

**PLANNING AND DEVELOPMENT COMMITTEE**

A meeting of the Planning and Development Committee was held on Friday 11 March 2022.

<b>PRESENT:</b>	Councillors J Hobson (Chair), D Coupe (Vice-Chair), D Branson, C Dodds, M Nugent, J Rostron, J Thompson and G Wilson
<b>ALSO IN ATTENDANCE:</b>	Councillor C Cooke, A Hellaoui, S Chambers, E Craigie (Teesside Live) and Mushtaq
<b>OFFICERS:</b>	M Brown, P Clarke, C Cunningham, A Glossop, D Johnson, C Lunn, S Thompson and N Younis
<b>APOLOGIES FOR ABSENCE:</b>	Councillors B Cooper and L Garvey

21/40      **DECLARATIONS OF INTEREST**

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

21/41      **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 11 FEBRUARY 2022**

The minutes of the meeting of the Planning and Development Committee held on 11 February 2022 were submitted and approved as a correct record.

21/42      **SCHEDULE OF REMAINING PLANNING APPLICATIONS TO BE CONSIDERED BY COMMITTEE**

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

**20/0374/FUL Erection of part-three, part-four storey residential accommodation comprising 74no. beds for student accommodation (sui generis) at Land Adjacent to Ayresome Gardens, Middlesbrough TS1 4QN for Mr A Mushtaq (UPDATE REPORT)**

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 original officer 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.

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 application had initially been submitted to the Planning and Development Committee meeting held on 17 December 2021 for consideration. The Development Control Manager advised that the purpose of the update report was to inform the Committee of the responses received from the Agent and Applicant following the issues raised by Members at the previous meeting. They included points of clarification and revised plans relating to the following matters:

- The potential impact on the trees in the park including their influence on the likely residential amenities of future occupiers;
- The proposed parking arrangements to facilitate drop-offs and pick-ups of students;

- Waste store arrangements and functionality; and
- The practicality of the bicycle store arrangements.

In addition to the above, the report also covered the issues of the access to the alleyway, the installation of alleygates, and other permissions required to access the site.

Notwithstanding the submission of additional information as discussed in the report, it remained the officer recommendation to refuse planning permission.

The scheme had been confirmed by the Applicant as now being for student use only rather than including potential use as a House in Multiple Occupation (HMO). The number of beds had also been reduced from 75 to 74.

Regarding trees, the footprint of the proposed building would be close to the northern boundary with Ayresome Gardens, where a number of trees were situated along the boundary. The distance between the principal elevation and the trees was approximately two metres, which included four mature trees and many saplings that had recently been planted.

In the event of approval, it was considered that the construction of the building would have two principal implications. Although the trees could be retained alongside the development, it was likely that the construction works would have lasting harmful impacts on their structural integrity and the general health and conditions of the trees placing a burden for their future removal. Additionally, any trees sought to be retained were likely to have significant impacts on the general living conditions of certain rooms. Given the proximity of the trees, it was likely that many room windows would be severely obscured by the canopies of the trees, and therefore require constant maintenance or face significant pressure for lopping or felling on a regular basis.

The report noted that if Members were minded to approve the application, officers would recommend that all of the trees adjacent to the northern boundary be removed and replacements of an equivalent or suitable quality be planted in an appropriate location, which may be away from the locality. As it was a need associated with the development of the site, it was considered appropriate for the development of the site to bear that cost. To secure that, a Section 106 legal agreement would need to be entered into between the Council and the developer.

With regards to parking arrangements, officers had previously raised concerns over the lack of parking spaces within the site to allow the drop-off and pick-up of students at the start and end of term. Members of the Committee shared those concerns and, subsequently, a revised scheme had been submitted showing four parking spaces within the boundary of the application site. It was noted that the footprint at the eastern end of the building had been modified in order to achieve four standard parking spaces, with the laundry room and the stairwell being reorganised.

Although four vehicle parking spaces had been introduced, their position and arrangement raised concerns as to whether two of the spaces could be reasonably used given the limited width of the alleyway, which would be required for reversing manoeuvres.

