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**APPLICATION DETAILS**

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<b>Application No:</b>	<b>21/0144/OUT</b>
<b>Location:</b>	<b>Land at Central Gardens, Middlesbrough, TS1 2AZ</b>
<b>Proposal:</b>	<b>Erection of 3 office buildings (Class E(c)) with potential for part ground floor use for restaurant/cafe (Class E(b)), and new public realm and associated landscaping, car and cycle parking with servicing including refuse storage and substations</b>
<b>Applicant:</b>	<b>Ashall Projects Ltd</b>
<b>Agent:</b>	<b>Seymour Architecture</b>
<b>Ward:</b>	<b>Central</b>
<b>Recommendation:</b>	<b>Approve with conditions</b>

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**SUMMARY**

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Outline planning permission is sought for the development of three office buildings including potential for ground floor café and restaurant space, car parking, landscaping and public realm works and other ancillary development.

The site is allocated for Town Centre development and the principle of the scheme is therefore in accordance with town centre policies for the area, providing modern, high quality office blocks within this town centre location.

Consultation has been undertaken with local residents and businesses as well as consultees. Objections have been received, which, amongst other issues, mention the potential adverse impacts of the proposed development on the green space and pond at Centre Square.

The proposed scheme would represent a significant addition to the town centre, providing office space within the local area which is of benefit to the towns offer as a regional attractor for businesses and would also serve to re-invigorate the use of Centre Square through additional workers within this area, redefine the civic area of Middlesbrough Town Centre and serve to create a strong platform for future growth of the local economy. The scheme would also support the economy through its construction, all of which is supported within the National Planning Policy Framework.

It is considered that the scheme would add new buildings around Centre Square which is of a scale commensurate with that of other buildings in the surrounds and of a modern design which would provide a positive additions in an area where there is already an array of

buildings of very contrasting ages, styles, design and materials, and would thereby continue this principle.

The proposed scheme is recommended for approval subject to conditions.

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## **SITE AND SURROUNDINGS AND PROPOSED WORKS**

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This application seeks outline planning permission for three commercial office buildings (use class E(c)) with potential for restaurant/cafe elements (use class E(b)) at ground floor level. The overall development would create nearly 11,942 square metres of office space and 540 square metres of restaurant/cafe space. As the application is outline with all matters reserved (layout, scale, access, landscaping and appearance), indicative drawings have been submitted to illustrate how the proposed development might be arranged.

The overall site area of this outline application pertains to three separate sites within the Centre Square area of Middlesbrough town centre.

The first site is a large rectangular-like parcel of land positioned to the south of the Combined Law Courts, to the west of constructed 'Building 2', to the north of Fountains Court and Grange Road, and to the east of Mima art gallery. This parcel of land will accommodate two buildings: 'Building 3' and 'Building 5'.

'Building 3' would be L-shaped, four/five storeys in height, and has the largest maximum gross internal office space of 7,843 square metres (84,417sqft) with an additional 540 square metres (5,809sqft) for food and beverage purposes at ground floor level.

'Building 5' would be a rectangular office building, positioned to the south of 'Building 3' (with a possible link), four storeys in height and with a maximum gross internal floor space of 2,371 square metres (25,518sqft).

To the south of 'Building 3' and to the west of 'Building 5' would be a surface level car park having space for approximately 50 vehicles and with access from the road leading into the already-constructed 'Building 2'. Potential for underground car parking beneath the surface level parking is also shown on the masterplan, which would be accessed from Grange Road.

The second site is a smaller, linear rectangular plot of land situated at the northeast corner of Centre Square, to the east of the Combined Courts. This will accommodate 'Building 4', which would be three storeys in height and has a maximum gross internal office floor space of 1,728 square metres (18,600sqft). To the north of the building would be a surface level car park with capacity for 22 vehicles with access from Corporation Road.

The third site is a small rectangular parcel of land situated to the south of the approved 'Building 6' development, to the west of 168 Borough Road (Race Furniture) and to the east of government buildings along Borough Road. This will accommodate a 28-space surface level car park, which has vehicular access from the car park associated with 'Building 6'.

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## **PLANNING HISTORY**

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17/0193/FUL (Building 1)

Erection of office building (B1 use class) with ground floor cafe / food use (A3 Use Class) and associated cycle parking and landscaping

Approved Conditionally 26<sup>th</sup> May 2017

17/0194/FUL (Building 2)

Erection of office building (Use Class B1) and associated access, car and cycle parking and landscaping

Approved Conditionally 26<sup>th</sup> May 2017

17/0195/OUT (Centre Square Masterplan)

Outline application for the development of 5 commercial office buildings (B1 Use) with part ground floor cafes (A3 use), including public realm works, landscaping, car parking, cycle parking and other ancillary development

Approved Conditionally 26<sup>th</sup> May 2017

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## PLANNING POLICY

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In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with the Development Plan for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- The provisions of the Development Plan, so far as material to the application
- Any local finance considerations, so far as material to the application, and
- Any other material considerations.

### Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- Housing Local Plan (2014)
- Core Strategy DPD (2008, policies which have not been superseded/deleted only)
- Regeneration DPD (2009, policies which have not been superseded/deleted only)
- Tees Valley Joint Minerals and Waste Core Strategy DPD (2011)
- Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011)
- Middlesbrough Local Plan (1999, Saved Policies only) and
- Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).

### National Planning Policy Framework

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

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

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

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

H1 - Spatial Strategy  
 CS17 - Transport Strategy  
 CS4 - Sustainable Development  
 CS5 - Design  
 CS13 - Town Centres etc Strategy  
 CS18 - Demand Management  
 CS19 - Road Safety  
 DC1 - General Development  
 REG20 - Principal Use Sectors  
 REG25 - Centre Square East  
 UDSPD - Urban Design SPD

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.  
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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The application has been advertised in the local press, site notices have been posted around the site and consultations have been sent to statutory consultees, local residents, ward councillors and the Community Council. A summary of all the comments received is listed below.

