

PLANNING AND DEVELOPMENT COMMITTEE

A meeting of the Planning and Development Committee was held on Friday 20 January 2023.

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

OFFICERS: C Cunningham, A Glossop, G Moore and N Younis

22/21 **DECLARATIONS OF INTEREST**

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

22/22 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 16 DECEMBER 2022**

The minutes of the meeting of the Planning and Development Committee held on 16 December 2022 were submitted and approved as a correct record.

22/23 **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.

22/0420/COU Change of use from betting shop and post office (sui generis) and E(a) use classes) to restaurant (E(b) use class) at Units 1B and 2 Marton Estate Square, Stokesley Road, Marton, Middlesbrough for SJD Architects Ltd

Following the publication of the agenda, the item was withdrawn at the request of the Applicant. Therefore, the application no longer required consideration by the Planning and Development Committee.

22/0665/COU Change of use from retail to bar, food and mixed use Leisure Venue including outdoor roof terrace on 1st floor and cellar to the rear yard (Sui Generis) at 4/4A, Captain Cook Square, Middlesbrough for 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 Development Control Manager advised that the submitted application proposed a change of use from retail premises to bar, food and mixed use leisure venue, including outdoor roof terrace on 1st floor and store within the rear yard.

It was highlighted that the report had incorrectly referenced that the application site was located in Newport Ward, instead of Central Ward. Although the report contained that inaccuracy, the Development Control Manager assured committee members that the relevant interested parties had been notified as part of the application process.

The application site was Unit 4/4A Captain Cook Square, a two-storey building located within Middlesbrough town centre. The building had a rear service yard, which could be accessed from Grange Road and Smith Street.

The application site formed one of several similarly designed modern commercial buildings that fronted the pedestrianised area at Captain Cook Square. To the north of the site was Middlesbrough Bus Station and to the west was a pedestrian footpath link to the Captain Cook Square Multi-Storey Car Park. Immediately to the south were terraced properties along Grange Road and residential properties.

The application site was 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 were public car parks in close proximity.

It was explained that the use of Unit 4/4A as bar and leisure venue in the proposed location could have been deemed contrary to Policy REG21. However, given recent changes in the dynamics of both shopping and leisure patterns, and in order to promote the long term vitality and viability of the town centre, it was considered a more flexible approach should be taken in respect of the primary shopping frontage policy.

Although the application site was located within the primary shopping frontage, Unit 4/4A was located 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. Members heard that the location of the unit was positioned on the outer edge of the primary shopping frontage area where there was a significant proportion of retail uses, as such the proposed use would not provide a break within the existing primary shop frontages.

The proposed leisure use planned to attract additional footfall into the town centre. It was likely that the leisure venue would be open during the day and during the evening, providing further benefits to the vitality and viability of that particular section of the town centre (outside of normal shop opening hours).

The intended bar and restaurant use was considered to further complement the recent planning approvals for leisure uses within the Captain Cook Square, assisting with the re-purposing of the Captain Cook Square from a retail location to a leisure destination through the grouping of similar uses.

There had been no objections in respect of the application.

The proposal was for the change of use of the vacant retail unit to a bar and restaurant with an outdoor first floor roof terrace (Sui Generis). Members were advised that there would be no alterations to the unit frontage. It was explained that proposed external alterations included the removal of part of the side boundary wall to the service yard and a single storey cellar extension.

It was planned that the proposed use would operate between 9.00 a.m. until 2.00 a.m. and would include the conversion of the existing roof into an open roof terrace. A noise assessment had been submitted in support of the proposal that had considered the noise impacts on the neighbouring properties, including the closest residential properties on Grange Road which had windows within 14 metres of the site. The noise assessment referenced the existing background noise levels that were apparent within the town centre and suggested the following mitigation measures:

- the installation of a 3.5m high acoustic fence within the existing boundary wall of the roof terrace;
- the operation of the roof top terrace until 1.00 a.m.;
- a noise management plan to minimise shouting;
- no amplified music outside; and
- internal noise within the venue to be sufficiently contained by the envelope of the building.

In terms of the acoustic fence, it was explained that the fence height would be approximately 1.5 metres above the existing wall height.

Members were advised that, if the committee was minded to approve the application, the proposal would be subject to conditions. One of the conditions referenced planned to ensure that the proposal would comply with the noise assessment mitigation measures. A condition had also been placed on the application to ensure that, should the levels of noise within the outdoor roof terrace exceed the levels set out within the noise assessment report, the use of the outdoor roof terrace would cease until a further noise survey reports and mitigation measures had been submitted to the Local Authority for consideration.

In terms of opening hours, a condition aimed to restrict opening to 9.00 a.m. and 2.00 a.m.

Monday to Sunday and the first floor outdoor seating area to the hours of 9.00 a.m. and 1.00 a.m. Monday to Sunday. Furthermore, an additional condition aimed to ensure deliveries and collections to the rear of the premises would be restricted to between the hours of 8.00 a.m. and 7.00 p.m. Monday to Saturday and 9:30 a.m. and 6:30 p.m. Sunday.