Regarding the waste store, the original officer report considered there to be a shortfall in the waste store provision, as sufficient information had not been provided as to the arrangements for storage and collection of waste from the proposals. The original drawings showed one waste store that accommodated four Eurobin style bins, which was considered an under provision for the size of the development and the number of future occupiers.

Revised drawings had been submitted showing two proposed waste stores with a capacity for accommodating ten Eurostyle bins. In addition, roller shutter-style doors had been introduced on the rear elevation to enable bins to be taken out into the alleyway for collection. It had also been confirmed that a private contractor would be employed to carry out collections up to twice a week. It was assumed that the private collection of bins would include the collection from the premises rather than requiring the bins to be pulled to the highway, which would be a matter for the management of the premises. Should any bins be left out or obstruct the adopted alleyway, that would be a matter for the Council's Highways Enforcement Team.

Based on the revised drawings and additional information, the waste storage and collection

arrangements were considered to be acceptable.

The Development Control Manager advised that there had been uncertainty over cycle parking provisions for the development and the applicant had sought to confirm the storage arrangements as being individual cycle lockers, located on each floor of the development, within the corridors. The Development Control Manager advised that locker storage was considered to be ok in principle but that the provision of cycle storage on the upper floors was considered unsuitable as it required bikes to be brought through the building, along its corridors, upstairs or up in lifts which represented a poor offer, likely to limit the take up and use of cycles for a development with zero parking for its occupants.

Regarding alleygates and access matters, at the 17 December 2021 meeting officers brought the issue of the alleygates to the attention of Members. The following information was provided for clarity on those matters discussed at the meeting.

The Council's planning officers had been advised from the other internal departments that although the alleygates had been installed within the alleyway, that was without the formal consent or required legal mechanisms of the authority. Equally, again whilst not a planning matter, it was stated on behalf of the Applicant at December's meeting that all relevant permissions to gain access across Council land had been asked for and given. The Council's Land and Property team had advised that there were no legal agreements in place between the Council and Applicant regarding access, which had been brought to the Applicant's attention. The report indicated that, for clarity, those were matters which fell outside of planning considerations and should therefore not influence the planning decision, although would need to be addressed by the Applicant/Developer were permission to be granted.

Regarding other matters, as noted in the Parking Arrangements section, the footprint of the building had been altered in order to provide the four parking bays. That had resulted in some changes to the room arrangements, the main ones being as follows:

- Communal lounge areas from the ground, first and second floors had been reduced from 2 to 1;
- The laundry/store areas on each floor had been removed, with a smaller laundry area being introduced at the eastern end; and
- The stairwell at the eastern end of the building had been repositioned 90 degrees with access being achieved at the side elevation.

The above matters of contention, along with the original officer concerns regarding the design and scale of the building, remained considerable issues and the recommendation remained to be to refuse consent in line with 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; and
- 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.

Although the revised drawings were considered to reasonably address the issue of the waste storage and collection, it was the officer view that the bicycle stores and their associated impracticality, as well as the cramped parking arrangements remained to be unacceptable as they represented poor design, and whilst the matter of tree removal, replacements and replanting could be addressed by a legal agreement, it did not overcome the other matters.

A Member raised a query regarding bicycle access to the proposed building. The Development Control Manager advised that it would be possible to take bicycles into the building via the front, side or rear doors. It was commented that the rear alleyway was narrow and that the presence of vehicles alongside bicycles would create further traffic issues.

A Member raised concerns regarding the mature trees that would need to be removed and subsequently replaced. In addition, concerns were also raised regarding the entrance onto Ayresome Gardens; bicycles; the narrowness of the rear alleyway; and the difficulties that would be encountered in accessing the proposed building. A further Member reiterated those concerns, commenting that with increased traffic it would have been difficult for the minibus to manoeuvre during the morning's site visit.

