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## Appeals Received South Sunderland

Between 01/08/2009 and 31/08/2009

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Ref No	Address	Description	Date Appeal Lodged
09/00030/REF	43 Ashdown Road Sunderland SR3 3HU	Variation of condition4 of planning permission 01/00480FUL to extend permitted opening hours from 20.00hours to 23.00hours and to allow trading on bank holidays.	10/08/2009
09/00031/ADV	51A Mainsforth Terrace Sunderland SR2 8NG	Erection of 1no. 48-sheet hoarding sign.	17/08/2009

# Appeals Determined Sunderland South

Between 01/08/2009 and 31/08/2009

TEAM	Ref No	ADDRESS	Description	Decision	Date of Decision
	09/00010/REF	The Tanning Centre□Ground Floor□21 Vine Place□Sunderland□SR1 3NA□	Change of use from Tanning Salon (Sui Generis) to mixed use Cafe (Class A3) and Hot Food Takeaway (Class A5).	DISMIS	10/08/2009
	09/00012/REF	Gentoo□197 Gleneagles Road□Sunderland□SR4 8JD□	Change of use from offices to provide hot food takeaway at ground floor level and residential accommodation at first and second floor levels and installation of an extraction flue to the rear. (Amended Description)	ALLOW	10/08/2009
	09/00014/REF	Sycamore Villa□Gill Terrace□Sunderland□SR4 0QA□	Erection of a four bedroom dormer bungalow (part retrospective)□(Amended description)	DISMIS	20/08/2009
	09/00015/REF	21 Estuary Way□Sunderland□SR4 0RS□	Demolition of existing garage and erection of a single storey front, side and rear extension with new pitched roof above to accommodate loft conversion ( amended description 5/11/08).	APPC	27/08/2009
	09/00016/REF	71 - 81 The Broadway□Grindon□Sunderland□SR4 8NR□	Proposed installation of new external ATM unit. (Amended address)	DISMIS	19/08/2009
	09/00017/REF	Land To Side Of□55 Holly Avenue□New Silksworth□Sunderland□SR3 1DT□	Change of use from open space to private garden with 1.8m fence enclosure. (Retrospective)	ALLOW	19/08/2009



# Appeal Decision

Site visit made on 27 July 2009

by **Malcolm Rivett BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
**10 August 2009**

**Appeal Ref: APP/J4525/A/09/2102040**

**21 Vine Place, Sunderland.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Stephen Harford against the decision of Sunderland City Council.
- The application Ref 09/00126/FUL, dated 13 January 2009, was refused by notice dated 10 March 2009.
- The development proposed is change of use of ground floor tanning salon (sui generis) to mixed Class A3 (cafe) and Class A5 (hot food takeaway) use.

## Preliminary matter

1. Different postcodes for the appeal property are indicated on the planning application form and appeal form and the inconsistency is continued in the evidence submitted in connection with the appeal. It is not clear to me which of these, if either, is correct and, therefore, I have not included a postcode in the address of the property set out above.

## Decision

2. I dismiss the appeal.

## Main issues

3. The main issues of the appeal are the effect of the proposal on the character of Sunderland City Centre's Night Life Quarter and on anti-social behaviour.

## Reasons

4. Policy SA74A of the adopted Sunderland City Council Unitary Development Plan (UDP) alteration no 2 indicates that the diversification of licensed premises in the city centre will be supported but that applications for such uses must accord with the adopted Sunderland City Centre Evening Economy Supplementary Planning Document (SPD). The SPD, which defines licensed premises as including Class A3 cafes and Class A5 hot food takeaways, designates a number of "character areas" within the City Centre, the appeal site lying within the Night Life Quarter. The document identifies that, following a planned increase in the number of licensed premises, the quarter is now the focus for night time activity in the city centre. However, paragraph 2.9 states that retaining and improving the shopping streets within this area is important to ensure a balance between the daytime and evening/night time economies.
5. Policy NLQ1 of the SPD states that proposals to add to the 10 existing takeaways in the quarter will be resisted and Policy NLQ4 indicates that within



the Park Lane shopping village (Olive Street, Derwent Street and Vine Place) permission will not normally be granted for developments that result in licensed premises taking up more than two adjacent properties. I see no reason why the north side of Vine Place should not be considered to be within the shopping village, as is suggested by the appellant. The supporting justification for these policies indicates that they are intended to protect the diverse character of the area (in terms of the range of facilities on offer). Reference is also made to takeaways being "hot spots" for disorder during the evening/night time.

6. I saw on my visit that the Night Life Quarter has a large number of licensed premises (based on the SPD definition) but that Olive Street and Derwent Street also retain a good mix of other town centre uses. In contrast there appears to be a greater proportion of licensed premises in Vine Place and, in particular, five of the eight properties in the appeal premises' row are already licensed uses. The takeaway element of the proposal would conflict with policy NLQ1, as indicated above, and, as there are existing licensed premises to either side of no 21, the scheme would also not comply with policy NLQ4. Consequently, the proposed development conflicts with UDP policy SA74A which, whilst supporting in principle the diversification of licensed premises, indicates that proposals for such uses should accord with the Evening Economy SPD.
7. I recognise that there are currently only two takeaways in Vine Place and I note the appellant's contention that 10 such uses in the quarter as a whole cannot be considered as an over-concentration. I also appreciate that the Council has indicated that a café use alone might not be inappropriate. However, in my view, the proposal would result in the street becoming dominated by licensed premises, to the extent that harm would be caused to the mixed use character of the shopping village and Night Life Quarter. That the proposal is for a mixed A3/A5 use would not, in my view, limit this harm. Unlike the other streets in the Park Lane shopping village, Vine Place is also within the Bishopwearmouth Conservation Area (CA). Whilst I note the views of the main parties, the mix of uses in the street contributes in a small way to the character of the CA and thus the proposal would result in some, albeit limited, harm to this area. I appreciate that the existing tanning salon is not a retail use and that, even during the day, the proposal would be likely to attract more custom. However, the existing use contributes to the diverse range of facilities in the area, so important to its character, and, unlike the appeal proposal would do, attracts people, other than those wishing to eat and drink, to the quarter.
8. The appellant argues that the policies of the SPD effectively impose an embargo on new hot food takeaways in the city centre, thus restricting competition. Whether or not this is so (and I note the comments about the consultation undertaken on the document) I am satisfied that restriction of competition is not the intention of the SPD and that the application to this proposal of policies NLQ1 and NLQ4, which primarily concern the character of the area, is justified given the harm I have found would be caused in this respect. It is contended that no interest has been shown in use of the premises for non-licensed operations. However, the existing tanning salon was open at the time of my visit and I have seen nothing to suggest that it is not a "going concern". Moreover, I note that the letter which refers to the lack of interest in



the premises from alternative non-licensed uses indicates the harm caused by the loss of retail businesses to food/drink uses in the street in recent years. This has added weight to my view that a further licensed use would be likely to cause unacceptable harm.

