

DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0125/20/FUL

Proposal: Development of the existing external terrace area involving siting of shipping containers with associated development including a roof canopy, stairs, external decking, other associated structures and external alterations to create a two storey mixed use development comprising of retail (Class A1), restaurant/cafe (Class A3), drinking establishment (Class A4) and assembly and leisure (Class D2) uses for a temporary period of no more than 15 years.

Location: Clover & Wolf
Brigham Place
South Shields
NE33 2DL

Site Visit Made: 13/07/20

Relevant policies/SPDs

- 1 LDF CS ST1 - Spatial Strategy for South Tyneside
- 2 LDF CS ST2 - Sustainable Urban Living
- 3 LDF CS A1 - Improving Accessibility
- 4 LDF CS SC1 - Creating Sustainable Urban Areas
- 5 LDF CS SC2 - Reviving our Town Centres and other Shopping Centres
- 6 LDF CS EA1 - Local Character and Distinctiveness
- 7 DM1 - Management of Development (A, B, G & I)
- 8 SSTCW AAP Policy SS1 - Strategic Vision for South Shields Town Centre and Waterfront
- 9 SSTCW AAP Policy SS2 - Mixed Use Development Opportunities in South Shields
- 10 SSTCW AAP Policy SS7 - Retailing Opportunities in South Shields Town Centre
- 11 SSTCW AAP Policy SS8 - Evening and Night-time Economy in South Shields
- 12 SPD6 - Parking Standards

Description of the site and of the proposals

Full planning permission is sought for the erection of a number of shipping containers to create a two storey mixed use temporary development on land adjacent to the Clover and Wolf Public House in South Shields Town Centre. Most of the area of the proposed development is currently occupied by the external terrace of the Clover and Wolf pub.

The proposals involves the development of the existing external terrace area involving siting of shipping containers with associated development including a roof canopy, stairs, external decking, other

associated structures and external alterations to create a two storey mixed-use development comprising of 73.5sqm retail (Class A1), with the remaining 522.5sqm comprising of restaurant/cafe (Class A3), drinking establishment (Class A4) and assembly and leisure (Class D2) uses. Permission is sought for a temporary period of no more than 15 years.

Publicity / Consultations (Expiry date 03/07/20)

1) Neighbour responses

None received

2) Other Consultee responses

Environmental Health Officer (Contaminated Land)

No comments in terms of land contamination.

STC Community Safety Team

The Community Safety Team is content with the proposal.

STC Licencing Officer

No objections.

STC Historic Environment Officer

The proposal is unlikely to have a negative impact on the heritage significance of the nearby listed buildings.

STC Traffic and Road Safety (Highway Authority)

No objections from a highway safety perspective. The applicant will be required to give notice to the council as Highway Authority prior to taking plant and machinery over the surrounding public footpaths, as these activities will require liability insurance in case of accidental damage to the public highway (*this highway comment has been passed on to the applicant*).

STC Parking Team

No comments provided.

STC Spatial Planning

Supports the proposal.

The Spatial Planning team consider that, given the small-scale of the proposed development and its close proximity to the Primary Shopping Area, there is no significant conflict between it and either the adopted or emerging policy. Moreover the proposed development has the potential to contribute to the promotion of the evening economy in South Shields Town Centre.

STC Waste Services

The council's Waste Services team queried the position and size of the proposed bin store area. These details are shown on the proposed layout drawings and the applicant has confirmed that the waste would be put out for collection.

Northumbria Police Architectural Liaison Officer

No objection. Comments summarised below

Initial response provided (30/06/20). This was a long and detailed response, which, in summary, stated that Crime Risk Assessment to this proposed development was considered to be HIGH.

A number of observations and recommendations were provided, in summary:

- Consideration of restriction to 8 years (*Case officer comment: the justification provided in the consultation response relates to aesthetic visual amenity considerations, rather than crime risk. The applicant has responded to state that they wish to continue to seek consent for a 15 year period as they state that banks will not lend based on a lesser time period*);
- Consideration should be given to more substantial boundaries with appropriate fire exit gates (reference is also made to an alleyway and how queries how this would be managed) (*Case officer comment: the consultation response primarily queries control mechanisms, which are site management and licensing matters. The applicant has also stated that the alleyway down the side of the existing Clover and Wolf pub would be appropriately managed; fire exits would be dealt with through Building Regulations*);
- Restrictions should be placed on the space limiting its expansion potential. (*Case officer comment: any permission would be restricted to the floorspace/land uses proposed in the application and would not allow for further expansion without obtaining planning permission to do so*);
- The storage space needs to be contained with kegs, barrels and bottles secured and not left where they could be used as projectiles (*Again, this is a management issue, rather than a land use planning one, the applicant has stated an intention to implement management plans for events*);
- The design should provide a single server at ground floor level (*Case officer comment: the comments question whether a first floor any permission would be necessary, but does not provide any clear reason why risk of crime would be unacceptable as a result of a first floor server*);
- Recommendation that all furniture is securable to the floor (*Case officer comment: This goes beyond the scope of planning conditions*);

After feeding back the above to the applicant, no changes were made to the application proposals.

