

## PLANNING AND DEVELOPMENT COMMITTEE

<b>Date:</b> Friday 14th January, 2022
<b>Time:</b> 1.30 pm
<b>Venue:</b> Council Chamber

### AGENDA

**No site visits are scheduled to take place.**

1. Welcome and Introduction
2. Apologies for Absence
3. Declarations of Interest
4. Minutes - Planning and Development Committee - 17 December 2021 3 - 8
5. Schedule of Remaining Planning Applications to be Considered by Committee 9 - 22  
  
Schedule - Page 9  
Item 1 - 18-19 Captain Cook Square - Page 11
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 6 January 2022

### 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 17 December 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:** S Chambers and E Craigie (Teesside Live)

**OFFICERS:** P Clarke, C Cunningham, A Glossop, D Johnson, G Moore and S Moorhouse

**APOLOGIES FOR ABSENCE:** Councillors L Garvey

21/27 **DECLARATIONS OF INTEREST**

Name of Member	Type of Interest	Item/Nature of Interest
Councillor B Cooper	Non-Pecuniary	Agenda Item 4, Item 1, Ward Councillor

21/28 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 19 NOVEMBER 2021**

The minutes of the meeting of the Planning and Development Committee held on 19 November 2021 were submitted and approved as a correct record.

21/29 **SCHEDULE OF REMAINING PLANNING APPLICATIONS TO BE CONSIDERED BY COMMITTEE**

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

For consideration of the following item, Councillor Cooper advised that he was acting in his capacity as a Ward Councillor, on behalf of his constituents, rather than a member of the committee.

**20/0374/FUL 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) at Land Adjacent to Ayresome Gardens, Middlesbrough TS1 4QN for Mr A Mushtaq**

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 sought for the development of a part-three, part-four storey building comprising 75 individual bedrooms for student accommodation or House of Multiple Occupation (HMO) purposed (sui generis use class).

The committee was advised that the submitted report contained an error, Mr S Chambers had been identified as the Applicant and he was the Land Owner, the Applicant was in fact 2020 company.

Members were advised that the application site had been granted planning permission for a similar use in 2016. Through planning permission M/FP/0374/16/P, consent had been 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 had not been constructed, pre-commencement conditions had been discharged and groundworks had commenced. That meant the 2016 permission had a technical commencement and was extant, and could be built out any time. Therefore, it was considered that the principle of a development for student accommodation on the site, had been established.

The main differences between the approved development and the current application were 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 current application also proposed 75 beds in total, rather than 72.

The application site was 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 was the former Sunday School building, attached to the northern side of the associated former Park Methodist Church, which was a Listed Building. To the west of the application site was Nos. 38-42 Crescent Road, which operated as Middlesbrough Tool Centre.

Members were advised that the site would be largely occupied by the proposed building. The committee was shown a series of artist impressions/computer generated images to demonstrate the location plan, the proposed site plan and the proposed front and rear elevations.

The building line of the proposal was similar to that of the previous extant permission.

In terms of servicing the development, access to the front of the development was limited to pedestrian access only and was over private land, which was not public highway. Although the land was a park and owned by the Local Authority, that park could be fenced in the future (for security reasons as an example). Rear access was available from Crescent Road via a rear alley, which was around 3 metres in width.

The sheer size and scale of the proposed building relative to nearby dwellings, together with its proximity to them, meant that the scheme would unduly affect the outlook from those properties. Whilst it was accepted that the site was historically home to commercial buildings and had an extant planning consent for a 2.5-storey building, which may have affected outlooks, those would not be of the height of the proposed building and would therefore be of a reduced dominance.

It was pointed out that the windows on the rear elevation of the proposed building served corridors and circulation spaces, not individual rooms.

In terms of layout, the ground, first and second floor levels had a similar layout. The first and second floors were identical, accommodating 22 bedrooms, two communal lounges, a laundry area and a cycle store. The ground floor was 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 accommodated 11 beds, a communal room, laundry and cycle store.

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

The application site was located on unallocated land within the Albert Park and Linthorpe Road Conservation Area. The site was considered to be highly sustainable being located in close proximity to the main University Campus and was within nationally recognised walking distance of the town centre, bus stops and bus and train stations.

