

PLANNING AND DEVELOPMENT COMMITTEE

Date: Friday 11th March, 2022 Time: 1.30 pm Venue: Council Chamber

AGENDA

**Site visits will be held prior to the meeting.
The bus will depart the rear of the Town Hall at 11.10 a.m.**

1. Welcome and Introduction
2. Apologies for Absence
3. Declarations of Interest
4. Minutes - Planning and Development Committee - 11 February 2022 3 - 10
5. Schedule of Remaining Planning Applications to be Considered by Committee 11 - 44

Schedule - Page 11
Item 1 - Land Adjacent to Ayresome Gardens (Update Report) - Page 13
Item 1 - Background Paper - Committee Report (17 December 2021) - Page 19
Item 2 - Unit 5, Captain Cook Square - Page 35
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 3 March 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/chris_lunn@middlesbrough.gov.uk

PLANNING AND DEVELOPMENT COMMITTEE

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

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

ALSO IN ATTENDANCE: T Armstrong and Councillor M Saunders

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

APOLOGIES FOR ABSENCE: Councillors L Garvey and M Nugent

21/35 DECLARATIONS OF INTEREST

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

21/36 MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 14 JANUARY 2022

The minutes of the meeting of the Planning and Development Committee held on 14 January 2022 were submitted and approved as a correct record.

21/37 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.

SUSPENSION OF COUNCIL PROCEDURE RULE NO 5 - ORDER OF BUSINESS

ORDERED that, in accordance with Council Procedure Rule No 5, the committee agreed to vary the order of business.

ORDERED that the following applications be determined as shown:

21/0676/COU Change of use from dwellinghouse to family time centre at 3 Cargo Fleet Lane, Middlesbrough for Middlesbrough Council

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 from dwelling house (Class C3) to family time centre (Sui Generis). It was planned that the premises would be used to provide support for local families, including supervised visits by parents on an appointment basis. No more than three families would be on site at any one time with a maximum of ten people, including parents, children and staff at the premises. Opening hours would be 8.30 a.m. to 18.30 p.m. Monday to Friday. The centre would not be used on evenings or weekends.

The application site was located on the eastern side of Cargo Fleet Lane, opposite the junction with Park Avenue South in the Park End/Beckfield Ward of Middlesbrough. The area had a primarily residential character with some local services nearby. The property was currently a semi-detached dwelling and the attached property to the south was also a dwelling.

In respect of the application, key considerations were the principle and sustainability of the proposal, its appearance, the impact on residential amenity and the impact on highways.

The locating of a service provision for the community, which was not classified as a town centre use and which did not have a specific locational requirement, was considered to be best located within a residential area. Within a residential area, the service provision could be reasonably accessed by public transport and was in relative close proximity to other community-based provisions.

Vehicular access was taken off Cargo Fleet Lane. Following concerns raised in respect of parking provision at the site, revised plans showing five parking spaces and one disabled parking space (along with a turning area within the site) had been submitted. Given that there would be four staff at the site and its proximity to public transport routes, it was considered that the proposed parking provision was adequate for the proposed use. Furthermore, the facility for vehicles to turn and leave the site in forward gear was seen as an improvement in terms of road safety. The Council's Highways Officer had considered the proposal and had raised no objection.

It was considered that adequate parking and manoeuvring provision would be provided by the proposal, given the intended level of activity. Therefore, the proposal would not result in an increase in demand for off street parking.

The traffic generated, car parking and noise associated with the family time centre would not be of a level likely to result in an unacceptable impact on nearby premises or the safe operation of the highway.

The Development Control Manager advised that the parking provision at the site could be further improved. Therefore, if approval was granted, an additional condition was recommended to ensure the final parking layout and plans were agreed with the Local Planning Authority.

A Member raised a query in respect of noise insulation. In response, the Development Control Manager advised that as there was some potential for impact in terms of noise and disturbance, there would be a scheme of adequate noise insulation provided to limit the impact on the attached neighbouring residential property. That would be secured by the suitably worded condition that was referenced in the submitted report.

