

## PLANNING AND DEVELOPMENT COMMITTEE

<b>Date:</b> Friday 17th December, 2021
<b>Time:</b> 1.30 pm
<b>Venue:</b> Council Chamber

### AGENDA

**Site visits will be held prior to the meeting.  
The bus will depart the rear of the Town Hall at 11.15 a.m.**

1. Welcome and Introduction
2. Apologies for Absence
3. Declarations of Interest
4. Minutes - Planning and Development Committee - 19 November 2021 3 - 8
5. Schedule of Remaining Planning Applications to be Considered by Committee 9 - 34  
  
Schedule - Page 9  
Item 1 - Land adjacent to Ayresome Gardens - Page 11  
Item 2 - 2 Mallowdale - Page 27
6. Any other urgent items which in the opinion of the Chair, may be considered.

Charlotte Benjamin  
Director of Legal and Governance Services

Town Hall  
Middlesbrough  
Thursday 9 December 2021

### MEMBERSHIP

Councillors J Hobson (Chair), D Coupe (Vice-Chair), D Branson, B Cooper, C Dodds, L Garvey, M Nugent, J Rostron, J Thompson and G Wilson

## **Assistance in accessing information**

**Should you have any queries on accessing the Agenda and associated information please contact Georgina Moore/Chris Lunn, 01642 729711/729742, [georgina\\_moore@middlesbrough.gov.uk](mailto:georgina_moore@middlesbrough.gov.uk)/[chris\\_lunn@middlesbrough.gov.uk](mailto:chris_lunn@middlesbrough.gov.uk)**

**PLANNING AND DEVELOPMENT COMMITTEE**

A meeting of the Planning and Development Committee was held on Friday 19 November 2021.

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

**ALSO IN ATTENDANCE:** E Craigie (Teesside Live), F Farooqui, F Hynes and P Hynes.

**OFFICERS:** S Bonner, P Clarke, C Cunningham, A Glossop, C Lunn and S Moorhouse.

**APOLOGIES FOR ABSENCE:** Councillor L Garvey.

**DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

**MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 15 OCTOBER 2021**

The minutes of the Planning and Development Committee meeting, held on 15 October 2021, were submitted and approved as a correct record.

**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 reported thereon.

**21/0233/VAR Variation of Condition 3 (opening hours) of application 19/0532/COU for the roof top terrace to operate between 10:00 and 22:00 hours Monday to Sunday at 2A Oxford Road, Middlesbrough TS5 5DT for Mr and Mr A and A Hynes**

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 planning permission was previously granted in November 2019 under application 19/0532/COU for: *Part change of use of first floor from residential (C3) to create a roof terrace/kitchen/store room associated to ground floor bar (A4) at No.55-59 Roman Road with internal and external alterations.*

In order to limit potential impacts to the neighbouring residential properties from the use of the roof terrace, a condition (Condition 3) was imposed to limit the use of the open terrace to be between the hours of 10:00 and 19:00, as well as for the provision of acoustic fencing to the rear of the terrace to limit noise transference.

This application sought to vary Condition 3 of the approved scheme to allow the roof terrace to be used beyond the controlled hours, up to 22:00 on all days.

The application site was 2A Oxford Road, a first floor kitchen/store and roof terrace which was associated with a ground floor bar at 55 to 59 Roman Road. The property was located within the Roman Road Local Centre and was within the Linthorpe Conservation Area and Article 4 designated area. The site was located at the junction of Oxford Road and Roman Road with commercial units located to the north and west along Oxford Road.

The application was supported by a Design and Access Statement, Noise Assessment and Noise Management Plan.

The Noise Management Plan, which was submitted by the applicant's consultant, suggested that no live music should be played on the roof terrace and that the doors to the roof terrace would remain closed when it was not in operation.

The submitted noise assessment indicated that the average noise levels would not increase as a result of the proposed extended hours relative to the nearest residential property to the rear of the site, and the vehicle noise was the greatest impact of noise within the area. Notwithstanding this, it was considered that the proposal would introduce a type of noise into a mixed commercial / residential area, at a point close and adjacent to residential properties which would be particularly difficult to predict and control and would be doing so at a time of the day when surrounding residents should be able to expect a greater level of amenity. The proposal would be likely to result in intermittent additional disturbance to residential amenity on a basis sufficiently regular to be considered as being notably harmful to the existing levels of residential amenity contrary to the NPPF and Local Plan Policy DC1.

The Council's Environmental Health Officer had reviewed the application and not raised any objections to it. The officer had accepted the findings of the noise report, but also noted that noise from patrons was particularly difficult to predict and manage through both licensing regimes and statutory noise processes because it was noise generated by individuals, as opposed to particular activity or equipment.

Following consultation, two objections had been received in relation to the proposed extension of opening hours. These were predominantly based around additional comings and goings / traffic and additional noise disturbance, indicating there was already noise disturbance from the late night establishments within the area.

The Committee was advised that in the period since the report had been produced and circulated with the meeting papers, seven letters of support had been received. Copies were tabled for Members' perusal. In summary, support related to:

- The pleasant environment of the establishment and the attractiveness of the roof terrace;
- The many events that were held on the roof terrace;
- The sustainability of the establishment without the roof terrace;
- The location of the establishment and noise performance to date;
- The potential for an impact assessment and control measures being put in place, as opposed to a curfew;
- The availability of roof terraces in Middlesbrough versus in cities across the UK;
- The positive impact of the establishment on the Linthorpe area, its inhabitants and on existing businesses;
- The size of the establishment;
- The maintenance of the historic building; and
- The impact of other businesses on the area.

Whilst all of the comments and noise report were noted, Members were advised that the main planning consideration in this case was whether or not the scheme could be approved whilst maintaining reasonable residential amenity for the surrounding residents.

Officers had noted that the application site was in close proximity to residential properties; there was an existing ground floor outdoor area and that the roof terrace space added to that. It was explained that this was a local centre, not a larger district centre or town or city centre, and therefore the impact of any developments within it needed to be relative. Reference was made to paragraph 18 of the submitted report and an excerpt pertaining to the 'Draft Institute of Acousticians (IOA) Good Practice Guide on the Control of Noise from Places of Entertainment'. Consideration was given to potential sources of noise and the impacts that this could have on residents.

Whilst the officers' view was that the roof terrace would not result in a constant level of noise that would adversely affect residential amenity, it was considered that short spikes of higher noise levels (mainly voices) on an irregular or semi-regular pattern or occurrence would be sufficient to have an undue impact on residential amenity.

Reference was made to the comments that had been received from both supporters and objectors, with reference being made to those citing issues around noise and disturbance originating from The Linthorpe Hotel, which was located on the opposite side of the road. Members were advised that the hotel's outdoor area was located further away from the road than this establishment's, but highlighted that patron noise - particularly in an outdoor area - was difficult to control. Planning controls could not deal with the immediate actions of an individual, so made it difficult to condition or prevent noise disturbance when relating to a patron.

Given the concerns around noise, the officer recommendation was to refuse permission. It was felt that the extended use of the roof terrace was likely to result in noise disturbance at a time of night when people living in surrounding areas should have expected a reasonable degree of amenity.

A Member made reference to main town or sporting events, which could potentially result in raised voices late into the evening, and queried potential preventative action regarding this. In response, the Development Control Manager advised that conditions could be imposed, for example; no televisions to be viewed externally on the premises. Planning officers did impose conditions such as 'no live music' and similar, and could therefore impose some controls to help prevent this.