### **Responses from the Statutory Consultation Period**

Following the consultation period, twelve letters of objection have been received at the time of writing and a summary of the points made and issues raised is below:

- There is no demand for the office buildings. Other office buildings (historic and new) remain unused and likelihood of demand is reducing due to working from home.
- No reason for the loss of the pond and the recreational area.
- There are very few nature areas in the town centre for people. The nearest is Albert Park which is a kilometre away.
- The pond is a habitat for wildlife and brings biodiversity to the town centre.
- The Council should be leading Middlesbrough in greener, more sustainable ways of living alongside nature.

- The pond provides a pleasant public face for Middlesbrough.
- The Town Hall is a grade II listed building. How is the old architecture going to sit with this modern office block? More fabulous buildings that will be surrounded by roads and concrete, and spoils the outlook and setting.

Other representations were received with concerns and general comments over the proposals and the construction works. Whilst Members will be aware that Planning Officers are unable to consider impacts during construction, a summary of concerns raised is listed below.

- It is essential that the Teesside Combined Court is able to continue to run its daily programme without disruption and interference. MBC should consider the impact of the construction works (noise, dust, vibration and highways impacts) on the Court.

The application is also the subject of a petition signed by 519 persons, initiated by Middlesbrough and Redcar Friends of the Earth. The relevant points are.

- There is very little nature in the city centre. Albert Park is the nearest real space at 1 kilometre away.
- Since lockdown, nature has become more important to the public and improves their mental well being.
- Are these offices needed? More people will be working part time or at home following the pandemic.
- Instead of new office buildings, old office buildings should be retrofitted which would be cheaper and more environmentally friendly.
- The pond provides a pleasant environment.
- The area is being rundown. It would look good if not earmarked for development.

## **Responses from Internal Technical Consultees**

### Planning Policy

The principle of office development (with associated ancillary uses) is deemed to be acceptable in this location. The reserved matters application(s) will provide the detail of the architectural style and overall design and will determine how the development fits within the wider Centre Square area.

### Conservation

These sites are currently occupied by greenspace, a pond and part of the Centre Square park (Central Gardens). All are within Middlesbrough town centre, part of a number of municipal and court buildings in an area called Centre Square. The sites are in close proximity to the Town Hall, which is Grade II\* Listed, and the Empire Theatre, Central Library, the statue of John Vaughan and the monument to Sir Samuel Sadler, which are all Grade II Listed. The submitted Heritage Statement is considered not to fully assess the potential impacts on these assets.

Each Listed Building has a setting and, with the exception of the statue and the monument, their settings are not considered to be a major part of their significance, which can be found in their historic (civic and entertainment) uses and their architecture. The statue and monument were originally within Victoria Park, a public park with bandstand out in place around the time the Town Hall was constructed. Their settings remaining open are more important, but this application does not propose to re-locate them.

The principle of large commercial buildings in these locations is broadly acceptable, indeed historically the sites have seen development albeit on a smaller scale. Originally, the site

was covered in terraced housing with much smaller buildings and closer grain than can be found in the area now. This area has now become synonymous with large civic and commercial buildings and the principle of what is proposed here will contribute to that. The building heights identified on the masterplan are restrained, guided by the buildings in the area, and should be generally acceptable subject to design and materials.

In this central location, surface level car parking is considered a poor solution. Where car parking is required to support development, alternative accommodation such as underground or multi-storey parking should be considered.

The setting of the Town Hall, considering its size, height and landmark nature, is more complex. However, the principle of the development is considered to be acceptable given its general position, and it will be the full planning application stage that will determine the exact impact of the new development on the settings of the nearby Listed Buildings.

#### Environmental Health

No objections subject to any approved development being constructed in accordance with the Noise Assessment submitted with the application.

#### Highway Planning

At the time of writing, there were no comments received from the Highways service to the application, which has been supported by a Transport Assessment and Aimsun Modelling report.

The revised scheme under consideration is not too dissimilar to the outline planning application approved in 2017 (17/0195/OUT). The buildings seeking outline planning permission here (Buildings 3, 4 and 5) are proposed in very similar locations, having similar floorspace and access arrangements. In 2017, Highways Officers were of the view that the previous outline application would not have a material adverse impact on the operation of the surrounding highway network.

The Planning Officer in attendance at the Committee will report any comments received from the Highways service to Members.

#### Waste Policy

No objections.

### **Responses from Statutory and Other External Consultees**

#### Historic England

Whilst there are concerns relating to the current form of the proposals – which are considered not to make the most of the opportunities to better reveal the town's heritage significance – the principle of this development is something that Historic England is content with and that represents an important opportunity to work with and enhance Middlesbrough's sense of place.

Concerns were initially raised over the proposed demolition of the locally listed building, No. 154 Borough Road, although the revised scheme retains the building. The height of Building 3 was also a concern, but the revised scheme sees the height of this building reduced to 4/5 storeys. Building 5 has been re-introduced to compensate for the loss of floorspace but there are no objections to this building.

Concerns continue regarding the extent of proposed surface level car parking and the limited contribution this type of infrastructure would make to preserving or enhancing the heritage interest of Centre Square. Alternative parking options, such as underground car parking, could be considered without unintended harm to the significance of this site.

Historic England considers the revised scheme to better relate to the area's rich heritage and would welcome continued engagement to address the aforementioned concerns in the detailed applications.