Members raised concerns in respect of the security of the boundary fence. In response, the Development Control Manager advised that the condition of the boundary fence was a matter for site management and was not a material planning consideration. However, it was explained that an additional condition could be recommended to improve the boundary fence and the security of the site.

A Member raised concerns in respect of security at the site, specifically in relation to the property being left unattended during night-time hours. A representative speaking on behalf of the Applicant confirmed that a security system would be installed at the site, which linked to the Council's main security system and notified/alerted the police of any security breaches.

A letter of objection had been received from two residents living at the same address. In addition, the Ward Councillors had objected on the basis of inadequate security. No objections had been received from statutory consultees.

A Ward Councillor was elected to address the committee.

In summary, the Ward Councillor advised that:

- concerns had been expressed in respect of security at the site, especially given that the property would be vacant during the night;
- there had previously been attempted break-ins at the site;
- the site needed to be secured;
- the boundary fence was not sufficient and required improvement;
- there was a need for a gate to be installed at the entrance of the driveway; and
- there was inadequate parking provision, which would impact on other properties in the area.

In response to the concerns raised by the Ward Councillor, the Development Control Manager advised that as previously mentioned, a security system would be installed at the site, which

linked to the Council's main security system. It was also added that, in order to improve the security of the boundary fence, fencing would be provided between the existing columns on the boundary wall. The proposed close boarded timber fence would be of a similar height to the existing railings that were in place. The fence would improve the privacy of the site.

A discussion ensued and Members made the following comments:

- the security of the site and the current condition of the boundary fence were a cause for concern; and
- steps needed to be taken to secure the site by improving the boundary fence and installing a gate.

The Transport Development Engineer advised that installation of a gate would impact on vehicle access and would reduce parking and manoeuvring provision. A Member proposed the installation of a sliding gate to mitigate those impacts.

A Member highlighted that 15 neighbouring properties had been consulted and only one objection had been received. The Development Control Manager clarified that the objection had been received from the residents of the adjoining property.

Members commented that the proposal planned to offer valuable support to local families and installation of the security system would assist in improving the security of the site.

Following discussion, Members recommended the inclusion of an additional condition to improve security and ensure the installation of a sliding gate, at the entrance of the site. In addition, it was agreed that the final parking layout and plans required agreement from the Local Planning Authority.

ORDERED that the application be **Approved** for the reasons set out in the report, subject to conditions and the inclusion of two additional conditions as detailed below:

1. *The development hereby approved shall not commence until a security scheme is operational on site in accordance with a scheme of such which has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of a monitored alarm system, security lighting and a sliding gate to the front of the property.*
2. *The development hereby approved shall not be commenced until a scheme for vehicle parking has been submitted to and approved in writing by the Local Planning Authority and the scheme has been constructed and laid out in accordance with the details as approved. Such areas shall thereafter be retained in perpetuity for the sole purpose of parking vehicles.*

21/0619/FUL Change of use of first floor office to create 2no. self contained flats and additions and changes to roof to include 1no roof light at 87-89 Acklam Road, Middlesbrough for Mr Sharief

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 the first floor of the building from a storage/office use to two self-contained, two bedroomed, flats.

Members were notified of an error contained in the submitted report at paragraph 18. It was clarified that the flats proposed were both two bedroomed flats.

It was explained that the ground floor of the building would remain as a pharmacy. Access to one of the flats would be provided from the existing separate front entrance to the building. Access to the second flat would be provided from the rear of the building.

The application site had an enclosed area of hard standing to the rear with the revised plans showing the proposal would provide three car parking bays within the rear yard area.

The application site was within a local centre and was considered to be in a sustainable location, within close proximity to alternative sustainable transport links. The proposal planned to provide three car parking spaces and cycle storage provision to the rear of the building, which aimed to ensure there would be no highway safety issues.

Part of the upper floor of the building was currently vacant. The reoccupation of the building with residential accommodation on the upper floors would potentially add additional footfall to the centre. It would also contribute to assisting in ensuring the centre's long-term vitality and viability.