A Member made reference to the noise assessment and queried the reasoning as to why noise levels increased after the roof terrace had closed. In response, it was explained that background noise levels were relative to the occurrence of vehicle noise. A Member queried whether it would have been possible that the noise was caused by those patrons inside the bar, with the noise transmitting through an open door. The Agent in attendance confirmed this would not have been the case.

A Member made reference to operating hours and queried whether consideration could be given to shorter hours on weekdays and extended hours on weekends. In response, Members were advised that it would be reasonable to consider this; if the Committee were to approve the application subject to conditions, the Applicant could appeal the conditions if they felt the need to do so.

A Member made reference to the number of original neighbour consultations (69) and the total number of objections received (2), and requested clarification on the numbers. In response, it was confirmed that the numbers, as stated in the report, were correct.

Two Members supported the view that patrons may become louder as evenings wore on, and therefore consideration of operating hours would be beneficial.

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

In summary, the Agent advised that:

- Prior to a second consultation period, the application had received no objections but full support from the community;
- Mitigations regarding opening hours would be in place and, in addition, no live music would be played outside. Physical mitigations, i.e. noise barriers, would also be put in place;
- The noise report submitted with the application had been completed by competent, qualified noise engineers and was calculated on the basis of worse-case scenario;
- In responding to a query from a Member regarding preventative measures for sporting events, it was explained that there would be no loud amplified noise on the premises;
- The Council's Highways department had not raised any objections to the application;
- Noise was a subjective point of view;
- There had been no heavy letters of objection;
- It was not a noisy establishment;
- Requested for a consistent approach to Planning in that a previous similar application with noise related concerns was granted a six-month temporary condition; and
- The premises had a statutory alcohol licence in place.

A Member queried whether there had been any complaints received from residents prior to the application being made. In response, the Agent advised that no complaints had been received.

A Member referred to page 17 of the submitted report and queried a statement that had been made as part of a letter of objection, which indicated that the owners had been requested to remove the current outside drinking areas, but this had not been complied with. In response, the Agent advised that this was not factually correct.

A Member commented that temporary permission would help to support the Applicant's statement of case and could be reviewed after a specified period of time.

A Member queried whether there was a physical barrier currently in place to separate the outside area from the street. In response, the Agent advised that because the premises was located in the Linthorpe conservation area, open railings had been used to fit in with the area's appearance. The Agent made reference to the noise report and indicated that this had predominantly been caused by the flow of traffic coming from the Town Centre late in the evening.

During the discussion that followed, a Member queried the possibility of agreeing temporary permission for a six-month period, with full permission then being granted after that if there were no objections received. In response, the Development Control Manager explained that the Committee could determine the application with a condition based along those lines, but suggested that a longer period of 10-12 months be considered in order for the summer months to be included. In terms of other comments relating to operating hours, Members were advised that another option would be to permit longer hours on a weekend and shorter hours during the week. Members discussed these two suggestions.

Prior to the Committee determining the application, the Legal representative made reference to the Agent's comments and advised Members that, regarding the position in relation to Licensing, the position of the Licensing Committee was irrelevant. It was not a material planning consideration as regards to the determination of the application before them.

A Member proposed that permission be granted on the basis of a 12-month trial to evidence its appropriateness; this was seconded. Before voting, Members discussed the potential of including a caveat to include shorter operating hours on weekdays and longer hours on weekends.

The Committee voted on the proposal for temporary permission to be granted for a 12-month period, which would be monitored. Permanent permission would then need to be re-applied for after the 12-month period had elapsed.

The Committee agreed that there would be no requirement to have differential opening hours for weekdays; these would be the same as weekends.

**ORDERED** that the application be **Approved** for the reasons set out in the report, subject to conditions relating to Time Limit, Approved Plans, Temporary permission, acoustic fencing and use restrictions.

**21/0419/FUL Erection of building to provide 3 storage units (Use Class B8 storage and distribution) on Land at Warelands Way, Middlesbrough TS4 2JY for Mr Majid**

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 planning permission had previously been granted on this site for three almost identical industrial buildings for class B8 storage and distribution use.

It was explained that since permission had been granted, and which had been noted during the Committee's site visit, the owner of the premises to the rear of the proposed site had erected a fence line, which was potentially through the applicant's site. As a consequence, any potential land ownership disputes would be dealt with by the relevant bodies.

Members were advised that this application had slightly reduced the footprint and positioning of the three buildings, which required that a new planning application be approved.

The application sought for the erection of the three additional storage units (use class B8 storage and distribution) on land at Warelands Way within the Warelands Way Industrial Estate. The proposal included the alteration to the existing private internal roundabout within the estate, which would be amended to square the northern section of the roundabout to enable access into the unit. This section of the highway and the roundabout were within private ownership and were not adopted. The proposal also included the installation of four additional car parking spaces to the east side of the proposed unit with the overall loss of four car parking spaces.

The design of the industrial units was considered to be consistent with the existing unit design with high quality materials. The nature of the proposal being B8 Storage and Distribution would not result in any notable detrimental impact on the amenities of the neighbouring units.

The site layout and associated highway and parking alterations had been designed to provide adequate highway access and parking provision for the proposed and existing units within the Industrial Estate. No highway safety concerns had been raised.

The application was supported by a Design and Access Statement and a certificate B notice had been served.

Following consultation, three objections had been received from residents.

In summary, the objections related to:

- Highway access to the existing units;
- Loss of existing car parking for existing units and the resulting impact on businesses;
- Intensification on existing parking resulting in congestion;
- Construction work access issues; and
- The lack of need for any more industrial units.

The recommendation was for approval of the application, subject to conditions.

A discussion took place in relation to the fencing that had been erected to the rear of the existing buildings. A Member commented that this was particularly close to a fire escape route and ought to be given further consideration. The Development Control Manager advised that this was not a planning issue and would need to be raised with Cleveland Fire Authority. The Member indicated that this would be undertaken.

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

## **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).

A Member made reference to page 45 of the papers, planning application reference: 21/0656/TELPN Installation of 20.0m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works at Trimdon Avenue, and queried the reasons as to why prior notification had been refused. In response, the Development Control Manager advised that there were usually three ways in which such applications would be granted planning permission: either through permitted development; prior notification; or full planning application. One aspect that officers considered was the impact on surrounding areas. It was felt that the 20m high pole with apparatus, which was required for 5G, was substantially more sizeable than the usual 15m high 3G poles. Whilst it had been recognised that the poles were

needed, it was also important to gain balance between this and the impact upon residential areas. In this case, it was felt that the pole and apparatus were too large for the area.

**NOTED**

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

Outcome of Planning Appeal – Land at Ford Close Riding Centre (Appeal Ref: APP/W0734/W/21/3268784)

The Head of Planning provided information in relation to a planning appeal hearing that had been held on 22 September 2021:

**Appeal Ref: APP/W0734/W/21/3268784 Land at Ford Close Riding Centre, Brass Castle Lane, Middlesbrough TS8 9EE – Appeal Dismissed**

The development proposed the demolition of existing buildings and the erection of 69 dwellings along with open space and associated infrastructure.

The main issue in the determination of the appeal was the effect of the development on housing choice in the Borough, with particular regard to the type and density of the proposed housing, and the design and layout of the scheme, including trees.

