
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