There would be no external alterations made to the front elevation of the building. The proposed alterations to the rear elevation included a rear roof light to be located within the lower section of the roof that linked 87 and 89 Acklam Road, a sun light to the rear of 89 Acklam Road and an additional window on the side elevation of the existing first floor off-shoot at 89 Acklam Road.

The scale and design of the proposed roof light, sun light and side window were considered to fit in with the original design of both buildings and would not impact on the original character and appearance of the streetscene.

Consultation letters had been sent out on the proposal and there had been 8 objections received. In summary, the objections related to the loss of privacy, no parking provision being provided for the flats, the impact on the levels of on-street parking along Balfour Terrace (that was currently at capacity) and blocking of existing driveway accesses. The Development Control Manager clarified that the proposal would provide three car parking spaces and cycle storage provision to the rear of the building that would ensure there would be no highway safety issues. No objections had been received from statutory consultees.

It was commented that the application site had an existing area of hard standing to the rear of the building, which was currently utilised by the existing pharmacy. The fall-back position was that the upper floors of the building could currently be utilised as two separate offices without any additional parking provision being provided for the staff or visitors. As a result, the two proposed residential flats were considered not to create an intensification of the use of the building or the demand for parking in the area.

The Development Control Manager advised that the parking provision at the site could be further improved. Therefore, if approval was granted, an additional condition was recommended to ensure that the final parking layout and plans were agreed with the Local Planning Authority.

Members heard that the existing window on the first floor rear off-shoot at 89 Acklam Road, which faced directly towards the rear elevation and garden area of 35 Balfour Terrace, would be removed.

The proposed rear roof light would be located a minimum of 34 metres to the neighbours situated at 38 Balfour Terrace, which far exceeded the 21 metre privacy distances set out in the Council's Urban Design Supplementary Planning Document.

The initial plans had included a dormer window on the rear elevation of the property. Following concerns raised by officers on the scale and design of the dormer window, the revised plans had removed the proposed rear dormer window. Instead, the proposal included the installation of a roof light and sun light on the rear elevation, installation of a window on the rear side elevation of 89 Acklam Road and removal of the existing external sloping roof enclosed staircase located above the existing single storey rear extension.

The proposal had been assessed against national and local policy guidelines and was considered to be a high quality development that would not have any significant impact on the character and appearance of the area. The proposed flats were considered to provide adequate residential amenity for the future occupants and would not have any significant impact on the privacy and amenity of the existing residential properties.

A resident of Balfour Terrace was elected to address the committee, in objection to the application.

In summary, the resident commented that:

- there were current on-street parking issues along Balfour Terrace;
- on-street parking along Balfour Terrace was currently at capacity, with residents being unable to park in front of their houses and existing driveway accesses being blocked;
- it was understood that no parking provision would be provided for the tenants of the flats and that would exacerbate the demand for on-street parking; and
- the proposal would impact on the privacy and amenity of nearby residents.

In response to the resident's comments, the Development Control Manager explained that the current demand for on-street parking along Balfour Terrace was an existing situation, which the proposal could not mitigate against. It was also highlighted that the proposal would provide three car parking bays within the rear yard area for tenants.

In terms of the impact of the proposal on the privacy and amenity of the existing residential properties, the Development Control Manager advised that revised plans had removed the proposed rear dormer window on the rear elevation. It was explained that the dormer window had been replaced with a rear roof light on the lower pitched roof section, which linked both semi-detached properties. It was also added that the proposed roof light would not be visible from the main dwelling and side sunroom at 35 Balfour Terrace due to the screening provided by the existing enclosed first floor staircase to the rear of the application site. Members heard that to the rear of the detached garage at 35 Balfour Terrace was a small section of garden where the roof light may be visible. However, the majority of the rear garden area would remain private and not overlooked and given the window was for a bedroom (and not a habitable room), the impact in terms of loss of privacy was not considered to be significant. It was also highlighted that the existing window on the first floor rear off-shoot at 89 Acklam Road, that faced directly towards the rear elevation and garden area of 35 Balfour Terrace, would be removed. Therefore, 35 Balfour Terrace would no longer be directly overlooked.