**NOTED**

## Planning & Development Committee - 17th December 2021

### Town planning applications which require special consideration

1	20/0374/FUL  Newport	Applicant Mr Arif Mushtaq  Agent Mr Mario Minchella	Erection of part-three, part-four storey residential accommodation comprising 75no. beds for use as either student accommodation or House in Multiple Occupation (sui generis)  Land Adjacent To Ayresome Gardens, Middlesbrough TS1 4QN
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2	21/0399/FUL  Nunthorpe	Applicant Mr Daniel Brady	Relocation of existing fence line up to 1.5m away from public footpath  2 Mallowdale, Middlesbrough TS7 0QA
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**APPLICATION DETAILS**

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<b>Application No:</b>	<b>20/0374/FUL</b>
<b>Location:</b>	<b>Land adjacent to Ayresome Gardens, Middlesbrough, TS1 4QN</b>
<b>Proposal:</b>	<b>Erection of part-three, part-four storey residential accommodation comprising 75no. beds for use as either student accommodation or House in Multiple Occupation (sui generis)</b>
<b>Applicant:</b>	<b>Mr S Chambers</b>
<b>Agent:</b>	<b>Mario Minchella Architects</b>
<b>Ward:</b>	<b>Newport</b>
<b>Recommendation:</b>	<b>Refuse</b>

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**SUMMARY**

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Planning permission is sought for the development of a part-three, part-four storey building comprising 75 individual bedrooms for student accommodation or HMO purposed (sui generis use class). The site is a narrow parcel of rectangular land, situated between the public park known as Ayresome Gardens and dwellings along Crescent Road, and is not allocated for any particular purpose on the Council's adopted Proposals Map.

The application site benefits from an extant planning permission for student accommodation of 72 beds (M/FP/0347/16/P). As groundworks have been undertaken, this previously approved development can be constructed at anytime. Consequently, the principle of student accommodation and a 2.5-storey building height on this site are considered to be established. The main differences between the approved development and the current application are considered to be the four-storey element of the proposal, the general design/layout of the scheme, and the removal of on-site parking.

The report considers the main differences and concludes that the additional height of the proposed building (the fourth storey) would adversely impact the character and appearance of the surrounding conservation area, and be harmful to the living conditions of the nearby residential occupiers of properties along Crescent Road. In addition, the proposed site arrangement has no provision for off-road parking or servicing, so activities associated with the proposed use – namely pick-ups and drop-offs and waste collection – are likely to take place on the adopted highway to the detriment of all highway users.

The proposed development is considered contrary to local and national planning policy and the officer recommendation is therefore to refuse.

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## **SITE AND SURROUNDINGS AND PROPOSED WORKS**

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The application site is a narrow strip of derelict land located between the recreational area known as Ayresome Gardens and the rear gardens of 2.5-storey residential properties along Crescent Road and Ayresome Street. Directly to the east of the site is the former Sunday School building, which is attached to the northern side of the associated former Park Methodist Church which is a Listed Building. To the west of the application site is Nos. 38-42 Crescent Road, which operates as Middlesbrough Tool Centre.

The vacant application site represents an urban brownfield site with former uses and occupancy being garages and workshops. The site is located within the Albert Park and Linthorpe Road Conservation Area, with historic buildings of architectural merit in close proximity.

The proposed development is for a part 3-storey, part 4-storey building to provide student accommodation, providing 75 beds in total. Given the confines of the site, the proposed building takes an elongated, linear form, with the student bedrooms positioned on the north side of the building and the general circulation space (including corridor and storage areas) running along the south side.

The ground, first and second floor levels have a similar layout. The first and second floors are identical, accommodating 22 bedrooms, two communal lounges, a laundry area and a cycle store. The ground floor is similar, albeit with only 20 bedrooms (due to the feature entranceway), two cycle stores, the communal waste store and plant room. The uppermost, third floor accommodates 11 beds, a communal room, laundry and cycle store.

The principal elevations of the building will be constructed using red heritage brickwork, with sheet profile metal forming a mansard detail above. Beyond the mansard roof, single ply roof membrane would be proposed behind a parapet wall.

No on-site vehicular parking spaces are proposed as part of the development.

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## **PLANNING HISTORY**

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### M/FP/0347/16/P

Erection of 1no part 3 storey/part 2 storey residential accommodation containing 6no 12 bed units with associated access, parking with 2no alley gates  
Approved Conditionally 16<sup>th</sup> May 2016

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## **PLANNING POLICY**

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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
- H11 – Housing Strategy
- CS4 – Sustainable Development
- CS5 – Design
- CS6 – Developer Contributions

CS18 – Demand Management  
CS19 – Road Safety  
REG37 – Bus Network ‘Super Core’ and ‘Core’ Routes  
DC1 – General Development  
UDSPD – Urban Design SPD

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>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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The application has been subject to the standard notification of neighbouring properties, which included a letter drop to 59 different addresses. Site notices were also displayed at the application site and an advertisement placed in the local press.

Following the statutory consultation phase, one representation was received from local ward councillor, Barrie Cooper.

- Access to the site would either be into the alley or directly into Ayresome Gardens neither seem suitable.
- Access by Emergency Service Vehicles also seems unsuitable.

### **Responses from Internal Technical Consultees:**

Planning Policy – The principle of residential development on this site accords with the Development Plan policies.

Highways – Recommend refusal due to the lack of on-site parking and servicing arrangements which will lead to the displacement of such activities on the public highway.

Conservation – Recommend refusal as a result of the likely harmful impact of the proposed development on the significance of the Conservation Area and the settings of nearby Listed Buildings.

Waste Policy – Provision will need to be had to store refuse and recycling for the number of bedrooms sought.

Environmental Health – No objections subject to condition relating to noise assessment to ensure living areas are not adversely affected by external noise.

### **Responses from External/Statutory Consultees**

Northumbrian Water – No objections subject to condition requiring a detailed scheme for the disposal of foul and surface water.

Northern Gas Networks – No objections but works may affect apparatus.

Northern Powergrid – No comments received.

Ward Councillors – Comment received from Councillor Cooper (details above).

Secured By Design - The developer should contact SBD to discuss ways to design out crime. Informative included.

## Public Responses

Number of original neighbour consultations	59
Total numbers of comments received	1
Total number of objections	0
Total number of support	0
Total number of representations	1

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## PLANNING CONSIDERATION AND ASSESSMENT

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### Local Policy Consideration

1. On the Council's adopted Proposals Map, the application site is located on unallocated land within the Albert Park and Linthorpe Road Conservation Area.
2. Policy H1 requires that windfall developments are located within the urban area where they are accessible to the community they serve and satisfy the requirements for sustainable development as contained in Local Plan Policy CS4. Policy H11 identifies North Middlesbrough and Inner Middlesbrough for city style living and high density development such as apartments. Whilst the proposals are not for apartments, the layout and density of the student accommodation is not too dissimilar. Although the site is not within the designated town centre, it is in close proximity to the centre, and within a relatively dense urban areas.
3. Policy CS4 requires all development to contribute to achieving sustainable development. Amongst other things, this includes making the most efficient use of land through the redevelopment of previously-developed land, being located so that services and facilities are accessible on foot, bicycle or public transport, incorporate energy saving technologies, and delivering development of a high quality design that improves the quality of the townscape.
4. Being located just outside of the designated Town Centre, the proposed development is considered to be in a sustainable location, providing ready access to the bus and train stations, which are within recognised walking distances. Being constructed on the site of former commercial uses, the student accommodation development is considered to be making efficient use of previously-developed land. Policy CS4 also encourages the incorporation of on-site renewable energy facilities or providing 10% renewables within major development. In the event of approval, a condition can be imposed to provide 10% renewables or a fabric first approach.
5. Members should be aware that the application site was granted planning permission for a similar use in 2016. Through planning permission M/FP/0374/16/P, consent was granted for the construction of a part-two/part-three storey building, with a brick/block with render external appearance, accommodating 72 student beds. Although the development has not been constructed, pre-commencement conditions have been discharged and groundworks commenced meaning the 2016 permission has had a technical commencement and is extant, and can be built out any time. Mindful of which, it is considered that the principle of a development for student accommodation on this site has been established given this lawful fall-back position.