Historic England does not object to the application on heritage grounds and considers the application to meet the requirements of the NPPF, in particular paragraphs 130, 184, 192, 193, 194, 196, 197 and 200.

#### Environment Agency

There are no objections in principle. The drainage strategy and sustainable drainage features can be provided in the applications for the reserved matters.

The application site lies entirely in Flood Zone 1 (lowest risk area for flooding) and the proposal meets no other constraints within the EA's remit. The proposal lies in an area of pluvial (surface water) flooding which should be considered by the Lead Local Flood Authority. Surface Water flood risk is within the remit of the LLFA.

The following issues are not within our direct remit or expertise, but nevertheless are important considerations for managing flood risk for this development. Prior to deciding this application, we recommend that consideration is given to the issues below. Where necessary, the advice of relevant experts should be sought.

- Adequacy of rescue or evacuation arrangements
- Details and adequacy of an emergency plan
- Provision of and adequacy of a temporary refuge
- Details and adequacy of flood proofing and other building level resistance and resilience measures
- Details and calculations relating to the structural stability of buildings during a flood
- Whether insurance can be gained or not
- Provision of an adequate means of surface water disposal such that flood risk on and off-site isn't increased

#### Cleveland Fire Service

No objections. Access and water supplies should meet the relevant legislative requirements.

#### Northumbrian Water

There are no objections subject to any approved development being carried out in accordance with the Flood Risk Assessment and Drainage Strategy submitted with the application.

#### Northern Gas Networks

There are no objections.

#### Northern Powergrid

No comments received.

#### Ecology

The pond is not considered to have significant importance from an ecological standpoint. Ponds can be recreated and are frequently moved/replaced in response to development.

The proposed development is not considered to provide biodiversity net gain. The measures for wildlife mitigation are not considered to equate to the habitat being lost. Further consideration should be given to securing biodiversity net gain. In the event of approval, conditions should be considered to secure biodiversity net gain.

Ward Councillors

No comments received.

Middlehaven Community Council

No comments received.

Secured By Design

It is recommended that the overall development is in accordance with accredited secured by design standards.

The Georgian Group

No comments received.

## **Public Responses**

Number of original neighbour consultations	191
Total numbers of comments received	15
Total number of objections	13
Total number of support	0
Total number of representations	2

## **Site notice posted – 24th March 2021**

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### **PLANNING CONSIDERATION AND ASSESSMENT**

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1. This is an outline application for planning permission for a significant office development within the Central Gardens area, located in the Cultural Quarter of Middlesbrough Town Centre.
2. As it is in outline form only with all matters reserved, it is simply the principle of the proposals that must be considered at this stage. The matters of detail – which are the appearance, scale, landscaping, layout and access – will be considered as part of the reserved matters submission(s) should this outline application be approved. The applications for the reserved matters would, of course, need to be made to the Local Planning Authority and would be subject to further consultation and consideration.
3. In considering whether the principle of development is acceptable for this outline proposal, due regard needs to be taken of other matters. The main planning considerations for this proposed development relate to:
  - The General Principle of the Development,
  - Economic Considerations,
  - Design, Appearance and Quality,
  - Impacts on the Historic Environment,
  - Impacts on the Nearby Buildings/Uses,
  - Impacts on the Highway Network,
  - Impacts on Residential Amenity,
  - Impacts on Ecology and Biodiversity, and
  - Loss of Green/Open Space.
4. These and other material planning considerations are assessed as follows.

## **Background**

5. It should be brought to the attention of Members that a similar development was approved in 2017 (17/0195/OUT). The previously approved outline application was for 'five commercial office buildings with part ground floor cafés, public realm works, landscaping, car parking, cycle parking and other ancillary development' and was granted permission 26<sup>th</sup> May 2017. This approved development was a similar scale and massing, and on very similar red line boundaries within Centre Square. Two of the five approved buildings have been constructed – Buildings 1 and 2 – whilst the other three remain unimplemented. The current outline application has been submitted as the 2017 approval has since expired.

## **Principle of Development**

6. The Government's planning guidance is set out in the National Planning Policy Framework (NPPF) and this confirms its support for development which is in accordance with an up-to-date Local Plan. It further supports sustainable development which involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including improving the conditions in which people live, work, travel and take leisure.
7. The NPPF states that Planning should operate to encourage and not act as an impediment to sustainable growth, giving significant weight to the need to support economic growth and proactively meeting the development needs of business, supporting an economy fit for the 21st century.
8. Local Plan policies seek to achieve high quality development in the right place, which minimises the impact on the local area and nearby premises whilst Policy REG25 seeks to develop the area of Centre Square East as a modern civic open space. The spatial objectives of the plan go further to reinforce the Stockton-Middlesbrough urban core as the principal centre for cultural, leisure and civic administration activities whilst establishing an environment that encourages and supports economic vitality and quality of life that attracts both people and businesses to Middlesbrough. Objectives further indicate the desire to achieve high and sustainable levels of economic growth by supporting existing businesses and encouraging new ones to set up in Middlesbrough.
9. The site lies within the Town Centre boundary for Middlesbrough as defined within the Local Plan. Being a Town Centre location, it is well served by public transport and other facilities and provisions, thereby making it a highly sustainable location for such development, in full accordance with the locational principles of the National Planning Policy Framework. It is considered that the continued provision of modern office blocks within this key position around Centre Square will assist in achieving these policy objectives in a manner which continues to add positive definition to the civic character of the Centre Square area.