9. Other than the statement in paragraph 2.14 of the SPD that takeaways can be "hot spots" for disorder I have seen no evidence to suggest that significant problems of anti-social behaviour would result from the proposal. Moreover paragraph 2.9 indicates that the Night Life Quarter is seen as being relatively easy to manage and police. Nonetheless, I consider that the harm likely to be caused to the character of the area alone justifies refusal of permission for the scheme.
10. I agree with the appellant that policy B2 of the UDP is of little relevance to this appeal and I appreciate that no harm would be caused to residents' living conditions and that only one objection has been received about the scheme, although these are not good reasons to allow the proposal. I note the current leaseholder of the property has personal reasons for wishing to sell his business. Whilst I sympathise with his situation, I consider that this does not outweigh the harm I have found the proposal would cause.
11. For the above reasons I conclude that the appeal should be dismissed.

*Malcolm Rivett*

INSPECTOR



# Appeal Decision

Site visit made on 27 July 2009

by **Malcolm Rivett BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
10 August 2009

**Appeal Ref: APP/J4525/A/09/2102313**

**197 Gleneagles Road, Grindon, Sunderland, Tyne and Wear, SR4 8JD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Navjeet Dhindsa against the decision of Sunderland City Council.
- The application Ref 09/00368/FUL, dated 28 January 2009, was refused by notice dated 26 March 2009.
- The development proposed is ground floor change of use from B1 (business) to A5 (hot food takeaway) and first/second floor change of use from B1 (business) to C3 (dwellinghouses) to accommodate fish and chip shop.

## Preliminary matter

1. In determining the planning application the Council amended the description of the development set out above and has subsequently suggested a further change, contending that the authorised use of the upper floors of the property (numbered 199) is already residential. Whilst I note that the appellant has no objection to this suggested change it is not the development for which permission was originally sought. I have therefore determined the appeal on the basis of the description set out on the planning application form. However, whatever the outcome of the appeal, I consider that no prejudice would be caused to any party if, as the Council contends, the upper floors of the premises are already authorised for residential use.

## Decision

2. I allow the appeal, and grant planning permission for ground floor change of use from B1 (business) to A5 (hot food takeaway) and first/second floor change of use from B1 (business) to C3 (dwellinghouses) to accommodate fish and chip shop at 197 Gleneagles Road, Grindon, Sunderland, Tyne and Wear, SR4 8JD in accordance with the terms of the application, Ref 09/00368/FUL, dated 28 January 2009, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The hot food takeaway use hereby permitted shall only be open to customers between 11:00 and 22:00 on Mondays to Saturdays and at no time on Sundays or Bank Holidays.
  - 3) Notwithstanding any details shown on the approved plans the hot food takeaway use hereby permitted shall not take place until a ventilation/extraction/filtration system has been installed, in accordance



with full details previously submitted to, and approved in writing by, the Local Planning Authority. The system shall thereafter be retained, maintained in accordance with the manufacturer's instructions and be operational whenever hot food is being prepared on the hot food takeaway premises.

### **Main issues**

3. The main issues of the appeal are the effect of the proposal on the living conditions of nearby residents (having particular regard to noise/disturbance and smells) and on highway safety.

### **Reasons**

4. No 197 is situated in a short parade of commercial premises and adjoins a convenience store. Aside from flats on the upper floors of the parade the nearest residential property is 214 Gleneagles Road, approximately 26m away across a wide forecourt area and the road itself, which the Council describes as busy.
5. It appears to me that the coming and going of customers at the proposal (whether on foot or by vehicle) would cause no more noise, or disturbance to nearby residents, than the same activity at the adjoining convenience store, which the appellant has indicated is open until 22:00, as is proposed with the takeaway. I am not aware that the arrival/departure of people at the existing store currently causes any significant disturbance to local residents and I see no reason why visitors to the proposal would be any more likely to linger outside it than customers of the convenience store. With regard to this store the Council refers to a previous appeal decision concerning the change of use of an off licence to a hot food takeaway, elsewhere in the city. It argues that this decision indicates that a hot food takeaway raises different concerns to an off licence. However, this is not specifically stated in the decision and I note that the off licence was disused and, unlike the appeal property, did not form part of a shopping parade. Moreover, the shop adjoining the property which is the subject of this appeal is not solely an off licence.
6. The proposal incorporates a ventilation and carbon filtration system with a flue at the rear of the premises. Assuming that this is installed, operated and maintained in accordance with the manufacturer's instructions (which can be ensured by condition) I consider it unlikely that any significant problem of cooking smells would occur, beyond occasional limited odours which I consider to be part and parcel of urban living. Consequently I am satisfied that the proposal would cause no significant harm to the living conditions of local residents.
7. The surveys undertaken by the appellant indicate that the majority of the convenience store's customers arrive on foot and I consider that this would be likely to be the case with the proposal also. Nevertheless, there is unrestricted, and in my view safe, parking space immediately to the front of the premises (to the west of the bus stop) which the surveys, and my observations on site, suggest are rarely fully occupied. Moreover, there are five parking bays 40m or so away, which the surveys also show to be rarely used. Contrary to the view of the Council I consider that customers of the takeaway would be likely to use these parking bays, only a few moments walk away from the appeal premises,



if the parking space immediately in front of it were to be fully occupied. Consequently, I consider it unlikely that customers of the proposal would park inappropriately close to junctions or in other residential streets in the area. Whilst Gleneagles Road has residential properties on it, I do not envisage any harm related to this arising from cars associated with the proposal parking to the front of the shopping parade, given that this already occurs in connection with the existing shops without any apparent problem.

8. I note that the bus stop on Gleneagles Road is without road markings. However, even if such markings were to be introduced and the prohibition of parking at the stop to be enforced, there is sufficient unrestricted parking nearby to accommodate any displaced cars in addition to vehicles likely to be generated by the proposal. Therefore, on the second main issue, and whilst I note the details of the accident which occurred elsewhere on Gleneagles Road, I conclude that the proposal would be unlikely to result in any significant harm to highway safety.
9. Policies S12 and T14 of the adopted City of Sunderland Unitary Development Plan (UDP) indicate that hot food takeaways will be permitted in appropriately located sites unless they have a detrimental effect on residential amenity or highway safety. In view of my findings above I consider that the proposal has no conflict with these policies. The Council also refers to UDP policy T22, which concerns off-street parking provision in connection with new development. Given the availability of on-street parking in the area I am satisfied that no harm would result from the proposal making no provision for off-street parking for customers and, indeed, it is national policy, as set out in Planning Policy Guidance Note 13 - Transport, to restrict parking provision in connection with new development.
10. I appreciate that sections 9 and 13 of the Council's Development Control Guidelines Supplementary Planning Guidance indicate that, in shopping parades of less than 10 units, takeaways will not normally be permitted if the principal elevation of the nearest dwelling is less than 50m away, or if the proposal provides inadequate parking/is likely to lead to car parking on residential roads. However, this is guidance, not a statutory policy, and as set out above I have found that, in accordance with the UDP policies, no significant harm to residential amenity or highway safety would be likely, bearing in mind the existing uses nearby. That Inspectors considering other appeals have given weight to the SPG's guidance does not mean that it should be applied indiscriminately, irrespective of the specific circumstances of each hot food takeaway proposal. Both parties have put forward previous appeal decisions in support of their cases, in addition to that referred to in paragraph 4. Whilst these consider similar issues to this case I am not persuaded that the specific circumstances of these appeals are entirely comparable with the proposal before me.
11. Local residents raise concerns about vandalism, anti-social behaviour and the dropping of litter. However, I note that the parade is covered by CCTV, which is likely to discourage such behaviour, and I am not persuaded that the proposal would be significantly more likely to cause these problems (which are in any case controlled by other legislation) than the existing uses in the area. I envisage that no harm would be likely to arise from the takeaway with regards to vermin, property prices or the sale of alcohol to children. Whilst I appreciate



the strength of feeling from local residents about the proposal, the desire for the property's use as a pharmacy and the fact that there are already other takeaways in the area, these matters do not justify refusing permission for the scheme given that I have found that it would cause no demonstrable harm.

