

PLANNING AND DEVELOPMENT COMMITTEE

Date: Friday 14th April, 2023
Time: 1.30 pm
Venue: Mandela Room

AGENDA

**Site visits will be held prior to the meeting.
The bus will depart the rear of the Town Hall at 11.00 a.m.**

1. Welcome and Introduction
2. Apologies for Absence
3. Declarations of Interest
4. Minutes - Planning and Development Committee - 17 March 2023 3 - 10
5. Schedule of Planning Applications to be Considered by Committee 11 - 32
Schedule - Page 11
Item 1 - 136 Low Lane - Page 13
Item 2 - Units 9 - 10 Captain Cook Square - Page 23
6. Delegated Planning Decisions 33 - 34
7. Any other urgent items which in the opinion of the Chair, may be considered.

Charlotte Benjamin
Director of Legal and Governance Services

Town Hall
Middlesbrough
Thursday 6 April 2023

MEMBERSHIP

Councillors J Hobson (Chair), D Coupe (Vice-Chair), D Branson, B Cooper, C Dodds, 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, 01642 729711, georgina_moore@middlesbrough.gov.uk

PLANNING AND DEVELOPMENT COMMITTEE

A meeting of the Planning and Development Committee was held on Friday 17 March 2023.

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

ALSO IN ATTENDANCE: J Martin, Councillor M Saunders and S Shaw

OFFICERS: P Brewer, P Clarke, R Harwood, G Moore and S Thompson

APOLOGIES FOR ABSENCE: Councillors C Dodds, M Nugent and G Wilson

22/26 **DECLARATIONS OF INTEREST**

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

22/27 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 20 JANUARY 2023**

The minutes of the meeting of the Planning and Development Committee held on 20 January 2023 were submitted and approved as a correct record.

22/28 **SCHEDULE OF 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.

22/0693/MAJ Conversion of the existing traditional farm house and buildings to form 7 dwellings, the demolition of agricultural buildings and the construction of 5 newbuild dwellings, along with associated works at Nunthorpe Hall Farm, Hall Farm, Old Stokesley Road, Middlesbrough, TS7 0NP

The above application had been identified as requiring a site visit by members of the Planning and Development Committee. Accordingly, a site visit had been held prior to the meeting.

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework.

The Head of Planning explained that the application related to Nunthorpe Hall Farm, which consisted of a former farmhouse and several associated agricultural outbuildings located in Nunthorpe Village. It was advised that the proposal was seeking planning consent for the conversion of the existing farm buildings (former stable courtyard buildings and two grain store buildings) into seven dwellings, the demolition of two agricultural storage buildings, the erection of five detached dwellings with associated garages, works to a listed walled garden to form a group of private gardens and other ancillary works.

Following consultation there had been 3 objections, a letter of concern received from nearby residents and comments submitted by Councillor Mieka Smiles. It was explained that the objections and concerns referenced the scale, proportion and design of the new builds; the impact on the character of the area and setting of listed buildings; loss of privacy; parking issues; traffic and noise increases; privacy issues from Nunthorpe Hall access rights; impacts on nature/wildlife/biodiversity, Public Rights of Way (PROW) access issues and broadband access.

The committee was advised that the site was outside the limits of development, as it was located within the Nunthorpe and Poole Conservation Area.

Members heard that the farm buildings were locally listed and were considered to be an

important part of the village's character. The buildings were also considered to make a notable contribution to the significance of the conservation area. The wall that had been constructed to provide a walled garden was also a listed structure, being formerly associated with Nunthorpe Hall. It was commented that there were several other listed buildings within the immediate vicinity, including Nunthorpe Hall.

The committee was advised that the existing farm buildings had been vacant for a considerable period and, in order to maintain their contribution to the character of the village, their retention and re-use was considered to be of significant importance.

In 2013, the Local Authority had commissioned the North of England Civic Trust to undertake a study to examine the long-term use and retention of the heritage assets associated with the farm complex. Members heard that the study had identified that the brick-built buildings on the site would lend themselves to be converted into residential properties. Furthermore, the Civic Trust had identified that the clearance of the two agricultural stores would provide the opportunity for modest new development to help fund the repair and re-use of the existing historic buildings and spaces.

It was explained that the proposed conversions of the historic farm buildings were considered to be well detailed, respecting the existing form of those buildings and with modest extensions to supplement them. Those works planned to retain the historic presence and contribution of those buildings to the character of the village. It was highlighted that the proposed new builds were deemed necessary to support the commercial costs of undertaking the overall works. The committee heard that the new builds would be located in two areas, a single dwelling fronting the main road and designed to be a cottage, which was in keeping with the existing cottages adjacent, and a further courtyard of larger buildings designed to be more functional in appearance and represent agricultural scale, design and arrangement.

The committee was advised that the scheme proposed the conversion of the existing brick-built buildings into 7 dwellings and the erection of a further 5 detached properties with a mixture of integral, attached and detached garages. It was explained that the properties would be 3 to 5 bed. The site layout included individual gardens for each of the plots, with additional garden spaces for plots 1 to 6 and a communal bin store within the walled garden. It was advised that the existing highway access would be retained and utilised for each of the plots, with a mixture of garage and courtyard parking spaces being provided. The site planned to include a SUDS pond to the east of the new build plots. Members heard that a small amount of landscaping would be removed to facilitate the development, including a Silver Birch and a small section of hedgerow. However, the scheme had identified new planting as part of the proposals.

An objection comment had been received in relation to the potential loss of privacy from the two dormer windows proposed for the front elevation of the converted courtyard buildings (plots 1 and 2), which would face the main road and the residential property at 4 West Side. Members heard that there had been particular concerns in respect of the proposed dormer above the entrance door for plot 2. Those concerns had been raised with the Applicant and the dormer was subsequently removed from the scheme. Furthermore, it was explained that the second dormer had been redesigned with a barn style door opening. It was highlighted to the committee that the revisions to the plans were considered to adequately address privacy matters.

The committee was advised that the proposed scheme aimed to utilise as many existing entrances as possible, and any new entrances were planned to reflect those that would be expected for listed buildings.

The proposed works to plots 6 and 7, which were the original grain store buildings, planned to utilise the original windows and door openings and retain the original architectural features. The external alterations to those buildings included single storey extensions to the rear. It was confirmed that the design and materials for the rear extensions would not detract from the original architectural features of the grain store buildings.

Plot 8 had been designed of a scale, and with architectural details, that reflect the existing row of terraced properties to the north at 15-21 Old Stokesley Road (also facing the highway) and with a consistent building line. It was explained that Plot 8 would retain the original boundary wall and the large Oak Tree to the front.