Clarification was subsequently provided by Police Architectural Liaison Officer (16/07/20), stating that as far as its grading as 'high', "*most licensed premises alongside a nightclub would probably rate about the same particularly with adjacent outside space within their licensed area*".

The case officer then sought confirmation of whether or not Northumbria Police objected to the development due to crime risk, in the interests of clarity. Confirmation was provided that Northumbria Police did not wish to object to the development, providing further comments (summarised below):

I retain reservations about the way space is being used and the need for a secondary server on the upper level, but then that tends to be a feature of container architecture of this kind. These kind of proposals all have some merit and some problems.

Overall I see the development potentially being a way to bring interest and some variety to South Shields street and Night time Economy and in the interest of balance I have to accept that it is better to have activity than empty streets.

STC Environmental Health Officer (Noise)

No objection.

I do not believe that there will be any impact upon residential amenity as a result of this application, there is a significant separation distance to the closest residential receptor.

STC Regeneration/South Shields 365

This is opposite the proposed new Job Centre (opening late 2021) and also close to WHiST (Women's Health in South Tyneside). Both potentially sensitive uses immediately adjacent.

Not necessarily an objection to the scheme as private investment is positive, but the planning determination needs to consider these sensitive uses.

Assessment

The main issues to consider in the assessment of this application are:

- The principle of the development;
- Crime risk;
- Design/visual amenity;
- Impact on residential amenity;
- Impact on traffic and road safety; and

Principle of Development

The proposals would accord with the aims of LDF Policy SC2 (Reviving our Town Centres and other Shopping Centres), which states that 'development proposals for retailing, as well as offices, commercial leisure, indoor sports, cultural, social and community facilities, will be focussed and promoted within the three town centres of South Shields, Jarrow and Hebburn, where they protect and enhance the retail character and function of ground floor premises within the defined primary shopping areas and primary retail frontages, encourage retail growth and an appropriate mix of uses within the secondary shopping streets and encourage the controlled and well-managed growth, diversification and promotion of the evening economy, particularly in South Shields town centre.

The application site is covered by the area of the South Shields Town Centre and Waterfront Area Action Plan (AAP) (2008), which aims (AAP Policy SS1 - Strategic Vision for South Shields Town Centre and Waterfront) to strengthen, revive and promote the growth of South Shields town centre as the Borough's principal centre for shopping, entertainment and leisure, but is not subject to any specific allocation in the AAP. The proposal would contribute to the aims of the AAP.

The site is within the Licensing Special Policy Area referred to in Policy SS8 (Evening and Night-time Economy in South Shields) in the Ocean Road and Mile End Road area of the town centre where the establishment of licensed premises are supported. Policy SS8 supports the diversification of evening and night-time economy attractions that enhance the vitality of South Shields where the Council considers that they would not have any adverse impacts upon the local environment or residential amenity, or the viability of established uses. The proposals would contribute positively towards the night time economy of this area of South Shields Town Centre and the aims of this policy.

A smaller proportion of the proposed development (73.5sqm) would be used for retailing (Use Class A1), comprising of a number of small retail units. AAP Policy SS7 (Retailing Opportunities in South Shields Town Centre), states that South Shields town centre will be maintained and enhanced as the primary retail and commercial centre in South Tyneside. The proposals would be in line with this objective. AAP Policy SS7 also states, however, that retail development should be concentrated within the designated Primary Shopping Area. The site is located within South Shields Town Centre, but is a short distance outside of the primary shopping area.

While outside of the primary retail area, it is still within the town centre. The nature of the proposed retail, a number of smaller units that would be likely aimed at smaller independent retailers should complement the larger retail units within the primary shopping area and elsewhere within the town centre, rather than harming. There is no evidence that there would be any significant trade draw away from the primary shopping area or that the proposal would adversely affect the vitality and viability of South Shields Town Centre.

The Spatial Planning team are supportive of the proposal and consider that, given the small-scale of the proposed development and its close proximity to the Primary Shopping Area, there is no significant conflict with either adopted or emerging policy. Attention is drawn in particular to the potential to contribute to the promotion of the evening economy in South Shields Town Centre, particularly given current circumstances and the need for a degree of flexibility and the fact that the degree of conflict in terms of retail policy, relating to the primary shopping area, is not a significant one, and the proposal will bring benefits to the town centre.