12. For the above reasons I conclude that the appeal should be allowed. In addition to the standard implementation time limit, conditions concerning opening hours and the provision/operation/maintenance of the extraction system are necessary to protect the living conditions of nearby residents. I am not persuaded that a restriction on deliveries is necessary, such activities, given the scale of the proposal, being unlikely to cause any significant harm.

*Malcolm Rivett*

INSPECTOR



# Appeal Decision

Site visit made on 3 August 2009

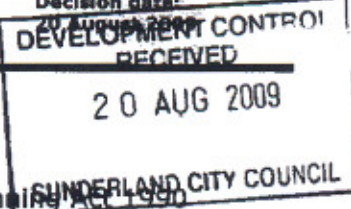
by **Malcolm Rivett BA (Hons) MSc MRTPI**

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Decision date:



**Appeal Ref: APP/J4525/A/09/2103309**

**Sycamore Villa, Ford Avenue, Sunderland, SR4 0QA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Kenneth Payne against the decision of Sunderland City Council.
- The application Ref 08/02738/FUL, dated 16 July 2008, was refused by notice dated 5 November 2008.
- The development proposed is described on the planning application form as "resubmission of as-built plans".

## Preliminary matters

1. The application form and decision notice describe the site address as Sycamore Villa (the dwelling adjoining the appeal site), although on the appeal form it is described as Maple Cottage, which I understand is the name which has been given to the appeal scheme as built. I have determined the appeal on the basis of the address set out on the application form and decision notice.
2. The description of the development on the application form is set out above, although this provides no clear indication of the development for which permission is being sought. Having regard to the description on the decision notice I have determined the appeal on the basis of the development being the erection of a four bedroom dormer bungalow.
3. Retrospective permission is sought for the bungalow which already exists, although the Council contends that the appeal scheme plans do not entirely accurately reflect what has been built.

## Decision

4. I dismiss the appeal.

## Main issues

5. The reasons for refusal in the decision notice are, to my mind, somewhat imprecise and do not explicitly set out the Council's concerns about the development as indicated in the officer's report and appeal statement. Based on these documents I consider the main issues of the appeal to be:
  - The effect of the development on the living conditions of the occupants of 2 Ford Avenue, with particular regard to outlook;
  - The effect of the development, with particular regard to its front drive, on the character and appearance of the area;



- Whether or not the development makes adequate provision for sustainable drainage; and
- The adequacy of the submitted plans.

### Reasons

6. The appeal site is at a higher level than the adjoining property to the east, 2 Ford Avenue, although it appears to me that the difference in height varies considerably along the length of the shared boundary and the rear garden of no 2 rises up towards the appeal site. Whilst I have seen no plans indicating the difference in levels, and the height of the boundary fence, at the rear of no 2 and the appeal site, I am satisfied that the height of the fence as it exists in this location, bearing in mind its distance from the rear windows of the neighbouring property, is such that no significant harm to the outlook of the residents of this property is caused. In this respect I conclude, therefore, that the development does not harm the living conditions of the occupants of no 2.
7. The majority of the front garden of the appeal property is a paved driveway which rises steeply from the road to the dwelling. However, driveways of various materials are a common feature of the locality and I note that the area of driveway is not significantly larger than the hardstanding in the front garden of no 2 next door. Whilst somewhat more conspicuous than other nearby drives because of its elevated position I am not persuaded that it is unacceptably prominent or intrusive, given that it is partially obscured by the front wall and gates of the property. I therefore conclude that the driveway causes no significant harm to the character or appearance of the area.
8. With respect to my conclusions on the first two main issues, I find that the development has no conflict with policy B2 of the adopted *City of Sunderland Unitary Development Plan (UDP)* which indicates that new development should respect and enhance the best qualities of nearby properties and the locality.
9. Given the gradient and layout of the drive and its surface material, I envisage that the majority of rainwater falling on it would run off on to the highway. In view of the size of the drive a substantial amount of water, which would otherwise be likely to soak away naturally into the ground within the site, will be discharged into the drainage system. Annex F of *Planning Policy Statement 25 – Development and Flood Risk* indicates that surface water arising from a developed site should, as far as practicable, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development. The development does not accord with this guidance and I agree with the Council that, on this basis, it is therefore unacceptable, particularly as it appears likely that there is the potential for a soakaway to be installed which would more sustainably deal with surface water on the site.
10. The Council contends that the plans do not accurately reflect the development as constructed and it appears to me that the bungalow is located significantly closer to the boundary with Sycamore Villa than the 2m marked on the plans. I also note that the 10m width of the building, as marked on the site plan, does not accord with its width as indicated on other submitted drawings. I consider that it would be inappropriate to grant permission for an existing development which does not accord with the plans relating to that permission. Whilst I note the Council's suggestion of a condition of an approval requiring accurate plans



to be submitted, such an approach is, in my view, inappropriate. Accurate plans could bring to light other significant concerns about the development which are not currently readily apparent. Moreover, whilst the provision of a soakaway to address my drainage concerns could be potentially secured by condition, this approach is also inappropriate given that I have seen nothing to indicate that such a facility is actually a feasible proposition at the site and would prevent the discharge of water on to the highway. The appellant argues that the gradient of the drive could be dealt with by condition, although as the level of the highway and bungalow are now fixed I am not persuaded that the slope of the drive could realistically be altered.

11. I have noted the appellant's comments about the extant permission for a dwelling on the site with which, he argues, the appeal development accords, in certain aspects at least. However, I have not seen the plans for this scheme (which the appellant himself points out contained inaccuracies) and it has therefore had little bearing on my decision which I have based on the plans submitted as part of the appeal and what I saw at the site. I appreciate that the bungalow has improved the appearance of the previously overgrown site and accords with a number of UDP policies, although I consider that this does not justify granting permission for the development given its unacceptable drainage arrangements and the inconsistency between the plans for which approval is sought and the bungalow as constructed.
12. For the above reasons, and having regard to the appellant's account of the history of the development of the site, I conclude that the appeal should be dismissed.