The committee was advised that the four new build plots (9-12) had been designed to appear as if they were former agricultural buildings within the site, resulting in a courtyard arrangement. It was planned that each building would have a different design and scale to reflect a collection of farm buildings.

The proposal planned to utilise an existing entrance to the rear of the stable block to access the walled garden area and create six individual, smaller walled gardens for plots 1-6, including traditional gate details. The committee was advised that the garden boundaries would match the existing walled garden with stone coping. In addition, it was proposed that a small bin store structure would be created within the walled garden area and would be designed to reflect a historic brick potting shed. Members heard that the walled gardens and bin store were considered to be appropriately designed for their position and would retain the integrity of the traditional character of the site and external views of it.

The committee was advised that, with the agricultural and grazing land and SUDS pond forming part of the nutrient neutrality mitigation calculation, a condition was recommended that those uses be retained for the lifetime of the development.

Members heard that there were two PROW across the site. It was explained that one PROW would be stopped up and the existing PROW, which ran along the existing farm track into the site, would remain.

The committee was advised that the proposal had considered the loss of existing wildlife within the site and appropriate mitigation measures would be put in place, such as bat boxes.

In summary, the committee was advised that the site was outside of the limits for development but within an established village and would serve to provide a re-use and renovation of a group of locally listed buildings, which were considered to be of notable importance to the historic significance of the village and the associated conservation area. It was explained that the new build properties, whilst contrary to the policy in principle, were necessary to provide viability to the overall scheme of works to the locally listed buildings. It was added that the new builds would not cause undue harm to the privacy and amenity of surrounding properties and would have a neutral impact on the significance of the heritage assets (both within and adjacent to the site). The proposal was considered to represent a high-quality, historically representative development of a scale relative to agricultural forms and functions where appropriate. Matters of archaeology, ecology, nutrient neutrality, biodiversity and drainage amongst other matters had all been suitably dealt with and were all subject to controlling conditions. The recommendation was for approval of the application, subject to conditions.

A Member raised a query in respect of parking and the use of agricultural and grazing land to provide additional spaces. In response, the Head of Planning explained that the Highways Authority had confirmed that, in accordance with the Tees Valley Highway Design Guide, the scheme would provide sufficient parking for residents. Due to the rural nature of the development, and conversion of existing agricultural buildings, it was not possible for visitor parking to be provided within the development. Furthermore, to utilise agricultural and grazing land to provide a car park would inevitably negatively impact on the nutrient neutrality mitigation that was being proposed.

A Member expressed concern regarding the condition of the large oak tree, which was located at the site. In response, the Head of Planning advised that work would be undertaken to determine whether the tree was dead or decaying and, if necessary, appropriate action would be taken.

A Member raised a query regarding the maintenance of agricultural and grazing land. In response, the Head of Planning provided an outline of all the conditions associated with the proposal, one of which was the implementation of a landscape management plan. It was also explained that permitted development rights would be removed from all the new residential uses created, in order to manage future change and to protect the significance of the conservation area.

A Member raised a query in respect of access to the site. The Head of Planning advised that the development was proposed to be served via the existing vehicular access onto West Side. It was confirmed that it had been proposed that the access and a turning head was to be

adopted and, as such, provided facilities clear of West Side for refuse vehicles and other emergency or servicing traffic.

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

In summary:

- It was advised that Shaw Property Developments Ltd had over 20 years' experience of specialising in the restoration and conversion of historic buildings in the area.
- Members heard that the Civic Trust had undertaken a study and had concluded that the brick-built buildings could be converted into residential properties and that the clearance of the two agricultural stores would provide the opportunity for modest new development to help fund the proper repair and re-use of the existing historic buildings and spaces.
- It was commented that the retention, restoration and conversion of the locally listed buildings would not have been financially viable or achievable, on a commercial basis, without enabling development of the new builds.
- An extensive consultation had been undertaken and positive feedback had been received.
- It was explained that local residents had concerns about the current physical appearance of the derelict stables and the farm building and the fact the current state of the buildings would deteriorate further in the long-term.
- In light of comments received throughout the consultation process, changes had been made to the scheme to address the concerns of local residents, such as removing a dormer window and redesigning the garages.
- Members heard the scheme planned to redirect and improve the PROW.
- It was advised that the proposal planned to ensure the long-term protection and enhancement of the heritage assets.
- It was commented that the scheme was considered to represent a high-quality, historically representative development, which Middlesbrough could be proud of.

A Member expressed concern that approval of the scheme would result in other parcels of land, in the locality, being developed. In response, the Head of Planning advised that the site was outside of the limits of development, as was the remainder of Nunthorpe Village. It was added that the development was unique with regards to the conversion and re-use of existing locally listed vacant farm buildings. It was explained that each proposal was considered on a case-by-case basis and determined on its own merits.

The Head of Planning confirmed that the full list of conditions, which the Applicant would need to comply with, had now been finalised.

ORDERED that the application be **Approved subject to conditions** for the reasons set out in the report.

23/0061/FUL Erection of single storey community facility (F2(b) use class) comprising a multi-use hall and multi-purpose rooms, including ancillary community café and office spaces; creation of multi-use games area (MUGA) with associated fencing and floodlighting; construction of associated car park, access roads and landscaping at Site of former Southlands Centre, Ormesby Road, Middlesbrough, TS3 0HB for Design Services, Middlesbrough Council

The above application had been identified as requiring a site visit by members of the Planning and Development Committee. Accordingly, a site visit had been held prior to the meeting.

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework.

The Head of Planning advised that the application had been submitted to seek planning permission for the erection of a single storey community facility, a new multi-use games area (MUGA) and associated works on the site of the former Southlands Leisure Centre.

A consultation had been undertaken with surrounding neighbours through a letter-drop exercise and the consultation phase had not expired until 16 March 2023 (the day prior to the

committee meeting). The Head of Planning confirmed that no comments had been received.

Members heard that a similar application had been submitted in 2021, for a community facility and associated car park. However, the committee had agreed to defer the application due to concerns regarding the proposed position of the vehicular access to the facility (via the residential estate) as well as an outstanding objection from Sport England. Following the deferral, the Applicant had given consideration to an alternative access (off the existing roundabout) and had engaged in discussion with Sport England. The 2021 application was then subsequently withdrawn and the current application was submitted. It was confirmed that the previous concerns and issues, identified by the Planning and Development Committee, had now been resolved.

The committee was advised that the application site formed part of the grounds of the former Southlands Centre, as well as land to the north. Residential properties were situated along much of the southern boundary of the site, Middle Beck ran along the eastern boundary, Ormesby Road was situated to the west and the Unity City Academy was situated to the north.

Planning permission was sought for the construction of a new community centre facility, comprising a single storey building to be used as a multi-function hall and multi-purpose rooms with associated car park and other works.

