

PLANNING AND DEVELOPMENT COMMITTEE

A meeting of the Planning and Development Committee was held on Friday 14 April 2023.

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

ALSO IN ATTENDANCE: M Craig, Z Ellahi, Councillor J Platt, K Rowley and T Wilson

OFFICERS: P Clarke, C Cunningham, R Harwood, S Lightwing and N Younis

APOLOGIES FOR ABSENCE: Councillors M Nugent

22/31 **DECLARATIONS OF INTEREST**

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

22/32 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 17 MARCH 2023**

The minutes of the meeting of the Planning and Development Committee held on 17 March 2023 were submitted and approved as a correct record.

22/33 **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.

22/0714/COU Change of use from residential dwelling (use class C3) to care facility (use class C2) with no external works at 136 Low Lane, Middlesbrough, TS5 8EE for Courtyard Care Limited.

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 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). Members heard that the application had indicated that the children's home would be staffed 24 hours per day.

It was explained that, given that the property was detached, with large front and rear gardens and a large driveway, it was considered to provide adequate space to accommodate the proposed use.

It was advised that the site backed onto the A174, with properties located either side of it. There were no external changes proposed as part of the scheme. It was commented that, internally, the ground floor layout would provide a lounge/kitchen/diner with three bedrooms and a sensory room. In addition, the upper floor layout planned to provide two further bedrooms and a staff room.

It was highlighted that, with the use being served off a relatively highly trafficked road with an existing access, any undue impacts on highway safety or free flow of traffic would be prevented. Members heard that the existing parking arrangements could provide spaces for up to 8 vehicles at the front of the dwelling and vehicles were able to access the site in forward gear.

It was advised that the proposed use was based on the occupation of 6 children between the ages of 7 and 18 years. Members heard that it was considered important to limit the use of the children's home so that no more than 6 children could reside there at any one time.

The submitted details had indicated that the home would be staffed by up to 25 staff members, or full-time equivalent posts. Members heard that staff members would work on a 24/7 rotating shift basis, under the guidance and supervision of a dedicated home manager. It was commented that it was probable that no more than 7 staff members would be on duty during each daytime shift and 4 during each nightshift.

Members heard that 28 objections to the proposals had been submitted and 3 letters of support had been received. In summary, Members were advised that the objections related to concerns over anti-social behaviour, the increase in number of cars accessing the property, parking issues, increased noise, potential increase in crime and the site being an unsuitable location for a children's home.

It was commented that the key issues for consideration by the committee were the principle of the development and the impact on amenity, character, appearance and highway safety.

It was highlighted that the premises would largely operate as a normal dwelling with the main difference being the likely intensification of the property's usage. However, given the spacing between properties, it was 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 was considered to be in accordance with the requirements of Local Plan Policies CS4, CS5 and DC1.

The application was considered to be an acceptable form of development, fully in accordance with the relevant policy guidance. It was highlighted that there were no material considerations, which would indicate that the development should be refused.

A Member commented that the property was located near a bend, on a busy single carriageway and vehicles had been witnessed speeding in the vicinity, which was not an ideal location for a children's home. In response, the Head of Planning advised that the Local Authority was unable to legislate for speeding vehicles and the Highway Authority considered that the proposed use would not result in any notable impact on the local highway network. It was commented that children with Special Educational Needs and Disabilities (SEND) would be living at the children's home, therefore, it would be unlikely that the children would go outside of the property's boundary unsupervised. It was highlighted that the highway safety concerns raised related to a residential dwelling in general terms and were not specifically relevant to the proposed use. Members were advised that the proposed use could be accommodated without it having a detrimental impact on highway safety or free flow of traffic.

A Member queried whether the children residing at the children's home would be under constant supervision. In response, the Head of Planning advised that the question posed related to the management of the children's home, therefore, the query should be directed to the Applicant.

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

In summary, the Applicant commented that:

- the change of use was recommended for approval by officers;
- there would be no more than 6 children (ages 7 to 18) residing at the children's home at any one time;
- there had been an identified need for the children's home to assist in meeting the needs of Middlesbrough's children and avoid placing children outside of the region;
- the Commissioning Manager duly supported the application;
- there had been no objections, to the application, from statutory consultees;
- some concerns had been raised by members of public, however, material planning considerations had been robustly dealt with;
- the loss of a single dwelling would not have any significant impact on the Council's

- overall housing delivery strategy;
- it was worth noting that the property could, once again, become a dwellinghouse in future;
- the large area at the front of the property planned to ensure that sufficient car parking spaces were available on site;
- in terms of disturbance, the property was a family dwelling and it should therefore be expected that a family would use outside space;
- the proposed use of the outdoor space would be consistent with the existing use; and
- the care facility planned to provide residential accommodation in a residential area.

