

**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 9 June 2021**

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<b>APPLICATION REF. NO:</b>	21/00223/OUT
<b>STATUTORY DECISION DATE:</b>	29 <sup>th</sup> April 2021 (Extension of time 10 <sup>th</sup> June 2021)
<b>WARD/PARISH:</b>	SADBERGE & MIDDLETON ST GEORGE
<b>LOCATION:</b>	Platform 1 Darlington Road MIDDLETON ST GEORGE DARLINGTON DL2 1JT
<b>DESCRIPTION:</b>	Outline application with details of access, appearance, layout, and scale (landscaping reserved for future consideration) for the conversion, partial demolition, and rear extension of public house (Sui Generis) to form convenience store (Use Class E) with car parking and associated works
<b>APPLICANT:</b>	PH Land & Developments

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**RECOMMENDATION: GRANT OUTLINE PLANNING PERMISSION SUBJECT TO CONDITIONS** (see details below)

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## **APPLICATION AND SITE DESCRIPTION**

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QPASK8FPGKM00>

1. The application site measures some 0.24ha and consists of the Platform 1 public house building which is currently closed and grounds situated to the northern end of Middleton St George, and on the corner of Darlington Road and Sadberge Road. To the south and east of the site is public highway, to the west is existing housing and to the north is the route of the former Darlington and Stockton

Railway Line and Public Bridleway Low Dinsdale 18. The site is part of Historic England's *Stockton & Darlington Railway Heritage Action Zone*.

2. Planning permission is sought for the conversion, partial demolition, and extension of the building to provide a convenience goods retail store. This would involve the following:
  - Removal of more recent extensions to the building;
  - Undertaking internal works to accommodate the conversion;
  - Erection of an extension to the rear of the building to provide a sales area and servicing floorspace;
  - The provision within the ground floor of the building of some 272sq.m of retail floor space (gross internal ground floor area including back of house and bakery 416 sq. m);
  - Customer access from the existing front door of the building;
  - Utilisation of the existing vehicular access;
  - Provision of a delivery and service area to the rear of the building accessed by a dedicated delivery bay which would also act as a screened area for external plant;
  - Reconfiguration of the existing car park to provide 17 parking spaces plus two disabled parking spaces;
  - Provision of landscaping to the rear of the car park to include interpretation boards and benches;
3. The first floor of the building would remain unchanged and would be ancillary to the main retail use of the building.
4. The application states that the store will provide a range of good quality and fresh convenience goods including fruit and vegetables, cold and cooked meats and fish and tinned goods, together with daily deliveries of bakery goods; The store will have a range of cooking products (including utensils) and will sell alcoholic and non-alcoholic drinks within its opening hours. The store will also have a takeaway coffee machine and sell (freshly delivered) sandwiches and snacks.
5. The application goes on to state that if the application is approved the store will be occupied by a well-known national food store retailer, confirmed to be Sainsbury's. The applicant's have indicated that the Council can therefore be assured that there is a commitment to the viable operation of the building as a facility for the local community into the foreseeable future. The application states that the form and nature of the store has been successfully run in numerous locations by the operator across the country and that they are confident that the format will benefit the residents of the village.
6. The application is submitted in outline with details of access, appearance, layout, and scale included within the application, with landscaping reserved for future consideration.

7. A Statement of Community Involvement has also been submitted taking into account the advice set out in the National Planning Policy Framework and the Revised Statement Of Community Involvement (2018) providing residents the opportunity to engage with the with the applicants representatives prior to submitting the planning application. There was both support and opposition to the development, however the main issues raised, which were the loss of the public house and the impact on existing retail provision, were addressed within the supporting information contained within the submitted application. The proposed development was reviewed in the context of all comments received.

## **MAIN PLANNING ISSUES**

8. The main issues for consideration are:
  - (a) Principle of the proposed development;
  - (b) Asset of Community Value;
  - (c) Impact on non-designated heritage assets;
  - (d) Impact on visual amenity;
  - (e) Impact on residential amenity;
  - (f) Impact on trees;
  - (g) Highway Safety;
  - (h) Sustainable Transport;
  - (i) Impact on Public Rights of Way;
  - (j) Anti-social behaviour;
  - (k) Other material planning considerations.

## **PLANNING POLICIES**

9. Relevant Local Plan policies include those seeking to ensure that new development:
  - Is located inside the development limits as defined by the Borough of Darlington Local Plan (E2 and CS1);
  - makes efficient use of land, buildings, and resources, reflects the character of the local area, creates a safe and secure environment, and provides vehicular access and parking suitable for its use and location (CS2);
  - protects the hierarchy of centres and safeguards and enhances the role of the district and local centres in providing food shopping and a range of other shops, leisure uses (including public houses and social clubs) and services to meet people's day-to-day needs in accessible locations; where outside of these locations development (CS9);
  - Protects, and where appropriate enhances the distinctive character of the borough's built, historic, natural, and environmental townscapes (CS14);
  - Ensures no net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity, and the geological network through the design of new development, including public spaces and landscaping (CS15);
  - protects and, where possible improves environmental resources whilst ensuring that there is no detrimental impact on the environment, general amenity, and the health and safety of the community (CS16);

- Takes full account of trees, woodlands, and hedgerows on and adjacent to the site and wherever possible avoids the need to remove trees and hedgerows and provide for their successful retention and protection during development (E12);
- Incorporates appropriate hard and soft landscaping which has regard to the setting of the development in its form, design, and plant species, and which enhances the appearance of the development and its setting (E14).