Members heard that the Applicant had not submitted a sequential test or provided robust justification to demonstrate why the café and offices could not be located in a sequentially preferable location. The committee was advised, however, that the principal objective of the café would be to serve the users of the community facility and it was seen as integral to the use of the building and would help ensure its long-term viability. A condition was recommended to ensure that the café and office uses were ancillary and remained as such in perpetuity.

The Head of Planning concluded that the proposed development would constitute a high-quality, sustainable development that would contribute towards enhancing the site of the former Southlands Centre. It was added that the scheme would provide community facilities and resources to meet anticipated demand. Furthermore, the design and layout of the scheme were acceptable and generally in accordance with the relevant local and national policies, given there would be only limited adverse impacts on the surrounding residential area. It was therefore recommended that the application be approved, subject to conditions.

A Member raised a query regarding the provision of changing facilities. In response, the Council's Housing Growth Project Officer explained that, initially, users would be able to access the changing facilities located at Unity City Academy. Members were advised that the proposed development formed part of a phased development (funding permitting) and the application before the committee was the first phase. The Head of Planning advised that there was also potential to extend the building and the principle of expansion would be acceptable in planning terms.

It was confirmed that Sport England had no objection, however, conditions would be imposed to ensure the playing pitches were fit for purpose, sustainable and provided anticipated sporting benefits.

Members were advised that pedestrians currently had to wait for traffic, cross in two stages and hold in a pedestrian refuge when crossing Ormesby Road. It was explained that the highway works proposed consisted of upgrading the existing uncontrolled pedestrian crossing to a signalised Toucan crossing, which would also connect into existing shared pedestrian/cycle routes that ran along Ormesby Road. Those works planned to improve non-car accessibility to the site and would be secured by a suitably worded condition.

A resident was elected to address the committee, in support of the application.

In summary:

- It was advised that the proposed use had already been established on the site.
- Members heard that the local community supported the development of the site and residents were in agreement with what was being proposed.

- It was explained that the site would allow for a temporary overspill car park and if extended, changing facilities could be provided onsite.

A Ward Councillor was elected to address the committee.

In summary, the Ward Councillor commended the partnership work that had been undertaken by Council officers and local residents to develop a high-quality, sustainable development that planned to deliver much needed community facilities for local residents and the wider community.

ORDERED that the application be **Approved subject to conditions** for the reasons set out in the report.

22/29

DELEGATED PLANNING DECISIONS

The Head of Planning submitted details of planning applications which had been approved to date in accordance with the delegated authority granted to him at Minute 187 (29 September 1992).

A Member queried the reasons for one particular application being a delegated decision. In response, the Head of Planning explained that most planning applications, in accordance with the scheme of delegation, could be assessed against the Council's planning policies and decided by a planning officer without needing to be considered by the Planning and Development Committee. However, if there was a certain amount of interest in the plans, the decision would be made by the Planning and Development Committee, for example - when three or more objections had been received, or a councillor had requested the application be decided by the committee, for sound planning reasons.

NOTED

22/30

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

Planning Appeals

Appeal Ref: APP/W0734/W/22/3307708 16 Queens Road, Middlesbrough TS5 6EE - Allowed

The development proposed was change of use from 3 flats to 5 bed HMO.

The main issues were the effects of the proposed development on highway safety and on the character and appearance of the area.

It was explained that the Planning Inspectorate had acknowledged the Council's concern that planning permission had not previously been granted for 3 flats at the appeal site, but the use had become lawful over time. Subsequently, the use of the site was as 3 flats and it was within that context that the appeal had been determined and allowed.

Appeal Ref: APP/W0734/W/22/3297347 Land at Hemlington Lane, Middlesbrough TS8 9DW - Dismissed

The development proposed was described as erection of 18no bungalows with associated access and landscaping works.

The main issues were the effect of the development on:

- trees, biodiversity and ecology;
- the living conditions of the existing residents on Hemlington Lane, with respect to traffic noise and disturbance; and
- Teesmouth Special Protection Area (SPA) as a habitat site.

It was explained that primarily the appeal had been dismissed due to nutrient neutrality, as the Applicant had offered up no mitigation to offset the impacts on the SPA.

NOTED

Weekly Planning Lists

A Member highlighted the importance of elected members receiving email notification of the weekly planning lists. In response, the Head of Planning advised that at the present time, due to demands and increasing workloads, the department was unable to action the request. It was commented that Members were able to access the weekly lists via the planning portal.

It was currently taking six to eight weeks for planning applications to be validated and assigned to planning officers. In response to Members concerns, the Head of Planning advised that there were plans to update the system to ensure that applications were only viewable by the public once an officer had been allocated the case.

It was advised that the Government had announced a consultation on proposals to raise fees in line with inflation and increase planning fees by 35% for major applications and 25% for all other applications. Proposals also recommended the monitoring of more performance measures and reducing the Planning Guarantee period from 26 weeks to 16 weeks for non-major applications.

NOTED

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Planning and Development Committee Schedule - 14 April 2023

Town Planning applications which require special consideration:

1	<p>Reference No: 22/0714/COU</p> <p>Ward: Kader Ward buffer = Kader Ward buffer = Hemlington Ward buffer = Stainton & Thornton Ward buffer = Trimdon</p>	<p>Applicant: Courtyard Care Limited</p> <p>Agent: RPS Consulting Services</p>	<p>Description: Change of use from residential dwelling (use class C3) to care facility (use class C2). No external works.</p> <p>Location: 136, Low Lane, Middlesbrough, TS5 8EE</p>
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2	<p>Reference No: 23/0103/COU</p> <p>Ward: Central Ward buffer = Central Ward buffer = Newport</p>	<p>Applicant: Ms Nasreen Younis</p> <p>Agent: Mr Billy Fisher</p>	<p>Description: Change of use from retail (E(a)) to cinema (Sui generis)</p> <p>Location: Units 9-10, Captain Cook's Square, Middlesbrough, TS1 5UB</p>
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APPLICATION DETAILS

Application No:	22/0714/COU
Location:	136, Low Lane, Middlesbrough, TS5 8EE
Proposal:	Change of use from residential dwelling (use class C3) to care facility (use class C2). No external works.
Applicant:	Tom Wilson, Courtyard Care Limited
Company Name:	
Agent:	Damian Barry RPS Consulting Services, RPS Consulting Services
Company Name:	
Ward:	Kader,
Recommendation:	Approve

SUMMARY

Planning consent is sought for the change of use of 136 Low Lane from a dwellinghouse (C3 use) to a Children's home (C2 use) for the accommodation of up to six children between the ages of 7 and 18 years. The submission indicates the home would be staffed 24 hours per day. There are no external changes proposed as part of the scheme. The existing parking arrangements provide parking for 8 vehicles at the front of the dwelling.