## **Economic Considerations**

10. Central Middlesbrough is the economic heart of the economy of Teesside, providing a mix of business, retail, leisure and cultural features. Along with the constructed Buildings 1 and 2, the proposed development is considered to make a significant contribution to sustaining and enhancing the 'Middlesbrough' offer, with a high quality office development providing opportunity for inward investment for professional and service sector companies not currently represented in the Tees Valley or for progression of existing local businesses into new premises. In this regard, the scheme would reflect some of the ambitions of the Tees Valley Strategic Economic Plan, which commits to strengthening the local economy.
11. It is expected that the offices will appeal to high-value employers with a propensity to enhance the local economy and also bring new construction jobs to the area. Over the

last thirty years, Middlesbrough has suffered as a result of a lack of investment in its office space and, therefore, suffered outward migration of major professional employers. The proposed office buildings, along with the constructed Grade A office space within Buildings 1 and 2, will seek to address this by reducing the risk of future displacement and through attracting new business which would attract more spend within the local area.

12. Continued new office floorspace around Centre Square is expected to bring hundreds of skilled workers to the location, provide a renewed vibrancy for Centre Square, and re-define its function as a civic space central to the town and being immediately adjacent to the retail and cultural areas of the centre. With the addition of the ground floor café and restaurant uses, the development would assist in creating Centre Square as a destination and 'sense of place' within the centre of Middlesbrough, which currently is underrepresented for this sector.

### **Design, Appearance and Quality**

13. As the application is in outline form with all matters reserved, the exact appearance, layout and scale of the proposed buildings will be considered at the reserved matters stage. Notwithstanding the above, it is understood from the submitted visuals that the proposed office buildings would fit well within the alignment of existing buildings and have an external appearance that would complement the constructed office blocks of Buildings 1 and 2. It is considered that the proposals will provide positive additions to both the appearance of Centre Square and the immediate surrounds without unduly dominating the built environment. The proposed buildings to the rear of Centre Square would provide office space in separate blocks of development and therefore retain the existing principles of built form around Centre Square which is one of defined and separate buildings out looking over the open area.
14. Importantly, all buildings around Centre Square are different in their form, scale and use of materials, although, being located in a town centre, all are prominent large buildings in their own right. This proposed scheme would continue that approach to new buildings within this location, providing large and modern buildings of an intrinsic high quality. Consequently, they are deemed to be in accordance with Policy REG25 which emphasises the need for high quality contemporary feature buildings to complement the modern civic open space and existing landmark buildings within the area. Equally importantly, the scheme will be able to include public realm works around the proposed buildings, creating a new type of space which will be closely linked to the buildings and which will allow a new function to be achieved for space around Centre Square.
15. The height of the buildings are indicatively provided on the submitted masterplan, which are generally consistent with the surroundings. The accompanying visuals show that the buildings would have glazing as the main elevation material and therefore provide visual separate floors of development. The complementary high quality brickwork and coloured panelling would add colours to the overall scheme.
16. In view of these considerations, the proposals are considered in principle to adhere with the design requirements for such buildings as required by both local and national planning policies. Of course, conditions can be imposed to ensure high quality materials are provided in the detailed reserved matters applications.

### **Impacts on the Historic Environment**

17. Legislation requires due assessment and protection of the setting of a Listed Building where deemed appropriate, whilst Local Plan Policies CS4 and CS5 collectively seek to protect heritage assets. The site is close to several Listed Buildings, including the Empire Theatre (II\*), the Town Hall & Municipal Buildings (II\*), Central Library (II) and the monuments to John Vaughan and Sir Samuel Sadler (II).

18. Each of these buildings has a separate function and all have been designed as stand-alone buildings or structures, with their use informing their design and form. The Municipal Buildings and Central Library contribute to framing Centre Square and are considered to be of notable significance, whilst the front of the Town Hall and Empire Theatre are related more to other streetscapes. Each of these Listed Buildings requires its setting from specific areas and views to be reasonably preserved in order to retain their significance. Being within a town centre location however with many building types around, none require nil development in their surrounds to achieve the preservation of their setting and due regard needs to be taken that Centre Square was once a site of many residential properties. Additionally, the views of the Council's Conservation Officer and Historic England are that the significance of these Listed Buildings come more from their function and architecture rather than their setting.
19. The significance of the Town Hall and associated Municipal Buildings is considered to be partly down to its initial design and architecture and partly to its overall use and partly as a result of its meaning within the wider area of Middlesbrough. Its setting is taken from its position and a degree of openness to its elevation onto Centre Square. It could be argued that the setting has already been compromised in the past by the nearby tower blocks (Centre North East, for example) and the addition of the Civic Centre although importantly, it retains an open aspect onto Centre Square as well as being a prominent building within the Corporation Road and Albert Road areas of the town centre. The proposed three office buildings would be set away from the Town Hall and are of a completely different design and architectural style. They would serve to enclose the square at the eastern end and create a greater 'sense of place' to this civic area and would therefore arguably have a positive impact on the setting. In view of these matters, it is considered that the proposed scheme would have a low impact on the significance of the Listed Town Hall & Municipal Buildings.
20. The Empire Theatre is separated from the proposed three office buildings by a host of buildings including Middlesbrough House, the Civic Centre buildings, Building 1 as well as the Combined Courts. Given this arrangement, the Empire Theatre would retain its visual significance gained from its frontage onto Corporation Road and its side elevations onto Pine Street and Dunning Street. Corporation Road is already a street of modern and old properties and this proposal would arguably continue with that characteristic. Given the above, it is considered the proposed development would have a low impact on the setting of the Empire Theatre and its associated significance.
21. Central Library has a dominant building frontage, but is set back from Albert Road. The side elevation and rear are of a secondary nature in design terms. The proposed office development will not affect the land to the front or immediately to the side of the Library; instead they are separated from the Library by Mima art gallery. Given the proposed buildings would sit away from Central Library and allow it to retain its prominence onto Albert Road, it is considered that the proposals would have a low impact on the significance and setting of this Listed Building.
22. Historically, the site was covered in terraced housing, which are, by their nature, much smaller buildings and exhibit a closer grain than can be found in the area now. It is further recognised from the submitted visuals that the proposed design of the new buildings would be contemporary with facing brickwork, glazed curtain walling and cladding. Its large size and scale would not be out of place in the area, considering the scale of the neighbouring buildings. It is hoped the active frontages and their uses (in combination with the approved café uses at Buildings 1 and 2), will encourage greater use of the area, which should benefit this civic and commercial space and it is concluded that the proposed development should sustain and enhance the settings of the nearby Listed Buildings.