10. Also of limited weight, are the following emerging Local Plan policies:

- SH 1 – Settlement Hierarchy
- TC 4 – District and Local Centres
- TC 5 – Retail Impact Assessment Threshold
- ENV 1 – Protecting, Enhancing and Promoting Historic Environment
- ENV 2 - Stockton and Darlington Railway
- IN 10 – Supporting the Delivery of Community and Social Infrastructure

## **RESULTS OF TECHNICAL CONSULTATION**

11. No objections in principle have been raised by the Council's Highways, Environmental Health Officer, Public Rights Of Way Officer or Transport Policy Officer or the Historic Environment Record Officer subject to conditions. The Conservation Officer has objected to the proposal on the grounds of impact on non-designated Heritage Assets and the Heritage Action Zone.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

12. Middleton St George Parish Council has objected to the proposal on the following grounds:

- Loss of the public house (there is a large amount of community support for this to be retained, and run as a community pub);
- the impact of the proposals on the non-designated heritage asset;
- Contrary to Middleton St George Neighbourhood Plan;
- Contrary to existing and emerging policy.

13. Friends of Darlington and Stockton Railway has objected to the proposal on the following grounds:

- Loss of public house;
- Conflict with local and national policy;
- Impact on heritage assets;
- Lack of detail in application;
- Retention of public house will ensure its enhancement as a heritage asset;
- Out-of-centre location and should be subject to the sequential test;
- Adverse impact on other shops within the village;
- Impact assessment should be undertaken.

14. Council for the Protection of Rural England (CPRE) has objected to the proposal on the following grounds:

- Development of site needs to be in accord with the Heritage significance of the area, the significance of the Stockton and Darlington Railway Heritage Action Zone and this non-designated heritage asset;
- Contrary to policy.

15. Campaign for Real Ale (CAMRA) has objected to the proposal on the following grounds:

- Loss of valuable community facility in the village;
- In recent years the public house has suffered a lack of proper investment and maintenance;
- Local community group have a viable proposal to buy and run the pub as a community asset;
- Pub in the village centre, Havelock Arms, concentrates on wet sales, and can offer none of the family, food, rail heritage and community benefits that can be provided at the application site.

16. Save The Fighting Cocks Community Group has objected to the proposal on the following grounds:

- Building has historic links to the Stockton and Darlington Railway and proposal would not retain its character; Impact on non-designated heritage assets;
- Heritage Statement is inadequate;
- Application does not address the nearby footpath and bridleway;
- There is a need for a public house;
- Contrary to local and national policy;
- The group formed last year, intend to offer to purchase the property which will be financed by a share issue to residents and others interested together with grants and loans. The proposal is viable and there are well-advanced plans to proceed;
- Building is an Asset of Community Value and this has not been addressed within the application;
- Village is already catered for with two other convenience stores;
- Impact on visual amenity;
- No details of proposed advertising on building;
- Plans not sufficiently detailed;
- Impact on residential amenity;
- Impact on highway safety;
- Claim of creation of jobs cannot be guaranteed;

17. At the time of writing, **149 letters of objection have been received**. The main issues raised relevant to this application are:

- Impact on other businesses within the village;

- Sufficient provision elsewhere in the village;
- Increased traffic;
- Highway safety;
- Noise;
- Air pollution;
- Loss of valued public house;
- No other pub venues that serve meals in the village;
- Proposal to make it a community pub will be more positive for the village;
- Supermarket will attract youths who will hang around the area and anti-social behaviour;
- Litter;
- Railway heritage history of the building will be lost;
- Impact on heritage assets;
- Local community group have a viable proposal to buy and run the pub as a community asset;
- Large chain store not needed;
- Impact on visual amenity;
- Impact on bridleway used by many residents;

18. At the time of writing, **138 letters of support have been received**. The main issues relevant to this application are:

- Another shop is needed with adequate parking;
- Other two convenience stores are not fit for purpose;
- Residents in this area of the village will benefit from a new convenience store;
- Benefit for people who don't drive;
- Will not impact on other shops within the village;
- Will bring jobs to the village;
- Proposal maintains character of building and a commitment to make more of its heritage;
- Public House never seemed to work and was not viable;
- Public House was noisy and created a fear of crime and anti-social behaviour;
- Building will become run down and derelict;
- Public House was rarely used and that contributed to its downfall, and there is no evidence to suggest it will be able to survive as a pub in the future; Delaying the inevitable;
- Building has become an eyesore over the years;
- Many examples of similar empty public houses being turned into successful convenience stores throughout the country;
- Would remain vacant for significant period if the use is not changed;
- Proposal is visually pleasing.

19. Several complaints have been received by residents on the grounds that a proportion of the letters of support have come from residents outside of the village. Several complaints have also been received that many households have duplicated objections (i.e. in some cases the same letter coming from each

member of a particular household). Whilst these concerns are noted, the planning system allows any member of the public or community group to comment on any planning application as planning operates in the public interest. The material planning issues raised in all responses, are considered, rather than the focus being on the number of letters submitted from each group.