6. With the principle of the use established, the key material matters as part of the current scheme are considered to be the increased building height, the design and layout of the building, the external appearance and its associated potential impacts on the surrounding conservation area and the setting of heritage assets, and the potential impacts on the operation of the local highway network.

#### Principle of Additional Building Height

7. The proposed building would be part-three/part-four storeys in height, which is noticeably higher than the previously approved and commenced scheme. Consideration needs to be given as to whether the proposed additional height, with its associated scale and mass, would integrate well with the local context, which includes potential impacts on the local townscape and the settings of heritage assets within the conservation area.
8. For buildings providing flatted development or higher density uses, the Council's adopted Urban Design SPD suggests how these may be integrated into the local area. Amongst other guidance, it states that *'designs should relate to an area, and should reflect the context of the development site. The grouping, size and proportion of openings, changes in materials, the form of the roof, detail to the main entrance and articulation of the plan to provide relief to the elevation can all help to add interest and variation to the appearance of a development.'*
9. The SPD also advises that *'a maximum 2.5 storeys is the general acceptable scale throughout Middlesbrough. There are however, some situations where development in excess of 2.5 storeys would be more appropriate, e.g. prominent locations where it is desirable to make an architectural statement. In these cases proposals for buildings over this height will require further detailed supporting information.'*
10. Policy DC1(b) states that *'the visual appearance and layout of the development and its relationship with the surrounding area in terms of scale, design and materials will be a high quality'*. Policy CS5(c) requires high quality development *'ensuring that it is well integrated with the immediate and wider context'*.
11. Buildings of a two and three-storey height surround the site. Immediately to the south (Ayresome Street and Crescent Road) are 2.5-storey high residential buildings; adjacent to the west is a two-storey commercial building (Middlesbrough Tool Centre); and situated to the east are two and three-storey residential and institutional buildings (apartments and nursery uses).
12. Whilst the immediate vicinity is surrounded by 2.5-storey high buildings, within 150 metres to the east and west of the site, there are buildings of more significant sizes – four-storey equivalent or greater – including Ayresome Primary School, the One Life Centre and an apartment block on the corner of Park Road North and Linthorpe Road. However, these buildings are either within larger grounds where there are likely to be fewer adverse impacts on surrounding sites, or they occupy a landmark/gateway location and exhibit a focal presence. Therefore, these larger buildings are considered to in general accordance with the SPD respectively, and make a positive contribution in their own right to the local urban area without unduly affecting the nearby built environment.
13. In terms of the application site, it is the officer view that it does not have a particularly prominent location nor is situated at a gateway site. Whilst it has a wide frontage onto the southern boundary of Ayresome Gardens, the application site is deemed not to be a gateway or prominent location, but is considered to be somewhat cramped, with the buildings to the south, east and west being in relatively close proximity.
14. Whilst the proposed three-storey element would be considered to complement the scale of buildings in the area, the proposed four-storey height is considered to be at odds with

the immediate surrounds, which are all of a lower height. The additional storey would be deemed contrary to the local context of the area, and conflicts with the requirements of Policies DC1, CS5 and the adopted Design Guide SPD.

#### Impacts on Conservation and Heritage Assets

15. Policy CS5 requires all development to demonstrate high quality of design in terms of layout, form and contribution to the character and appearance of the area. Specifically, part (h) of the Policy requires *'the preservation or enhancement of the character or appearance of conservation areas'* and part (i) requires *'safeguarding buildings identified as being of special historic or architectural interest'*. Policy DC1 requires *'the visual appearance and layout of the development and its relationship with the surrounding area in terms of scale, design and materials will be of high quality'*.
16. The site lies within Albert Park and Linthorpe Road Conservation Area. The significance of the conservation area lies primarily in the Victorian public park, which was developed from the 1860s, and the surrounding development, some of which fronts onto the park. The area is made up of high quality green open spaces, mature trees, superior Victorian, Edwardian and 1930s housing, traditional shops, and landmark buildings, which have a number of towers and domes that can be seen from great distances.
17. Ayresome Gardens, which is to the north of the application site, is a former cemetery, being founded in 1854 to cope with the sudden expansion of the town. Ayresome Cemetery was Middlesbrough's first purpose-built graveyard and one of its biggest. The cemetery was decommissioned in 1962 and the site was cleared of the last remaining headstones in the early 1980s.
18. The Conservation Area Appraisal states that the overriding character of Ayresome Gardens is *derived from the open space fronting onto Linthorpe Road and the views of nearby buildings such as the Grade II Listed Forbes Buildings, and the historic Ayresome School to the rear of the gardens. Mature trees also make an important contribution to the character of the area.*
19. To the east of the application site is the Grade II Listed Park Methodist Church, which dates from 1903 and is characterised by its red brick appearance with painted terracotta dressings, Welsh slate roofs and copper-domed northwest tower. It is considered a dominant and elegant Edwardian building, with its tower being one of many that help define the character of this part of the Conservation Area.
20. Immediately southeast of the site and recorded on Middlesbrough's Historic Environment Record (HER) is Park Methodist Church Sunday School, adjacent to the Methodist Church. It is a two-storey, red brick, Edwardian ecclesiastical and educational building that, by virtue of its form and materials, makes a positive contribution to the significance of the Conservation Area.
21. Section 194 of the NPPF states that *local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum, the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.* A Heritage and Conservation Statement has been submitted as part of the application, which has been considered by officers.
22. In terms of determining applications, section 197 of the NPPF advises that *local authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets... and the positive contribution that conservation of*

*heritage assets can make to sustainable communities including their economic vitality. LPAs are also advised to take account of the desirability of new development making a positive contribution to local character and distinctiveness.*

23. When considering the impact of a proposed development on the significance of a designated heritage asset, Section 199 of the NPPF states that *great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Section 200 of the NPPF continues by stating that *any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.* According to Section 202, *where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*
24. The previous section of this report considered the proposed four-storey building height to be at odds with the general surrounding townscape. In terms of the potential impacts of the height on the local heritage assets, there are strong concerns that the proposed four storeys risk dominating the area, with particular consideration to the adjacent Sunday School building. Although the proposed development is considered not to dominate the nearby church tower, it is considerably more bulky than the tower and risks dominating vistas to and from Ayresome Gardens.
25. The proposed development is considered to be a modern design with plain appearance, and not particularly distinctive to the local area. It incorporates a mansard roof which presumably seeks to give the building the impression a reduced height whilst including a fourth level. The proposed increase in height should not be harmful to the nearby Listed Buildings, which are considered to remain dominant. Notwithstanding this, the bulky design of the proposals would be deemed to dominate the traditional terrace houses to the south of the site, which are situated in close proximity.
26. The external materials proposed in the original scheme were grey brickwork for the ground floor and white render for the upper floors. Given the local conservation area status as well as the proximity to nearby Listed Buildings, the applicant was advised that such finishing materials were deemed unacceptable for the setting and that materials similar to those nearby (predominantly red brickwork) should be considered as an alternative.
27. The materials in the revised scheme are itemised on the submitted drawings, with red heritage brickwork being proposed for the main elevations. Such materials are considered a significant improvement on those originally sought and appropriate for the setting. It is considered that the mansard roof and its associated covering should be improved in this conservation area setting with the potential use of traditional pitched slate, and the fenestration should be aluminium rather than upvc. Whilst there may be isolated examples of contemporary materials on larger buildings within the conservation area, these are considered exceptional cases rather than characteristic of the local architectural forms. It has been put to the developer that all proposed materials should be complementary to the surrounding conservation area and heritage assets, although a full set of materials that are deemed to be acceptable has not come forward.
28. Mindful of the additional height and materials proposed, it is considered unlikely that the proposed building will make a positive contribution to the conservation area that local and national policy requires. Whilst the proposed development is judged to result in less than substantial harm to the conservation area, paragraph 196 of the NPPF advises that this harm should be weighed against the public benefits of the proposal. The Heritage

Statement advises that the proposal will 'screen offensive vistas' from the terraced houses behind the site, but this is not considered by officers to be a public benefit as their impact is not harmful to the conservation area as Victorian terraced houses.