Internally the ground floor layout will provide a lounge/kitchen/diner, with three bedrooms and a sensory room. The upper floor layout providing two further bedrooms and a staff room.

Following the consultation process there have been 28 letters of objection received. The objections relate to concerns over anti-social behaviour, increase in number of cars accessing the property, parking issues, increased noise, potential increase in crime and unsuitable location for the use in a residential area.

In view of the scale of the property, it being detached with large front and rear gardens and with a large driveway is considered to provide adequate space to accommodate the proposed use. Being served off a relatively highly trafficked road with an existing access is considered would prevent any undue impacts on highway safety or free flow of traffic. The proposed use will be more intensively used as a result of the proposal than a typical residential property of the same scale would be, however, given the spacing between properties it is considered that the proposed use would be able to operate, subject to effective management, without unduly affecting the privacy and amenity of surrounding properties.

The development is considered to be in accordance with the requirements of Local Plan Policies CS4, CS5 and DC1.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application site is a detached property in an large plot, located on the south side of Low Lane and backs onto the A174. The neighbouring property to the east is 134 and to the west is 138 Low Lane. Directly opposite the property are 91 and 93 Low Lane.

The property is two storey however externally has the appearance of a bungalow, with the first floor being provided by rooms within the roof space. The property has a large parking area to the front and an large garden to the rear.

The proposal is for a change of use of the property from a dwellinghouse (C3 use) to a children's home (C2 use). The proposal will not involve any external alterations to the property with the internal layout providing a lounge, kitchen, dining room and five bedrooms. The age range of the children at the property will be between 7 – 18 years.

The submitted details indicate that the home will be staffed by up to 25 staff, or full-time equivalent posts, working 24/7 on a rotating shift basis under the guidance and supervision of a dedicated home manager, being probable that no more than 7 staff will be on duty in any one shift and 4 during the night. The details indicate that staff will also carry out day to day duties off site as required in the running of the home. In addition to these staff providing direct care and support there would usually be a manager and deputy and potentially a housekeeper.

PLANNING HISTORY

The planning history for this site:

M/FP/1000/15/P – single storey rear extension and loft conversion, approved in 2015.

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).
- Stainton and Thornton Neighbourhood Plan (2022)

National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,
- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and
- Facilitating the sustainable use of minerals.

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

DC1 - General Development, CS5 - Design, CS4 - Sustainable Development, UDSPD - Urban Design SPD, H1 - Spatial Strategy, H11 - Housing Strategy, CS18 - Demand Management

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 following comments have been received from the statutory consultees:-

Site Notice

No responses received

Children's Commissions Manager

Is in support of the application.

Highways

No response

Environmental Health

Had no issues to raise regarding the proposed conversion.

Councillor Jim Platt

Has replied with concerns regarding highways safety.

Neighbours

28 neighbour objections have been received.

No's 138, 128, 134, 130, 85, 124, 79, 47, 34, 126, 29, 72, 91, 95, 43, 42, 93, 54 Low Lane,
6, 27, 28 The Grove,
6, 14 The Oval,
39, 49, 53 Belmont Avenue,
two from 7 Lincombe Drive

Objections are summarised as follows;

- Care home nearby has affected house prices of properties immediately adjacent as well as causing noise and disturbance, excessive traffic, ad-hoc parking in the street
- Excessive traffic will be associated with the use, It's a quiet residential area with very few commercial premises.
- It will increase parking along Low Lane which will cause accidents,
- There will be a lot of staff and many shift changes which could mean at any one time there being 10-20 vehicles being on site with insufficient parking to be able to provide for this.
- Large tarmac area outside the property gets used by people doing turns, and for parking which already causes problems. This area is likely to become a staff / visitor car park for the proposed home.
- Already too much traffic using Low Lane and although Low Lane is 30mph vehicles travel much faster than this.
- There is no official parking in this location and there have been many near accidents. This will add detriment to an already hazardous road and where there is a footway and cycleway.
- Children playing in the back garden would be noisy for the enjoyment of the adjoining garden/s in this quiet area.
- Reduction of quality homes in the area where there is a shortage
- This use should be encouraged in the town centre rather than the suburbs.
- Housing people who are dependent on alcohol and drugs will lead to nuisance in the surrounding area.
- Concerned about the extent of emergency services having to attend the property, more so that would be the case if it was a typical dwelling.

- The property will have commercial cooking facilities leaving odours in the air, and will also have commercial waste facilities. Commercial bins with drain holes will attract vermin into the area.
- Service vehicles will create noise in this residential environment
- Service vehicles accessing / exiting the site will cause risk to the use of the highway as it is on / near to a bend.
- It is not a local company.
- The increase in number of people will result in a change to the character of the dwelling,
- Fear of increased crime and anti social behaviour.
- Concern over the fumes from the A174 on the health of the children and staff

3 responses in support of the application have been received.

1 Whinbrow (Yarm),
21 Baron Close and
2 Nuneaton Drive

Support comments are summarised as follows;

We need to provide more local homes like the one in this application to help the most vulnerable young people in society. Young people who are in this position through no fault of their own. Providing a home in a safe neighbourhood for these people must be supported.

There is plenty of parking on site for staff, spacious grounds for children to play in, a wide entrance to the driveway, so visibility is not an issue, the speed limit on the road is acceptable, and the new cycle lane outside the property is ideal for encouraging children to get out and explore a lovely, leafy environment.

I feel this quiet suburban area is a great location to support and care for our looked after children.

The large private driveway can absolutely accommodate 15 cars for staff, the road is reasonably busy single carriageway but access in and out the property will be smooth and not cause any hazards.

I think it's really important to note that the garden and secure outside areas of this property will create a safe space for the young people in this property.

Public Responses

Number of original neighbour consultations	7
Total numbers of comments received	28
Total number of objections	28
Total number of support	3
Total number of representations	28

PLANNING CONSIDERATION AND ASSESSMENT

The applicant is seeking planning consent for the change of use of the dwelling house (C3) into a children's home (C2 use). The key issues to be considered are the principle of the development, the impact on the amenity, character and appearance and highway safety.

Principle of the development

The National Planning Policy Framework (NPPF) was most recently revised and published by the Government in February 2019, and is a material consideration. The NPPF states that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted (para. 12). In determining planning applications, due weight should be given to local planning policies in accordance with their consistency with the revised Framework, with greater weight given to those policies which are closer to those in the Framework (para 213). As a starting point, the proposal should be assessed against policies set out in the Development Plan.

The application site is located within a residential area of Middlesbrough (near Brookfield) with Core Strategy Policies CS4 (Sustainable Development), CS5 (Design), DC1 (General Development), H1 (Spatial Strategy) and H11 (Housing Strategy) being relevant.