23. The statues/monuments are of a much smaller scale to the Listed Buildings around Centre Square and are of a localised importance. These statues and monuments were originally within the area known as Victoria Park – a public park with bandstand in place around the time the Town Hall was constructed. Retaining an open setting for these is considered to be important and given this application does not propose to re-locate them, it is considered that this would be achieved and, arguably, the statues and monuments would gain greater recognition through the reinvigorated use of Centre Square.
24. The potential impacts of the development on the nearby heritage assets within Centre Square have been fully considered and it is the officer view that the scheme can be achieved with no significant impacts on nearby Listed Buildings and Structures, their settings and their associated significance, some of which are considered to be impacts of a positive nature.

#### **Impacts on the Nearby Buildings/Uses**

25. Policy REG20 specifically identifies the Central sector as an appropriate location for offices, provided vehicular access is kept to a minimum, and the height of the development has regard to surrounding office and public buildings. The proposed four-storey development is considered to be generally consistent with its surroundings and reflects the scaling, mass and height of the previous building on the site. Whilst complementing the uses around Centre Square, further south is Borough Road where various office and similar professional services can be found.
26. The proposed buildings and the future use associated with the proposed buildings themselves will have an impact on the surrounding uses, which include commercial and residential properties. The buildings will be in close proximity to the Civic Centre, the Crown Court, Fountains Court and Buildings 1 and 2, which are all commercial in nature and although some noise, disturbance and impacts on daylight and sunlight will arise, it is considered these would be reasonable impacts in this town centre location.

#### **Impacts on the Highway Network**

27. The proposed offices are a town centre use and are positioned in reasonable close proximity to the railway station and bus station whilst would be supported by the numerous bus stops and public car parks which exist within the town. The proposal therefore supports the principle of locating development in locations where there is a real prospect of its users travelling by sustainable means and thereby limiting their travel movements on the wider network which is in accordance with the principles of the National Planning Policy Framework.
28. The application has been supported through the submission of a Transport Assessment which defines the likely traffic movements generated by the proposed buildings in their fully occupied state. The Transport Assessment also considers the impact of the proposed development on the operation of the surrounding highway network, including the A66 Marton Road Interchange.
29. As noted in the Consultations section of the report, no Highways comments have been received at the time of writing. Any comments received will be reported to Members by the Planning Officer at the committee meeting.

#### **Impacts on Residential Amenity**

30. As with all development, consideration needs to be given to the impact on residential amenity. In this instance, the proposed buildings and associated uses are within a town centre location which has a high density and where residential amenity and privacy will generally be reduced to that normally experienced in more residential areas, although nonetheless requires reasonable assessment, in particular, against Local Plan Policy DC1 and the guidance of the National Planning Policy Framework.

31. As mentioned, the proposed buildings incorporate café and restaurant uses, which will front onto Centre Square and will be away from the nearest residential properties and therefore not have any undue impacts on residential properties within this town centre environment.
32. The commercial office elements of the buildings will relate to the environment of Corporation Road and the other buildings and their uses in the Central Gardens area. It is considered that the impacts on any residential properties in Corporation Road will be particularly limited given this is already a main thoroughfare within the town centre and background noise and disturbance will already be experienced in this environment. Also, only one of the proposed buildings (Building 4) would front onto Corporation Road, although this building is set back from the street frontage and its impact on the road is likely to be insignificant in comparison to the adjacent Combined Law Courts.
33. Residential properties also lie to the eastern side of Central Gardens, in an area known as Hazel Court. These properties, however, are largely screened from the proposed three office buildings by the constructed Building 2. Whilst Building 4 is positioned to the northwest of these residential properties, it is approximately 50 metres from the nearest house and positioned between Building 2 and the former Cleveland Business Centre building. Given this arrangement, there is considered to be no significant adverse impacts on the residential amenities from Building 4.
34. To the south of Buildings 3 and 5 are properties along Grange Road. The indicative layout shows Building 5 being perpendicular to the front elevations of the houses along Grange Road and the separation distance between the two is approximately 40 metres. The larger Building 3 would be approximately 80 metres to the north of these properties. Neither Building 3 nor Building 5 is considered to harm the living conditions of the residents at Grange Road.
35. The parking associated with office Buildings 3 and 5 may have some impact on the residents of Grange Road, although this should not be significant given its anticipated scale and the anticipation of such impacts being associated with living in a town centre location.
36. Lighting associated with the buildings has been designed so as to prevent undue spread and spillage of lighting to the wider area and therefore prevent any nuisance caused as a result. Notwithstanding these efforts, mindful of this town centre location, lighting around and of buildings is a relatively common occurrence and therefore an accepted circumstance given the use and nature of such areas. A condition is recommended by officers for the lighting associated with the proposed development to be in accordance with the submitted assessment.
37. In terms of the potential ground floor café and restaurant uses, conditions for delivery times, collections and appropriate ventilation are recommended to ensure an appropriate development that does not unduly harm the general amenities of any nearby residents and the users of Middlesbrough Town Centre.