The vacant application site represented an urban brownfield site with former uses and occupancy being garages and workshops.

Members were advised that, with the principle of the use established, the key material matters that required consideration were:

- the increased building height;
- 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.

The materials in the revised scheme were itemised on the submitted drawings, with red heritage brickwork being proposed for the main elevations. Such materials were considered to be a significant improvement on those originally sought and were considered appropriate for the setting. It was considered that the mansard roof and its associated covering should be

improved in the 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, those were considered exceptional cases rather than characteristic of the local architectural forms. It had been put to the Applicant that all proposed materials should be complementary to the surrounding conservation area and heritage assets, although a full set of materials that were deemed to be acceptable had not been submitted.

In the absence of the scheme providing any significant public benefit, it was considered that the proposals would fail to complement the heritage assets within the Albert Park and Linthorpe Road Conservation Area.

The bulky design of the proposals would be deemed to dominate the traditional terrace houses to the south of the site, which were situated in close proximity. It was considered that the proposal would be harmful to the living conditions of the nearby residential occupiers of properties along Crescent Road.

Cycle stores were provided on each floor, although it had not been demonstrated how many bicycles could be accommodated within each store. In addition, whilst the cycle stores were spread out including on the upper floors, that was likely to limit their use within the zero parking scheme.

In terms of waste store provision, the submitted drawings only indicated space for four Eurobin style bins when it was recommended for a development of that size to have provision for 14 bins (seven for refuse and seven for recycling). Given that shortfall, and the fact the Local Authority's refuse collectors would not undertake collections more regularly, any approved development would have been required to have private contractors collecting refuse and recycling.

It was highlighted that no dedicated car parking spaces would be provided. Whilst the scheme was proposed to be car free, the measures to prevent students from bringing vehicles to the site were considered significantly underprovided. Even if such measures were proposed, term start and end dates were a time in student accommodation where there were high levels of car movements and parking demand, as items/furnishings were brought or taken away.

Based upon the number of bedrooms and the constrained highway environment, the 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. There was a need to note 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-offs/pick-ups for students.

The officer recommendation was refusal, for the following reasons:

- 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. That was 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.
- The lack of adequate parking and servicing arrangements would lead to a displacement of such activities onto the adjacent public highway. The surrounding public highway was considered to be highly constrained in terms of width and parking demands. The impact of those activities onto the public highway would interfere with the free flow of traffic along Crescent Road, cause obstruction of the highway and would be detrimental to highway safety.
- 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 was considered that the proposals would not complement any nearby heritage assets within Conservation Area.

Members raised queries in relation to access to the development via the rear alley. Concerns were raised in respect of surveillance, vehicular access for emergency service vehicles and refuse collection vehicles. The Legal representative commented that the rear alley was not

included in the red line boundary. Therefore, it was advised that problems encountered with access arrangements via the rear alley could not be considered when determining the application.

A Member noted that 59 addresses had been subject to the standard notification of neighbouring properties and no objections had been submitted.

The Land Owner was appointed to address the committee, in support of the application.

In summary, the Land Owner advised that:

- the proposed scale and design of the previously approved, extant proposal was not cost effective;
- there were no reasonable grounds for the committee to refuse the application;
- the 2016 permission had stipulated that Linthorpe Road would be utilised for drop-offs/pick-ups;
- at a pre-planning meeting, it had been advised that the introduction of a 4<sup>th</sup> floor was deemed reasonable;
- the proposal would provide city style living;
- the finishing materials were deemed acceptable, with red heritage brickwork being proposed for the main elevations;
- the proposal was not overbearing and was sympathetic to the general surrounding area;
- throughout the pre-application stage, approximately 7 changes were made to the design of the proposal to mitigate impacts on privacy, amenity and heritage assets;
- when compared to the 2016 permission, the proposal provided an improved design on the same footprint.

In terms of construction work and access, the Legal representative queried whether the submitted plans indicating the redline boundary needed to be revised to include the rear alley. The Head of Planning advised that the rear alley was an adopted highway and as a consequence, there was no need to include the alley on plans. The Land Owner added that in 2016, the Local Authority had granted permission for the installation of alley gates on the adopted highway, aimed to prevent fly tipping and enable construction work to be undertaken.