*Malcolm Rivett*

INSPECTOR





# The Planning Inspectorate

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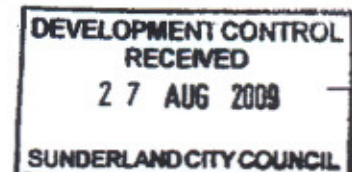
<http://www.planning-inspectorate.gov.uk>

Appeal  
decision

Mr K Scott  
Sunderland City Council  
Development And Regeneration  
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Your Ref: 08/03688/FUL  
Our Ref: APP/J4525/A/09/2103116/WF  
Date: 27 August 2009

Dear Mr Scott



**Town and Country Planning Act 1990**  
**Appeal by Gary Stewart**  
**Site at 21 Estuary Way, South Hylton, Sunderland, SR4 0RS**

I enclose a copy of our Inspector's decision on the above appeal.

Leaflets explaining the right of appeal to the High Court against the decision, our complaints procedures and how the documents can be inspected are on our website - [www.planning-inspectorate.gov.uk/pins/agency\\_info/complaints/complaints\\_dealing.htm](http://www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm) - and are also enclosed if you have chosen to communicate by post. If you would prefer hard copies of these leaflets, please contact our Customer Services team on 0117 3726372.

If you have any queries relating to the decision please send them to:

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Yours sincerely

Dianna Wride



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# Appeal Decision

Site visit made on 12 August 2009

**by Christopher Checkley**  
**BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
**27 August 2009**

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**Appeal Ref: APP/J4525/A/09/2103116**

**21 Estuary Way, South Hylton, Sunderland, Tyne and Wear, SR4 0RS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Gary Stewart against the decision of Sunderland City Council.
- The application Ref 08/03688/FUL, dated 25 September 2008, was refused by notice dated 21 November 2009.
- The development proposed is extension to front to provide enlarged lounge, extension to rear to provide enlarged kitchen, re-roof all to provide first floor attic bedrooms and bathroom.

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## Decision

1. I allow the appeal, and grant planning permission for erection of front, side and rear extensions with new pitched roof above to provide first floor attic living accommodation at 21 Estuary Way, South Hylton, Sunderland, Tyne and Wear, SR4 0RS, in accordance with the terms of the application, Ref 08/03688/FUL, dated 25 September 2008, and the amended plans submitted under it, subject to the following conditions:
  - (1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
  - (2) The materials used in the construction of the external surfaces of the extension shall match those used in the existing dwelling.
  - (3) Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order, with or without modification), all the windows in the north-facing and south-facing side elevations of the extensions shall be fitted with obscure glass only and shall be permanently retained as such.

## Main Issues

2. There are 2 main issues regarding the effects of the proposed development. First, the effect upon the street scene. Second, the effect upon the living conditions of the neighbouring residential occupiers.

## Reasons

3. I have revised the application description to better reflect the proposal.
  4. Policy B2 of the City of Sunderland Unitary Development Plan adopted in 1998 (UDP) requires that the scale, massing, layout or setting of extensions should
-



respect and enhance the best qualities of nearby properties. The related UDP Supplementary Planning Guidance (adopted 2000) (SPG) has been subject to public consultation and merits substantial weight. The September 2007 Consultation Draft Supplementary Planning Document: Household Alterations and Extensions (SPD) is a material consideration, but has not yet reached the stage where it merits the same weight. However, the SPG and SPD both give importance to the effect of extensions on the appearance of the host building and the street scene and the effect on the amenity of neighbours.

#### **Street scene**

5. The site comprises a detached bungalow with a pitched roof and detached flat-roofed garage to the side, with gardens to front and rear. It lies within the midst of a linear series of bungalows of somewhat varying styles and sizes but with a coherent design theme on the east side of Estuary Way. The landform slopes down appreciably from south to north.
6. The street scene here does not present a coherent building line. The bungalow at the appeal site is set well back on its plot. No 23 to the south stands higher up the slope, with its extended front elevation projecting significantly forward of that at the appeal site. No 19 to the north is on lower ground and stands well forward on its particularly wide plot. The front extension element would project the existing front gable elevation forward by about 2.7m, also raising the angle and height of its associated pitched roof very slightly. This forward projection would be contrary to the wording of the SPG guideline (paragraph 3.3.a.i) that front extensions should normally be limited to a forward projection of 1.2m. However, it would still stand a generous 13m or so back from the road, well behind the more prominently sited front elevations of both the bungalows either side. Therefore, this forward projection may be allowed as an exception to the norm, since it would not compromise the underlying objective of preventing a breach of an established building line.
7. The side extension element would be set back from this new front elevation, with the overall new roof having a raised central ridgeline only some 1.3m higher than the present bungalow roof ridge. The increase in ridge height would thus be limited. Whilst the heightened roof ridgeline would rise well above that at No 19 because of the change in levels, it would extend no higher than the adjacent ridgeline at No 23 next door. Therefore it would not appear overly tall in height and scale in this context.
8. Although the enlarged bungalow would come closer to the boundary with No 19, it would replace in part a detached garage that currently stands alongside the boundary. Adequate visual separation would be maintained between the enlarged bungalow and the bungalows to either side.
9. If the appeal is dismissed, the appellant intends to add full length dormer extensions to both sides of the existing pitched roof, which the Council accepts could be undertaken under permitted development rights without any need for planning permission. Such action would result in an incongruous dwelling out of keeping with its surroundings and harmfully obtrusive in the street scene. This is a material consideration in my determination of the appeal before me.



10. The appeal proposal would use matching materials and reflect the pitched roofs and gables evident in the existing dwelling and other bungalows nearby. The scheme would significantly increase the size of the dwelling, but its design, mass, scale, height and roof-form would not be out of keeping with the general character, scale and height of the host dwelling and other bungalows locally. On this issue, I conclude that the extended dwelling would not form an obtrusive element within the street scene. There would be no material conflict with the provisions of UDP Policy B2 or SPG and SPD objectives including respecting identifiable building lines and the character of host dwellings.

***Living conditions of the neighbouring residential occupiers***

11. The residents of No 23 would experience minimal change and no material harm and the Council raises no objection in this regard.
12. There would be a greater effect upon the residents of No 19, since the proposed side extension with its pitched roof would come closer to the boundary where it would appear elevated as a result of the marked rise in ground levels up to the appeal site. However, any tendency to an overbearing and overshadowing effect would be substantially mitigated by several factors. First, there is already a large garage right on the boundary that would be replaced, albeit by a longer and taller structure. Second, the increase in mass apparent from the neighbouring property would be limited by the sloping away of the pitched roof from the boundary. Third, the minor increase in overshadowing and visual impact would be limited by comparison with the effect of the existing boundary screening provided by the conifers and fence and would primarily affect the adjoining section of rear garden in the mornings and early afternoons rather than the main habitable rooms or patio. The rear garden at No 19 is wide and the main patio area lying towards the far side of the garden would not experience unacceptable loss.
13. On this issue, I conclude that whilst there would be an appreciable change for the residents of No 19, the slightly increased visual impact and overshadowing would not be so great as to unacceptably harm their living conditions. No significant conflict would result with the objectives of UDP Policy B2 and the SPG and SPD regarding the amenity of neighbours.