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

In summary, the Land Owner distributed some additional notes to the Committee and advised that:

- In referencing an email from an officer in the Highways department, the alleyway was a designated highway and the correct procedures had been followed in relation to obtaining permissions for alleygates and access;
- Correspondence had been undertaken with officers in relation to the storage of bicycles on each floor;
- Correspondence had been undertaken with officers in relation to trees and the acceptance of a section 106 agreement for the planting of replacements (the Land Owner felt that the trees were end of life and he would be willing to plant replacement trees on a fourfold basis);
- Similar successful developments had been achieved in other areas with high student populations, including Newcastle upon Tyne;
- Correspondence and meetings had taken place with officers in relation to the front entrance from Ayresome Gardens; and
- Correspondence and meetings had taken place with officers in relation to the design and scale of the proposed building.

In response, the Development Control Manager made the following points:

- Regarding the issue of trees, a section 106 agreement would need to be established; replanting trees on a fourfold basis was not an agreement. Reference was made to the proposed building being in a conservation area and therefore sufficient value given to the trees' presence;
- As advised by appropriate officers, there was no legal agreement in place for the alleygates to be in situ. The Development Control Manager was not aware of any further correspondence in relation to that matter;
- With regards to the student population, that was part of the Applicant's case; information provided was neither right nor wrong, but it was explained that developments undertaken in other student towns and cities were not relevant to Middlesbrough; and
- Information in relation to meetings that had been held with planning officers was provided. Although it was felt that the revised design for the building was an improvement to that originally submitted, in terms of scale that had been increased and therefore needed to be justified. It was explained that all matters discussed with planning officers at the pre-determination stage were caveated that any increase in scale would need to demonstrate it could be reasonably accommodated.

A Member raised a query regarding ownership of the rear alleygates. In response, the Transport Development Engineer advised that the rear alleyway was publicly maintained and therefore the Local Authority was responsible for it. It was unclear as to what agreements, if any, were currently in place in terms of the presence of the gates. The Local Authority had the power to have alleygates removed if a legal and lawful process as to their installation had not been followed.

A Member raised concerns regarding the removal of mature trees; accessibility problems owing to the size of the alleyway; and a lack of parking provision. It was felt to be a positive scheme, but its locality was questionable. In response to those comments, the Land Owner

indicated that bicycles were intended to be taken out of the building's rear entrance, as opposed to the front. A larger than average lift would be installed to help facilitate that. Reference was made to communications that had taken place with GINGER to have the development nominated as a hub for E-scooters. With regards to parking provision and rear access, it was explained that the previous scheme had four parking bays, which had now been reinstated. The Land Owner had carried-out testing with two large vehicles and determined no issues.

A discussion ensued in relation to the proposed access to the front of the building. A Member commented that the access could potentially be lost if an event was to be held at Ayresome Gardens. In response, the Land Owner indicated that that was legally common space and was under the ownership of Middlesbrough Council. Legal advice sought by the Applicant had indicated that although agreements would be required, that would not necessarily cause any issues. The Council's Solicitor referred to the correspondence that the Land Owner had submitted prior to his presentation and explained that none of the information contained within it was legally binding as being in agreement with the Council, as all matters discussed would need to be agreed by the Planning and Development Committee or Legal Services; the Land Owner accepted the point.

A Member made reference to the rear alleyway and commented that a one-way system was not currently in place. It was felt that issues would be experienced if two vehicles entered the alleyway at the same time, particularly as there was no turning circle available. That could also pose further safety problems given the number of students that would be on site. Consideration was given to access for emergency vehicles and also in the event of a vehicle breaking down. In response, the Land Owner explained that students would enter the development via the front entrance. In response to a request for the four parking bays to be reinstated for pick-up and drop-off purposes, that had been agreed; no turning area was ever available for use. With regards to a one-way system, the Land Owner explained that he would be agreeable to the implementation of that.

Two Ward Councillors were appointed to address the Committee.

In summary, the Ward Councillors advised that:

- Ayresome Primary School was currently accessed via Ayresome Gardens and therefore it was difficult to see how the proposed scheme would differ;
- Several of the trees currently on the site had fallen down and therefore it was felt accurate to define them as being end of life;
- It was common practice in Newport for motorbikes and mobility scooters to be kept in yards and taken out through alleyways;
- The proposed scheme would provide high-quality accommodation for students, which would be the next best thing to the previously-planned student village;
- Implementation of a one-way system was supported, but to all alleyways if possible;
- The proposed modern building would revitalise the Ward and provide a quality investment for the area;
- The Land Owner was prepared to work with the Council to develop the scheme, which was an excellent offer; and
- There had previously been issues with fly tipping, vermin and needles on the site – it was felt that the development would help prevent that.