#### **Impacts on Ecology and Biodiversity**

38. Due to the overall scale of the proposed development and its siting on existing green space and potential wildlife habitats, it is important to ensure that there are no adverse impacts on any protected species, flora and fauna, and that the development provides biodiversity net gain.
39. The National Planning Policy Framework (NPPF) provides protections for important sites and wildlife (for example, Sites of Special Scientific Interest (SSSIs), species licensing), and makes provisions for the delivery of biodiversity net gain. In 2018, the

government published a revised version of the NPPF, which strengthened policy wording on biodiversity net gain as well as incorporating policy proposals from the Housing White Paper and Planning for the right homes in the right places.

40. Paragraph 170 of the NPPF states that *planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity value, and minimising impacts on and providing net gains for biodiversity*. Paragraph 175 continues by stating that *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused*.
41. An Ecological Impact Assessment has been submitted in support of the application to assess any potential impacts. First and foremost, the ecological report has given consideration to the potential impact of the proposed development upon the Teesmouth and Cleveland Coast Special Protection Area, Ramsar site and SSSI, which is a protected nature reserve recognised by European legislation located within 2 kilometres. The report concludes, however, that there are no anticipated impacts and no mitigation is required.
42. For the development site itself, the assessment indicates that the habitats on site are typically of low conservation importance and of local value only. The site for proposed Buildings 3 and 5 has been assessed as containing an ornamental pond and being surrounded by ornamental shrubs, trees and amenity grassland. The Council's ecological consultant has considered the report and agreed that the pond does not have significant importance from an ecological perspective.
43. Although the existing grassland, shrubs, trees and pond are considered only to be ornamental and of low conservation and local value, it is not accepted by officers that the current proposals provide biodiversity net gain. The initial landscaping proposals (highly managed landscape space and water feature with treated water) for the new development and the incorporation of some bird boxes were considered not to equate to the habitat that is being lost.
44. Considerations for appropriate biodiversity measures within the development site might include more informal landscaping, less managed planting with no treated water feature, planting mix native and ornamental species as advised by specialists. Green roofs have been considered although this would lead to mechanical and electrical equipment being situated with landscaped areas, which is not desirable nor considered in keeping with a high quality public realm. An area of brown roof zones could be provided on the roofs of the bicycle and refuse stores. The planting within the landscaped areas will include plants that bear flowers, nectar and fruits, whilst bird nest boxes and bricks will be installed
45. These concerns will need to be addressed as part of any reserved matters application(s). Consequently, it is considered that a suitably worded condition for biodiversity net gain can be attached to any planning approval at the outline stage and its requirements met in the subsequent application(s) for the reserved matters.
46. In respect of impacts on bats, the report advises that the proposed lighting may affect foraging and commuting, although light disturbance in the heart of the town centre is already high. There may be a loss of potential bat roosting opportunities of low suitability, as well as a risk of disturbance as bats are present during works. However, the likelihood of bats foraging and roosting in the area is considered to be low.

47. In respect of birds, the report advises that pre-commencement checks are required for nesting birds if clearance is undertaken in the bird nesting season. There may also be a loss of foraging and nesting opportunities, although the proposed planting in the landscaping scheme would be important to ensure these are appropriately replaced.
48. The likely impacts on other species, namely amphibians, hedgehogs, as well as general wildlife are also looked at in the report. The report recommends that works will be undertaken to precautionary method statements and that any excavations left open overnight would have a means of escape for wildlife.
49. Conditions are recommended to address these matters and thereby limit any impacts on ecology, flora and fauna in line with policy guidance.

### **Loss of Green/Open Space**

50. Central to the concerns raised in the petition submitted by the Friends of the Earth is the loss of green and open space in the Town Centre, which provides a valuable amenity to the public and town centre residents. As outlined above, the scheme will be subject to biodiversity net gain conditions ensuring that there will be no loss of biodiversity as a result of the development.
51. Concerning the availability of wider open space to serve the public and workers, some will be incorporated as part of the development. A significant amount of open space remains on Centre Square that will be available to the public to access and enjoy.
52. The scheme does include the provision of an area of open space that will be publicly accessible between Building 3 and the Law Courts. Whilst this will clearly not, in quantitative terms, replace that lost to development it will contribute to meeting some of the needs expressed by the objectors for open space to meet public needs. It is considered that this, alongside the remaining Centre Square open space, the biodiversity measures outlined previously, and the economic benefits associated with the proposal outweigh the loss of open space.

### **Other Matters**

53. The application was supported by a Flood Risk Assessment, which has been considered by appropriate bodies. It indicates suitable ability exists to undertake sustainable drainage solutions for the scheme and achieve suitable discharge rates in to the surface water system. Northumbrian Water has no objections to the scheme provided the submitted flood risk assessment is implemented as part of any approved scheme. A condition is recommended to secure these measures.
54. The application was supported by a noise assessment which has been considered by officers in the Council's Environmental Health service. A condition is recommended to align the development to the report.
55. Northumbrian Water and Northern Gas Networks have advised of their apparatus within the site and an informative has been recommended to address this.
56. The Crown Court raised concerns in relation to noise from the construction phase of the development affecting their daily operations. Whilst noted, the construction implications are not readily controlled by planning, being a necessary part of all development proposals. Notwithstanding this, the developer is being encouraged to engage with the Court to minimise impacts of construction operations.

### **Overall Conclusions**

57. The proposals are considered to have a beneficial impact on the town centre offer and on the economy, and therefore deemed to be in accordance with the NPPF and Local Plan Policy CS7 in these regards.