A Member raised a query regarding mature trees near the site and the possible damage roots could cause to the proposed development. In response, the Land Owner advised that a full arborist report had been submitted with the original application, which had analysed root calculations and determined the trees would not be harmful to the foundations of the proposed building.

A Member raised a query about access to the front of the proposed building. The Land Owner advised that the 2016 approval had granted access in perpetuity.

Members raised concerns in respect of drop-offs and pickups and the lack of parking for the development, as the 2016 scheme had provision for four off-road vehicular spaces, which allowed for some form of managed drop-offs/pick-ups. The Land Owner advised that there were parking bays on Linthorpe Road and spaces available at the One Life Centre, which were located in close proximity to the proposed scheme.

A Member queried whether the proposed scheme would provide student accommodation or a HMO. The Development Control Manager advised that planning permission was sought for student accommodation or a HMO. Therefore, it was ascertained that the Applicant should be consulted on that matter.

A Ward Councillor was appointed to address the committee.

In summary, the Ward Councillor advised that:

- there had previously been issues with fly tipping on the site;
- the proposed scheme would provide high-quality accommodation for students;
- the building could be easily accessed via public footpaths;
- the site was considered to be in a highly sustainable location, in close proximity to the

main University Campus and was within walking distance of the town centre, bus stops and bus and train station;

- the scheme would reduce carbon emissions;
- the proposal would regenerate land that had been derelict for the past 10 years; and
- the scheme proposed was of a good quality, which would attract students to the area.

A discussion ensued and in summary, Members determined that clarification was required in respect of the following points:

- In terms of use, was the development proposing to provide student accommodation exclusively?
- In terms of cycle stores, how many bicycles could be accommodated in each store?
- In terms of waste store provision, as provision for 14 bins (instead of the proposed four) was recommended for a development of that size, given the shortfall, what measures would be put in place to ensure waste and recycling were collected more regularly?
- In terms of the previously approved scheme, how did the development propose to mitigate against the loss of the four off-road vehicular spaces, which allowed for some form of managed drop-offs/pick-ups?
- In terms of access, given the adopted highway at the rear of the proposed building and its entrance fronting onto public gardens, how would access be managed/maintained?

**ORDERED** that the application be **Deferred** for the following reasons:

***To allow the applicant time to consider amending the scheme and to clarify points to address concerns raised in relation to access, lack of any parking provision and inadequacy of bin and cycle store provisions.***

Councillor Cooper advised that, for the remainder of business, he would be participating in proceedings as a member of the committee.

#### **21/0399/FUL Relocation of existing fence line up to 1.5m away from public footpath at 2 Mallowdale for Mr D Brady**

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 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 required planning permission irrespective of the restrictive estate condition.

Following neighbourhood consultations, objections had been submitted by two nearby residents. In summary, those objections highlighted:

- that the proposal would block an open view and contradict the principle of the open plan estate;
- the fence would impede visibility of oncoming traffic from driveway; and
- reduced visibility would create a hazard to wheelchair users.

The proposal had been assessed against local policy and guidance. It was considered that the proposal would 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.

The officer recommendation was for approval, subject to relevant conditions.

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

report.

21/30

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

**Planning Appeals**

In respect of appeal decisions, the Development Control Manager provided Members with detailed information on those that had recently been published by the Planning Inspectorate.

**Appeal Ref: APP/W0734/D/21/3272477 12 Levington Wynd, Nunthorpe, Middlesbrough TS7 0QD - Appeal Dismissed**

The development proposed was originally described as 'Ground floor extension of garage and hall, first floor extension above garage and extended hall to provide master bedroom and fifth bedroom with conversion of existing bedroom to en-suite'.

The main issues were the effect of the development on:

- the street scene within Levington Wynd; and
- the living conditions of the occupiers of No 10 Levington Wynd with particular reference to outlook and privacy.

**Appeal Ref: APP/W0734/Z/21/3272495 Land at CB Construction, North Ormesby Road, Visible from A66 flyover, Middlesbrough TS4 2AG - Appeal Dismissed**

The advertisement proposed was conversion of existing 96-sheet advertising display to two digital 48-sheet advertising displays.

