildings in an area called Centre Square. The sites were in close proximity to the Town Hall, the Empire Theatre, Central Library, the statue of John Vaughan and the monument to Sir Samuel Sadler, which were all Grade II Listed.

The principle of the development was something that Historic England was content with and that represented an important opportunity to work with and enhance Middlesbrough's sense of place. Concerns had been initially raised over the height of Building 3, but the revised scheme saw the height of that building reduced to 4/5 storeys. Building 5 had been re-introduced to compensate for the loss of floorspace but there had been no objections to that building.

Due to the overall scale of the proposed development and its siting on existing green space

and potential wildlife habitats, it was important to ensure that there were no adverse impacts on any protected species, flora and fauna, and that the development provided biodiversity net gain.

Since approval of the last application in 2017, the Government published a revised version of the NPPF, which strengthened policy wording on biodiversity net gain. An Ecological Impact Assessment had been submitted in support of the application to assess any potential impacts. For the development site itself, the assessment indicated that the habitats on site were typically of low conservation importance and of local value only. The Council's ecological consultant had considered the report and agreed that the pond did not have significant importance from an ecological perspective.

Although the existing grassland, shrubs, trees and pond were considered only to be ornamental and of low conservation and local value, it was not accepted by officers that the current proposals provided biodiversity net gain. The initial landscaping proposals (highly managed landscape space and water feature with treated water) for the new development and the incorporation of some bird boxes were considered not to equate to the habitat that was being lost.

Those concerns needed to be addressed as part of any reserved matters application(s). Consequently, it was considered that a suitably worded condition for biodiversity net gain could be attached to any planning approval at the outline stage and its requirements met in the subsequent application(s) for the reserved matters.

A Member raised a query regarding the economic benefits of the development. The Head of Planning advised that through the development of the Local Plan and engagement with businesses, it had been identified that some offices were not fit for purpose. Therefore, the proposed development would contribute toward economic growth, increase footfall and achieve biodiversity net gain. It was added that, on 13 July 2021, the Executive had approved the adoption of the Green and Blue Infrastructure Strategy 2021 -2037. The strategy aimed to improve access to green and blue infrastructure and provide greening features in the town centre. To protect and enhance the ecology and biodiversity of the site and ensure the survival and protection of important species, a suitably worded condition had been attached. The proposal of how the Applicant intended to meet the requirements of that condition, would be provided in the subsequent application(s) for the reserved matters.

With regards to the availability of wider open space to serve the public and workers, some would be incorporated as part of the development. A significant amount of open space remained on Centre Square that would be available to the public to access and enjoy.

The scheme did include the provision of an area of open space that would be publicly accessible between Building 3 and the Law Courts. Whilst that would clearly not, in quantitative terms, replace that lost to development it would contribute to meeting some of the needs expressed by the objectors for open space to meet public needs. It was considered that, alongside the remaining Centre Square open space, the biodiversity measures outlined and the economic benefits associated with the proposal outweighed the loss of open space.

A discussion ensued and Members highlighted the importance of the scheme being subject to biodiversity net gain conditions to ensure that there would be no loss of biodiversity as a result of the development.

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

In summary, the Agent commented that:

- An outline application for the development of 5 commercial office buildings had been approved in 2017, two of the five approved buildings had been constructed whilst the other three remained unimplemented. The current outline application had since expired.
- The application sought outline planning permission for three commercial office buildings and aimed to attract new businesses and more spend within the local area.
- The Central sector had been identified as an appropriate location for offices.
- The overall scale and type of development proposed would evidently contribute towards reinforcing and strengthening the role of the town centre as the principal

centre within the Tees Valley city region and support the commercial role of the town centre.

- There was a common misconception in Middlesbrough that there was not a demand for office space, however, the empty units in the town were not fit for purpose and even with extensive investment to improve them they would not meet the standards of the modern Grade A office and the requirements of modern occupiers.
- The Government had hubs in the North East region, e.g. the Department for Education had offices in Darlington.
- The proposals were considered to have a beneficial impact on the town centre offer and on the economy.
- The development would appeal to high-value employers with a propensity to enhance the local economy and bring approximately 1000 jobs to the town, 33% more than was originally estimated.

Two Objectors were elected to address the committee, in objection to the application.

In summary, the Objectors commented that:

- Since lockdown, nature had become more important to the public and improved mental well-being.
- An e-petition, objecting to the development, had gained 519 signatures within a few days.
- There was already over 1000 office spaces available for use.
- The pond was a habitat for wildlife, including swans and ducks, and brought biodiversity to the town centre.
- The pond mitigated against flood risk in the area.
- The pond provided a pleasant public space for Middlesbrough's residents.
- Young people and families from working class backgrounds utilised the space regularly.
- The open space was vital for those suffering from mental health conditions.
- Assessing the open space and nature promoted higher levels of health and well-being, especially throughout the pandemic.
- There was no reason for the loss of the pond and the recreational area, the Civic Centre site could be built on.
- There were very few nature areas in the town centre for people to visit.

Given the comments made, a discussion ensued and Members queried whether public space could be re-provided by the development. The Head of Planning commented that Condition 9 would be amended to ensure that the lost open space would be replaced within the development, given the health and well-being benefits to the local community.

The Locum Solicitor commented that the issues raised by the Objectors were not material planning considerations that could lawfully justify refusal of the application. Although the reserve matters application would enable the committee to consider some of the issues raised, the application requiring consideration by Members was merely seeking outline planning permission for the development.

ORDERED that the application be **Approved on Condition** for the reasons set out in the report and subject to the amendment of Condition 9 as follows:

Soft Landscape Works

In accordance with a phased scheme of soft landscaping, which has first been submitted to and approved in writing by the Local Planning Authority, a scheme of soft landscaping shall be implemented on the site for each building hereby approved prior to its occupation or within 9 months of the substantial completion of each building.

The scheme of soft landscaping, in addition to providing details of the position, species and number of all new planting, the planting regime / methods including the provision of root barriers and tree pits as necessary, shall also demonstrate how new green space, of a type suitable to its setting and location, that contributes to meeting the social and health needs of the community, will be incorporated and integrated into the scheme to mitigate the loss of that arising from the development.

Reason: In order to provide a high quality of development within a prominent town centre location, and ensure adequate re-provision of landscaping in accordance with the requirements of Local and National Policy.

21/9

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).

Members commented that in respect of those applications that had been refused, it would have been beneficial for the committee to be informed of the reason/s for refusal.

NOTED