## **PLANNING ISSUES/ANALYSIS**

### **a) Principle of the proposed development**

20. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2019) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
21. Policy CS1 of the Core Strategy (2011) supports development, within development limits, that supports the vitality and viability of the Borough’s villages, their services, or the rural economy, particularly in the larger villages including Middleton St. George. This approach has been carried forward into the emerging Local Plan in which Policy SH 1 defines Middleton St. George as a Service Village. Service Villages should offer a range of services and facilities, such as convenience stores, that meet local needs. While the loss of the public house is regrettable, the development of a convenience store does comply with the broad objectives of Policy CS1 and emerging Policy SH 1.
22. Furthermore, Policy CS9 of the Core Strategy defines Middleton St. George as a local centre. The role of local centres is to provide food shopping and a range of other shops, leisure uses (including public houses and social clubs) and services to meet people’s day-to-day needs in accessible locations. While Middleton St. George does have a collection of shops/services based around the Square, it should also be noted that the Core Strategy does not define a geographical limit to the local centre of Middleton St George. Therefore, as the proposed convenience store is within the defined settlement limit of Middleton St. George, and is consistent with the function of the local centre, it is compliant Policy CS9 and is acceptable in principle.
23. Middleton St. George is not classified as district or local centre within the emerging Local Plan but, as previously mentioned, is classified as a service village. Therefore, as stated, the proposed development is acceptable in principle as it is within the development limits of a Service Village.
24. Policy CS9 states that proposed convenience stores within district and local centres should be limited to maximum individual sizes of around 400m<sup>2</sup> gross floorspace. The proposed development would have a sales area of the new store would be some 272m<sup>2</sup> and the gross internal ground floor area would be 416m<sup>2</sup> and as such complies with this policy requirement.

25. In principle, the conversion of the public house to a convenience store in this location is acceptable. The proposal accords with Policies CS1 and CS9 of the Core Strategy and policy E2 of the Local Plan.
26. Whilst there is no requirement to do so, the applicant has provided some information in terms of expected impact of the convenience store (in terms of its general trading characteristics) on other local stores, to assist in the determination of the application. This states the following:

*'The average turnover of local stores (figures from Mintel) is that they would generate approximately £9,732 per sq. m of net trading area per annum (at 2018 prices). So, on those assumptions proposed, the store would anticipate a turnover somewhere in the region of £2.8m per annum. The main role of the store would be what is termed 'top up' shopping. That is basically not the main or weekly shop but the more daily smaller scale purchases that are made throughout the week. The feedback forms received as part of the public consultation exercise frequently identified the proposed convenience store as an alternative to travelling to the Morrison's at Morton Park, the nearest 'big four' supermarket to Middleton St George. The Morrison's at Morton Park is in an out of centre location, notwithstanding, the Darlington Retail and Town Centre Study Update 2017 (Table 5) identified a convenience goods turnover for this store of £49.5m (adjusted to 2018 prices using Experian Retail Planner Briefing Note 17) and trading £12.2m above benchmark. Therefore – even if an impact assessment was required – the conclusion would be that a large proportion of the turnover which the proposed convenience store would generate would be drawn from an out of centre store performing above benchmark and that the residual trade draw generated by the proposed convenience store would be nowhere near affecting in impact terms the supermarkets in a defined centre such as Darlington or indeed any other centre'.*

*'The general catchment area of the store would normally be a five to ten-minute drive-time which, for practical purposes, would be Middleton St George and any adjacent villages. The number of households circulated leaflets in Middleton St George is currently around 2,200. With this number in mind and taking account of the additional housing proposed to be developed in Middleton St George through the Local Plan, the total population within the village itself will be ultimately somewhere between 5,500 and 6,000 people. The operator is satisfied that there is more than sufficient population within the village and the wider catchment area to sustain the viable running of the store now and in the future'.*

### **Loss of the public house**

27. Policy IN 10 of emerging local plan applies to this development since pubs are considered a community facility in the emerging local plan. However, it should be noted that as an emerging policy subject to multiple proposed major modifications only limited weight can yet be attributed to emerging Policy IN10.



28. In its current pre-modification condition emerging Policy IN10(B) states that the loss of any community facilities will only be permitted if it can be demonstrated that:

- i. There are sufficient other suitable alternative community facilities either within the neighbourhood or accessible nearby; or
- ii. The community facility is no longer needed; and
- iii. There is no management and funding resources within the local community or that could be generated by partial redevelopment that could sustain a facility that meets identified rural needs.

29. In this case, IN10(B)(i) applies rather than IN10(B)(ii) & (iii) since it can be demonstrated that there are sufficient other suitable alternative community facilities either within the neighbourhood or accessible nearby. Within Middleton St. George Neighbourhood Area there are at least two other public houses, including the Havelock Arms in Middleton St. George, and the Oak Tree in Oak Tree. There is also the Devonport in Middleton One Row which operates as a hotel with a pub/restaurant. Given this information it is considered that the loss of the Platform One public house is permissible under emerging Policy IN10 in its present form. However, it must be stressed that only limited weight can yet be attributed to emerging Policy IN10.

### **Emerging Middleton St. George Neighbourhood Plan**

30. Darlington Borough Council has received a proposed neighbourhood development plan, along with accompanying supporting information, from Middleton St. George Parish Council. The proposed neighbourhood development plan is currently undergoing a statutory check under Schedule 4B of the Town and Country Planning Act 1990 prior to, depending on the result of the statutory check, publicising the plan under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 with a view to then making the neighbourhood plan available for independent examination. At this stage of the neighbourhood planning process only limited weight can be given to the policies in the neighbourhood plan prior to the completion of the Regulation 16 consultation.

### **b) Asset of Community Value**

31. The Public House was listed as an Asset of Community Value (ACV) under provisions contained in the Localism Act 2011 in April 2020 having been nominated by Middleton St George Parish Council. It was listed on the basis that the pub was considered to further the social wellbeing and interests of the local community and it was realistic that the community use of the building could continue.