The main issue was the effect of the proposed advertisement on public safety in relation to road users.

**Appeal Ref: APP/W0734/W/21/3283975 Land off James Street, Middlesbrough TS3 6LJ - Appeal Dismissed**

The development was change of use from B8 to scrap metal yard (sui generis).

The main issues were:

- the effect of the proposal on the living conditions of existing occupiers of neighbouring properties with specific reference to noise; and
- the effect of the proposal on the character and appearance of the area.

**NOTED**



**Planning & Development Committee Schedule - 14<sup>th</sup> January 2022**

**Town Planning applications which require special consideration**

1	21/0703/COU  Central	Applicant Mr Graeme Smith  Agent Mr Jonathan Taylor	Change of use retail to create bowling alley and mixed use leisure facility (sui generis) including external works  18 - 19 Captain Cook Square, Middlesbrough, TS1 5UB
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**APPLICATION DETAILS**

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<b>Application No:</b>	<b>21/0703/COU</b>
<b>Location:</b>	<b>18-19 Captain Cook Square, Middlesbrough</b>
<b>Proposal:</b>	<b>Change of use from retail to create bowling alley and mixed use leisure facility (Sui Generis) including external works</b>
<b>Applicant:</b>	<b>Mr Smith</b>
<b>Company Name:</b>	<b>Lane 7</b>
<b>Agent:</b>	<b>Mr Taylor</b>
<b>Company Name:</b>	<b>John Taylor Architects</b>
<b>Ward:</b>	<b>Central</b>
<b>Recommendation:</b>	<b>Approve with Conditions</b>

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**SUMMARY**

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Planning permission is sought for the change of use of a vacant retail premises within the Town Centre's primary shopping frontage area to a mixed use leisure destination to include a bowling alley, indoor golf, indoor electric go kart track and ancillary external works.

The proposal represents a sustainable and positive re-use of the premises which will attract new footfall to the town centre and thereby have a positive impact on the vitality and viability of the town centre. The proposal will result in the retention and re-occupation of a large unit within the Captain Cook Square area and will provide a notable leisure destination within this part of the town centre.

The proposed use is a town centre use and is appropriate in principle within the town centre, although site specific policy of the local plan defines this area as being primary shopping frontage which is aimed at providing the nucleus of retailing within the town centre. Policy advises there should be no more than 15% non-retailing uses within the Primary Shopping Frontage areas of the town centre and the last assessment indicated the non-retailing uses within the PSF to be 15.7%. Whilst this proposal will add to the non-retailing uses, it provides a notable leisure destination within the town centre, adding new uses to the town centre offer which will improve vitality and viability of the town centre as a result. It is set away from the core area of Linthorpe Road on the fringe of the PSF area and will therefore not create a break between different sections of the core retailing uses.

No objections have been received in relation to the proposal and the application is recommended for approval subject to conditions.

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

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The premises is located within the pedestrianised part of the town centre, specifically within Captain Cooks Square, with its frontage directly onto the square and its servicing off to the side. The premises is part of a larger grouping of buildings with the same design, which were part of a previous town centre regeneration scheme. The Captain Cook multi storey car park lies to the rear and above.

The character of the site is defined by the consistent building design and materials, the enclosed nature of the square and the pedestrianised public realm area serving this and other immediately adjacent properties.

The bus station lies to the north with an access directly off the square and Grange Road lies to the south, with housing beyond.

The application seeks permission to change the use of the premises from the vacant retail store to a mixed use leisure destination with the aim of re-defining this part of the town centre as a more leisure destination. The proposed uses intend to include a bowling alley at ground floor, indoor golf & electric go karts at first floor. External works are proposed to the building which mainly relate to the replacement of existing shop front with bi-folding doors and re-finishing of other windows.