Members discussed the application and considered the issues that had been raised, including: the potential implementation of a one-way system; the design of the proposed building; parking provision; the current condition of the area; accessibility to the building; and removal of the trees. In response to an enquiry from the Head of Planning, a Member commented that sufficient parking in their view would be four accessible parking spaces.

The Transport Development Engineer explained to the Committee that there was a separate legal process involved in the implementation of a Traffic Regulation Order (one-way system). Therefore, if Members were minded to approve the application on condition that a Traffic Regulation Order be initiated, there was no certainty that that would be achieved.

During discussion, it was commented that although the scheme had a specific footprint, e.g. buildings next door, rear alleyway in situ, etc., Members still held some reservations in relation to trees; the implementation of a Traffic Regulation Order; and parking provision. Those

aspects would require further clarification/information/determination from appropriate officers. The Transport Development Engineer made reference to the refuse collection strategy and indicated that the collection point was significantly greater than the usually expected allocation of 20m. In addition, if the refuse collection frequency were to be increased, from one to two collections per week, there would be a refuse vehicle on Crescent Road more often. Consideration was also given to the increasing number of vehicles that would be around the area at the start and end of term, which would need to be managed.

In response to an enquiry from the Chair regarding the roof design and why that had been changed, the Land Owner explained that it was due to style and associated costings.

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

To allow the applicant to provide details which were agreeable to the planning and highways officers in relation to the provision of adequate parking and servicing.

**22/0064/COU Use as an E-Gaming Centre (sui generis), internal and external alterations including a replacement shopfront and use of pedestrianised area to front as café terrace at Unit 5, Captain Cook Square, Middlesbrough TS1 5UB for Mr E Ford**

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 sought for the change of use of a vacant retail premises within the town centre's primary shopping frontage area to an E-gaming use with café and bar and to use an external area to the front of the premises as an outdoor seating area.

It was explained that the proposed use was a town centre use and was appropriate in principle within the town centre, although local plan policy defined the area as being primary shopping frontage which was aimed at providing the nucleus of retailing within the town centre. Policy advised 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 the proposal would add to the non-retailing uses, it provided a notable leisure destination within the town centre, adding new uses to the town centre offer which would improve vitality and viability of the town centre as a result. It was set away from the core area of Linthorpe Road on the fringe of the PSF area and would therefore not create a break between different sections of the core retailing uses.

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

Members were advised that no objections had been received in relation to the proposal and that the application was recommended for approval subject to conditions. An additional condition would be attached to require the Applicant to agree barrier design with the Planning department.

A Member queried whether the scheme and E-gaming involved any aspect of gambling. In response, the Development Control Manager advised that that was not the case.

A Member made reference to the proposed opening hours and the inclusion of a bar on the premises, and queried whether any age restrictions would be put in place. In response, the Development Control Manager advised that that would be a matter for Licensing and not imposed from a Planning perspective. The Project Manager for the redevelopment of Captain Cook Square explained that projects such as the one under consideration tended to come

with their own security and strict protocols attached. It was explained that, as landlord for the unit, the Council would insist that those be adhered to; age restrictions would be considered.

A short discussion ensued in relation to addictive behaviours; consideration was given as to the potential management of customers in that regard.

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

21/43

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

**Notification of weekly planning applications for Elected Members**

The Head of Planning explained that the Planning department had recently moved to a new system for how it managed planning applications, which meant that the weekly list of planning applications that was emailed to all Councillors was currently unavailable in the format previously provided; a solution to reintroduce a weekly email was currently being devised. Reference was made to the planning pages of the Council's website, which listed submitted planning applications. It was indicated to Members that if any training or support to access the information was required, that was available.

A Member queried whether the applications could be filtered down to Ward level. In response, a fellow Member confirmed that that could be achieved and briefly explained the process.

**NOTED**