32. The impact of the building or land being nominated as an ACV is that it cannot then be disposed of (there are exceptions) without the passing of a moratorium period allowing community groups to bid for the asset, the purpose of the

legislation being to strengthen the ability of the local community to retain and protect a local asset that has social value.

33. Whilst ultimately this listing cannot prevent the owner selling the asset to whomever they want, at whatever price they want, it does offer an opportunity for community groups to make a bid for the asset in advance of any agreement to sell to a third party. The Council has no role in the sale of the property; the owner simply must notify the Council of its intention to sell and the Council must notify any interested group and publicise it in the locality. The Council must also notify the owner of any intentions to bid and any extensions to the moratorium period.
34. In accordance with the above requirements, the opportunity for proposals to be put forward for the viable operation of the public house and potential sale of the freehold, was given within a moratorium period that ended in November 2020. No proposals were put forward within the moratorium period and therefore the landowner is permitted to proceed with the sale of the building. The ACV process having been completed, this planning application should be considered and determined on the basis of the compliance with relevant development plan policies and other material planning considerations. In this regard, the absence of any interest being formally submitted within the moratorium period is a material consideration, demonstrating the lack of future viability of the existing building as a public house.
35. In addition to the above, within the supporting information for the planning application, the applicant has put forward some information on the difficulties experienced in running the Platform 1 as a viable pub operation and Enterprise Inns (who own the building) has decided that the pub will not re-open now that the Covid 19 restrictions have been lifted. The supporting information states that since 2008 there have been 14 tenancy agreements of the premises – with the last long-term agreement dated September 2018 being applied to be terminated only eight months later on viability grounds. There have been extensive attempts to market the building without success; poor sales figures and there is strong competition from other pubs in Middleton St George. There has thus been no stability and continuity in terms of the operation of the building even before Covid19.
36. The Government has produced non-statutory guidance of the Community Right to Bid. Paragraph 2.20 sets out that *'the fact that the site is listed may affect planning decisions – it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.'*
37. The above guidance identifies the primacy of planning policy in determining uses for a site. This appears to be directed at encouraging Local Authorities to consider the ACV process as part of an assessment of community buildings under local policies, which in this case is Policy CS9 (District and Local Centres and Local Shops and Services). The ACV listing is therefore a material

consideration to be taken into account alongside assessment of impact of the loss of the Public House in the context of Policy CS9.

38. Core Strategy Policy CS9 (District and Local Centres and Local Shops and Services) states that individual local shops, leisure uses (including public houses and social clubs) and services and small neighbourhood clusters of them which meet the day-to-day needs of nearby residents without the need to use a car will be protected and promoted. Paragraph 70 of the NPPF also seeks to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. As has been addressed above, the proposed change of use and loss of the existing facility is considered to comply with existing and emerging policy and it is not considered that the building being listed as an Asset of Community Value is sufficient to set aside the policy presumption in favour of the proposed development especially as the intended use would also provide a service to the local community.

**c) Impact on non-designated heritage assets;**

39. The historic Public House, well known as the Fighting Cocks, is identified on the Durham County Council Historic Environment Record as a non-designated heritage asset. As is noted in the submitted Heritage Statement the Pub is associated to the historic Stockton and Darlington Railway(S&DR) opened in 1825.
40. Non-designated heritage assets are buildings, monuments, sites, places, areas, or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets.
41. It is noted that the building has seen historic alteration and additions, however the phasing of development is evident, and the original plan form and development can still clearly be seen. Based upon archival details and submitted images, the building has retained a good amount of historic fabric and the plan form while having been changed has retained the quality of a 19<sup>th</sup> century Public House.
42. The site forms a part of the current Heritage Action Zone for the Stockton and Darlington Railway (S&DR). The project is focused on realising the significance and potential of the historic line and providing research and possible designations to better understand and recognised that significance. Works are currently being undertaken to assess the area including the site and associated land of the Fighting Cocks for designation as a Conservation Area. As part of this work, Historic England were approached regarding the potential for the building to become listed. They confirmed as part of this conversation that the building does not meet the criteria for listing.
43. The Heritage Statement submitted in support of the application confirms the connection between the building and the Stockton/Darlington railway line and its role as a place where people could buy tickets for the trains on the railway line. It

sets out that there is little within the building itself or on its exterior that is of heritage value in physical terms. There is however a wall to the rear of the building which was part of a coal depot used for the trains. With the recent designation of the Stockton/Darlington railway line route as a Heritage Action Zone (HAZ), the applicant and store operator were mindful of the need to comply with the Council's emerging policy for new development in the HAZ. This has resulted in the wall to the coal depot being retained and proposals being made for site interpretation boards both on the store (the elevation onto Sadberge Road) and close to the railway line (in the open area to the rear of the store).