In response to a Member's earlier query regarding supervision, the Applicant explained that extremely vulnerable children would be residing at the children's home and 1 to 1 support would be provided, therefore, children would not be unsupervised/unaccompanied. It was added that the children's home would provide a structured caring environment for children who were at risk of abuse. It was commented that facility would provide residential care for children with learning disabilities, autism or other related conditions. Members heard that the children's home would be staffed 24 hours a day and the outside areas, including front doors and gates, would be secured to create a safe space for children and young people.

The Applicant highlighted that the children's home planned to provide a long-term safe setting for local children who were vulnerable. It was commented that there were no material planning considerations that would justify refusal, therefore, Members were asked to approve the application.

A Member raised a query regarding access to the children's home. In response, the Applicant advised that visits from family members would be pre-arranged by appointment. Members heard that access to the facility would be closely monitored/controlled.

A Member raised a query about Courtyard Care Limited. In response, the Applicant advised that the company had been established for over a decade and it was responsible for 80 care homes between Llanelli and Falkirk. It was explained that Low Lane would be the company's first children's home in Teesside. It was added that social services were keen for the company to offer residential care in the local area for children with SEND.

A Member raised a query regarding parking on the carriageway. In response, the Applicant explained that staff members would park on site, where there was adequate parking for staff and visitors. The Council's Legal Representative advised that the issue was not a material planning consideration.

A Member questioned whether the children residing at the home would be from the local area. In response, the Applicant advised that there was a fundamental requirement to meet the needs of local children. It was explained that a child from elsewhere could be placed at the children's home, however, the primary purpose of the facility was to provide residential care to support local children.

A Member raised a query in respect of the 5 bedrooms at the property and the proposed occupation of up to 6 children. In response, the Applicant confirmed that the children's home would be registered to accommodate up to 6 children and the proposal was compliant with Ofsted's standards for bedrooms. It was added, however, that there was an initial expectation that only 5 children would be placed there.

Three objectors were elected to address the committee, in objection to the application.

In summary, the first objector advised that:

- the proposal would impact on the local community and the surrounding environment;
- the property provided a desirable living environment for families;
- there would be a fundamental increase in traffic and the number of residents/visitors/staff members coming and going;
- the change of use could impact on property values in the area;
- there could be a potential increase in crime, vandalism and anti-social behaviour in the neighbourhood and potential risks should be assessed;
- highway safety concerns may intensify, therefore, traffic assessments and mitigation

- measures were required;
- there had been an unannounced inspection of another children's home, which had identified alarming findings in respect of the way the facility was managed and the risks to neighbouring properties; and
- the Local Authority should be managing the children's home.

In summary, the second objector advised that:

- Low Lane was already a busy single carriageway;
- there were not enough car parking spaces available on site, it was estimated that 3 or 4 vehicles could be accommodated, not 8 as the Applicant had suggested;
- there were concerns that visitors would park on the path and cycleway outside of the property, making egress from neighbouring properties unsafe;
- it was a residential area, not a commercial area;
- Low Lane would become much busier; and
- the proposal would be of no advantage to Council Tax payers.

The third objector had worked at a children's home for 45 years. The objector expressed concerns regarding the potential increase in anti-social behaviour (including violence, harassment), substance misuse and damage to property and vehicles. It was commented that there was a fear that anti-social behaviour would escalate and have a detrimental impact on the area. Concern was expressed particularly for the high number of elderly residents living in the area.

A Ward Councillor was elected to address the committee.

In summary, the Ward Councillor advised that:

- traffic had been monitored on Low Lane - between 1.00 p.m. and 2.00 p.m. 820 cars had utilised the carriageway, between 8am and 9am 1130 vehicles had utilised the carriageway;
- approximately 9750 vehicles utilised Low Lane before 6.00 p.m. each day;
- given the heavy traffic flow, the proposed change of use would have undue impacts on highway safety and free flow of traffic;
- the highly trafficked road meant that access and egress for residents, visitors and staff members would be hazardous;
- Courtyard Care Limited was a highly profitable company and residential care cost the Local Authority approximately £6,000 per week for one child;
- given current financial pressures, the Local Authority should be buying properties and running children's homes to save money;
- if the committee was minded to approve the application, committee members would be supporting a totally uneconomic solution funded by the Government and taxpayers.

In response to the comments made, the Head of Planning advised that the majority of the issues raised were not material planning considerations. It was explained that the Local Authority's financial position and who should be providing residential care was irrelevant. Furthermore, the potential increased risk of antisocial behaviour was immaterial and the Applicant had confirmed that children would be supervised and would not be permitted to go outside unaccompanied. It was also commented that an audit/inspection of a similar property was a management issue, not a planning issue.