***Conclusions and conditions***

14. I conclude that planning permission should be granted subject to necessary conditions, including the standard time limit on commencement of development. Materials matching those used in the existing bungalow are to be used so that the extension blends with the dwelling. As indicated in the submitted plans, all the windows proposed in the north-facing and south-facing elevations of the extensions are to be obscure glazed to prevent any harmful overlooking of the neighbours.

*C J Checkley*  
INSPECTOR





# Appeal Decision

Site visit made on 3 August 2009

by **Anthony Lyman** BSc(Hons) DipTP  
MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
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Decision date:  
19 August 2009

**Appeal Ref: APP/J4525/A/09/2103312**

**Grindon Post Office, 71-75 The Broadway, Sunderland, SR4 8NR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by The Post Office c/o E C Harris, against the decision of Sunderland City Council.
- The application Ref 08/04248/FUL, dated 7 November 2008, was refused by notice dated 30 January 2009.
- The development proposed is the installation of a new external ATM unit.

## Decision

1. I dismiss the appeal.

## Main issues

2. The main issues relating to this appeal are the effects of the proposal on, i) highway safety and ii) the living conditions of nearby residents.

## Reasons

### Highway safety

3. Grindon Post Office is within a general convenience store and newsagents on the busy thoroughfare, The Broadway, at the corner of Glenleigh Drive. The proposal is to install an ATM cash machine in the side wall of the premises facing on to Glenleigh Drive which is a residential road.
4. At the side of the property there is a parking area for the use of patrons of the store and the Post Office, which was a condition of a previous permission relating to the shop and the flat above. The appellants state that there is room for six cars, although the Council refer to there being four parking spaces. Irrespective of the actual capacity, I saw on my site visit that the area was fully used and that cars were parked in the side road and on the corner of the junction obstructing visibility and causing congestion for through traffic and residents on Glenleigh Drive. Double parking was also evident with drivers having little regard to the consequences of their parking. A number of traffic accidents have occurred in recent years in the vicinity of the appeal property.
5. On The Broadway itself, parking spaces are limited by double yellow lines, bus stops and signal controlled pedestrian crossings. Furthermore, The Broadway, which is a key route into Sunderland City Centre, is planned to be widened to





create one extra traffic lane in each direction and this may reduce still further the limited availability of on-street parking spaces.

6. Against this background, it is evident that any increase in traffic movements in the vicinity of The Broadway/Glenleigh Drive junction would further exacerbate the already congested situation, as witnessed on my own site inspection, the Council Highways Officers' inspection and by the observations of local residents. Therefore, on this issue I conclude that the introduction of the ATM would exacerbate traffic and parking problems in the area, to the further detriment of the safety of pedestrians, cyclists and other road users, contrary to Policy T14 of the City of Sunderland Unitary Development Plan, (UDP).

#### *Living conditions*

7. The residents living in Glenleigh Drive, nearest to The Broadway clearly suffer from the amount of traffic and associated parking in connection with the local shops, a situation which the Council acknowledge may get worse once The Broadway improvements have been undertaken. Residents refer to driveways being blocked, damage to garden walls and gates from reversing cars and the noise and disturbance from vehicles. I noted on my visit that one resident has gone to the length of installing a bollard at the end of his drive.
8. The shop, within which the Post Office is based, opens late into the evening, and therefore the disturbance is not restricted to normal shopping hours. The ATM would be accessible 24 hours per day and the disturbance from car engines, radios and slammed doors could occur at any time during the night when local residents are entitled to expect some respite from the noise. I am not persuaded by the appellants' argument that research indicates *that ATMs are least used between the hours of 11.00pm and 7am*. The statement is obvious but does not preclude night time use. The noise from a single car or from a group of people at the ATM in the early hours of the morning would be particularly disturbing against the low background traffic and other noise levels at that time of the night.
9. I consider that the proximity of the proposed ATM to neighbouring dwellings would have a detrimental effect on the living conditions of local residents. This would be contrary to Policy B2 of the UDP, the supporting text to which states that new development should take into account the amenities of adjoining properties.

#### **Conclusion**

10. For the reasons given, and having had regard to all other matters raised, I dismiss the appeal.

*Anthony Lyman*

INSPECTOR





# Appeal Decision

Site visit made on 3 August 2009

by **Anthony Lyman** BSc(Hons) DipTP  
MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
19 August 2009

**Appeal Ref: APP/J4525/A/09/2097513**

**55 Holly Avenue, New Silksworth, Sunderland, Tyne and Wear, SR3 1DT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Adam King against the decision of Sunderland City Council.
- The application Ref 08/03720/FUL, dated 9 July 2008, was refused by notice dated 8 December 2008.
- The development proposed is to incorporate waste land as part of residential garden.

DEVELOPMENT CONTROL  
RECEIVED

19 AUG 2009

## Decision

1. I allow the appeal, and grant planning permission for a change of use from open space to private garden with 1.8m high fence enclosure at 55 Holly Avenue, New Silksworth, Sunderland, Tyne and Wear, SR3 1DT in accordance with the terms of the application, Ref 08/03720/FUL, dated 9 July 2008, and the plans submitted with it.

## Procedural matters

2. The description of the proposed development given in the heading above is taken from the application form. However, in determining this appeal, I will have regard to the Council's more accurate description of a change of use from open space to private garden with 1.8m high fence enclosure.
3. The change of use has already occurred, the fence has been erected and the application has been made retrospectively.

## Main issues

4. The main issues relating to this appeal are the effects of the proposal on, i) the character and appearance of the area, ii) the safety of pedestrians.

## Reasons

### Character and appearance

5. The appellant's house is an end of terrace property with a long rear garden which backs on to a former railway cutting. Within the cutting there is a National Cycle Route and a network of footpaths. One access to the cutting is via a footpath from Holly Avenue, which runs between the appellant's and a neighbour's rear gardens.
6. The access consisted of a tarmac footpath and a strip of open land which ran alongside the appellant's original fence. However, it is apparent from the



photographs submitted by the appellant that, the tract of open space had not been maintained by either the Council or the house builder for many years, and had become overgrown, neglected and a dumping ground for bags of garden and other rubbish. Following unsuccessful approaches to the Council to get the area tidied up, the appellant cleared the rubbish himself and incorporated the strip of land into his garden.

7. The Council now describe this narrow strip of land as an important area of amenity open space and consider that its loss undermines the contribution that the site makes to the character of the area. However, the Council confirms that there does not appear to be any maintenance agreement relating to the site and on my site visit I saw a similarly neglected, almost impassable access to the cutting nearby. The unsightly state of these areas and the subsequent dumping of rubbish significantly harm the character and appearance of the area and deter users. The proposal has made a considerable improvement to the appearance of the area and has not had a serious adverse effect on its amenity, recreational or nature conservation value which Policy B3 of the City of Sunderland Unitary Development Plan (UDP) seeks to protect.