It is considered that the nature and scale of the proposed use would not have a significant conflict with adopted policies governing the acceptability of the proposed use in principle and that the proposals would deliver benefits to the vitality and viability of South Shields Town Centre, rather than detracting from it.

The emerging policy can only be given limited weight at this stage but does illustrate the future policy direction, and includes Policy R2 [b] Ensuring Vitality and Viability in our Retail Centres, which states that *“outside of the Primary Shopping Area but within the defined Town Centre boundaries we will encourage a wider mix of appropriate town centre uses”* and Policy R7 [a]: *Evening and Night-time Economy in South Shields Town Centre, states ‘We will promote and manage the diversification of evening and night-time economy attractions that enhance the vitality of South Shields Town Centre by encouraging evening and night-time uses within the Town Centre where this will make a positive contribution to the evening economy.’*

Regard has been given to the comments of the Regeneration/South Shields 365 Team, whom welcome inward investment to the Town, but highlight the proximity of the proposed Job Centre and Women’s Health In South Tyneside (33-35 Mile End Road) facility, both of which are sensitive land uses and are close to the application site. It is not considered that these neighbouring land uses would be harmed by the proposal given the separation distance between them and the intervening busy road network. This part of the Town is characterised by public houses, restaurants and the night club economy.

Notwithstanding a limited degree of conflict with respect to the primary shopping area, the proposal is considered to be in accordance with the development plan and acceptable in principle. The proposal would also provide positives to the Town in respect of the enhanced economic and social objectives (Paragraph 8 of the NPPF), without significantly detracting from the NPPF’s environmental objective. Applying the presumption in favour of sustainable development that is set out in paragraph 11 of the NPPF, it is considered that the proposal would be acceptable in principle.

Crime risk

South Tyneside Core Strategy Policy ST2 (F) seeks to ensure that the need to design out crime and eliminate the fear of crime has been addressed. The Police Architectural Liaison Officer’s comments indicate that there is a high risk crime associated with the development, but that this is ordinary for eating/drinking establishments for outdoor spaces. They do not wish to object to the development on the grounds of crime risk. No objections have been received from the South Tyneside Council Community Safety Team or Licensing Departments who have also provided consultation responses. It is considered that the proposals would accord with Policy ST2 (F). When operational, any future problems associated with crime and disorder will be dealt with by the Police and by the council under their licensing powers.

Design/visual amenity

The proposed development would introduce a new and contemporary style of architecture, on a temporary 15 year basis. This would clearly differ from the style and appearance of the surrounding buildings. It would be a relatively modestly scaled, but not insignificant two-storey construction of shipping containers and other associated structures, to provide some small retail units, along with a larger space for food, drink and leisure uses in a central area.

It is considered that the scale of the container arrangement is considered commensurate with the scale of the surrounding two storey buildings, which are, in the main, two storey structures of modern flat roof construction. The proposals are not considered to be harmful in the context of the rather mixed and varied aesthetic of the surrounding buildings.

It is therefore considered that the proposals would be in accordance with LDF Policy DM1 (A) which requires, subject to planning conditions setting out a number of necessary requirements to ensure that the visual amenity of the area is protected.

The proposals are also considered to accord with the policies in paragraph 127 of the NPPF by optimising the potential of the site to accommodate and sustain an appropriate amount and mix of development, which, subject to conditions should function well and add to the overall quality of the area over the lifetime of the development, whilst not adversely impacting upon the existing character of the area.

It is also noted that there are a number of listed buildings situated within reasonable proximity of the site. It is not considered that the setting of these buildings will be harmed by the proposed development.

A condition is also proposed requiring that the development, including the artwork, hereby approved shall be undertaken on site in complete accordance with the palette of facing materials, hard surfacing, boundary treatments and colour schemes as detailed within drawings JKY-19-04 and JKY-19-05 received 13 February 2020. Such a condition will be essential to ensure that the proposed development is and remains a high quality development that is not damaging to the character and appearance of the site and its immediate environs.

The details of any ongoing maintenance of the site are not considered to be necessary, as the resultant appearance of the development can be reviewed when the temporary consent is due to expire in 15 years. The palette of proposed facing materials and the associated colour scheme is expected to last for the next 15 years.

The proposed drawing No. Drg JKY-19-05 refers to proposed LED advertising and signage on the shipping containers. However no details of these external adverts have been provided and Express Consent under the advertisement regulations may be required for them. If Express Consent is required, then further details would be required through an Advertisement Consent application separate from this planning permission. An informative note is included within this planning permission to make the applicant aware of this i.e. any planning permission granted for the current application will not include advertisement consent as this must be sought separately.

