

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 13 July 2022

APPLICATION REF. NO: 22/00397/FUL

STATUTORY DECISION DATE: 8th June 2022 (EOT 14th July 2022)

WARD/PARISH: SADBERGE & MIDDLETON ST GEORGE

LOCATION: Sainsburys Supermarket PLC Darlington Road
MIDDLETON ST GEORGE DARLINGTON
DL2 1JT

DESCRIPTION: Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 18 (delivery times) attached to outline permission 21/00223/OUT dated 10 June 2021 (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) to permit an extension in the delivery time by one hour from 08.00-18.00 to 07.00-18.00 (Mon-Sun)

APPLICANT: SAINSBURY'S LIMITED

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

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=RAA8C0FPH0100>

APPLICATION AND SITE DESCRIPTION

1. The application site consists of the former Platform 1 Public House, located to the north of Middleton St George, on the corner of Sadberge Road and Darlington Road. There is housing to the west and east of the site.
2. Planning permission was granted in June 2021 (21/00223/OUT) for the conversion, partial demolition, and extension of the building to form a convenience store with a subsequent reserved matters application for landscaping approved in November 2021 (21/01130/RM1). Work is currently underway to implement the permission.
3. As part of the outline approval, both opening hours and delivery hours were limited by condition. The opening hours were limited to between 07:00 and 23:00 (Monday to Sunday) and the delivery hours to between 08:00 and 18:00 (Monday to Sunday). These limits were set in order to protect nearby residential amenity.
4. This applicant, Sainsbury's, seeks to vary the wording of condition no 18 of the original permission, to bring the morning hours of delivery into line with the morning opening hours of the store. Condition 18 currently states:

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 08:00 to 18:00 Monday to Sunday unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

5. The proposed condition requested by Sainsbury's, which does not change the number of deliveries received at the site, the location that deliveries are to be received, or the end time for deliveries is as follows:

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 to 18:00 Monday to Sunday unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

6. It should be noted that this application has been brought before the Planning Applications Committee as the original officer recommendation for 21/00223/OUT was for the delivery times to start at 07:00 as sought in this application, as recommended by the Environmental Health Officer. Members however requested that the condition be changed to a start time of 08:00 with a finish time of 18:00 as condition 18 currently states. The application therefore seeks to bring the start time for deliveries forward by one hour to 07:00. The agreed finish time of 18:00 would be unchanged.

MAIN PLANNING ISSUES

7. The main issues for consideration are:

- (a) Impact on residential amenity
- (b) Highway safety

PLANNING POLICIES

8. The principle of the development has been established by the original planning permission (21/00223/OUT). Relevant policies in the Darlington Borough Local Plan 2016 – 2036 relating to the proposed variation of the delivery hours (condition 18) include those that state:

- New development should protect the amenity of neighbouring users and must be acceptable in terms of noise and disturbance (DC4)
- New development provides suitable and safe vehicular access and suitable servicing and parking arrangements (DC1 and IN4).

9. Guidance in the National Planning Policy Framework, 2021 is also relevant which advises that:

- Planning decisions should contribute to and enhance the natural and local environment by preventing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution (para. 174(e))
- Planning decisions should seek to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significance adverse impacts on health and quality of life (para. 185(a))

RESULTS OF TECHNICAL CONSULTATION

10. The Council's Environmental Health Officer and Highways Engineer have raised no objections to the proposal.

RESULTS OF PUBLICITY AND NOTIFICATION

11. A total of two letters of objection have been received from local residents which raise the following points:

- Earlier than 8am for deliveries would not be in the interests of surrounding residents and would significantly impact residential amenity and well-being.

12. Middleton St George Parish Council has made no comments on the proposal.

PLANNING ISSUES/ANALYSIS

(a) Impact on residential amenity

13. The application states, as per the original application, that the store will receive four to six deliveries per day. All deliveries will be taken in the main delivery and servicing area to the rear of the sales area which is accessed by a dedicated delivery access bay. Vehicular access to this area is via the store car park which is accessed off Darlington Road. The purpose of the application is not to increase deliveries but to bring the starting time for delivery in line with the approved store opening time of 7am. In this context, it is noted that there will already be some activity on the site at this time, both in the store and in the car park area with staff and potential customers.
14. The application site is surrounded by residential properties at varying distances on its north, east, west and southern sides. Approximate distances from the delivery area to the nearest residential properties are set out below:
 - 34 Cheltenham Court – approximately 45 metres to the north west of the delivery area
 - 1 Orient Villas – approximately 75 metres to the north
 - 18 Avro Close – approximately 45 metres to the east
 - 1 Sadberge Road – approximately 32 metres to the east
 - 20 Palm Tree Villas – approximately 105 metres to the south
15. A noise report, prepared by Tetra Tech (February 2022), specifically in regard to the extension to delivery time to include 07:00 daytime deliveries to the store has been undertaken and submitted with the application. The assessment has been undertaken to compare worst-case representative noise levels from 'existing ambient noise levels' during the 07:00 – 08:00 hour period to the 'proposed scheme noise' at identified existing receptors. A total of 9 receptors were identified for the purpose of the noise assessment, which include those properties listed above.
16. The report presents the findings of the noise assessment and advises that the noise from a delivery event is below the BS8233:2014 and WHO guideline criteria during the daytime at all nearby sensitive receptors, assuming a windows open scenario. An assessment of the change in overall ambient noise levels during this period shows that there is expected to be a negligible change to ambient noise levels. Based on this assessment, the proposed extension to delivery hours would result in a low noise impact and noise levels would fall within the Lowest Observed Adverse Effect Level (LOAEL).