A discussion ensued and Members highlighted the importance of:

- the parking layout and plans, for the rear yard, being agreed with the Local Planning Authority and being as efficient as possible; and
- parking spaces being provided for residents only and retained in perpetuity.

ORDERED that the application be **Approved** for the reasons set out in the report, subject to conditions and the inclusion of an additional condition as detailed below:

Prior to the occupation of the development and notwithstanding the parking details shown on the approved plan ACK-05-20 REV C, a revised parking layout plan shall be submitted to and approved in writing by the Local Authority. The revised parking plan should identify 2 residential car parking spaces within the rear yard area in addition to the single commercial parking space. No part of the development hereby approved shall be occupied until the areas shown on the revised parking plan have been laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

21/38

PLANNING APPEALS

Appeal Ref: APP/W0734/W/21/3281191 Nunthorpe Hall, East Side, Nunthorpe, Middlesbrough, TS7 0NP - Appeal Dismissed

The works proposed were to 'remove existing external timber shed and construct new 3 bay storage and garage unit to create storage for new nursing home equipment and grounds equipment'.

The main issues were:

- the effect of the proposal on the setting of Nunthorpe Hall, which was listed grade II, together with the gates, gatepiers and crescent walls within its curtilage, which were also listed grade II; and
- whether the character or appearance of the conservation area would be preserved or enhanced.

Appeal Ref: APP/W0734/D/21/3285967 20 Canberra Road, Middlesbrough, TS7 8EX - Appeal Dismissed

The development proposed was a two-storey side extension and single storey extensions to front and rear.

The main issue was the effect of the proposal on the character and appearance of the host property and the surrounding area.

Appeal Ref: APP/W0734/W/21/3284713 20 Fountains Drive, Acklam, Middlesbrough TS5 7LJ - Appeal Dismissed

The development proposed was construction of detached dwelling.

The main issue was the effect of the proposal on the character and appearance of the area.

Appeal Ref: APP/W0734/W/21/3283486 114 Victoria Road, Middlesbrough, TS1 3HY - Appeal Dismissed

The development proposed was described as a “change of use from 5-bed house in multiple occupation (C4) to 6-bed student accommodation (sui generis) with two-storey extension to rear and raising of roof level with dormer to front”.

The main issues were the effect of the proposed development on:

- the character and appearance of the area, including the appeal property;
- the living conditions of the occupiers of neighbouring properties and future residents of the appeal property; and
- highway safety, with particular regards to on-street car parking.

Appeal Ref: APP/W0734/W/21/3283487 116 Victoria Road, Middlesbrough, TS1 3HY - Appeal Dismissed

The development proposed was described as the “change of use from 5-bed house in multiple occupation (C4) to 6-bed student accommodation (sui generis) with two-storey extension to rear and raising of roof level with dormer to front”.

The main issues were the effect of the proposed development on:

- the character and appearance of the area, including the appeal property;
- the living conditions of the occupiers of neighbouring properties and future residents of the appeal property; and
- highway safety, with particular regards to on-street car parking.

Appeal Ref: APP/W0734/W/21/3283488 118 Victoria Road, Middlesbrough, TS1 3HY - Appeal Dismissed

The development proposed was described as a “first and second floor extension to rear and raising of roof level with dormer windows to front and side and alterations to the shop front on ground floor”.

The main issues were the effect of the proposed development on:

- the character and appearance of the area, including the appeal property;
- the living conditions of the occupiers of neighbouring properties and future residents of the appeal property; and
- highway safety, with particular regards to on-street car parking.

NOTED

Notifications and Reporting

A Member raised concerns that the weekly lists of planning applications were no longer being received and the delegated decisions were no longer being reported to the Planning and Development Committee. The Head of Planning advised that a new planning portal had been implemented and technical issues had been encountered with notifications and reporting. Work was being undertaken to resolve those issues. In the meantime, it was confirmed that the weekly lists could be accessed online and an email would be sent to Members providing a link to access those lists.