44. Also proposed is a small seating area within the landscaped area to the rear of the store for those who would potentially be walking the line of the railway on the footpath. The applicant has suggested that the fact that the store will have its own take away coffee machine and sell sandwiches and snacks would give the opportunity for people to stop along the walk and buy refreshments from the store to provide a benefit to the local community.
45. The Council's Conservation Officer has objected to the proposal and considers that the proposals would have a harmful impact on the significance and character of the historic asset. The Conservation Officer also notes that he does not agree that the proposals would enhance the significance of the asset and that the proposals would have a harmful impact on the setting of the S&DR. While the building is a non-designated asset, with the connection to the S&DR he considers the building is of high significance. Whilst the Conservation Officer recognises that the building has been altered, he does consider that it has retained its plan form and there are details both internally and externally which shows its character. He also considers that the fundamental change of use would equally have a significant impact upon the significance of the building. The Fighting Cocks played an important part, as noted, in the provision of shelter, refreshment and hospitality for passengers and those attending the depot. It has been in continuous use since its inception retaining the strong historic tie. The Conservation Officer considers that the change of use would see this entirely removed and eroded.
46. These comments have been considered carefully and further discussions have been undertaken with the applicants Heritage Consultant. It should be noted that as the building is not listed (and it has been confirmed by Historic England that it is not worthy of being listed) the Local Planning Authority has no control over any internal alterations to the property. It should also be noted that, being an unlisted building, it is not the goal of either the Heritage Action Zone or its status as a non-designated heritage asset, for the building to retain its original use, its acceptability or otherwise in that context is a consideration against the policy context which is undertaken earlier in this report. Rather, the issue to be considered is whether the change of use being considered is being proposed in a sympathetic manner and also in terms of how it affects the relationship between the former public house and the railway.
47. Paragraph 197 of the NPPF states: *'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly*

*affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'*

48. The NPPF states that planning decisions should be based on the significance of the heritage asset, and that the level of detail supplied by an applicant should be proportionate to the importance of the asset and should be no more than sufficient to review the potential impact of the proposal upon the significance of that asset. This report fulfils this requirement by providing an assessment of the study site and the impact of proposed development upon it.
49. The report sets out the following:
- All architectural elements identified of interest will be retained in-situ;
  - The value of the buildings to the former route of the S&DR is not disputed;
  - The external elements of this currently vacant building will be retained and enhanced;
  - Signage will be sympathetic to the buildings historic character;
  - The extant stone wall of the former adjacent coal depot will be retained as this holds evidential value as to the functionality of the S&DR, and its retention provides a visual link between Platform 1 and the railway.
  - The applicant intends to provide outdoor seating for walkers, interpretation panels, and aims to become an important stopping point along the original route of the S&D, symbolic of Platform 1's original purpose.
  - Overall, the proposed change of use and internal alterations will result in the enhancement and re-use of this non-designated heritage asset.
50. The report concludes that the proposal will be commensurate with the significance of this non-designated Heritage Asset. It also concludes that the designation of a Heritage Action Zone in this area acknowledges the heritage significance of the study site in relation to the former S&DR. The applicant fully recognises this and is keen to retain and enhance the site's significance through the interpretation measures set out earlier in this section. Consequently, the report sets out that the proposed development complies with the requirements of the Planning (Listed Buildings and Conservation Areas) Act, the policy objectives of the NPPF, and local planning policy.
51. Overall, taking into account the above and acknowledging that as a non-designated heritage asset it does not have statutory/legislative protection, it does fall under national and local policy considerations. It is noted that in many objections that its importance to the railway is seen as globally significant however in this context, it does not have the status of a World Heritage Site. Several objections refer to the loss of character to the building internally however the building is not listed, and the LPA has no control over any internal alterations.
52. The NPPF requires Local Planning Authorities to consider the effect of an application on the significance of a non-designated Heritage Asset. In this case, the proposal is sympathetic to the character of the building, proposing minimal external changes, with additions that are clearly distinguishable from the original

building. Signage is proposed to be included in a sympathetic manner, and interpretation panels and a seating area is to be provided to reflect the original purpose of the building and its links to the S&DR and a landscaping scheme will enhance the setting of the building given its position within the Heritage Action Zone. Overall, the proposal is considered to be acceptable in respect of its impact on this non-designated heritage asset and the Heritage Action Zone, providing a range of benefits in respect of this vacant and neglected building, the main benefit in heritage terms being the retention of this non-designated heritage asset but also, and in accord with the aims of the HAZ, provision of landscaping, interpretation enhancements and facilities for users, symbolic of Platform 1's original purpose. The proposal complies with Policy CS14 in this respect.

53. Additionally, some weight can be given to policies in the emerging local plan. Emerging Policy ENV 1 states that proposals that would remove, harm, or undermine the significance of a non-designated heritage asset will only be permitted where the benefits are considered to outweigh the harm to the character of the local area. Proposals must protect and enhance the significance of a non-designated heritage asset, including its setting, through good design. Policy ENV2 of the emerging Local Plan should also be considered. It states that proposals which conserve and enhance elements which contribute to the significance of the Stockton and Darlington Railway, and its setting will be supported. In the context of the above, the proposal is considered to comply with these emerging policies.

### **Below Ground impacts**

54. An archaeological desk-based assessment has been submitted in support of the application. This has found that there is limited potential on the site for below ground archaeological remains, except for those relating to potential remains from the late nineteenth century workers cottages in the south west area of the site.
55. The Historic Environment Record Officer considers that overall, there is some potential for the works to impact below ground archaeological remains of the cottages and that whilst they are only of local significance, they are still of archaeological interest. Accordingly, a watching brief is recommended, which can be secured by planning condition requiring a Written Scheme of Investigation and subsequent recording / archiving. Subject to this, the Historic Environment Record Officer has raised no objections and the proposal accords with policy CS14 in this regard.