Policy H1 (Spatial Strategy) sets out the need to increase the supply of housing to meet the aspirations of the economically active population and to consolidate and build on the success of popular neighbourhoods. Policy H11 emphasises the need to ensure a quality of life is maintained through protecting the existing high qualities of areas by ensuring that new development should be of a high quality.

Core Strategy CS4 (Sustainable Development) and CS5 (Design) sets out that new development should be high quality and located so that services and facilities are within walking distance to encourage sustainable transport methods

The application site is located within an existing residential area within a sustainable location with a bus stop directly outside the adjacent property (no 134) and shops located at The Oval, off Lincombe Drive.

The proposal will result in the loss of a single dwellinghouse although the use is still a residential use. Concern has been raised from objectors that the proposal will reduce housing stock in the area. Whilst noted, the proposed use remains to provide residential accommodation and the proposal relates to a single dwelling, which has a minimal impact in this regard. The Council's Strategic Policy officers have reviewed the application and consider the loss of one housing unit as not having any significant impact on the Council's overall housing delivery strategy.

Objection has been raised against the application based on it being a commercial use. Whilst noted, the proposed use, although operating as a business, is a residential use and locating it within a residential area, rather than an industrial or commercial location is considered to be appropriate as a matter of principal.

Objection has also been raised that there is already a care home in the near vicinity. Whilst noted, this is not considered to add weight either for or against the proposal.

In view of these matters the proposal is considered to accord with the Core Strategy Policies CS4, H1 and H11.

Amenity

Core Strategy Policy DC1 (c) – General development requires all new development to consider the potential impact on the amenity of the occupants of the neighbouring properties. The proposed change of use will provide no external alterations to the property.

Concerns have been raised regarding the levels of noise that may be experienced from the occupants of the proposed children's home, particularly given the proximity of the site to surrounding residential properties/garden areas.

The application is for a staffed children's home which will provide accommodation for up to six children between the age of 7 and 18 years. It is indicated that overall there would be 25 full time staff working at the premises, or full time equivalent, generally being 7 day staff and 4 night staff, along with a manager, deputy manager and housekeeper. Other specialists / support toles may also be present as required. The staff are not residents themselves and night-time staff would be awake rather than asleep.

The premises would largely operate as a normal dwelling with residents / staff coming and going and using the property both the internal and external areas. The main difference is the likely intensification of the property's usage. Whilst there is some concern in relation to potential for anti-social behaviour at the premises associated with the looked after children, this is an assumption as to potential impacts of individuals rather the definitive impacts of the proposal. As with any residents of any property, ani social behaviour may or may not occur and it is therefore considered to be unreasonable to give any weight to this occurring.

The property is relatively large within its own grounds and with a garage to one side. Mature landscaping exists within the immediate vicinity and there is relatively limited direct overlooking between properties either side. In view of the spacing between properties, it is considered that the general use of the property as a result of residents / staff moving about the premises would be relatively limited. It is considered however that movement of vehicles in and out of the property would be more noticeable, generating greater noise and disturbance, particularly at shift change times. Notwithstanding this, it is recognised that Low Lane lies to the front and is a well trafficked highway, and the A174 lies to the rear beyond a mature structural tree belt. The presence of these roads is considered to reduce the impacts of the additional traffic moving into and out of the property, and under reasonable use, prevent an undue significant impact on the amenity associated with the adjacent properties.

The Council's Environmental Protection Officers have assessed the proposal and have no comments.

In view of the above, it is considered that although the proposed use will recognisably intensify the use of the residential property, the use accords with the guidance set out in Core Strategy Policy DC1 (c).

Character and Appearance

Policies CS5 and DC1 along with the Middlesbrough Urban Design Guide state that all new development should be a high quality in terms of layout and contribute to the character of the area.

The change of use will provide no external alterations to the property and as such is considered not to have a material impact in terms of the character or appearance of the street scene.

Highway Related Matters

Objection has been raised in relation to the amount of available parking space and movement of vehicles into and out of the property and associated highway safety. The application site has a large parking area to the front of the property. The site can accommodate eight cars which is considered to be adequate for the level of staff and usage

at the site although may result in some parking outside the premises depending on how the management operate the premises. Movement of vehicles at shift change is likely to be the most intense periods but will be limited to a small time period each day. Furthermore, the existing driveway will allow for vehicles to enter the site in a forward gear and leave the site in a forward gear, thereby limiting the need for manoeuvring outside of the site. In view of these matters, it is considered that the proposed use will not result in any notable impact on the local highway network in relation to safety or capacity, being in accordance with relevant parts of Local Plan Policy DC1.

Other issues

Concerns have been raised in relation to the impact on property values in the area, however, loss of property value is not a material planning consideration and cannot be taken into account in reaching a planning decision.

Objections and concerns have been raised in relation to noise, cooking odours, carbon emissions and commercial waste. Whilst these are likely to be elevated from that of a typical dwelling as a result of the amount of staff likely to be present at any one time, given the detached and separate nature of the dwelling from those immediately adjacent it is considered that there is no reason subject to good management, why these matters would result in a significant adverse impact on the amenity associated with surrounding properties. The Council's Environmental Health team were consulted on this application and had no issues to raise.

Concerns have been raised in respect to issues with drugs and alcohol, however, it would not be reasonable to assume that this would indeed be the case and even were this to be the case, this would not prevent their residential accommodation being best suited to being within a residential location.

Concerns raised have indicated that there are no nearby parks or recreational activities for young people, and whilst there may not be any such provision within the immediate vicinity of the site, the area remains to be a suitable area for children to live, particularly taking into account the scale of the property and its associated garden area. Therefore this matter would not give reasonable reason to warrant refusal of the application.

Concern has been raised that the applicant is not a local company, however, this is not a material planning consideration and cannot be taken into account in reaching a decision.

Concern has been raised that the house and garden would not be maintained, however, this is no different to any occupied property. This would be a matter for the management of the property and should it fail to be maintained to a suitable standard, then there are planning powers which exist and could be used, as would apply to all properties.

Comments have been received regarding anti-social behaviour, personal safety of nearby residents and increase in crime. These are not material considerations which can be considered as part of the application as such impacts could be associated with the occupation of any residential dwelling and are not an absolute impact of the proposed use but a speculation.

Conclusion

The proposal has been considered against national and local policy. It is considered that the proposed use is acceptable in this area and the loss of a single dwellinghouse will not have a significant impact on the Council's Housing Delivery Strategy. It is considered that the level of the intended use as children home and the fact there will be no external alterations to the

property means the proposed change of use will have no significant adverse impact on the character and appearance of the area or the amenity of the neighbouring properties and accords with the guidance in policies DC1 (c) and CS5 (c).