NOTED

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Planning & Development Committee Schedule - 11 March 2022

Town Planning applications which require special consideration:

1	Reference No: 20/0374/FUL Ward: Newport	Applicant: Mr Arif Mushtaq Agent: Mr Mario Minchella	Description: Erection of part-three, part-four storey residential accommodation comprising 75no. beds for student accommodation (sui generis) Location: Land Adjacent To Ayresome Gardens, Middlesbrough, TS1 4QN
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2	Reference No: 22/0064/COU Ward: Central	Applicant: Edwin Ford Agent: Andrew Moss	Description: Use as an E-Gaming Centre (sui generis), internal and external alterations including a replacement shopfront & use of pedestrianised area to front as café terrace. Location: Unit 5, Captain Cook Square, Middlesbrough, TS1 5UB
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COMMITTEE REPORT

Item No 1

APPLICATION DETAILS

Application No:	20/0374/FUL
Location:	Land adjacent to Ayresome Gardens
Proposal:	Erection of part-three, part-four storey residential accommodation comprising 74no. beds for student accommodation (sui generis)
Applicant:	Arif Mushtaq
Agent:	Mario Minchella Architects
Ward:	Newport
Recommendation:	Refuse

UPDATE REPORT

Summary

The purpose of this report is to inform the Committee of the responses received from the agent and applicant following the issues raised by Members at the previous meeting. This includes 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/pick-ups of students.
- Waste store arrangements and functionality.
- The practicality of the cycle store arrangements.

In addition to the above, this report will also cover the issues of the access to the alleyway, the installation of alley gates, and other permissions required to access the site.

As this update report does not include all matters under consideration, it needs to be read in conjunction with the original Officer report which put forward a recommendation for refusal. Notwithstanding the submission of additional information as discussed in the following paragraphs, it remains the Officer recommendation to refuse planning permission.

The scheme has been confirmed by the applicant as now being for student use only rather than including potential use as a HMO (House in multiple occupation). The no. of beds has also been reduced from 75 to 74.

Trees

The footprint of the proposed building would be close to the northern boundary with Ayresome Gardens, where a number of trees are situated along the boundary. The distance between the principal elevation and the trees is approximately two metres. This includes four mature trees and many saplings that have recently been planted.

In the event of approval, it is considered that the construction of the building would have two principal implications. Although the trees could be retained alongside the development, it is 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 are likely to have significant impacts on the general living conditions of certain rooms. Given the proximity of the trees, it is 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

If Members were minded to approve the application, Officers would recommend that all 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 this is a need associated with the development of the site, it is considered appropriate for the development of the site to bear that cost. To secure this, a legal agreement – a Section 106 agreement – would need to be entered into between the Council and the developer.

Parking Arrangements

Officers have 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 these concerns and, subsequently, a revised scheme has been submitted showing four parking spaces within the boundary of the application site. It is noted that the footprint at the eastern end of the building has been modified in order to achieve four standard parking spaces, with the laundry room and the stairwell being reorganised.

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

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 have been submitted showing two proposed waste stores with a capacity for accommodating ten Eurostyle bins. In addition, roller shutter-style doors have been introduced on the rear elevation to enable bins to be taken out into the alleyway for collection. It has also been confirmed that a private contractor will be employed to carry out collections up to twice a week. It is 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. This is a matter for the management of the premises. Should any bins be left out or obstruct the adopted alleyway, this 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 are considered to be acceptable.

Cycle Parking

The original Officer report stated that the applicant had not demonstrated how many cycles could be stored within any of the cycle stores shown on the submitted drawings. The revised drawing shows the demarcation of the cycle parking areas, with each space measuring approximately 0.8m x 1.0m. These are open to the corridors on each floor of the building meaning that cycles would need to be either carried up the stairs or taken up in the lift which is relatively small in size. Whilst its clear a certain amount of cycle parking could be achieved on each floor, the size of the cycle spaces indicated does not meet the design guide standard of 0.5m x 1.8m.