### **d) Impact on visual amenity**

56. Being a change of use, with the retention of the majority of the existing building, save the removal of some more recent additions to the building which are of no particular interest, the proposal involves the retention of the existing public house facades facing onto the public highway with a programme of repair and redecoration, and retains the character and architectural features of the building, including the retention of original doors and window openings. Also retained is

the existing stone wall of the former adjacent coal depot as this holds evidential value as to the functionality of the S&D, and its retention provides a visual link.

57. The proposal also involves an extension to the rear of the building to provide sales area and servicing floorspace. This would be of a more contemporary nature, of brick construction with a parapet detail, and in this respect, it is considered that this allows a clear distinction between the original building and this new addition, whilst being seen in the context of the existing building. Timber fencing would be included to the rear servicing area.
58. A landscaping scheme would be submitted as part of a later Reserved Matters application, however the proposal involves the retention of several existing trees, and an indicative scheme shows the planting of several replacement trees within the rear area that would house benches and interpretation boards.
59. Overall, the proposal involves the retention of this existing building, supplemented by a programme of repair and redecoration. The design of the scheme is sympathetic to the character of the building and the proposal will not impact unduly on the street scene in which the building is located. A landscaping scheme will further enhance the site and create an improved link to the nearby bridleway. Planning conditions are recommended to secure submission and agreement of external materials (to include the parapet detail) to the extension and subject to this, the proposal is considered acceptable in the context of policies CS2 and CS14.

**e) Impact on residential amenity**

60. The site sits adjacent to residential properties with Cheltenham Court and beyond that St George's Gate to the west, older properties on Sadberge Road to the east, and beyond that the recently constructed Storey Homes / Miller Homes site accessed from Sadberge Road and further to the south, properties along Harper Terrace, Station Terrace and Palm Tree Villas.
61. The application states that the opening hours of the store would be 7am to 11pm and the store would employ up to 20 people on a full and part time basis from the local area.
62. Deliveries to the store would be taken in the main delivery and servicing area, which would be situated to the rear of the sales area and accessed by a dedicated delivery access bay. The plant serving the store would be situated to the rear. This location would allow the servicing and plant to be screened by the proposed building to mitigate any noise impacts to residential properties.
63. Deliveries would take place within the opening hours numbering between four and six deliveries per day. The Environmental Health Officer considers that appropriate times for deliveries would be between 7am and 9pm and a condition is recommended to restrict deliveries to these hours to protect the amenity of nearby residential dwellings.

64. The applicant has had discussions with the Council's Environmental Health Officer, and it has been confirmed that emissions from the rear plant serving the store are likely to be acceptable. A planning condition is recommended to secure submission and agreement of specific details of external plant proposed, and for this to be installed prior to the use of the premises as a convenience store and maintained as such thereafter.
65. As lighting is proposed as part of the change of use, a planning condition is recommended to secure submission and agreement of the specifications and position of lighting prior to the first use of the building and to secure its retention in the approved manner.
66. Taking into account its permitted use as a public house, which could have customers late at night and patrons sitting outside of the property to eat and drink, subject to the above mitigation, the proposed impacts on nearby residential properties are considered to be acceptable.
67. If planning permission is granted, the applicant confirms that the work associated with the change of use is expected to take some six months to complete and the operator will likely take occupation within around nine months from the planning decision being made. It is recommended that a planning condition be attached to any permission to secure submission and agreement of a Construction Management Plan to ensure that any construction impacts are controlled and minimised.
68. Subject to the above controls, the proposed development is acceptable in respect of its impact on the residential amenities of nearby properties and accords with Policy CS16 in this regard.

**f) Impact on trees**

69. One semi-mature Ash tree, situated to the northern edge of the car park beside the existing pub garden, is proposed for removal together with several shrubs. A report from an independent Arboricultural Consultant was submitted in support of the application and this confirms that the tree is currently in a poor condition due to infection by ash dieback disease and is not worthy of retention.
70. The remaining early mature trees within the site, including a Sycamore, Pear and Leyland Cypress, would be retained. The report recommends that these trees are surveyed, and tree protection measures put in place during the construction period to ensure their retention and such details can be secured by planning condition.
71. The proposal involves the planting of several trees to the rear of the car park, and these are shown indicatively on the proposed site layout plan, the details of which would be the subject of a future reserved matters application to cover the overall landscaping scheme for the development.



72. Subject to the above, the proposal is considered acceptable in terms of its impact on trees and complies with Policy CS2, CS14, E12 and E14 in this regard.

### **g) Highway Safety**

73. The site layout, which has been subject to some amendments seeking to address concerns raised by the Highways Engineer to the creation of a new access point, shows that the existing site access location is to be utilised; as it is optimally located, equidistant between Sadberge Rd and the junction of Cheltenham Court with 55m spacing being acceptable. The existing access point also benefits from the provision of dropped crossings and tactile paving which is of benefit to all highway users, particularly those with visual or mobility impairment.
74. The Highways Engineer considers that the store will mostly attract passby or diverted trips; in line with other food retail developments which generally generate very few 'new' trips on the local highway network.
75. A review of the past 5 years of recorded Police personal injury collisions reveals that there have been no recorded incidents at or within the vicinity of the site access, as such there is no reason to suggest that there are any inherent road safety concerns at this location, or that it is unsuitable for the proposed use.
76. The application proposes a reduction in parking over the current provision of 32 spaces which is reduced to 17 spaces (-15). Parking is however based on current Tees Valley Design Guide standards, which require 1 space per 30m sqm gross floor area. Based on a GFA of 416m this would equate to 14 spaces, with disabled parking being required in addition to non-accessible spaces.
77. Disabled accessible parking provision is conveniently located as close to the entrance as possible, and in accordance with the Tees valley Standard of 6%.
78. Vehicle swept path analysis has been provided to support the servicing requirements of the retail store. This demonstrates that the site is of sufficient size to enable an 11.9m articulated vehicle to enter and exit in a forward gear; and the agent has confirmed that this would be consistent with the size of vehicle delivering goods to the premises.
79. The Highways Engineer has indicated that the proposal should involve off-site highway works which will involve the adjacent footway and former bus-stop layby area being rationalized, and a kerblineline should be extended from the existing footway located on Darlington Road and follow the line of the carriageway edge to extend along the side elevation of the site located on Sadberge Road. A footway should then extend across the frontage and onto Sadberge Rd to provide an improved pedestrian link towards the recent residential development to the north. Also recommended are further parking restrictions across the site, with double yellow lines extending across the site frontage and into Sadberge