In view of the proposed use being considered based on the occupation of 6 children it is considered important to limit the use of the premise to that of a Children's home and for no more than 6 children to reside there at any one time. This will prevent a different nature and scale of children's home occurring without due consideration of the planning merits of any such change.

The proposed change of use is considered to be acceptable for the site and is in keeping with the relevant policies. It is the Development Control view that the proposal will not have a detrimental impact on the amenity of the occupiers of the surrounding properties and visual amenity of the street scene.

RECOMMENDATIONS AND CONDITIONS

1. Time Limit

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby approved shall be carried out in complete accordance with the plans and specifications detailed below and shall relate to no other plans:

- a) Location plan 100, received 28 October 2022
- b) Planning statement, received 28 October 2022
- c) Proposed plans 110, received 28 October 2022

Reason: To ensure a satisfactory form of development and for the avoidance of doubt.

3. The premises shall be used as a children's home and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any order revoking or re-enacting that order with or without modification), without planning permission being obtained from the Local Planning Authority.

Reason: To adequately control the use of the site having regard to the nature of the site and the particular circumstances of the application to protect the amenity of the area and in the interests of resident's amenity having regard for policies CS4, CS5, DC1 and section 12 of the NPPF.

4. The use hereby approved shall be limited to provide children's accommodation for up to 6 children and no more at any one time.

Reason: In order to ensure the facility is limited to provide children's care accommodation for a use which is relative to the considerations taken and ensure the facility is of a scale which is appropriate for its location.

Reasons for Approval

This application is satisfactory in that the change of use of the building to a six person children's homes accords with the principles of the National Planning Policy Framework (NPPF) and the local policy requirements (Policies DC1, CS4, CS5, H1 and H11). Where appropriate, the Council has worked with the applicant in a positive and proactive way in line with paragraph 38 of the NPPF (2018).

In particular, the change of use of the building to a six person children's home will not prejudice the character and function of the area and does not significantly affect any landscaping or prevent adequate and safe access to the site. The residential use will be consistent with the existing residential uses of this location and it will not be detrimental to any adjoining or surrounding properties. The traffic generated, car parking and noise associated with the proposed change of use will not be of a level likely to result in an unacceptable impact on nearby premises.

The application is therefore considered to be an acceptable form of development, fully in accordance with the relevant policy guidance and there are no material considerations, which would indicate that the development should be refused.

INFORMATIVES

- The applicant is reminded that building materials shall not be deposited on the highway without the specific consent of the Highway Authority.
- Rights of Access/Encroachment
This planning approval does not permit any person to access another person's land/property to enable the works to be completed, without their consent. Any encroachment into another person's land/property above or below ground is a civil matter to be resolved between the relevant parties.
- Deliveries to Site
It should be ensured that, during construction, deliveries to the site do not obstruct the highway. If deliveries are to be made which may cause an obstruction then early discussion should be had with the Highway Authority on the timing of these deliveries and measures that may be required so as to mitigate the effect of the obstruction to the general public.

Case Officer: Justine Forrest

Committee Date: 14.04.2021

APPLICATION DETAILS

Application No:	23/0103/COU
Location:	Units 9-10, Captain Cook's Square, Middlesbrough, TS1 5UB
Proposal:	Change of use from retail (E(a)) to cinema (Sui generis)
Applicant:	Ms Nasreen Yousin
Company Name:	
Agent:	Mr Billy Fisher
Company Name:	
Ward:	Central, Ward buffer = Central, Ward buffer = Newport
Recommendation:	Approve Conditionally

SUMMARY

Planning permission is sought for the change of use of a vacant retail unit within the Town centres primary shopping area to a boutique cinema (sui generis).

Being a town centre use the principle of the proposed use in this location is considered acceptable. Local Plan Policy REG21 defines this area as being primary shopping frontage which is aimed at retaining retail uses within this location. Policy REG21 sets out that there should be no more than 15% non-retailing uses within the primary shopping front areas of the town centre. The October 2021 survey established 15.7 % non-retail uses within the primary shopping frontage designation with a further slight increase in this figure following the recent approval of the E Gaming centre within this area.

The proposal will result in the loss of a single retail unit but will provide a new leisure use and result in the re-occupation of a vacant unit, providing additional footfall within this section of the town centre and additional employment opportunities that will assist in improving the vitality and viability of Captain Cook Square and the wider town centre.

The proposal will not have a significant impact on the character and appearance of the area, no external alterations are proposed as part of this application. Conditions are proposed requesting a noise report and appropriate mitigation measures which will reduce any potential noise impacts on the occupants of the nearby premises along with appropriate opening hours.

Despite there being no parking provision for the intended use, the application site is considered to be within a sustainable location within the town centre and within close walking distance to good public transport links such as the bus station and train station and there are public car parks in close proximity.

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 application site is Unit 9-10 Captain Cook Square a two-storey building located within Middlesbrough Town Centre. The application site forms one of several similarly designed modern commercial buildings that front the pedestrianised area at Captain Cook Square. To the north of the site is Middlesbrough Bus Station and to the west is a pedestrian footpath link to the main Captain Cook realm and access to its multi-storey car park. There are residential properties in the wider area to the south along Grange Road and beyond.

The proposal is for the change of use of the vacant retail unit to a boutique cinema over the two floors providing three screens. No external alterations are proposed as part of this application.

The applicant has submitted a Design and Access Statement in support of the application.

PLANNING HISTORY

No relevant planning history

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).
- Stainton and Thornton Neighbourhood Plan (2022)

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 - Town Centres etc Strategy

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

Public Responses

Number of original neighbour consultations	12
Total numbers of comments received	0
Total number of objections	0
Total number of support	0
Total number of representations	0

PLANNING CONSIDERATION AND ASSESSMENT

The main considerations with this proposal are the principle of development, the impact on amenity, impact on the character and appearance and highway safety.

Policy Context

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 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.

Policy REG20 (Principle Use Sectors) identifies the retail sector as a primary retail area uses A1, A2 and A3 (now 'E' uses) as being the most suitable with specific reference to the primary shopping frontages as being for retail use. Policy REG20 sets out that other complimentary uses may be acceptable providing they do not harm the principal function and character of the shopping area or impact on the vitality and viability of the town centre.

Policy CS13 seeks to protect and enhance the hierarchy of vital and viable town, district, local and neighbourhood centres in Middlesbrough by seeking to safeguard their retail character and function and resisting developments that will detract from the vitality and viability of the core retailing function of the town centre.

Additionally, to ensure the primary retail function within key areas of the town centre, Policy REG21 sets out that the proportion of non-retailing uses within the primary shopping frontages should not exceed 15% and that concentrations of non-retail uses should be avoided.