It was explained to Members that the main material planning consideration, in respect of the application, was traffic and parking. It was highlighted that the Highway Authority had confirmed that sufficient parking could be provided on site. It was added that 7 staff members would be on duty during the daytime and 4 staff members would be on duty during the night time. It was explained that the 4 staff members on site during the night would be awake and would not require overnight accommodation. It was commented that Low Lane was a busy road, however, the level of traffic generated by the change of use would not be of a level likely to result in an unacceptable impact on nearby premises. It was also added that there was sufficient capacity off the highway network to enter and exit the driveway of the property, without vehicles interfering with the operation of the highway.

A discussion ensued. In summary, Members commented that as corporate parents, elected members had a duty to ensure the needs of children in care were met. It was commented that the children's home would assist in providing local residential care for Middlesbrough's most vulnerable children with SEND.

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

23/0103/COU Change of use from retail (E(a)) to cinema (Sui generis) at Units 9-10, Captain Cook Square, Middlesbrough, TS1 5UB for Ms Nasreen Younis

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 the change of use of a vacant retail unit within the town centre's primary shopping area to a boutique cinema (sui generis).

Being a town centre use, the principle of the proposed use in the location was considered acceptable. However, Members were advised that Local Plan Policy REG21 defined the area as being primary shopping frontage, which aimed to retain retail uses within the location. Policy REG21 set out that there should be no more than 15% non-retailing uses within the primary shopping front areas of the town centre. It was commented that, in October 2021, a survey was undertaken which had established that there was 15.7 % of non-retail uses in the location. Furthermore, there had been a slight increase in respect of the figure, given the recent approval of the E Gaming centre within the area.

It was explained that the proposal would result in the loss of a single retail unit, however, it would provide a new leisure use and result in the re-occupation of a vacant unit. Members heard that the change of use would provide additional footfall and employment opportunities, assisting in improving the vitality and viability of Captain Cook Square and the wider town centre.

It was commented that the proposal would not have a significant impact on the character and appearance of the area and no external alterations were proposed. Conditions had been proposed, requesting a noise assessment and the restriction of opening hours, to reduce any potential impacts on nearby residential dwellings. Despite there being no parking provision for the intended use, it was considered that the application site was within a sustainable location with good public transport links and there were public car parks in close proximity.

The Head of Planning advised that in terms of the policy context, the proposal would exceed the recommended 15% concentration of non-retail uses in the area and would be contrary to Local Plan Policy REG21. It was advised, however, that the policy was somewhat out of date as it had been developed in 2008/2009. It was explained that, in recent times, the retail industry was in decline and that could be seen across the country. The proposed use planned to be in keeping with the strategic shift from retail to leisure, supporting the vitality and viability of Captain Cook Square and the town centre and assisting in maintaining and boosting the retail core. It was also commented that the proposed change of use would be complementary to the other recent planning approvals for leisure uses at Captain Cook Square.

It was advised that the proposed use could potentially increase the number of pedestrians and associated traffic within the area, particularly within the nearest street - Grange Road. It was added that gates had been installed on site, which planned to ensure no late-night access onto Grange Road to protect residential amenity.

No objections had been received in relation to the proposal and the application was recommended for approval, subject to conditions.

A Member raised a query in respect of the opening hours of 9.00 a.m. to 2.00 a.m. In response, the Head of Planning advised that regular opening until 2.00 a.m. would be unlikely but the potential to stay open for longer would provide flexibility for special one-off events. It

was commented that the hours of opening would be controlled via a condition to ensure that they were consistent with the surrounding uses.

A Member raised a query regarding access to the site. In response, the Local Authority's Project Manager advised that there was a communal service corridor to the rear of the building, however, it was not public space.

A Member raised a query regarding the boutique cinema. The Project Manager advised that the cinema's main market would be mainstream, with the option of showing other films, such as opera-related performances. It was added that the cinema would have 204 seats and three screens, 77 for one, 67 and 60 for the others. Members heard that one screen would be located on the ground floor and two screens would be located on the upper floor.

The Project Manager advised that in the summer of 2020, the Local Authority had received £14.1 million of Government funding from the Future High Street Fund, £9.5 million of which was ring-fenced to regenerate Captain Cook Square. It was advised that over the past year, work had been undertaken with the cinema operator. Members heard that the operator had 4 other cinemas nationally, none of which were in the region. It was added that the operator was a family ran business, which specialised in refurbishing town centre derelict properties.

A discussion ensued and Members commented that the proposed change of use would provide further benefits to the vitality and viability of Captain Cook Square and the town centre.

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

22/34

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).

The Head of Planning advised that the decision regarding Nunthorpe Hall Farm should not have been referenced, as that decision had been taken by the Planning and Development Committee on Friday 17 March 2023.

NOTED