A planning condition is also proposed requiring the operational development hereby approved, including the canopy enclosure, hard surfacing and means of enclosure, to be undertaken on site in strict accordance with the submitted drawings (JKY-19-04 and JKY-19-05 received 13 February 2020) and that there shall be no additional floorspace created. This is required in the interests of the visual amenity of the area it is recommended that a planning condition is also put in place to ensure the removal of the structures and cessation of the temporary use of the site after the 15 year period for which consent is sought expires, or if once the use ceases, to avoid the site falling into poor condition or disrepair. This would need to include the agreement of a scheme to remediate the land in order to ensure that the site is left in an acceptable condition once the structures are removed and the use ceases.

Residential amenity

The proposed retail and predominantly leisure use would be in keeping with other neighbouring commercial uses, many of which are bar, restaurant and café uses. The structures would not compromise the residential amenities of any neighbouring residents. The Council's Environmental Health Team has confirmed that they have no objection to the proposals in respect of impacts on neighbours through noise as there are no residential receptors in close proximity to the site.

The development is considered to be in accordance with Policy DM1 (B) of the adopted South Tyneside Local Development Framework.

Highway Safety/Parking

In light of the comments received from the council's Traffic and Road Safety team, it is considered that the proposal would not be detrimental to highway safety.

SPD6 sets out maximum parking standards for proposed development which are triggered by Core Strategy Policy A1. Based on the amount and proposed mix of uses set out within this planning application, SPD6 suggests that a maximum of 4no. on-site car parking spaces should be provided but it is considered that no on site spaces are required given the highly sustainable location of the application site and its very close proximity to South Shields Transport Interchange.

The development is considered to be in accordance with Policy DM1 (G) of the adopted South Tyneside Local Development Framework and Core Strategy Policy A1 (along with the associated maximum parking standards in SPD6).

Other Matters

The site is at very low risk of flooding from rivers and the sea, and from surface water flooding and the proposals fall below the threshold of consultation with the Lead Local Flood Authority.

No concerns have been raised by the Environmental Protection Team in respect of land contamination.

Summary

For the reasons outlined above, it is considered, in the site circumstances and context of this particular case, that the proposal would be an acceptable form of development, subject to the inclusion of the suggested conditions.

In assessing this application due regard has been had to the requirement of section 149 of the Equality Act 2010.

Recommendation

Grant Permission with Conditions

Conditions

- 1 The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

As required by Section 91 of the Town and Country Planning Act 1990 and to ensure that the development is carried out within a reasonable time.

- 2 The development shall be carried out in accordance with the approved plan(s) as detailed below:

JKY 19-04 received 13/02/20
JKY 19-05 received 13/02/20

Any minor material changes to the approved plans will require a formal planning application under S73 of the Town and Country Planning Act 1990 to vary this condition and substitute alternative plans.

In order to provide a procedure to seek approval of proposed minor material change which is not substantially different from that which has been approved.

- 3 The operational development and use hereby permitted shall be for a limited period being the period of 15 years from the date of this decision. At the end of this period the use hereby permitted shall cease and all buildings and associated structures brought onto the land in connection with the use shall be removed, and the land restored in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

By virtue of the temporary permission being sought and given the need to safeguard the visual amenity and vitality of the area in accordance with Policies DM1 and S2 of the South Tyneside Local Development Framework.

- 4 The operational development hereby approved, including the canopy enclosure, hardsurfacing and means of enclosure, shall be undertaken on site in strict accordance with the approved drawings JKY-19-04 and JKY-19-05 received 13 February 2020 and there shall be no additional floorspace created.

To ensure that the local planning authority retains control in respect of any additional floorspace being created in the interest of safeguarding the amenity of the area in accordance with Policies DM1 and S2 of the South Tyneside Local Development Framework.

- 5 The development, including the artwork, hereby approved shall be undertaken on site in complete accordance with the palette of facing materials, hard surfacing, boundary treatments and colour schemes detailed within drawings JKY-19-04 and JKY-19-05 received 13 February 2020. Unless otherwise agreed in writing by the local planning authority pursuant to this condition.

To ensure a satisfactory standard of development and in the interests of visual amenity in accordance with South Tyneside LDF Development Management Policy DM1 (A).

Informatives

- 1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework to seek to approve applications for sustainable development where possible.
- 2 The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

- 3 This planning consent does not grant 'express consent' to display external commercial advertisements at the application site. This must be sought separately from this planning permission. It is the responsibility of the individual seeking to display any external advertising to firstly obtain consent from the land owner and then to obtain any express consent that may be required to display the signage under the Advertisement Regulations.

Case officer: Chris Stanworth

Signed: Chris Stanworth

Date: 15/09/20

Authorised Signatory:

Date:

«END»