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## **PLANNING HISTORY**

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No relevant planning history

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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:

Housing Local Plan (2014)

H1 Spatial Strategy

Core Strategy DPD (2008)

CS4 Sustainable development

CS5 Design

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

CS14 Leisure Development

CS18 Demand Management

DC1 General Development

Regeneration DPD (2009)

REG20 Principal Use Sectors

REG21 Primary Shopping Frontage

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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### ***MBC Local Plan Policy Team***

#### Background

The application site is the former T J Hughes store, located within Captain Cook's Square, which lies within the Retail Sector of the Town Centre boundary and within the defined Primary Shopping Frontage, as defined under Policy CS13 of the Core Strategy.

Policy CS4 requires development to contribute towards achieving sustainable development, by making the most efficient use of land. The proposed use would see the re-occupation of a vacant unit.

Policy CS5 requires all development to demonstrate a high quality of design, in terms of layout, form and contribution to the character and appearance of the area.

The NPPF in para 87 states that main town centre uses (which bowling and leisure uses are as defined in appendix 2 of the NPPF) should be located in town centres. The application site is within the town centre boundary.

Policy CS13 sets out to protect and enhance the hierarchy of vital and viable town, district, local and neighbourhood centres in Middlesbrough, safeguarding the retail character and function of centres by resisting development that detract from the vitality and viability, applying the sequential approach when considering proposals for new town centre uses.

Policy Reg20, Principal Use Sectors, identifies the Retail Sector as the primary retail area, with uses A1, A2 and A3 (now 'E' uses) most appropriate. Other uses may be acceptable provided they are complementary and will not harm the principal function of the sector.

Policy REG21 Primary Shopping Frontages determines within the area identified as primary shopping frontage, use class A1 retail uses as appropriate. Other uses within Class A2 and A3, and other complementary uses may be acceptable provided they do not harm the function and character of the shopping area, nor impact upon the vitality and viability of the town centre. While the unit is with the PSF is not one of the key routes through the town centre. Additionally Policy REG21 identifies the proportion of non-A1 uses within the primary shopping frontage should not exceed 15%, with concentrations of non-A1 uses avoided within particular blocks. Following changes to the Use Class Order in 2020 Use classes A1, A2 and A3 are now within the same 'E' Use class. Most recent figures (October 2021) for Middlesbrough's primary shopping frontage (PSF) designation show a percentage of 15.7% non A1 (now non Ea).

Policy CS14 sets out that the Council will work with partner organisations to ensure the provision of a wide and accessible choice of leisure facilities for the community, this will be achieved through the promotion of the town centre as a sub-regional leisure in both the day time and evening.

Policy DC1 requires all development proposals to take account of, or satisfy as a minimum, the effect upon the surrounding environment and amenities of occupiers of nearby properties both during and after completion.

#### Conclusion

The use as bowling and leisure destination is considered to be appropriate in this location as a main town centre use, and it is not expected to harm the principal function of the primary shopping frontage or the retail sector and will contribute to the centres overall vitality and

viability though increasing visitors/footfall in the town centre. In addition, in line with Policy CS4 the proposed development would see the re-use of a vacant building that is accessible by sustainable transport methods. The application complies with the development plan policies.

### ***MBC Waste Policy***

No Comment

### ***MBC Environmental Health***

Advise that

- No speakers, address system or amplified music system shall be installed on the external terrace area.

- Hours of opening/use shall be restricted to between the hours of 09:00 hours and 02:00 hours Monday to Sunday.

- The applicant is to provide a noise risk assessment (described in ProPG: Planning and Noise, May 2017), which considers the potential noise from the proposed development that is likely to add to the acoustic profile of the area, and in particular provide an indication of the likely risk of adverse effects of noise on health, quality of life or nuisance to any residential or commercial properties (present or likely in the future) located in the vicinity of the development. Subsequently, details of any noise mitigation measures should then be considered in the design of the property and detailed in the planning application.

- Before the use of the development is commenced, validation testing of the sound attenuation works shall have been carried out and the results submitted to and approved by the Local Planning Authority. Such validation testing shall:

- i. Be carried out in accordance with the approved noise assessment.

- ii. Demonstrate that the specified noise levels have been achieved. In the event that the specified noise levels have not been achieved then, notwithstanding the sound attenuation works thus far approved, a further scheme of sound attenuation works capable of achieving the specified noise levels and recommended by an acoustic consultant shall be submitted to and approved by the Local Planning Authority before the use of the development is commenced. Such further scheme of works shall be installed as approved in writing by the Local Planning Authority before the use is commenced and shall thereafter be retained.