#### *Safety of pedestrians*

8. The footpath now runs between close boarded fencing on either side and is wide, well surfaced and lit. Although a slight curve in the line of the path obscures through visibility, the footpath is far more user friendly now that the intimidating foliage and the shadows it created have been removed. The Council argue that the fencing *obstructs inter-visibility between National Cycle Network Route No. 1 to the north and the highway in Holly Avenue to the south*. However, the overgrown state of the footpath did little to enhance the inter-visibility to which the Council refer and as I saw on my site visit the cycle route cannot be seen from the top of the cutting anyway because of the dense vegetation. I conclude on this issue that the proposal has improved the potential for surveillance of the route and that walking the footpath now feels far safer for pedestrians in accordance with Policy T14 of the UDP.

#### *Other matters*

9. The Council has referred me to an Appeal Decision relating to the enclosure of open space in Membury Close, Sunderland. However, the Inspector refers to that existing footpath as being 'commodious and attractive' and states that the proposed fencing would create two additional blind corners on the route and eliminate surveillance across the site. There appears to me to be sufficient differences between the two schemes to justify a different conclusion.

#### **Conclusion**

10. For the reasons given and having had regard to all other matters raised, I allow the appeal and grant permission for the change of use and the fencing. The Council has requested that I impose the standard commencement time condition. However, as this is a retrospective application and the development has been completed, the condition is not necessary.

*Anthony Lyman*

INSPECTOR





# The Planning Inspectorate

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Keith Lowes  
Sunderland City Council  
Development And Regeneration  
Civic Centre  
Burdon Road  
Sunderland  
SR2 7DN

Your Ref: 07/04411/FUL  
Our Ref: APP/J4525/A/09/2101257/NWF  
Date: 22 September 2009

Dear Mr Lowes

**Town and Country Planning Act 1990**  
**Appeal by Mr Ed Alder**  
**Site at Flodden Road, High Ford, Sunderland**



I enclose a copy of our Inspector's decision on the above appeal together with a copy of the decision on an application for an award of costs.

Leaflets explaining the right of appeal to the High Court against the decision, our complaints procedures and how the documents can be inspected are on our website - [www.planning-inspectorate.gov.uk/pins/agency\\_info/complaints/complaints\\_dealing.htm](http://www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm) - and are also enclosed if you have chosen to communicate by post. If you would prefer hard copies of these leaflets, please contact our Customer Services team on 0117 3726372.

Please note that there is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review. This must be done promptly.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit  
The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square, Temple Quay  
Bristol BS1 6PN

Phone No. 0117 372 8252

Fax No. 0117 372 8139

E-mail: [complaints@pins.gsi.gov.uk](mailto:complaints@pins.gsi.gov.uk)

Yours sincerely





Kevin Plummer

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*You can now use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is -*

*<http://www.pcs.planningportal.gov.uk/pcsportal/casereport.asp>*

*You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button*

**Schedule of conditions for Appeal Ref: APP/J4525/A/09/2101257**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) No development shall take place until details of landscaping have been submitted to and approved in writing by the local planning authority. These details shall include proposals for the protection of existing trees and hedgerows, planting plans, schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme. Development shall be carried out in accordance with the approved details.
- 3) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives its written consent to any variation.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. the loading, unloading and storage of plant and materials
  - iii. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - iv. wheel washing facilities
  - v. measures to control the emission of dust and dirt during construction.
- 5) Construction works shall not be undertaken outside the hours of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 and 13:00 Saturdays, and shall take place at no time on Sundays or Bank or Public Holidays.
- 6) No development shall take place until a scheme to deal with the risks associated with landfill gas and contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include:
  - i. a preliminary risk assessment
  - ii. where necessary a site investigation scheme



- iii. the results of any site investigation and detailed risk assessment
- iv. details of any remediation measures required, how and when they are to be undertaken and if necessary how they are to be retained
- v. details and timings of sampling and target levels to be achieved
- vi. post remediation monitoring arrangements, including necessary funding.

Development shall be carried out in accordance with the approved scheme, unless otherwise agreed in writing by the local planning authority.

If following the commencement of development, contamination not previously identified is found to be present, no further development shall be carried out until an amendment to the scheme setting out the details of any additional remediation measures required has been submitted to and approved in writing by the local planning authority.

- 7) No development shall take place until details of the provision for pedestrian and vehicular access during the works has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme, unless otherwise agreed in writing by the local planning authority.



## APPEARANCES AT THE HEARING

### FOR THE APPELLANT:

Ms Lois Lovely BSc, MA, MRTPI  
Mr Niall Kelly BA(Hons), DipTP,  
MRTPI, MIED  
Mr Len Worsfold  
Mr Ed Alder MRICS MRTPI

Associate Director, GVA Grimley  
Planner, GVA Grimley  
Director, Gladedale (Sunderland) Ltd  
Land Manager, Gladedale (Sunderland) Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Councillor Alan Wright  
Councillor Sheila Ellis  
Councillor Peter Wood  
Councillor Tony Morrissey  
Mr Kevin Farrell MRTPI

Sunderland City Council  
Sunderland City Council  
Sunderland City Council  
Sunderland City Council  
Senior Planner, Sunderland City Council

# **The Planning Inspectorate**

## **Award of appeal costs:**

### **Local Government Act 1972 – section 250(5)**

#### **How to apply for a detailed and independent assessment when the amount of an award of costs is disputed**

This note is for general guidance only. If you are in any doubt about how to proceed in a particular case, you should seek professional advice.

If the parties cannot agree on the amount of costs to be recovered either party can refer the disputed costs to a Costs Officer or Costs Judge for detailed assessment<sup>1</sup>. This is handled by:

The Supreme Court Costs Office  
Clifford's Inn  
Fetter Lane  
London EC4A 1DQ  
(Tel: 0207 9477124).

But before this can happen you must arrange to have the costs award made what is called an order of the High Court<sup>2</sup>. This is done by writing to:

The Administrative Court Office  
Royal Courts of Justice  
Strand  
London WC2A 2LL

You should refer to section 250(5) of the Local Government Act 1972, and enclose the original of the order of the Secretary of State, or his Inspector, awarding costs. A prepaid return envelope should be enclosed. The High Court order will be returned with guidance about the next steps to be taken in the detailed assessment process.

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<sup>1</sup> The detailed assessment process is governed by Part 47 of the Civil Procedure Rules that came into effect on 26 April 1999. You can buy these Rules from Stationery Office bookshops (formerly HMSO) or look at copies in your local library or council offices.

<sup>2</sup> Please note that no interest can be claimed on the costs claimed unless and until a High Court order has been made. Interest will only run from the date of that order.





# Appeal Decision

Hearing held and site visit  
made on 11 August 2009

**by Christopher Checkley**  
**BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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**Decision date:**  
**22 September 2009**

**Appeal Ref: APP/J4525/A/09/2101257**

**Land at Flodden Road, High Ford, Sunderland, Tyne and Wear**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Gladedale (Sunderland) Ltd against the decision of Sunderland City Council.
- The application (Ref 07/04411/FUL) dated 28 September 2007 was refused by notice dated 5 February 2009.
- The development proposed is erection of 90 no. residential dwellings and the refurbishment of 2 no. existing dwellings together with associated works.