Road in order to prevent parking on, or in close proximity to the site. The restrictions should also include no waiting.

80. Whilst the above recommendations are noted, the proposal involves the change of use of an existing community facility and it is not considered reasonable or necessary that the above measures take place to allow its change of use to another community facility. The existing arrangement is considered to function in terms of its access to the building and its links to the wider village. This matter of course could be reviewed should planning permission be granted and an unforeseen issue develops.

81. In the context of the above the proposal complies with Policy CS2 in this regard.

#### **h) Sustainable Transport**

82. This development site has public transport accessibility; in line with the SPD (supplementary planning document) it is within 400m of bus stops, these being the Sadberge Road bus stops which are served by the number 12 which operates every 60 minutes during the day with no evening service Monday to Saturday and no service during the day or evening on a Sunday.

83. The Transport policy Officer has been consulted and has requested Electric Vehicle Charge Points and cycle parking be included and planning conditions are recommended to secure submission and agreement of details of these, and their provision before the store opens for business.

84. In addition, whilst the Sustainable Transport team have requested a Sustainable Transport contribution in line with the formula set out in the Planning Obligations, Supplementary Planning Document calculated by number of car parking spaces, this is not considered to be a reasonable position for this change of use of an existing building with existing parking provision. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. As this is an existing car park, rather than new provision, the contribution is not considered reasonable or necessary in this instance.

85. The Transport Policy Officer has indicated that a Travel Plan should be requested to demonstrate how this site will seek to maximise sustainable travel and minimise vehicular travel and a planning condition is recommended to secure this. Subject to the above conditions, the proposal complies with Policy CS2 in this regard.

#### **i) Impact on Public Rights of Way**

86. Public Bridleway Low Dinsdale 18 abuts the northern boundary of the site which is used by cyclists, horse-riders and pedestrians. The Public Rights of Way Officer has been consulted and has confirmed that the proposed seating area

and information board in close proximity to the bridleway would be a welcome provision. The definitive map and statement specify an available bridleway width of 3m, so any furniture erected must not encroach on to the bridleway, and a 3m available width must be maintained. Providing the bridleway is kept safe and free from obstruction during and after construction the Public Rights of Way Officer has raised no objections and accordingly the proposal complies with Policy CS2 in this regard.

**j) Anti-social behaviour**

87. Several objections have raised the issue about increase in numbers of young people gathering around the premises as a result of the proposal and the potential for anti-social behaviour and litter as a result of this. As the site is currently vacant, this may also be a concern at present. It is considered that the redevelopment and continued use and management of the site will allow much greater supervision and control over any such occurrences should they happen in the future and there are other statutory controls available to deal with these.
88. There is no evidence to suggest that the use of the building as a convenience store as opposed to a public house, will lead directly to an increase in the above. In addition, it is not considered that the granting of planning permission for the redevelopment of this site would raise significant issues in relation to crime and anti-social behaviour or render such incidents more likely. Litter bins are available in the general locality however a planning condition is recommended for the provision of two litter bins, one to be located close to the seating area to the rear.
89. The National Security Services Manager from Sainsbury's has set out what the company intend to do in respect of security and anti-social behaviour. Should planning permission be Granted. It has been confirmed that;
- All stores have ample CCTV coverage across the store to deter and detect risk;
  - The entry and exit together with the car park, will be covered by CCTV;
  - All new stores receive staff body worn cameras so that they can be utilised to provide a clear deterrent and used as evidence should an incident occur.
90. With regards to anti-social behaviour risks, Sainsbury's has also confirmed the following support will be in place:
- Each zone has a crime response manager that investigates anti-social behaviour and works with the local police and council to deal with the issue;
  - There is a Police and Partnerships Manager who has direct links into the relevant police forces and has a proven track record of mitigating risk;
  - Dependent on the nature of the store, it may be decided to have specific guarding hours.

### **k) Other material planning considerations**

91. The applicant has put forward several other material planning considerations, in addition to the planning issues addressed above, these are as follows:

- Economic benefits in terms of creation of jobs;
- Provision of a wider range of convenience goods products locally for existing and future residents of Middleton St George;
- Local jobs created for the temporary construction period.

92. The above material planning considerations weigh in favour of the development.

### **CONCLUSION AND RECOMMENDATION**

93. The proposed development complies with the relevant policies in the development plan. Subject to the proposed conditions the development would be acceptable in respect of its impact on non-designated heritage assets, highway safety and residential and visual amenity with no impact on the nearby public right of way. Landscaping would be considered at Reserved Matters stage. It is therefore recommended that planning permission be granted subject to conditions.