In view of these matters, it remains the Officer view that the functionality of the cycle stores fails to represent good development and will result in the poor operation of the building when occupied and also fails to take the opportunity to promote the use of cycles as a viable alternative mode of transport which is considered to be best practice in both local and national planning policy.

Alley gates and access matters

At the December meeting, Officers brought the issue of the alley gates to the attention of Members. The following is for clarity on those matters discussed at the meeting.

The council's planning officers have been advised from the other internal departments that although the alley gates have been installed within the alleyway, this is 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 have advised that there are no legal agreements in place between the Council and applicant regarding access. This has been brought to the applicant's attention.

For clarity, these are matters which fall outside of planning considerations and should therefore not influence the planning decision, although will need to be addressed by the applicant / developer were permission to be granted.

Other Matters

As noted in the Parking Arrangements section, the footprint of the building has been altered in order to provide the four parking bays. This has resulted in some changes to the room arrangements, the main ones are identified below:

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

The communal space is relatively limited following this reduction, however, is considered to be sufficient from a planning perspective. Notwithstanding this, the premises would need to

be licensed via the council's housing team and would need to accord to their standards of provision and size although accordance with licensing standards is not a planning matter.

Conclusion

The above matters of contention, along with the original Officer concerns regarding the design and scale of the building, remain considerable issues and the recommendation remains to be to refuse consent in line with the reasons given in the original report.

Although the revised drawings are considered to reasonably address the issue of the waste storage and collection, it is the Officer view that the cycle stores and their associated impracticality, as well as the cramped parking arrangements remain to be unacceptable as they represent poor design, and whilst the matter of tree removal, replacements and replanting can be addressed by a legal agreement this does not overcome the other matters.

Officer: Peter Wilson

Committee Date: 11.03.2022



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APPLICATION DETAILS

Application No:	20/0374/FUL
Location:	Land adjacent to Ayresome Gardens, Middlesbrough, TS1 4QN
Proposal:	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)
Applicant:	Mr S Chambers
Agent:	Mario Minchella Architects
Ward:	Newport
Recommendation:	Refuse

SUMMARY

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.

SITE AND SURROUNDINGS AND PROPOSED WORKS

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.

PLANNING HISTORY

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 16th May 2016

PLANNING POLICY

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>

CONSULTATION AND PUBLICITY RESPONSES

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

PLANNING CONSIDERATION AND ASSESSMENT

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 be 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.