## Decision

1. I allow the appeal, and grant planning permission for the erection of 90 no. residential dwellings with associated works and stopping up of existing highway (amended plans and description) at land at Flodden Road, High Ford, Sunderland, Tyne and Wear, in accordance with the terms of the application, 07/04411/FUL dated 28 September 2007, and the amended plans submitted with it, subject to the conditions set out in the attached schedule to this decision.

## Preliminary matters

2. An application for costs was made by the appellant, Gladedale (Sunderland) Ltd, against Sunderland City Council and it is the subject of a separate Costs Decision.
3. The application area and the detailed scheme were the subject of amendments prior to the application being determined. At the hearing the Council confirmed that the decision notice was in error in referring to some incorrect reference numbers and some drawings that had been superseded. My decision is made on the basis of the revised proposals shown on the amended drawings that were submitted on 13 June 2008 and 7 October 2008, as further amended by the revised Planning Layout ref G4:L:01G submitted on 17 November 2008 which omits the on-site play space at the request of the Council. The full set of revised drawings is listed in the letter dated 8 April 2009 from the agent to the Planning Inspectorate.
4. Also, I am using the description of the proposals within the decision notice, since this better describes the amended proposals that are before me. Finally, I am using the name of the company cited as the applicant on the application form as the appellant.



5. A completed unilateral undertaking signed by the appellant and the landowner was submitted by the appellant prior to the hearing. It contains an undertaking to make staged payments to the Council for off-site recreation provision. I have accorded significant weight to it.

### **Main issues**

6. There are 2 main issues in this appeal. First, whether, in the absence of a Master Plan Supplementary Planning Document (SPD) for the High Ford Neighbourhood Renewal Area (NRA), the proposals are harmfully premature, unacceptably piecemeal or likely to be prejudicial to the delivery of the wider High Ford area strategic housing sites. Second, whether the amended scheme would achieve a good standard of design and layout.

### **Reasons**

#### ***Premature, piecemeal or prejudicial development***

7. The appeal site is just under 2 ha in area and is predominantly a cleared former housing site that has been grassed over. Most of the site lies within the boundaries of the partially cleared urban area referred to as the High Ford Neighbourhood Renewal Area (NRA) which extends to about 12.45 ha in area. The essence of the Council's main objection was that, since a Master Plan SPD was not available for the whole High Ford NRA, the proposal would result in a piecemeal and premature development, prejudicing future development of the adjacent land at High Ford which was considered to be a strategic housing site. The Council was also concerned that allowing this development would establish a binding precedent for the future design, density, massing and housing mix that would have to be followed for the whole of the High Ford NRA.
8. The companion guide to *PPS1, The Planning System: General Principles*, sets out government advice on the issue of prematurity (paragraphs 17-19 inclusive). It indicates that in some circumstances it may be justifiable to refuse planning permission on grounds of prematurity where a Development Plan Document (DPD) is being prepared or is under review but has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD. A proposal for development which has an impact on only a small area would rarely come into this category. Similarly, *PPS3: Housing* (paragraph 72) advises that applications should not be refused solely on the grounds of prematurity. The Council did not seek to show that prematurity of this kind would arise.
9. I was told that the preparation of a Master Plan had been recommended in a Neighbourhood Renewal Assessment consultancy study (NRAS) commissioned jointly by the Council and the landowner (now a registered social landlord known as the Gentoo Housing Group). The NRAS was non-statutory assessment prepared by consultants and is not part of the development plan. Its recommendations therefore carry very limited weight in comparison with the development plan and a copy was not presented in evidence. There is no



requirement in the development plan to prepare a master plan for the High Ford area prior to granting any planning permissions within it.

10. The Council identified the High Ford area as one of its strategic housing sites within its Interim Strategy for Housing Land published in February 2006 (ISHL). Although the ISHL was subject to public consultation it was not subject to formal plan preparation procedures or public examination and it therefore warrants little weight in comparison to the development plan and national policies. The Council did not put forward evidence to show any significant conflict with its strategic approach to housing and regeneration, and indeed expressed no objection to appropriate housing development at High Ford.
11. Although the appeal site has been cleared of housing and lies within part of the urban area of Sunderland that is identified by the Council as in need of neighbourhood renewal, preparation of a High Ford Master Plan SPD has not taken place and the Council indicated at the hearing that this SPD is not listed as an intended document within the local development scheme. Such a document would not be subject to independent examination and would not form part of the statutory development plan. Clearly, no material weight can be attached to an intended Master Plan SPD document that does not yet exist and which is subject to no firm programme for its preparation.
12. The saved (September 2007) policies of the adopted City of Sunderland Unitary Development Plan (UDP) and the policies of the Regional Spatial Strategy (RSS) form part of the statutory development plan and provide the primary and appropriate policy context for the determination of this application.
13. I was presented with no basis under development plan policy or national guidance for the Council's case that the application would be premature in advance of the preparation of any High Ford Master Plan SPD that may or may not be prepared at some future date. None of the other material considerations before me indicate evidence of harmful prematurity. On the contrary, it would be contrary to the environmental and regeneration objectives of the development plan for the site to remain in its vacant and unused state.
14. In its hearing statement the Council refers to the appeal site as being a "*relatively small area of land*" (paragraph 6.1.4). I saw that the appeal site has well defined boundaries to the north, east and south in the form of established and significant public highways, and that it merges with existing development to the west. The site is separated from the remainder of the NRA to the north by Fordfield Road, a lengthy east-west route. The topography does not impose any special requirements. I find that the site is reasonably discrete and well-defined and the development of 90 homes would create its own identity without appearing piecemeal or unrelated to its surroundings. There was no case made that the scheme was so substantial that granting permission could prejudice policy objectives about the scale, location or phasing of new development. Indeed, the Council positively supported the principle of housing redevelopment of the appeal site and raised no objection to the total number of dwellings proposed.