### **Public Responses**

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

4x Site notices posted

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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### **Principle of proposed change**

Planning legislation requires that planning applications should be determined in accordance with the relevant development plan in force, unless material considerations indicate otherwise. In addition, the National Planning Policy Framework (NPPF) as revised in 2021, is also a relevant material consideration. The NPPF states that applications should be determined giving due weight to local planning policies in accordance with their consistency with the

revised Framework, with greater weight given the closer policies are to those in the Framework (para 219) and where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. As such, the Middlesbrough Local Plan and associated policies are the starting point for decision making with those of most relevance listed in the earlier section of this report.

As a matter of principle both the Local Plan and NPPF require development to be sustainable and to make an efficient use of land and buildings. The proposal relates to the use of a building which is within a highly sustainable location, being within the town centre, next to the bus station and near to the rail station and is therefore considered to represent a highly sustainable location in line with these policy requirements. Furthermore, the re-use of an existing building within the town centre is considered to be an efficient and positive use of the premises, particularly given the property is one of several forming a group within the town centre which provide a distinct and positive group character within the town centre. The proposal is considered to be in accordance with the general principles of Local Plan Policies CS4 and CS5 in these regards.

The application site is located within Captain Cook's Square, which lies within the Retail Sector of the Town Centre boundary and within the Primary Shopping Frontage, as defined under Policy CS13 of the Core Strategy and this has implications for how the proposed use is considered. In general terms the NPPF in para 87 states that main town centre uses such as this should be located in town centres and so the proposal is in general accordance with that, being within the defined town centre boundary. Policy CS13 sets out to protect and enhance the hierarchy of vital and viable town, district, local and neighbourhood centres in Middlesbrough, seeking to safeguard the retail character and function of centres by resisting development that detracts from the vitality and viability of the core retailing function of the town centre.

Policy REG 20, *Principal Use Sectors*, identifies the Retail Sector as the primary retail area, with uses A1, A2 and A3 (now 'E' uses) being most appropriate. The policy indicates that other uses may be acceptable provided they are complementary and will not harm the principal function of the sector. Turning to the more detailed guidance of Local Plan Policy REG 21, *Primary Shopping Frontages*, this policy determines within the area identified as primary shopping frontage, use class A1 (retailing) as the appropriate use for premises and that other uses within Class A2 (financial / professional services) and A3 (restaurants and caf  s), and other complementary uses may be acceptable provided they do not harm the function and character of the shopping area, nor impact upon the vitality and viability of the town centre. Following changes to the Use Class Order in 2020:

- Use class A1 (shops) is now Use Class E(a),
- Use Class A2 (financial/professional services) is now Use Class E(c) and
- Use Class A3 (Caf  s & restaurants) is now Use Class E(b).

With regards to this proposal, it is considered that the provision of a leisure destination within the town centre will attract footfall and provide activity within this part of the centre, supporting the vitality and viability of the town centre and is therefore in line with the principles of Policy REG 20 and REG21.

In addition, to maintain a primarily retailing function to key areas of the town centre, Local Plan Policy REG 21 identifies that the proportion of non- retailing uses within the primary shopping frontage should not exceed 15%, with concentrations of non-retailing uses to be avoided. The most recent figures (October 2021) for Middlesbrough's primary shopping frontage (PSF) designation show a percentage of 15.7% of units being non A1 use (now non Ea use) and so the proposal to change the retail premises to a leisure use is contrary to this policy. Consideration therefore has to be given as to whether there are any material planning considerations which would suggest a decision away from this policy guidance is suitable in this circumstance.