The proposed use was a town centre use and was appropriate, in principle, within the town centre. It was envisaged that the proposal would support the diversification of the area to a leisure destination, without having any notable detrimental impacts on the primary retailing function of the town centre. The application was therefore recommended for approval, with conditions.

Middlesbrough Council's Project Manager was elected to address the committee in support of the application.

In summary, the Council's Project Manager advised that:

- the Council had purchased Captain Cook Square in 2020;
- given the decline of retail, the Council aimed to transform Captain Cook Square and repurpose the shopping centre for leisure uses;
- if approval was granted, a local business that traded well locally would be operating from the unit;
- as well as a place to eat and drink, the new late-night venue planned to offer state-of-the-art golf simulators;
- the new establishment would be joining Lane 7's entertainment venue Level X in the former TJ Hughes and esports site and other leisure providers were on the cusp of signing contracts;
- there would be an increased security presence at the site; and
- the Captain Cook Square Multi-Storey Car Park would be open for extended hours to encourage and increase footfall.

A Member raised a query regarding security. In response, the Project Manager advised that joint working with the business planned to ensure that the CCTV system would be upgraded and there would be an increased level of security operatives, providing a physical presence.

A Member raised a query in respect of the use of the roof terrace. In response, the Project Manager advised that pod/group style seating was being considered, however, the internal layout and design plans for the unit were currently incomplete and would be subject to a future application(s). It was explained that a condition attached to the application would restrict use of the roof terrace outside the hours of 9.00 a.m. and 1.00 a.m. Monday to Sunday.

A Member requested further information on the plans for Captain Cook Square. The Project Manager explained that the Council had successfully secured £14.1m from the Future High Streets Fund. £9.1m of that funding had been allocated for the transformation of Captain Cook Square for leisure uses, incentives, decant compensation, remodelling units, contribution to fit out and adapting public spaces. The Council as the landlord for site had been providing grants to enable businesses to operate from the units. However, those businesses were ultimately responsible for their lease and licensing arrangements. It was added that there were restrictions, detailed within each contract, which aimed to prevent businesses from sub-letting their units.

A discussion ensued and Members commented that the proposal would assist in improving the vitality and viability of Captain Cook Square and the wider town centre. However, Members welcomed the conditions that had been placed on the application, which planned to monitor and mitigate noise levels.

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

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).

In reference to the property of 36 The Avenue, a Member sought clarification on the two applications that had been submitted for Prior Notification, as one had been refused and the other had been approved. The Development Control Manager advised that in respect of the Prior Notification process (only applicable to extensions of a certain scale), the Applicant was required to notify the Council of their intention to build so that the Council was able to consult immediate neighbours. Members were advised that if the neighbours objected, then the Council would have to consider the scheme as it would for any normal planning application. If the neighbours did not object, then the Council was not required to consider it and permission was automatically granted. Members heard that it was highly likely that the two applications would have differed slightly, meaning that objections had not been received in respect of the second submission. It was advised that, following the meeting, further information in respect of the applications would be sent to the committee members.

A Member raised a query in respect of the application submitted by Rose Wood Primary School for the erection of modular classrooms. The Development Control Manager commented that modular classrooms were common and use was usually limited to a specific timeframe, typically three or four years. It was advised that, following the meeting, the conditions placed on the application would be confirmed.

NOTED

22/25

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

Planning Appeals

Appeal Ref: APP/W0734/D/22/3308370 28 Croft Avenue, Middlesbrough, TS5 8AX - Allowed

The development proposed was a single storey rear extension - part retrospective.

The main issues were the effects of the proposal on:

- the character and appearance of the property and the area; and
- the living conditions of the neighbouring residential occupiers.

Appeal Ref: APP/W0734/D/22/3301967 6 The Gardens, Middlesbrough, TS4 3DU - Dismissed

The development proposed was a first floor rear extension; alteration to side elevation first floor window; alterations to existing rear extension openings.

The main issues were the effect of the proposal on the character and appearance of the surrounding area, and on the living conditions of the occupiers of 19 Pemberton Crescent in respect of their outlook and privacy.

Appeal Ref: APP/W0734/D/22/3306573 33 Barker Road, Middlesbrough TS5 5EW - Dismissed

The development proposed was the erection of a first-floor extension to accommodate an artist's studio.

The main issue was whether the proposed development would preserve or enhance the character or appearance of the Conservation Area.

NOTED

Charging Council Tax for Unbuilt Homes

A Member explained that the Local Government Association (LGA) had published comments in respect of unbuilt homes on expired permissions and unbuilt homes on sites that had started. Specifically, it was explained that the LGA would welcome the introduction of powers to allow local authorities to charge full council tax for every unbuilt development from the point the original planning permission expired.

NOTED