15. Therefore, I find no evidence that the amended scheme would be harmfully piecemeal in extent or nature. It would connect well with its surroundings and relate harmoniously with them.
16. Although it was not specified as a refusal reason, a further objection expressed by members at the hearing was that the housing mix should have included both bungalows and social housing. However, no evidence on housing needs was put before me by the Council to substantiate this contention. The scheme would include a range of 2-storey dwellings for sale, including 37 two-bed, 50 three-bed and 3 four-bed houses in a mix of terraced, semi-detached and detached forms. I find that the amended scheme before me offers a reasonable mix of house types that would meet the 4 criteria within UDP Policy H1 (of maximising locational choice whilst allowing for a variety of needs, catering for reduced out-migration and increasing household formation, assisting the regeneration of existing residential areas and securing the re-use of vacant land). The new private housing would widen tenure choice locally in this locality which retains a high proportion of rented stock. I note that Gentoo owns other land in the NRA and as a registered social landlord it states an intention to use the capital receipt from the sale of the appeal site to help fund social housing on the adjoining land.
17. The Council did not present any evidence that development of the appeal site would prejudice future redevelopment of the adjacent land or delivery of the strategic housing sites in the High Ford area. On the contrary, I consider that it is more likely that the substantial private housing investment and environmental improvements arising from the appeal scheme would boost confidence in the area and act as a catalyst for the regeneration of the adjoining land at High Ford in a complementary manner. This would help the Council achieve the housing targets in RSS Policy 29 regarding the recycling of vacant urban land and delivery of net additional annual average housing numbers for the District, which are not currently being attained because of the recent high levels of demolition. The scheme would supply a reasonable mix of houses that would widen the tenure choice available locally, without prejudicing the development of strategic housing sites in the wider High Ford area.
18. The Council also did not demonstrate any conflict with the UDP Policies specified in the second refusal reason. Policy H12 applies to existing Council housing which is no longer applicable to this cleared site. Policy H13 applies to existing private housing which is again not directly relevant to this site, but the scheme will assist the underlying policy objective of investing in and upgrading the private housing stock and undertaking environmental improvements. The scheme would accord with the objective of UDP Policy B1 to secure environmental improvements and its traditional form would relate harmoniously to existing development as required by UDP Policy B2.
19. I find that the Council's objections under this issue, which related to the first 2 refusal reasons, were not substantiated by the submission of evidence that any demonstrable harm would arise if permission were to be granted for the amended scheme and the housing mix now before me. I conclude that the proposals would not be harmfully premature, unacceptably piecemeal or prejudicial to the delivery of the wider High Ford area strategic housing sites.



***Design and layout***

20. The third refusal reason simply stated that the proposed development does not achieve a good standard of design, contrary to Policy B2 of the adopted UDP. This refusal reason was vague and failed to meet the duty to be complete, precise and specific. The cited policy indicates amongst other things that the scale, massing, layout or setting of new development should respect and enhance the best qualities of nearby properties and the locality and requires that large scale schemes creating their own individual character should relate harmoniously to adjoining areas.
21. The layout and design had been the subject of lengthy negotiations with the officers over a protracted period, resulting in several revised schemes being considered prior to the appeal scheme being recommended for approval by the officers. This includes an amended layout, additional design features to the dwellings, full details of proposed materials and revised boundary features. The play area was removed at the request of the officers. The Council members giving evidence at the hearing declined to sustain the written objections previously made in the Council's pre-hearing statement regarding inadequate landscaping details, lack of an on-site play space, absence of adequate footpath and highway connections to the surrounding area, and concerns about security of the houses and sustainability/insulation standards.
22. Despite the wording of the refusal reason the members raised no detailed objections to the amended design or layout of the particular scheme. At the hearing in response to repeated invitations to clarify which elements of the scheme failed to achieve good design and were therefore harmful, members referred to the lack of a Master Plan and the absence of bungalows or social housing from the mix.
23. I find that the development would provide a reasonable mix of 2, 3 and 4-bed houses with private garden space in a layout that ensures permeability and connectivity with its surroundings, whilst meeting the Council's residential design guidance standards and criteria. Future residents would have good access to bus routes, shops, schools and other services and facilities including recreation areas.
24. Members failed to show that any demonstrable harm would arise from the amended scheme with regard to the scale, massing, layout or setting of the scheme or its relationship with the surroundings. No conflict was established with regard to the provisions of UDP Policy B2 cited in the refusal reason. There was no suggestion that the scheme would fail to comply with the minimum standards or criteria within the Council's Residential Design Guide SPD.
25. I conclude that the amended scheme would provide a good standard of design and layout and that no conflict would arise with the provisions of UDP Policy B2 or national guidance in PPS1 (paragraphs 33-38).

***Other matters***

26. Since I have found that no harm would arise from the amended scheme, it follows that no harmful precedent would be created by approving this



application. In any case, any further applications on other parts of the NRA would be determined on the basis of the development plan policies and national guidance then current, including the emerging Local Development Framework, and any up-to-date housing needs assessments including the SHLAA, and all other material guidance and considerations that were relevant at the time.

27. Additionally, the amended scheme subject to this appeal would accord with a number of objectives of the development plan (both the UDP and RSS) and of national policy (including PPS1 and PPS3) including those regarding recycling of brownfield urban land, development of mixed communities, and creation of a range and choice of housing within sustainable locations under the sequential approach and the encouragement of well designed housing developments.

#### ***Unilateral undertaking***

28. UDP Policy H21 seeks the provision of play space within housing developments of the size proposed and Policy R3 indicates that developers will be expected to enter into planning obligations to enable suitable provision of open space and formal provision. The original layout included the provision of a play area within the site. However, Council officers asked for this to be deleted and a financial contribution instead made to enable off-site recreation provision elsewhere within the locality. The Appellants sought to enter into a legal agreement with the Council on this matter, but when the Council withdrew from negotiations a unilateral undertaking was instead submitted by the appellant committing to the payment to the Council of £61,200 in 3 separate payments linked to the completion of each third of the total number of dwellings.
29. I consider that the submitted planning obligation is necessary to address the effects of the proposed housing on local recreation facilities and the making of staged payments relates reasonably to the advent of the need for recreation facilities. The contribution would appear fairly and reasonably related in scale and kind to the proposed development and it would meet the tests set out in Circular 05/2005. At the hearing the Council objected to the planning obligation being in the form of a legal agreement rather than a unilateral undertaking. Part of the undertaking purports to bind the Council to agreeing to refund the contributions if they are not spent appropriately within a certain timescale. Whilst this requirement would not be binding on the Council as it is not a party to the undertaking, the principal obligation on the developer/landowner to make recreation payments is enforceable by the Council. Therefore, I accord the unilateral undertaking significant weight since it is necessary to fulfil the objectives of the cited UDP Policies and is enforceable by the Council.

#### ***Conditions***

30. I have assessed the conditions suggested by the Council against the advice in Circular 11/95. I am imposing the standard 3 year commencement condition, as the 5 year period sought by the appellant would have extended the consent forward significantly to a time when circumstances might have changed significantly. A schedule listing the external finishes and materials of external surfaces has already been submitted and not objected to by the Council;



therefore a condition on the matter is not needed. Conditions are required to ensure that appropriate landscaping is provided and established in the interests of the appearance of the area. Conditions relating to working arrangements and hours of working during construction are required in the interests of the living conditions of surrounding residents and road safety. In the interests of the safety of future residents and the protection of controlled waters and the wider environment, conditions regarding potential contamination and its remediation are required since the area has been previously been subject to development including industrial activity. A condition is also required to ensure appropriate pedestrian and vehicular access is provided during the construction works.

### **Conclusions**

31. I have taken account of all other matters raised but none outweigh the above considerations. I conclude that the proposed development would comply with UDP Policies H1, H12, H13, B1 and B2 and that permission should be granted subject to necessary conditions.

*C J Checkley*  
INSPECTOR