### **PUBLIC SECTOR EQUALITY DUTY**

94. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

### **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

95. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

96. Accordingly it is recommended **THAT OUTLINE PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. A1 Outline (Reserved matters)
2. A2 Outline (Implementation Time)
3. PL (Accordance with Plan)

2165-P200 Rev E Site location plan  
2165-P204 Rev G Site Layout plan  
2165-P206 Rev C Proposed elevations  
2165-P205 Rev D Proposed ground Floor Layout  
2165-P207 Demolition Plan

4. E3 Landscaping (Implementation)
5. Prior to any works above damp-proof course, details of the external materials (to include parapet detail) to be used in the carrying out of the development, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.

REASON – In the interests of visual amenity.

6. No development shall commence until a written scheme of investigation setting out a programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

REASON - To safeguard any Archaeological Interest in the site, and to comply with part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

7. The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

REASON - To comply with Paragraph 199 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

8. Prior to the commencement of the development, a site-specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan[s] shall include the following, unless the Local Planning Authority dispenses with any requirements specifically and in writing:
  - a. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management

“Guidance on the assessment of dust from demolition and construction”  
February 2014;

- b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites” 2009.
- c. Construction Traffic Routes, including parking areas for staff and visitors.
- d. Details of wheel washing.
- e. Road Maintenance.
- f. Warning signage.

The development shall not be carried out otherwise in complete accordance with the approved Plan.

REASON – In the interests of highway safety and residential amenity.

- 9. Construction and demolition work shall not take place outside the hours of 08.00 -18.00 Monday - Friday, 08.00 -14.00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written permission from the Local Planning Authority.

REASON – In the interests of residential amenity.

- 10. Prior to the commencement of the development, a detailed survey of trees to be affected by the development (both within the site and adjoining its boundary) shall be carried out. The survey shall include the identification of measures to protect existing retained trees in order to protect them from damage by compaction, severance and material spillage, in accordance with BS5837, and shall be submitted to, and approved in writing by, the Local Planning Authority. No demolition or site clearance shall be commenced until the agreed measures are in place and have been inspected by the Council’s Arboricultural Officer. The approved measures shall remain in place through the carrying out of this planning permission. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:
  - a) The raising or lowering of levels in relation to existing ground levels;
  - b) Cutting of roots, digging of trenches or removal of soil;
  - c) Erection of temporary buildings, roads or carrying out of any engineering operations;
  - d) Lighting of fires;
  - e) Driving of vehicles or storage of materials and equipment;

REASON – To ensure a maximum level of protection in order to safeguard the well-being of the trees on the site and in the interest of the visual amenities of the area.

- 11. Prior to the occupation of the development hereby approved, details of the size, type, and location of the proposed interpretation panels, and details of the seating area shall be submitted to, and approved in writing by, the Local

Planning Authority. These shall be in place prior to the occupation of the development hereby approved and shall be retained as such thereafter.

REASON - To recognise the significance of the site to the Stockton and Darlington Railway in line with the aims and objectives of the Heritage Action Zone.

12. Prior to the occupation of the development hereby approved, two litter bins shall be provided (one to be situated to the seating area to the rear) in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority. The litter bins shall be in place prior to the occupation of the building and shall be retained thereafter.

REASON – In the interests of residential amenity.

13. Unless otherwise agreed in writing by the Local Planning Authority, no part of the development shall be occupied until a Travel Plan, to help reduce dependency on the use of the private car has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan should include clear and unambiguous objectives and modal split targets, together with a time-bound programme of implementation, monitoring and regular review and improvement; Thereafter, the development shall not be carried out otherwise than in accordance with the terms of the approved Travel Plan.

REASON - To encourage the reduction of journeys made to and from the development by private motor vehicles by the promotion of more sustainable forms of transport.

14. Details of any external lighting, to include a lighting impact assessment undertaken by an independent qualified assessor, shall be submitted to, and approved in writing by, the Local Planning Authority prior to the occupation of the building. Thereafter the external lighting shall be installed in complete accordance with the approved details and maintained as such thereafter.

REASON – In the interests of residential amenity.

15. Prior to the occupation of the development, precise details of secure cycle parking / storage shall be submitted and approved in writing by the Local Planning Authority. The details shall include the number, location, and specifications of all cycle parking / storage and thereafter the development shall not be carried out otherwise than in complete accordance with the approved details. All parking shall be made available prior to the occupation of the dwellings hereby approved and retained as such thereafter.

REASON – To encourage more sustainable modes of transport.

16. Prior to the operation of the convenience store 2 no. electric vehicle charging points shall be provided on site in accordance with details to be submitted to and approved in writing, prior to the occupation of the development.

REASON - To make provision for sustainable means of transport

17. The opening hours of the premises shall be restricted to between 07:00 and 23:00 unless otherwise approved in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

18. Deliveries to the site shall be at the service access bay to the rear of the property and shall not take place outside of the hours of 07:00 and 21:00 Monday to Sunday unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

19. Prior to the commencement of use, full particulars and details of any external plant and equipment, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be undertaken fully in accordance with the approved details prior to the commencement of the use and shall be retained as such thereafter.

REASON - In the interests of residential amenity.

## **INFORMATIVES**

The Environmental Health Team enforces Food Safety and Health and Safety legislation at this premises and the applicant is advised to contact this department prior to the undertaking of any work to ensure that all legislative requirements are met.

The applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss naming and numbering of the development.

The adjacent bridleway must be kept safe and free from obstruction during and after construction.