17. The Environmental Health Officer has considered the noise assessment and raised no objection to the proposed variation of the delivery hours on this basis. It has been demonstrated that the proposed extension of the delivery hours from 08:00 to 07:00 will fall within acceptable levels with a negligible change to ambient noise levels. Furthermore, given that the store is already open at 07:00 and there will be a degree of activity associated with staff and customers arriving at the store and using the store car park, it is not considered that the variation to the condition proposed would result in an unacceptable impact on residential amenity. The proposal is therefore considered to accord with Policy DC4, and the advice set out in the NPPF relating to noise.

(b) Highway safety

18. The proposed extended delivery times do not pose any highway safety concerns given that the proposed earlier servicing is off-peak. On this basis, the Highways Engineer has raised no objections. The proposal therefore accords with policies DC1 and IN4 in this regard.

THE PUBLIC SECTOR EQUALITY DUTY

19. 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. There is no overt reason why the proposed variation to condition 18 would prejudice anyone with the protected characteristics.

CONCLUSION AND RECOMMENDATION

20. The proposed variation of condition 18 does not raise any significant highway safety or residential amenity issues, as the updated noise report demonstrates, and accords with Local Plan Policies DC1, DC4 and IN4 and the requirements of the NPPF in this regard. As this is an application under Section 73 and has the effect of issuing a new planning permission, all relevant planning conditions are reiterated and set out below:

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The development hereby approved shall be commenced not later than 23rd November 2023.

REASON - To accord with the provisions of Section 73 of the Town and Country Planning Act 1990.

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

- 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

REASON - To ensure the development is carried out in accordance with the planning permission.

3. The submitted landscaping scheme, agreed through application reference number 21/01130/RM1 (Drawing number S2 Rev B) dated 23rd November 2021 shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing by, the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON - In the interests of the visual amenities of the area.

4. The external materials (to include parapet detail) to be used in the carrying out of the development, shall be in accordance with those details submitted and approved within application reference 21/01129/CON dated 30th November 2021 as part amended by application 22/00141/NMA dated 14th March 2022, unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of visual amenity.

5. The archaeology work shall be carried out in accordance with the programme of archaeological work and the approved scheme of works set out in the submitted Written Scheme of Investigation and post investigation assessment ('Platform 1 Darlington Road Middleton St George Darlington, An Archaeological Written Scheme of Investigation' LS Archaeology (July 2021, amended November 2021)) approved under application reference number 21/01129/CON dated 30th November 2021, and ('Platform 1 Middleton St George: A Report on an Archaeological Watching Brief' (LS Archaeology March 2022)) approved under planning application reference number 22/00297/CON dated 25th May 2022 unless otherwise agreed in writing by the Local Planning Authority.

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.

6. The development shall not be undertaken otherwise than in complete accordance with the approved Construction Management Plan ('Construction Management Plan: Proposed alteration to Platform 1 Darlington Road to form a convenience store' Rev. 1, (PH Land, October 2021)) approved under application reference number 21/01129/CON dated 30th November 2021, unless otherwise agreed in writing by the Local Planning Authority.

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

7. 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.

8. The development shall not be carried out otherwise than in complete accordance with the approved Tree Survey and Arboricultural Method Statement ('Platform 1 public house Middleton St George; Tree Survey and Arboricultural Method Statement for PH Land and Developments', (Enviroscope Consulting, September 2021)) approved under application reference number 21/01129/CON dated 30th November 2021, unless otherwise agreed in writing by the Local Planning Authority.

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.

9. 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.

10. 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 and one in accordance with details already approved under planning permission reference number 22/00297/CON, part discharge of condition, dated 25th May 2022. 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.

11. The development shall not be carried out otherwise than in complete accordance with the terms of the approved Travel Plan ('Travel Plan; Sainsbury's supermarkets: Proposed convenience store Middleton St George' (Vectos, February 2022)) approved under planning permission reference number 22/00231/CON dated 24th March 2022, unless otherwise agreed in writing by the Local Planning Authority.

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.

12. The external lighting shall be completed in accordance with the details approved under planning permission reference number 22/00249/CON (Luminaire Schedule and Drawing reference 'Proposed Lighting Layout – DWG-01') dated 16th May 2022 and maintained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of residential amenity.

13. Cycle parking /storage shall be provided prior to the occupation of the development in accordance with details approved under planning permission reference number 22/00249/CON ('Cycle Hoop Plan', 'Sheffield Cycle Stand details' and 'details of staff cycle parking') dated 16th May 2022 and retained as such thereafter.

REASON - To encourage more sustainable modes of transport.

14. Two electric vehicle charging points shall be provided prior to the occupation of the development in accordance with details approved under planning permission reference number 22/00231/CON (Drawing ref. 'Proposed Car Charging - No. S3 Rev; Drawing ref. 'Wallpod Mounting Post: Ground Mounted Galvanised Stee – No. IEVFP0020 Rev -' ; and Catalogue extract with product details for 'WallPod:EV – Socket') dated 24th March 2022.

REASON - To make provision for sustainable means of transport

15. 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.

16. 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 18:00 Monday to Sunday unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of residential amenity.

17. The external plant as approved under planning permission reference number 22/00297/CON (Drawing ref. 'Proposed Refrigeration Plant Layout - XA-0236-1841-AIR-ZZZ-00-DR-N-0555'; and Drawing ref. 'Proposed A/C & Ventilation Layout - XA-0236-1841-AIR-ZZZ-00-DR-M-0572') dated 25th May 2022 shall be installed fully in accord with the details approved prior to the commencement of the use and 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.