RECOMMENDATIONS AND CONDITIONS

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

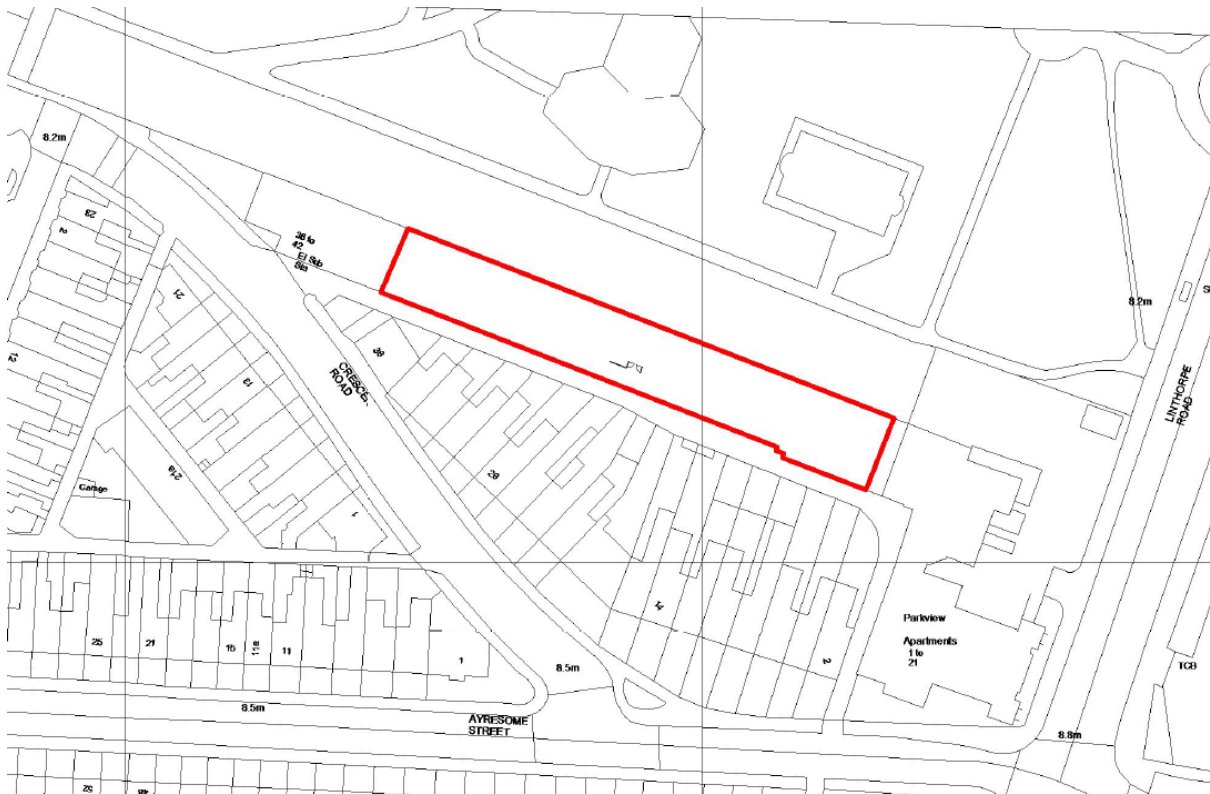
In the opinion of the Local Planning Authority, the lack of adequate parking and servicing arrangements will lead to a displacement of such activities onto the adjacent public highway. The surrounding public highway is considered to be highly constrained in terms of width and parking demands and the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

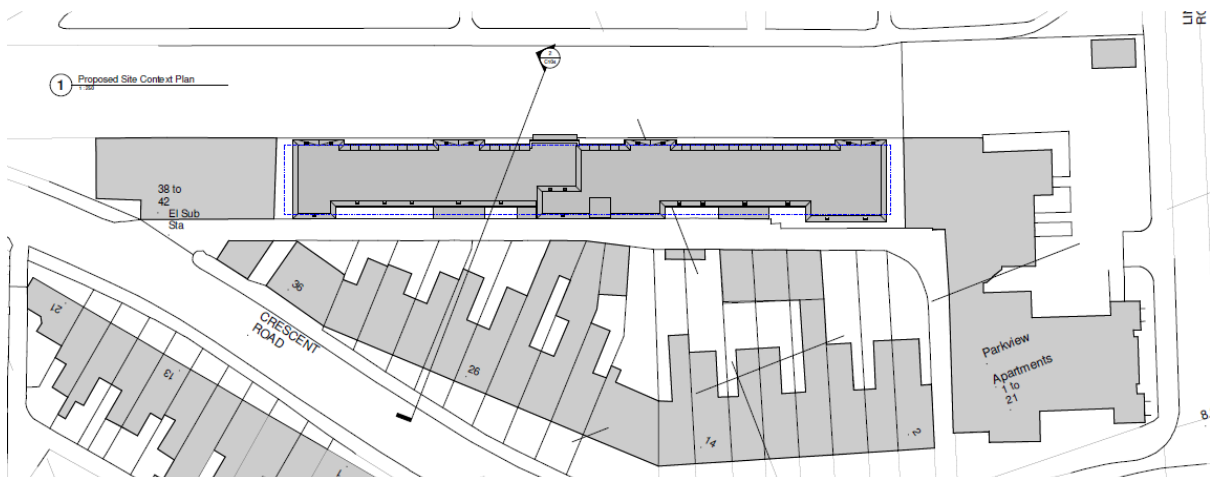
Reason for Refusal 3

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.