29. It is acknowledged that the proposals could eliminate the local area of a vacant and neglected site on the boundary of the open space of Ayresome Gardens. However, it is noted that an approved development from 2016 exists which would achieve the same, and the site is relatively small and could be positively screened by landscaping were this deemed to be beneficial. As such, little weight can be given to the potential public benefits of the proposal, and therefore it is the officer view that these would not outweigh the harm that would be caused. Even with public benefits, a better and more appropriately designed building would achieve the same public benefits whilst high quality development would sustain or enhance the significance or character and appearance of the conservation area.
30. Given the above and in the absence of any significant public benefit, it is considered that the proposals would fail to complement the heritage assets within the Albert Park and Linthorpe Road Conservation Area. This would fail to satisfy the requirements of paragraphs 194, 197, 199, 200 and 202 of the NPPF and local policies DC1, CS4 and CS5, which seek to ensure that the historic heritage of the area and the townscape is protected, conservation areas are preserved or enhanced, and the safeguarding of buildings identified as being of special historic or architectural interest.

#### Impacts on Surrounding Neighbouring Occupiers

31. With the additional height of the proposed scheme compared to the previously approved scheme, consideration needs to be given as to whether the proposed development would result in a significant detrimental impact on the residential amenities of any nearby properties. In this case, the most impacted properties are considered to be those to the rear (Nos. 2-36 Crescent Road), which are situated to the south of the proposed development. Policy DC1 requires *'the effect upon the surrounding environment and amenities of occupiers of nearby properties will be minimal'*.
32. A starting point to understand reasonable and recommended separation distances would be the adopted Urban Design SPD, which identifies a minimum distance of 21 metres between principal room windows that face each other where buildings exceed single storey height. The SPD does not contain direct guidance in relation to situations where residential properties face each other at an angle or differ in height, both of which are the case here although the same principles apply of preventing short distance views between windows. It must also be pointed out that the windows on the rear elevation of the proposed building serve corridors and circulation spaces, not individual rooms.
33. The arrangement of the residential properties along Crescent Road relative to the proposed building means that there would not be a direct facing relationship with all properties. Whilst Nos. 2-16 Crescent Road would be directly facing, Nos. 18-36 Crescent Road are at an angle and positioned closer to the proposed building. The point at which these neighbouring properties are angled from the proposed building is roughly where the building steps down from four to three storeys.
34. Between the proposed building and the two-storey rear offshoots of Nos. 18-36, the approximate separation distance varies from 9 to 18 metres. To the main body of the residential properties, this separation distance increases to between 13 and 25 metres. Whilst the majority of these distances fall considerably short of the privacy distances recommended in the SPD, which potentially harms the amenities of existing residents, it is accepted that a similar scale of development has been granted and remains extant on this site and these were based on considerations at the time relative to the arrangement of buildings relative to the application proposal.

35. Between the proposed building and the directly-facing two-storey offshoots of Nos. 2-16, the approximate separation distance is greater, varying between 18 and 21 metres. To the main body of these residential properties, this separation distance increases to between 25 metres and 30 metres. Although the minimum distance standards of the SPD would be adhered to at this part of the proposal, it is the view of officers that the large scale of the proposed four-storey building is such that it would still introduce a dominating and oppressive structure close to the rear boundary of these residential properties. This proposed arrangement is considered to have a sufficient harmful impact to impair the amenities of occupiers, which is as a result of the overpowering feeling of enclosure created by the proposed four-storeys.
36. As noted above, the southern elevation of the proposed building contains a number of windows that serve circulation space and corridors at upper floor level, in some cases falling short of the minimum 21 metre separation distance. Whilst these proposed windows would not serve bedrooms or other principal rooms, it is considered that they would still result in the perception of overlooking upon the rear elevations and garden spaces of a number of nearby dwellings. This would be because of the proposed windows being located in close quarters to the rear boundaries of these properties. The proposed arrangement is deemed to be materially harmful to the living conditions of the occupiers of these dwellings.
37. The sheer size and scale of the proposed building relative to nearby dwellings together with its proximity to them also means that it would unduly affect the outlook from these properties. Whilst it is accepted that the site was historically home to commercial buildings and has an extant planning consent for a 2.5-storey building, which may have affected outlooks, these would not be of the height of the proposed building and therefore of a reduced dominance.
38. Given the location of the application site in this highly urbanised setting where larger buildings are found at greater densities, the recommended separation distances of the SPD could be relaxed to some extent. In this case, however, the separation distances proposed are considered to be too short given the scale of the development, which would result in significant harm to the living conditions of existing residents and contrary to the aims of Policy DC1(c).

#### Likely Amenity Levels for Future Occupiers

39. As well as the impacts on existing residents, consideration shall also be given to whether the design and layout of the development would result in satisfactory levels of amenity and facilities for future occupants.
40. The development proposes 75 bedrooms in total with associated facilities and amenities dispersed throughout the floors. All bedrooms have the same footprint and layout, being approximately 20 square metres (including en suite areas). As a minimum of 13 square metres should be provided in each bedroom containing kitchen facilities (to accord with the recommended standards contained within the Council's '*Guidance on Accommodation Standards for HMO*'), there are no significant concerns with the floorspaces provided to accommodate the necessary ancillary facilities to provide safe spaces to live, cook, eat, sit, relax and to sleep. A 'model room layout' has been provided, which shows furnishings and fittings in a typical room and demonstrates practical usability. Overall, it is considered that the room sizes are acceptable and it has been shown that adequate space can be provided to accommodate furniture associated with a student use, and there is sufficient space to manoeuvre around the room.
41. These bedrooms are complemented by the associated amenities, which includes seven communal lounges, four laundry/store rooms and five cycle stores. The total amount of

floorspace of the communal lounges and laundry/store areas is approximately 232 square metres and 68 square metres respectively, giving a total space of ancillary facilities and amenities as 300 square metres. As well as demonstrating floorspace workability in the bedrooms, the communal spaces on each floor are considered capable of providing larger kitchen and seating areas outside of individual rooms.

42. On balance, it is considered that the size of the rooms and the associated communal spaces on each floor are satisfactory for the proposed student accommodation and will provide good amenity levels for future residents.
43. Cycle stores are provided on each floor, although it has not been demonstrated how many bicycles could be accommodated within each. It is noted that a cycle space should measure 0.5 metre x 1.8 metres. The cycle store measures one metre in depth and 6.6 metres in width. Consequently, it is uncertain how many bicycles can be accommodated within each store.
44. The ground floor has waste store provision, although the submitted drawings only indicate space for four Eurobin style bins when it is recommended for a development of this size to have provision for 14 bins (seven for refuse and seven for recycling). Given this shortfall, and the fact the local authority refuse collectors would not undertake collections more regularly, any approved development would be required to have private contractors collecting refuse and recycling.