58. In terms of the social element, it has been analysed that the proposals would appeal to high-value employers, provide new employment opportunities in skilled trades and create higher average weekly incomes for local people. It will assist in re-invigorating the use of Centre Square and as such, accords with the social strand of sustainability within the NPPF.
59. The overall scale and type of development proposed would evidently contribute towards reinforcing and strengthening the role of the town centre as the principal centre within the Tees Valley city region and support the commercial role of the town centre. As such, the proposals are considered to be in accordance with the strategic policy H1 as well as REG25.
60. The proposal will not result in any notable impact on nearby listed buildings, adjacent operators, residential amenity and privacy, highway related matters or ecology and the proposed building and its design are considered to represent high quality development.

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## RECOMMENDATIONS AND CONDITIONS

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Approve subject to Conditions

1. **Outline Permission: All Matters Reserved**

An application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission. The reserved matters will detail the means of access, the appearance, the landscaping, the overall layout and scale of the outline development hereby approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Act 2004 and to reserve the rights of the Local Planning Authority with regard to these matters.

2. **Time Period for Commencement**

The development hereby permitted shall be begun not later than:

- (i) The expiration of 5 years from the date of this permission; or
- (ii) The expiration of 2 years from the date of approval of the final reserved matter(s) to be approved, whichever is the later.

Reason: The consent is in outline form only and to protect the rights of the Local Planning Authority.

3. **Approved Plans**

The development hereby approved shall be undertaken in accordance with the details within the approved plans as detailed below:

- a) Location Plan (334-SArch-S0-XX-DR-A-0010-P01)
- b) Site Plan as Existing (334-SArch-S0-XX-DR-A-0100-P01)
- c) Proposed Masterplan – with application boundaries (334-SArch-S2-XX-DR-A-1000-P03)

Reason: In order to define the consent.

**4. Samples of Materials**

The development hereby approved shall be carried out in full accordance with a schedule of external finishing materials which shall be submitted to and approved in writing by the local planning authority prior to the above ground commencement of the development.

Reason: To ensure a high quality appearance of development in accordance with the requirements of the National Planning Policy Framework.

**5. Biodiversity Net Gain**

Prior to the commencement of the development hereby approved, a detailed ecological appraisal for the purposes of biodiversity net gain shall be submitted to and approved in writing by the Local Planning Authority. The appraisal shall assess the ecological value of the existing site and identify measures to secure a net measurable gain in biodiversity of at least 10% when measured against the pre-development biodiversity value of the development site. Any approved scheme for biodiversity net gain shall then be implemented as part of the development hereby approved and retained in perpetuity.

Reason: To protect and enhance the ecology and biodiversity of the site and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development having regard to policy CS4 of the Local Plan and section 15 of the National Planning Policy Framework.

**6. Sustainable Drainage & Surface Water Systems**

Before the construction of any of the buildings hereby permitted commences, a scheme for a Sustainable Drainage System (SuDS), surface water design, strategy and management plan, which shall sustainably drain surface water, minimise pollution, manage the impact on water quality and prevent water from flowing onto the public highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved scheme.

Reason: In the interests of highway safety, to minimise the risk of flooding and to secure a sustainable development in accordance with local policy CS4 and the general principles of the National Planning Policy Framework.

**7. Cycle & Bin Stores**

The cycle and bin stores hereby approved shall be constructed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority and shall be installed on site prior to the building hereby approved being brought into use and thereafter maintained in perpetuity for cycle and bin store purposes.

Reason: In order to ensure sustainable transport options for the development and adequately control the appearance of the development, in accordance with the requirements of the National Planning Policy Framework.

**8. Details of Hard Landscaping and External Furniture**

The buildings shall not be occupied until a scheme of hard landscaping works has been undertaken on site in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

The scheme of hard landscaping works shall include proposed finishing levels and contours within the site, hard surfacing materials and minor structures such as street furniture.

Reason: To ensure the satisfactory implementation of hard landscaping and external furniture in the interests of the visual amenities and landscape features of the area.

**9. Soft Landscape Works**

Prior to the building hereby approved being occupied, a scheme of soft landscaping works shall have been implemented on site in accordance with a scheme of such which has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be restricted to detailing the position, number and species of new planting within the site and the planting regime/methods including the provision of root barriers and tree pits.

Reason: In order to provide a high quality of development within a prominent town centre location in accordance with the requirements of Local and National Policy.

**10. Landscape Management Plan**

A landscape management plan, including management responsibilities and maintenance schedules for a minimum of five years post completion of the soft landscaping scheme, for all landscape areas shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any part of the development hereby approved. The management plan shall provide for replacement of landscaping that fails within the first 5 years of its existence. The approved landscape management plan shall be carried out as approved.

Reason: To ensure the satisfactory implementation of an approved landscaping scheme in the interests of the visual amenities and landscape features of the area.

**11. Boundary Treatments**

Notwithstanding any details hereby approved, all boundary treatments for the application site shall be in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure a final suitable scheme is achieved in the interests of high quality design.

**12. Tree Protection**

The construction phase of the development shall be undertaken in accordance with the recommendations and practices outlined in the submitted arboricultural report by Elliott Consultancy (ARB/AE/2534) and associated tree protection details.

Reason: In order to reasonably protect trees intended for retention in the interests of the amenity of the surrounding area.

**13. Site Clearance and Protection of Nesting Birds**

Any works to clear the site in preparation for development (including removal of vegetation and any groundworks) should be initiated outside of the bird breeding season (March to October). If preparatory site clearance works cannot be undertaken outside of the bird breeding season, a suitable methodology for undertaking site clearance works shall be submitted to and approved in writing by the Local Planning Authority prior to such works commencing. Thereafter, the approved methodology shall be carried out on site.