The recent town centre survey completed in October 2021 shows the percentage of units being non-A1 use (now E(a) use) for the primary shopping frontage area as 15.7 %. With specific reference to the primary shopping frontages, Policy REG21 identifies use class A1 (retail) as the most appropriate. Other uses within class A2 (financial/professional services), A3 (restaurants and cafes) and other complimentary uses may be acceptable providing they do not harm the function and character of the shopping area, nor impact on the vitality and viability of the town centre. The Use Class order was amended in September 2020 which means A1, A2 and A3 uses now fall within retail E(a), Financial and professional services E(c) and cafes/restaurants E(b).

Principle of the change of use

The application seeks planning approval for a new boutique cinema, which will have three screens, maximising use of the whole building. The site is located in a highly sustainable location, given the building is within the town centre and within walking distance of Middlesbrough bus and train stations. The proposal is therefore considered to be within a highly sustainable location in line with both local and national policies. In addition, the re-use of a vacant building within the town centre is considered to be a positive improvement to the vitality and viability of this area of the town centre and will contribute to the planned and approved leisure uses within Captain Cook Square. In this respect, the proposal is considered to be in accordance with the general principles of Local Plan Policies CS4 and CS5.

The proposed use will be in keeping with the strategic shift from retail to leisure, as part of the Council's regeneration objectives. The proposal would provide a key movement towards the redevelopment of Captain Cook square and would contribute towards the aim of providing a leisure destination within this part of the town centre. The use will provide additional footfall within this section of the centre that will assist in supporting the vitality and viability of the town centre and is considered to be in accordance with the principles set out within Policies REG 20 and REG21.

The percentage of non-retail uses will be slightly above this 15.7 % figure given the recent approvals for the Gaming use within Captain Cook Square (Level X/Epsorts). Therefore, this proposal would be contrary to the guidance set out in Policy REG21 retailing to the protection of the retailing function of the primary shopping area and consideration therefore needs to be given as to whether there are material planning considerations that would promote a decision away from this policy guidance.

The application site is located within the primary shopping frontage. However, the location of the unit is away from the main prominent core shopping centres (Hill Street/ Dundas and Cleveland Centre) and the main through routes in the centre e.g Linthorpe Road/ Corporation Road. The location of the unit is positioned on the outer edge of the primary shopping frontage area where there is a significant proportion of retail uses and as such will not provide a break within the existing primary shop frontages.

The proposed leisure use will attract additional footfall into the town centre and is likely to be open during the day and in the evening, providing further benefits to the vitality and viability of this section of the town centre outside of normal shop hours. The proposed cinema use is considered to be consistent with and complimentary to the other recent planning approvals for leisure uses within the Captain Cook Square area and will contribute further to the vitality of this section of the town centre, assisting with the re-purposing of the Captain Cook Square from a retail location to a leisure destination through the grouping of similar uses and bringing a currently vacant unit back into use.

Policy CS14 established that the Council will work with partner organisations to ensure the provision of a wide and accessible choice of leisure facilities for the community and to reinforce Middlesbrough's role at the heart of the Tees Valley. Policy CS14 (a) sets out this will be achieved through the promotion of the town centre as a sub-regional leisure destination both in the daytime and during the evening. The proposed use of the building as a boutique cinema and the potential operating hours is in line with the aims of Policy CS14.

Character and appearance

Policy CS5 (c & f) comments that new development should secure a high standard of design, should be well integrated to the immediate and wider context and should enhance the built and natural environments.

Policy DC1(b) (General Development) comments 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 of high quality'.

The existing building provides accommodation over two floors with a total ground floor area of 840 Sq Metres. Externally the building is finished in contrasting facing brickwork, incorporating aluminium shopfronts, external doors and windows, with a traditional wrought iron, glazed canopy. In this instance the application seeks change of use only and no external changes proposed as part of this application. Any changes external to the site frontage that may occur prior to occupation will be subject to a further application and considered on its own merits. However, the Design and Access Statement submitted suggests that any future alterations to the frontage are expected to be minimal. In view of the above the proposal is considered to be in line with the guidance set out within Core Strategy Policies CS5 (c&f) and DC1 (b).

Impacts on surrounding amenity

Both the NPPF (paragraph 130 (f)) and Local Plan Policy DC1(c) require all development proposals to take account of their effects upon the surrounding environment and amenities of occupiers of nearby properties.

The application site is located within an established commercial location within the town centre. The frontage of the building faces towards the pedestrianised area which leads towards the main public realm area of Captain Cook Square. There are also residential uses within the wider area along Grange Road, Monkland Close and St Aiden Drive. There is an existing level of background noise and activity which will be apparent to these residential properties given their proximity to the units with Captain Cook Square.

The proposed use is likely to potentially increase the number of pedestrians and associated traffic within the area, particularly within the nearest street which is Grange Road. The site is considered to be within a highly sustainable location within close proximity to the bus and train stations and town centre car parks. Pedestrian access to the site is provided not only from Grange Road but also from several pedestrianised through routes leading to Captain Cook Square.

The sustainable location of the site will assist in limiting any potential increase in the level of noise from pedestrians and traffic which would result from the proposed use. In addition, gates have been installed on site (by the Council) which will ensure no late-night access onto Grange Road (where the predominant residential uses are) and late night users will be encouraged to leave the site by the side of former House of Fraser, where there is an established taxi location, and many of the late night users already exit. Whilst opening/closing hours have not been specified as part of the application, hours of opening hours can be controlled via condition to ensure that they are consistent with the surrounding uses. In view of the sites location in the town centre, and not directly adjacent 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 conditions.

Highways

The application site is located within the town centre in close proximity to both private and council car parks. Captain Cook Square itself has a multi-storey car park with a pedestrianised footpath link directly to the application site. The site is also well served by public transport link with Middlesbrough Bus Station within close walking distance and Middlesbrough Train Station. As such, there should be no adverse impacts on highway provision or safety as a result of this proposal.

Conclusion

The proposed use is a town centre use and is appropriate in principle within the town centre, and in keeping with the strategic shift from retail to leisure, as part of the Council's regeneration objectives. The proposal would provide a key movement towards the redevelopment of Captain Cook square, the benefits of the scheme significantly outweigh any negative considerations. The proposal will support the diversification of this area to a leisure destination and without having any notable detrimental impacts to the primary retailing function of the town centre, in accordance with local and national planning policy and guidance. Given the sites location and relationship to surrounding properties it will not have any significant impact on the amenity of nearby residents. In view of the above the application is therefore considered to be an acceptable form of development, fully in accordance with the relevant policy guidance and there are no material considerations which would indicate that the development should be refused. The application is therefore recommended for approval subject to standard conditions.

RECOMMENDATIONS AND CONDITIONS

Approve Conditionally

1. **Time Limit**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. **Proposed Plans**

Proposed layout plans shall be submitted to and approved prior to the use commencing and shall be carried out in complete accordance those approved plans
Reason: To ensure a satisfactory form of development and to ensure that the development is carried out as approved.