While the unit is with the Primary shopping frontage, it is not one of the key routes within the town centre (Linthorpe Road / Corporation Road) and it is set away slightly from the core area of the town centre and the indoor centres (Dundas, Hill Street and Cleveland Centre) where a significant amount of the Primary Shopping Frontage exists. It is on the edge of the PSF area and would not serve to break the PSF given its peripheral position. It is considered therefore that this is not one of the most prominent areas within the primary retailing parts of the town centre. It is also noted that the proposal seeks to bring a leisure use into the town centre which is likely to add a positive use into the town centre and potentially act as a notable destination in its own right, supporting positive footfall and in turn vitality and viability to the town centre. The proposed use is also likely to be open both during the day and into the evening which would add further benefit to this part of the town centre by adding vitality into the evening beyond the more common shop opening / closing times. It is further recognised that the town centre will benefit from improving its offer in a qualitative way and it is considered that this proposal will assist in that. There is also some benefit, albeit more limited, from a frontage of this scale onto Captain Cook Square being re-occupied with a level of activity rather than being vacant or poorly activated as a frontage. In view of all these matters, it is considered that there is sufficient weight in these combined benefits to outweigh this proposal taking non retailing uses further over the 15% threshold advocated within the policy.

Local Plan Policy CS14 sets out that the Council will work with partner organisations to ensure the provision of a wide and accessible choice of leisure facilities for the community, achieved through the promotion of the town centre as a sub-regional leisure destination in both the day time and evening. Whilst this may be aimed at more open leisure activities rather than private provision, this proposal is nonetheless in line with this supportive policy to improve leisure opportunities within the town.

### **Character and appearance**

The proposed re-use of the premises as a bowling alley / leisure destination has limited impact on the overall character of the building, it will allow for the former shop windows to be replaced with modern bi-folding doors which open out and interact the unit with the public realm to a greater degree. The proposed re-painting of the existing shop front and windows will assist in re-activating the frontage, albeit with the main parts of the facades remaining largely unaffected.

### **Impacts on surrounding amenity**

Both the NPPF and Local Plan Policy DC1 require all development proposals to take account of their effects upon the surrounding environment and amenities of occupiers of nearby properties. Being in an established town centre location, this is an area where the public already frequent and impacts from the general movement of people into and out of this area is already an accepted part of the sites impacts on the surrounding area as it is for the whole of the town centre. It is considered that the use will have a positive impact on the public realm associated with Captain Cook Square and the interactions of the site with the adjacent / nearby commercial units and bus station in view of the footfall that will be generated in the area. With regards to impacts on nearby occupiers of properties, the nearest residential properties to the premises main entrance is the housing to the south side of Grange Road.

Whilst the housing here may be susceptible to notable change of pedestrians / traffic, it is unlikely to be adversely affected by this proposal given the activities are internal to the building. The movement of people outside of the building is likely to be from several different areas and dispersed in a similar way given there are 4 main routes to the premises. This will serve to limit the impact of pedestrians and traffic associated with the premises on the housing to the south. Notwithstanding this, it is recognised that the housing is not a significant distance away and certain uses within the premises could have an adverse impact on the housing if left uncontrolled. The councils Environmental Health officer has raised no objections to the

scheme and suggested a number of conditions be imposed on the application should it be approved, these being that;

- There should be no speakers, address system or amplified music system installed external to the building,
- The hours of opening/use shall be restricted to between the hours of 09:00 hours and 02:00 hours Monday to Sunday.
- A noise risk assessment is provided dealing with any adverse effects of noise likely to emanate from the premises and any potential issues mitigated against.

In view of the sites location in the town centre, and not directly adjacent (frontage) to the nearest housing, it is considered that the proposal will not result in any undue impacts on residential amenity in the area subject to the above conditions.

### **Other Matters**

Parking within the town centre is provided in a mix of both council and private car parks with the nearest being directly adjacent to the premises, offering a relatively safe and efficient provision of parking for this part of the town centre. As such, there should be no adverse impacts on highway provision or safety as a result of this proposal.

The unit has an enclosed yard to the rear which will provide bin storage and general servicing access.

Matters of drainage will remain unchanged.

### **Conclusion**

The proposed use is a town centre use and is appropriate in principle within the town centre, although site specific policy of the local plan defines this area as being primary shopping frontage which is aimed at providing the nucleus of retailing within the town centre. Policy advises there should be no more than 15% non-retailing uses within the Primary Shopping Frontage areas of the town centre and the last assessment indicated the non-retailing uses within the PSF to be 15.7%. Whilst this proposal will add to the non-retailing uses, it provides a notable leisure destination within the town centre, adding new uses to the town centre offer which will improve vitality and viability of the town centre and is set away from the core area of Linthorpe Road on the fringe of the PSF area and so will do so without creating a break between different sections of the core retailing uses.