Reason: To provide adequate protection for nesting and breeding birds in accordance with the requirements of the National Planning Policy Framework.

**14. Ecological Mitigation**

The development shall be undertaken in strict accordance with the mitigation measures detailed within the submitted ecological report.

Reason: In order to ensure adequate protection of ecology, flora and fauna in line with local and national policy requirements.

**15. External Lighting**

The development hereby approved shall be implemented in accordance with the submitted 'External Lighting Strategy' (16033/REPORT/MP/EXTLT/01). Any deviations from the recommendations made in the report shall be submitted to the Local Planning Authority for further written approval prior to being implemented.

Reason: In order to prevent undue impacts on residential amenity in the wider area in accordance with the requirements of the National Planning Policy Framework.

**16. A3 Use Class – Hours of Opening**

The A3 café / restaurant element of the scheme shall be restricted in its opening hours, being between 07:30 and 00:00 Monday to Sunday.

Reason: In order to prevent undue impacts on residential amenity in the wider area in accordance with the requirements of the National Planning Policy Framework.

**17. Deliveries and Collections – Restrictions on Hours**

Deliveries and collections to the premises hereby approved shall be kept between the hours of 08:00 and 19:00 Monday to Saturday, and between the hours of 09:30 and 18:30 Sunday.

Reason: In order to prevent undue impacts on residential amenity in the wider area in accordance with the requirements of the National Planning Policy Framework.

**18. Ventilation and Fume Extraction**

No above ground construction of the building shall commence until a scheme for the ventilation and fume extraction for the E(b) use has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be restricted to, details of a full technical specification by a suitably qualified technical professional person, specifying the position of ventilation fume or flue outlet points and the type of filtration or other fume treatment to be installed and used at the premises. The approved scheme shall be implemented on site prior to the E(b) use being brought into operation and shall be retained in full accordance with the approved details and maintained in perpetuity in accordance with the manufacturer's recommendations including the frequency of replacement filters.

Reason: In order to control odour from the premises and prevent undue impacts on surrounding uses in accordance with the requirements of the National Planning Policy Framework.

**19. Waste Storage and Removal**

A scheme for the storage and removal of refuse from each approved use shall be submitted to and approved in writing by the Local Planning Authority and implemented before that approved use commences.

Reason: In order to ensure a suitably functioning commercial building and prevent undue detrimental impacts on the character and appearance of the surrounding environment.

## 20. **Noise Mitigation**

The development hereby approved shall be implemented in accordance with the submitted Noise Impact Assessment (8802.1). Any deviations from the recommendations made in the report shall be submitted to the Local Planning Authority for further written approval prior to being implemented. The development shall subsequently be carried out in accordance with the approved details.

Reason: In order to prevent undue impacts on residential amenity in the wider area in accordance with the requirements of the National Planning Policy Framework.

## **REASON FOR APPROVAL**

This outline application is acceptable as the development of three commercial buildings (E(c)) with part ground floor café uses (E(b)), public realm works, landscaping, car parking, cycle parking and other ancillary development situated on land at Central Gardens is in full accordance with the relevant national and local planning policies.

In particular, the proposed development adheres to the principles and guidance contained within the National Planning Policy Framework and the policies regarding sustainable development, the efficient use of land, transport and accessibility, appropriate measures to mitigate flood risk, conserving and enhancing the historic environment, and would not be detrimental to the amenities of local residents and other neighbouring uses. Moreover, the proposed office buildings and associated development would be situated in an appropriate location being within an area allocated for such uses.

Accordingly, the Local Planning Authority considers that there are no material planning considerations that would override the general assumption that development be approved unless other material factors determine otherwise.

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## **INFORMATIVES**

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### ***Informative: Northumbrian Water / Northern Gas Networks apparatus within the site***

Northumbrian Water and Northern Gas Networks have advised that a public sewer crosses the site and may be affected by the proposed development, that they do not permit a building over or close to our apparatus and therefore we will be contacting the developer direct to establish the exact location assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of the development.

### ***Informative: Highway works***

Implementation of this proposal will require a formal highway closure and the applicant should be informed that it is subject to Public Comment and therefore closures cannot be guaranteed. For further information tel.01642 728153. This closure must be commenced before any work is commenced in the vicinity of the affected area.

The applicant is strongly advised to contact the Highway Authority tel: 01642 728156 prior to any work commencing on site in order that a pre-inspection of the highway can be undertaken and agreement reached on suitable protection to prevent damage to the highway during construction. Failure to do this may result in the Highway Authority using powers available to them to impose such restrictions they deem necessary to protect the

existing highway. Any damage that does occur will be deemed the responsibility of the person undertaking the work along with the liability for reinstatement.

***Informative: Alteration of the highway***

Interference or alteration of the highway requires a licence under the HA 1980. Connections to public sewers in the highway require a licence under NRSWA 1991. The applicant should contact the Highway Authority tel 01642 728156 before any work commences on site, allowing a minimum of 7 days notice, or 30 days in the case of a NRASWA licence, if either or both of these licences are required.

***Informative: Condition of the highway during construction***

The applicant is reminded that it is the responsibility of anybody carrying out building work to ensure that mud, debris or other deleterious material is not deposited from the site onto the highway and, if it is, it shall be cleared by that person. In the case of mud being deposited on the highway wheel washing facilities should be installed at the exit of the development.

***Informative: Construction Deliveries***

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.

***Informative: Street Naming and Numbering***

Should the development require Street Names, Numbers and/or Post Codes the developer must contact the Councils Naming and Numbering representative on (01642) 728155.

Case Officer: Peter Wilson

Committee Date: 16.07.2021