3. **Opening hours**

The use hereby approved shall not be open to visiting members of the public outside 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.

4. **Commercial Premises Noise Assessment**

A BS: 4142 noise assessment shall be submitted to and approved in writing by the

Local Planning Authority before the use hereby commences. The assessment shall identify noise levels at the site along with the noise which will be generated at the development and its impact upon neighbouring premises. The assessment should include details of any measures identified to protect neighbouring premises from noise. Any measures identified in the assessment to protect residents from noise generated due to the use of the site should be implemented before the use of the development commences and must be retained on site in an operational state for the lifetime of the development.

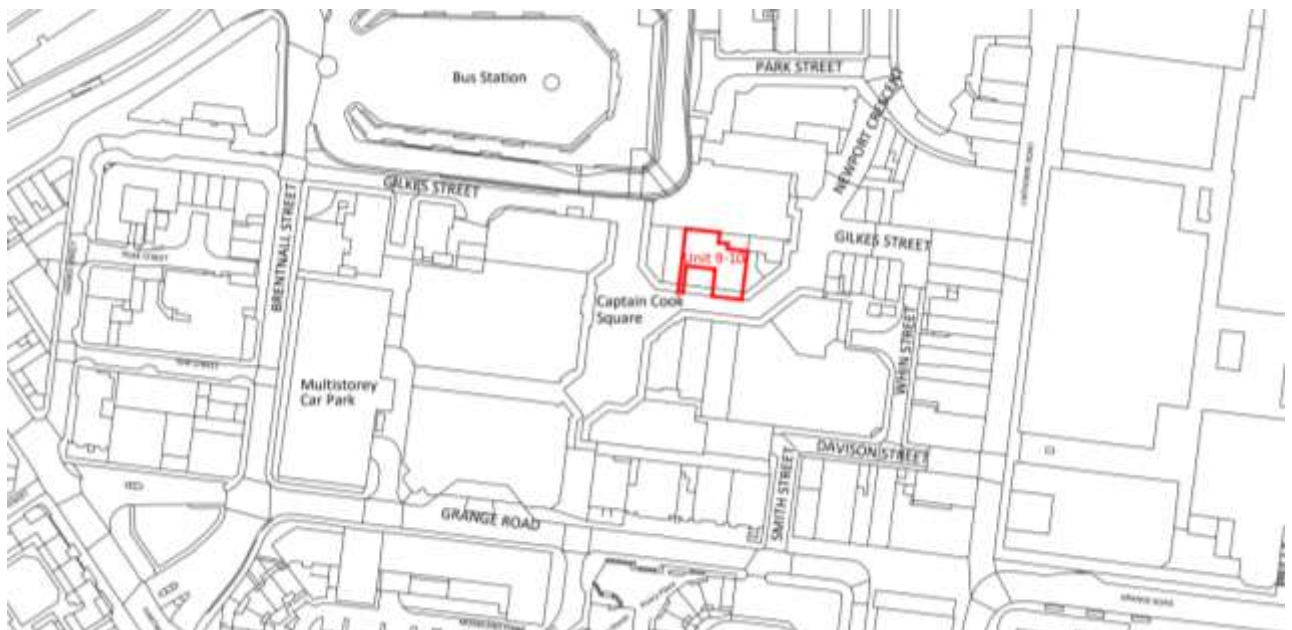
Reason: To ensure a satisfactory form of development in the interests of the amenities of residents having regard for policies DC1, CS5 of the Local Plan and section 12 of the NPPF.

REASON FOR APPROVAL

The proposed change of use will introduce an additional leisure use to the town centre, bringing additional footfall, vitality and viability to the town centre without unduly harming the retailing function of the town centre. The proposal 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 or on the character and appearance of the area, in accordance with the guiding principles of both national planning policy guidance and the relevant Local Plan Policies.

INFORMATIVES

Appendix 1. Site Location Plan



Case Officer: Joanne Lloyd

Committee Date: 14th April 2023

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Delegated planning decisions 04.03.2023 – 06.04.2023

Case Reference	Main Location	Proposal Description	Despatch Date	Decision	Ward
23/0065/FUL	9, Nunthorpe Gardens, MIDDLESBROUGH, TS7 0GA	Single storey extension to rear and single/two storey side extension	Monday, 13 March 2023	Approve with Conditions	Nunthorpe
21/0517/DEM	St Timothys Church Hall 31 Coatham Close Middlesbrough TS8 9JW	Demolition of the church hall	Tuesday, 14 March 2023	Prior Notification Approved	Hemlington
23/0041/FUL	9, Cedar Road, Middlesbrough, TS7 8DA	Demolition of existing garage and single/two storey extension to side	Wednesday, 15 March 2023	Approve with Conditions	Marton East
23/0138/CLD	18, Nunthorpe Gardens, Middlesbrough, TS7 0GA	SINGLE STOREY EXTENSION TO SIDE AND REAR	Monday, 20 March 2023	Approve with Conditions	Nunthorpe
22/0693/MAJ	Nunthorpe Hall Farm, Hall Farm, Old Stokesley Road, Middlesbrough, Middlesbrough, TS7 ONP	Conversion of the existing traditional farm house and buildings to form 7 dwellings, the demolition of agricultural buildings and the construction of 5 newbuild dwellings, along with associated works.	Tuesday, 21 March 2023	Approve with Conditions	Nunthorpe
23/0018/FUL	7, AGRICOLA COTTAGES, Old Stokesley Road, Middlesbrough, TS7 ONW	Rear dormer extension and one front rooflight	Wednesday, 22 March 2023	Refused	Nunthorpe
23/0058/FUL	15, Chapel Garth, Middlesbrough, TS8 9BH	PORCH TO FRONT	Wednesday, 22 March 2023	Approve with Conditions	Stainton And Thornton
23/0064/FUL	6, Runnymede, Middlesbrough, TS7 0QL	Installation of two new windows, two storey extension to side, bay window to front and porch extension (under existing canopy)	Wednesday, 22 March 2023	Approve with Conditions	Nunthorpe
23/0062/FUL	14, Ash Green, Middlesbrough, TS8 0UW	Porch extension to front	Thursday, 23 March 2023	Approve with Conditions	Coulby Newham
23/0099/FUL	14A Clarence Road, Middlesbrough, TS7 ODA	Single storey extension to rear	Thursday, 30 March 2023	Refused	Nunthorpe
23/0093/FUL	2, Westwood Avenue, Middlesbrough, TS7 0BW	Two storey extension to side (demolition of existing garage)	Monday, 03 April 2023	Approve with Conditions	Nunthorpe

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