#### Highways Implications

45. The site is considered to be highly sustainable being located in close proximity to the main University Campus and is within nationally recognised walking distance of the town centre, bus stops and bus and train stations. Mindful of such a location, Local Plan Policy CS18 seeks that development proposals improve the choice of transport options, including promotion of opportunities for cycling and walking.
46. Crescent Road is approximately 8.4 metres wide, however, adjacent residential properties fronting the road do not have off-street parking and as such on-street parking occurs on both sides of the road. This on-street parking reduces the width of Crescent Road to widths which will struggle to maintain two-way traffic flow, particularly to enable larger vehicles such as refuse vehicles/delivery vehicles to pass opposing traffic. In addition, adjacent to the proposed development site is Ayresome Primary School and other local businesses which bring vehicles into the area and increase demand for on-street car parking.
47. The high competing demand for the limited on-street parking available leads to vehicles being left in unsuitable locations, such as adjacent to junctions or access points. The introduction of further waiting restrictions could be introduced, but this would simply increase the pressure for the limited available parking remaining. It is considered that this would be to the detriment of existing residents already struggling for parking and is likely to displace car parking into other adjacent areas.
48. No dedicated car parking spaces are being provided, with the developer seeking to emphasise sustainable transport measures. Whilst the scheme is proposed to be car free, the measures to prevent students from bringing vehicles to the site are considered significantly underprovided. Even if such measures were proposed, term start and end dates are a time in student accommodation where there are high levels of car movements and parking demand, as items/furnishings are brought or taken away.
49. There are no car parks nearby, which might have offered opportunity for vehicles to park up and allow for a short walk to and from the site. As such, there are considered to be no alternatives other than to bring vehicles to the site and seek parking in the immediate

vicinity. Based upon the number of bedrooms and the constrained highway environment, this vehicular demand would be deemed detrimental to the free flow of traffic, lead to obstructions of the highway (including footways) and would be detrimental to highway safety. It must be noted that the previously approved scheme of 2016 (considered the lawful fallback position) had provision for four off-road vehicular spaces, which allowed for some form of managed drop-off/pick-up of students.

50. In terms of servicing the development, access to the front of the development is limited to pedestrian access only and is over private land, which is not public highway. Although the land is a park and owned by the authority, this park could be fenced in the future (for security reasons as an example). Rear access is available from Crescent Road via a rear alley, which is around 3 metres in width. Alleygates have been installed due to historic issues relating to fly tipping, crime and anti-social behaviour. The development could be viewed as helping to remove these issues through improved surveillance in the area, although future management would need to manage access on foot.
51. It would seem the intention is for refuse collections to be made from the rear access lane, as no collection point has been indicated on the submitted drawings. Given the narrow width of the lane, it is considered unsuitable for a refuse vehicle to enter the site or for crews to work practically at the vehicle. The 90-degree bend at the eastern end of the alleyway also means it is unlikely that a refuse vehicle could leave in a forward gear. No vehicular tracking has been submitted that would inform the local authority that the necessary vehicles could make safe access and egress.
52. Mindful of the above, the building management would be responsible for ensuring the refuse and recycling receptacles are made available for collection from the nearest adopted highway and then removed from the highway after collection. However, it is noted that the refuse store for the development is located approximately 75 metres from the public highway, which would be greatly in excess of the acceptable measurement of 20 metres from the public highway.
53. The consequences of the above are that servicing is likely to take place on Crescent Road with servicing traffic waiting at the entrance to the alley. In turn, refuse bins would need to be brought to the refuse vehicle in anticipation of its arrival resulting in these bins being stood (potentially for extended periods of time) on the public highway. Such activities would, again, take place within the context of a highly constrained highway environment where there are high competing demands for limited car parking, limited carriageway width and adjacent to a school. As such, these arrangements would lead to obstruction of the highway, be detrimental to the free flow of traffic and present a highway safety issue, particularly for vulnerable highway users such as pedestrians (including parents and young children walking to school). This is contrary to the NPPF (paragraphs 110 and 112) and Core Strategy Policy DC1 (General Development).

#### Conclusion

54. The extant planning permission for student accommodation at the site, is for a part-two, part-three storey building for 72 bedrooms. Pre-commencement conditions were discharged and groundworks commenced, although no construction work followed. The development hereby proposed seeks to increase the height and layout of the previously approved scheme and essentially intensify the proposed use.
55. The principle of student accommodation at the site is acceptable mindful of the extant planning permission as well as the site being within a residential area on an unallocated site. In addition, it is considered that the residential amenity levels for future students within the development would be largely acceptable, with the floorspace for the bedrooms and communal spaces sizes meeting technical standards.

56. Whilst the principle of development and future living conditions are accepted, it has been reported that the proposed four-storey height would be at odds with the immediate surrounds and contrary to the local context. The four-storeys with the associated bulky scale are deemed to dominate the traditional terrace houses immediately to the south as well as the adjacent Sunday School building. The development has also been assessed as risking dominating vistas to and from Ayresome Gardens.
57. The submitted drawings inform officers that the main elevations would constitute a red heritage brick, although a full set of materials that are deemed to be suitable for the setting have not been provided. In which case, it is concluded that the proposed development would not make a positive contribution to the conservation area as required by both local and national planning policy. The development is considered to lack any significant public benefit and fails to complement the heritage assets.
58. The proximity of the development to the terraced properties to the south would, as a minimum, result in the perception of overlooking upon the rear elevations and garden spaces of a number of dwellings. The arrangement is deemed to be materially harmful to the living conditions of the nearby residential occupiers.
59. Although the development is proposed as being car-free, there are considered to be no noticeable measures to prevent students from bringing vehicles to the site. At the start and end of term, developments of this type would be expected to manage pick-up/drop-offs of students and their belongings. The previously-approved development offered four parking spaces within the site, which could allow vehicles the opportunity to be off the adopted highway. The current scheme does not propose any on-site parking nor has it been demonstrated how students would be expected to load and unload their possessions throughout their stay. General issues of refuse collections and servicing have also been analysed as resulting in likely harmful impacts on the surrounding highway network, whilst cycle stores are spread out including on the upper floors, likely to limit their use within this zero parking scheme.
60. The development is therefore considered to be in conflict with local policies DC1(b) and (c), CS4(k), CS5(a) and (h), as well as the requirements of the National Planning Policy Framework, and the officer recommendation is for refusal.

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## RECOMMENDATIONS AND CONDITIONS

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Refuse for the reasons below.

### **Reason for Refusal 1**

**In the opinion of the Local Planning Authority, the proposed development would be significantly harmful to the living conditions of the residential occupiers of the terraced houses to the south along Crescent Road. This is owing to the proximity of the proposed development, the four-storey height in particular, to the rear elevations and gardens of the dwellings along Crescent Road. This would be contrary to the aims of local policy DC1(c).**