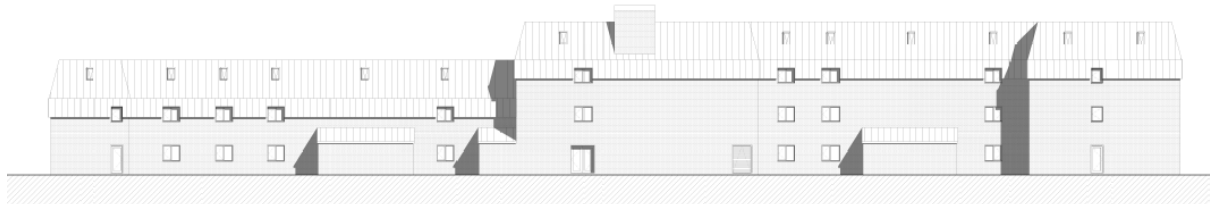
Appendix A: Location Plan



Appendix B: Proposed Site Plan



Appendix C: Proposed Front and Rear Elevations



APPLICATION DETAILS

Application No:	22/0064/COU
Location:	Unit 5 Captain Cook Square, Middlesbrough
Proposal:	Use as an E-Gaming Centre, internal and external alterations including a replacement shopfront & use of pedestrianised area to front as café terrace (Sui Generis Use).
Applicant:	Mr Ford
Agent:	Ward Hadaway
Ward:	Newport
Recommendation:	Approve with conditions

SUMMARY

Planning permission is 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.

The proposed use is a town centre use and is appropriate in principle within the town centre, although local plan policy 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.

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.

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

SITE AND SURROUNDINGS AND PROPOSED WORKS

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 is above and bus station to the side.

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 (ground floor and part first floor) from the vacant retail store to a leisure development comprising the uses of E-Gaming, bar and café/restaurant. The scheme proposes a replacement shop front and the use of the pedestrianised area immediately to the front of the premises as a café terrace (at ground floor level).

PLANNING HISTORY

None relevant to this proposal

PLANNING POLICY

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>

CONSULTATION AND PUBLICITY RESPONSES

Consultation has been undertaken with the adjacent commercial premises, the residential property to the rear of the site and with statutory consultees. Comments received are below;

MBC Planning Policy

The use as an E gaming centre 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 through 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.

PLANNING CONSIDERATION AND ASSESSMENT

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 café'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 the use classes for these are retail shops E(a), Financial and professional Services E(c) and café's / restaurants 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.

Whilst the unit is within 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. The adjacent premises was recently granted planning permission for a mixed use leisure destination and once completed this proposed use and the adjacent premises would serve to create a more holistic leisure destination within the town centre.

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 for E-Gaming, café and bar will have limited impact on the overall character of the building, it will allow for the former shop windows to be replaced with larger more modern glazed units which will give greater interaction from the use inside to be visible outside. The relatively small outdoor terrace style seating is indicated as being set beneath the existing canopy to the side of the entrance and should add additional interest into the area of public realm. These changes are considered to add positive interest to the character of the area in line with the general policy provisions.

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 and to the rear of the site.

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 mainly 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 as it is now 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 nearby residential and other premises. 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 team, in considering the now approved leisure use in the adjacent unit raised no objections to that scheme although suggested a number of conditions be imposed on the application should it be approved. Given the proximity of the two units to one another and the similarity of the uses within, it is considered appropriate to replicate some of the conditions attached to the permission for the adjacent premises, being;

- 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.

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. Furthermore, the premises is well served by public transport with the bus station immediately adjacent.

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 Primary Shopping Area and so will do so without creating a break between different sections of the core retailing uses.

RECOMMENDATIONS AND CONDITIONS

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 & Floor Layout as received 25th January 2022

Proposed Shop Front drawing as received 25th January 2022

Proposed Ground Floor Layout plan as received 25th January 2022

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.

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.

Case Officer: Andrew Glossop

Committee Date: 1st March 2022

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