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## **RECOMMENDATIONS AND CONDITIONS**

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### **Approve with conditions**

#### **1. Time Limit – 3 year commencement**

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:

Location Plan

Plan 21-42-05 as received on the 27<sup>th</sup> September 2021

Plan 21-42-06 as received on the 27<sup>th</sup> September 2021

Plan 21-42-07 as received on the 27<sup>th</sup> September 2021

Reason: For the avoidance of doubt and to ensure that the development is carried out as approved.

### **3. External amplification systems**

No speakers, tannoy, address system or amplified music system shall be installed or operated to the exterior of the building or in any external areas.

Reason: In the interests of amenity of residents having regard for policy DC1 of the Local Plan and section 12 of the NPPF.

### **4. Opening Hours**

The uses hereby approved shall only be open to visiting members of the public between the hours of 9am and 2am Monday to Sunday.

Reason: To prevent undue detrimental impact on residential amenity in accordance with the requirements of Local Plan Policy CS5.

### **5. Noise assessment, mitigation**

The use hereby approved shall not be brought into use until a noise assessment has been submitted to and approved in writing by the Local Planning Authority and any associated mitigation has been installed on site.

The noise assessment shall meet the criteria of ProPG: Planning and Noise, May 2017 in relation to the likely risk of adverse effects of noise on health, quality of life or nuisance to any residential or commercial properties (present or likely in the future) located in the vicinity of the development.

The use hereby approved shall not be brought into use until any noise mitigation as required by the Noise Assessment has been implemented on site

Reason: To ensure a satisfactory form of development in the interests of the amenities of residents having regard for policies DC1, CS5 of the Local Plan and section 12 of the NPPF.

### **6. Validation testing of sound attenuation**

Before the use of the development is commenced validation testing of the sound attenuation works shall be carried out and the results submitted to and approved in writing by the Local Planning Authority. Such validation testing shall:

- a) Be carried out in accordance with the approved noise assessment; and,
- b) Demonstrate that the specified noise levels have been achieved.

In the event that the specified noise levels have not been achieved then, notwithstanding the sound attenuation works thus far approved, a further scheme of sound attenuation works capable of achieving the specified noise levels and recommended by an acoustic consultant shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented on site before the use of the development is commenced. Any mitigation works must be retained on site in an operational state for the lifetime of the building.

Reason: To ensure a satisfactory form of development in the interests of the amenities of residents having regard for policies DC1, CS5 of the Local Plan and section 12 of the NPPF.

## **REASON FOR APPROVAL**

The proposed change of use will introduce new uses to the town centre, bringing additional footfall, vitality and viability to the town centre without unduly harming the retailing function of the town centre, and is considered to be a sustainable and appropriate location for a use of this type without having undue impacts on surrounding premises or their associated uses including the nearby residential properties, in accordance with the guiding principles of both national planning policy guidance and the relevant Local Plan Policies.

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## **INFORMATIVES**

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### Discharge of Condition Fee

Under the Town & Country Planning (Fees for Applications and Deemed Applications)(Amendment)(England) Regulations 2018, the Council must charge a fee for the discharge of conditions. Information relating to current fees is available on the Planning Portal website <https://1app.planningportal.co.uk/FeeCalculator/Standalone?region=1>. Please be aware that where there is more than one condition multiple fees will be required if you apply to discharge them separately.

### Building Regulations

Compliance with Building Regulations will be required. Before commencing works it is recommended that discussions take place with the Building Control section of this Council. You can contact Building Control on 01642 729375 or by email at [buildingcontrol@middlesbrough.gov.uk](mailto:buildingcontrol@middlesbrough.gov.uk).

Where a building regulations approval is obtained which differs from your planning permission, you should discuss this matter with the Local Planning Authority to determine if the changes require further consent under planning legislation.

Case Officer: Andrew Glossop

Committee Date: 5<sup>th</sup> Jan 2022