### **Reason for Refusal 2**

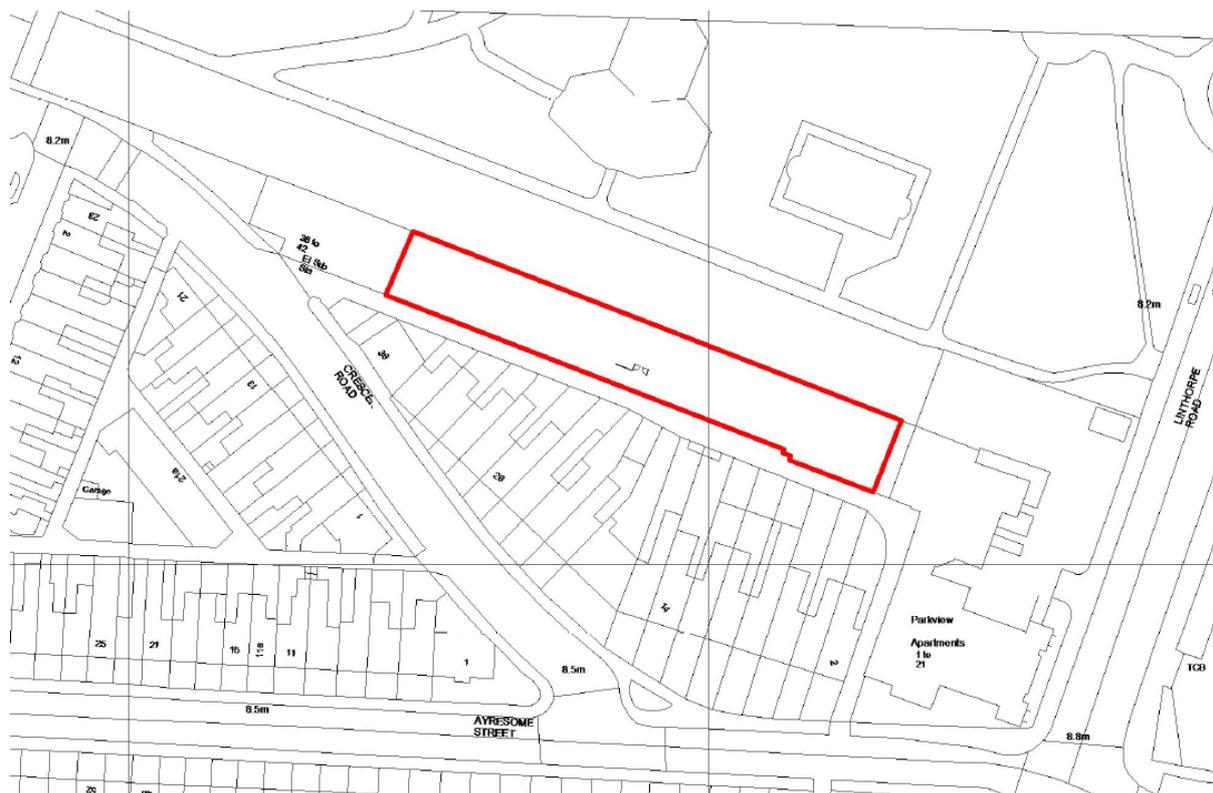
**In the opinion of the Local Planning Authority, the lack of adequate parking and servicing arrangements will lead to a displacement of such activities onto the adjacent public highway. The surrounding public highway is considered to be highly constrained in terms of width and parking demands and the impact of these activities**

onto the public highway will interfere with the free flow of traffic along Crescent Road, obstruction of the highway and will be detrimental to highway safety. This is contrary to the NPPF (Paragraphs 110 and 112) and Core Strategy Policy DC1 (General Development).

**Reason for Refusal 3**

In the opinion of the Local Planning Authority, the proposed development by virtue of its size, design and appearance would adversely affect the character and appearance of the Albert Park and Linthorpe Road Conservation Area, with particular reference to but not exclusively, in relation to the traditional terraced properties immediate south of the site. In the absence of any significant public benefit, it is considered that the proposals would not complement any nearby heritage assets within Conservation Area and would fail to satisfy the requirements of paragraphs 194, 197, 199, 200 and 202 of the NPPF and local policies DC1, CS4 and CS5.

**Appendix A: Location Plan**



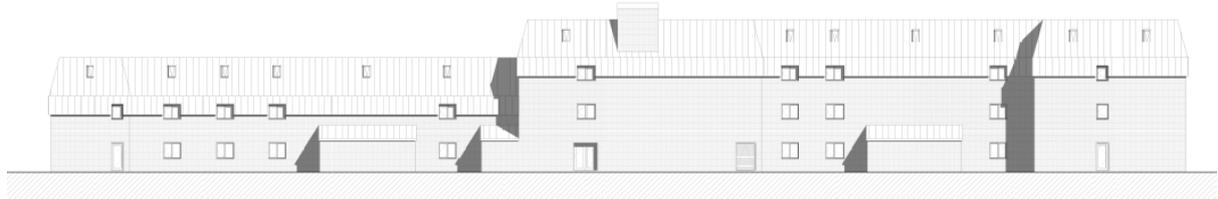
**Appendix B: Proposed Site Plan**



**Appendix C: Proposed Front and Rear Elevations**



ed front Elevation (Myasocma Gardens)



ed Rear Elevation (Bank Street Lane)

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**APPLICATION DETAILS**

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<b>Application No:</b>	<b>21/0399/FUL</b>
<b>Location:</b>	<b>2 Mallowdale</b>
<b>Proposal:</b>	<b>Relocation of existing fence line up to 1.5m away from public footpath</b>
<b>Applicant:</b>	<b>Mr Daniel Brady</b>
<b>Ward:</b>	<b>Nunthorpe</b>
<b>Recommendation:</b>	<b>Approve with conditions</b>

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**SUMMARY**

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Planning permission is sought to extend the private garden area out to the side of the property by erecting a 1.8m high, close boarded timber fence. The original approval for the development was subject to conditions one of which restricted permitted development rights in respect erecting fences to the front (and side in the case of a corner plot). Due to the height of the fence and its position in relation to the highway the proposal requires planning permission irrespective of the restrictive estate condition.

Two objections were received from nearby residents.

The proposal was assessed against local policy and guidance and consideration given as to whether or not the proposed fence would detract from general open character of the area and whether the proposal goes against the principles of the Nunthorpe Design Statement Supplementary Planning Document (SPD).

In accordance with the Delegated Scheme of Approval, the application is being considered at Committee as the applicant is an employee of the Council and an objection has been received.

Taking into account the site-specific circumstances, it is the officers view that the provision of a 1.5m landscape strip between the fence and the highway in combination with the existing highway verge will help to retain the open appearance of the estate. Furthermore, the wording of the Nunthorpe Design Guide refers to front gardens. The proposal is to the side of the property and as such it would be difficult to justify refusal of planning permission on the basis of it being contrary to the SPD.

The Officer recommendation is for approval subject to relevant conditions

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## SITE AND SURROUNDINGS AND PROPOSED WORKS

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The application property is located at the junction of Mallowdale and Clevegate, in a residential area in Nunthorpe, Middlesbrough. Surrounding properties are typically two-storey detached dwellings with open frontages.

The application property is a two storey detached dwelling occupying a corner plot with open garden to front and side. There is a garage and driveway to the rear that is accessed via Clevegate. There is an existing fence to the side of the property which projects out from the front of the side elevation by approximately 1.45m and runs from the front elevation of the property to the side elevation of the garage to the rear.

The proposal subject of this application is to extend part of the fence out to the side so that more of the side garden is enclosed. Original plans submitted with the application showed the fence projecting out a total of approximately 6.15m for a distance of 9.66m before returning to meet the existing side fence. Following concerns raised by the planning officer, a revised plan was submitted, it showed the extent of the projection to the side reduced to 5.4m leaving a distance of 1.5m to the back of the adjacent footway.

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## PLANNING HISTORY

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C157/71 Residential Development . Approved conditionally 16th Feb 1971.

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## PLANNING POLICY

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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:

DC1 - General Development  
CS4 - Sustainable Development  
CS5 - Design  
NDS – Nunthorpe Design Guide

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>

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## CONSULTATION AND PUBLICITY RESPONSES

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### Nunthorpe Parish Council

No comments received.

### Public Responses

Number of original neighbour consultations	10
Total numbers of comments received	2
Total number of objections	2
Total number of support	0
Total number of representations	0

Comments were received from the following:

A Blackburn 21 Clevegate  
W Blackburn 21 Clevegate

The objections can be summarised as follows

- Proposal will block an open view contradictory to the principle of the open plan estate
- Fence will impede visibility of oncoming traffic from driveway.
- Reduced visibility will create a hazard to wheelchair users.

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## PLANNING CONSIDERATION AND ASSESSMENT

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### **Policy context**

1. The National Planning Policy Framework (NPPF) was most recently revised and published by the Government in February 2019, and is a material consideration. The NPPF states that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted (para. 12). In determining planning applications, due weight should be given to local planning policies in accordance with their consistency with the revised Framework, with greater weight given to those policies which are closer to those in the Framework (para 213).
2. As a starting point, the proposal should be assessed against policies set out in the Development Plan. Policies DC1, CS4 and CS5 which in essence seek to ensure high quality sustainable development, ensure the amenity of nearby residents, character of the area and highway safety are not adversely affected by the development.
3. Supplementary Planning Document (SPD) the Nunthorpe Design Statement is also relevant. It seeks to ensure high quality development that protects or enhances the special characteristics of the Nunthorpe Area. It recognises the contribution that the open appearance in the Mallowdale area makes to the special characteristics of the area. At D4 (d) it states that the design of buildings are enhanced by not creating further enclosure in areas where open plan front gardens are a design feature and add to the open aspect of the development.

### **Appearance**

4. The proposed fence will be constructed of close boarded timber and will be 1.8m high. It will project out from the property by approximately 5.4m and run for 9.66m before returning back to the original fence line. The length and height of the fence where it runs along Clevegate has the potential to present a hard edge along the rear of the footway. It is considered however that the 1.5m set back from the highway and the intervening, semi-mature hedging will help soften its appearance in the street scene. The southern and northern elevation of the fence will be set to the rear of garden areas which will help soften their appearance when viewed from the highway.
5. Open frontages to properties in the Mallowdale and Clevegate make a strong contribution to the open character of the area. Due to its corner location, the application site is highly visible within the street scene and has open gardens to the front and side both of which contribute to the open appearance. There is also a highway verge between the footpath and the highway which breaks the expanse of tarmac to the side of the property. Comment was made that the proposed fence would be contrary to the principle of the original open plan design of the estate. Whilst it is acknowledged that the proposed fence will enclose the side garden area and reduce the open appearance to an extent, it is the Development Control view that the proposed 1.5m landscape strip to the side of the fence along with the

existing shrubs and grassed highway verge will help offset the loss of openness. There are also other examples of enclosure of side gardens in the immediate vicinity of the application site, the property directly across the road, No.1 Mallowdale, has a similar arrangement with the hedge virtually obscuring the side elevation of the fence. Similarly, No.1 Levington Wynd which occupies a corner plot adjacent to Mallowdale also has a fence and hedge adjacent to its side boundary.

6. The proposed fence will project beyond the general building line along Clevegate to the north of the site. However the building line is stepped along this part of the road where land levels rise to the north making the height of buildings rise as you look north. Given the stepped building line and difference in levels, it is the Development Control view that the 1.8m high fence when viewed from the south will be seen against a backdrop of increasingly high buildings. This and the 1.5m landscape gap is considered to reduce the visual impact of the fence so that it does not have an unduly adverse impact in the street scene.
7. At its most northern point, the proposed fence will project from the existing fence line by approximately 4.7m. When viewed from a more elevated position to the north of the site, the projecting fence will be visible. It is however the officer view that, due to its height and the intervening landscaping strip, the impact in terms of appearance and impact on the open character of the area will not be so significant as to justify refusal of planning permission.
8. The Nunthorpe Design Statement discourages enclosure of areas where open plan front gardens are a design feature and add to the open aspect of the development. The front garden of the property will be retained as open plan and, for the reasons outlined above, it is considered that the proposal will not unduly reduce the open aspect of the estate. As such the proposal is considered to be in keeping with the Nunthorpe Design Statement.
9. In view of the above it is considered that the proposed development will not have a significantly adverse impact on the character of the area in accordance with CS5 (test c) and DC1 (test b) and the Nunthorpe Design Statement.

### **Impact**

No. 21 Clevegate

10. Views of the proposed fence from front facing ground floor windows at this property will be screened to a large extent by the integral garage which projects forwards of the front of the house. The first floor window to the dormer above the garage will have a view towards the fence but it will be offset and looking down towards it. As such any impact on amenity in terms of overbearing appearance or overshadowing will be negligible.

No. 6 Clevegate and No.1 Mallowdale

11. Windows to the front elevation of both properties will have a direct aspect towards the proposed fence but there is a intervening distance of over 21m and as such any impact on amenity will be minimal.

Other properties

12. Other nearby properties do not have a direct aspect towards the site or are more than 21m away where any impact will be minimal.
13. In light of the above, it is considered that the proposed development will not have a significant additional impact on the amenity of nearby residents and is therefore in accordance with Policy DC1 (test c) in this regard.

### **Highways**

14. Concerns were raised regarding the impact of the fence on visibility of cars reversing out of the driveway at No. 21 Clevegate. The depth required for a visibility splay is 2.4m at a point central in the driveway from the back of the carriageway to a point 25m along the highway. The splay can be achieved virtually within the depth of the footpath, the proposed fence will be set in a further 1.5m from the back of the footpath and as such the required vehicular visibility will be achieved. In respect of pedestrian visibility, a splay of 2.4m by 2.4m is considered to afford acceptable visibility of pedestrians. This display can be achieved wholly with the site at No 21 Clevegate and within the application site with the fence in place and as such the proposal will not interfere with pedestrian visibility lines. As a result, it is considered that the proposal will not have a detrimental effect on highway safety in accordance with Policy DC1 (test d).

### **Other matters**

15. Concerns were raised regarding the impact of the proposal on the safety wheelchair users. Given the set back of 1.5 from the adopted highway and the visibility distances that can be achieved at the site, it is considered that the proposal will not have detrimental impact on the needs of wheelchair users.

### **Summary**

16. The proposal has been assessed against local policy and guidance. It is considered that the proposal will not have any notable detrimental impact on the character of the area, the amenity of nearby neighbours or on the safe operation of the highway. All other issues raised have been considered but do not justify refusal of planning permission.

### **Conclusion**

17. In view of the above, the proposal is considered to be an acceptable form of development fully in accordance with National and Local policy and is therefore recommended for approval.

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## **RECOMMENDATIONS AND CONDITIONS**

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### **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: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. Approved Plans  
The development hereby approved shall be carried out in complete accordance with the plans and specifications detailed below and shall relate to no other plans:
  - a) Location Plan received 3<sup>rd</sup> August 2021
  - b) Site layout plan received 29<sup>th</sup> November 2021
  - c) Site layout plan received 29<sup>th</sup> November 2021  
Reason: For the avoidance of doubt and to ensure that the development is carried out as approved.
3. Fence Details

Notwithstanding the submitted details, the fence hereby approved shall be constructed of close boarded timber and shall not exceed a height of 1.8m.

Reason: To ensure the use of appropriate form of development in the interests of the visual amenities of the area having regard for policies DC1, CS4 and CS5 of the Local Plan and section 12 of the NPPF.

#### REASON FOR APPROVAL

This application is satisfactory in that the design of the proposed fence accords with the principles of the National Planning Policy Framework (NPPF) and, 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 addition, the proposed fence accords with the local policy requirements (Policies CS5 & DC1 of the Council's Local Development Framework).

Case Officer: Maria Froggatt

Committee Date: 17<sup>th</sup> December 2021



Scale: 1:200      2 Mallowdale Proposed Site plan

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