
SUPPLEMENTARY PLANNING
GUIDANCE

Guidelines for the Introduction of A2 and
A3 Uses and Amusement Centres into the
Secondary Shopping Frontages of
Darlington Town Centre

Darlington Borough Council
October 1998

GUIDELINES FOR THE INTRODUCTION OF A2 AND A3 USES AND AMUSEMENT CENTRES INTO THE SECONDARY SHOPPING FRONTAGES OF DARLINGTON TOWN CENTRE

1. Introduction

- 1.1 This Supplementary Planning Guidance (SPG) is published to assist both the Council and developers in the interpretation of Policies S4, S5 and S19 of the Borough of Darlington Local Plan insofar as they relate to the secondary shopping frontages of the town centre. It was formally adopted as Supplementary Planning Guidance to the Borough of Darlington Local Plan by the Council on 20 October 1998 (resolution at Minute C39/Oct/98) following a period of public consultation on a draft version.
- 1.2 The Government's Planning Policy Guidance Note 1 (para.42) explains the need for SPG: "Highly detailed policies which provide no flexibility may become outdated very quickly as circumstances change. ... In some cases, the preparation of Supplementary Planning Guidance may be a more appropriate means of covering detailed issues to supplement the policies in plans. Such guidance should be consistent with the policies to which it relates. SPG does not have the same status as an adopted plan policy ... However, it may be a material consideration in determining planning applications."
- 1.3 Policies S4, S5 and S19 permit the introduction of class A2 service uses, class A3 food and drink uses and amusement centres respectively into the defined secondary frontages, "provided that the overall concentration of non-shop uses in a particular length of frontage would not be such as to undermine its character or vitality as a shopping frontage". (There is a further proviso for amusement centres relating to amenity of neighbours.) The number of non-shop uses in secondary frontages has increased significantly in recent years and there is concern that the underlying shopping function of some may be jeopardised if the proliferation continues. The guidelines in this SPG set out how the Council will assess the impact of future planning applications for the non-shop uses in question.
- 1.4 The guidelines have been drawn up following a study by the Council into the vulnerability of shopping frontages to changes of use¹. This included a review of contemporary planning practice (local plan policies and planning appeal decisions) across the country and an assessment of the current validity of a workshop held by the Unit for Retail Planning Information some twenty years ago². The guidelines are particular to Darlington but many elements derive from the findings of best practice elsewhere.

2. The Guidelines

- 2.1 Where a proposal can be implemented without taking the proportion of class A1 shop uses in the relevant length of frontage below 70%, then the overall concentration of non-shop uses will not be considered to be such as to undermine its character or vitality as a shopping frontage. The proposal will thus accord with Policies S4, S5 or S19 of the Local Plan and be permitted (subject to criterion A of Policy S19, in the case of amusement centres).

¹ 'The Secondary Shopping Frontages of Darlington Town Centre: A Study Into the Undermining of the Shopping Function, and Proposed Supplementary Planning Guidance, Darlington Borough Council, September 1998.

² 'Service Outlets in Shopping Centres', Report U8, URPI, March 1979.

- 2.2 Where a proposal would result in the proportion of class A1 shop uses in the relevant length of frontage falling or remaining below 60%, then the overall concentration of non-shop uses will be considered to be such as to undermine its character or vitality as a shopping frontage. The proposal will thus conflict with Policies S4, S5 or S19 of the Local Plan and, in the absence of other material considerations, will not be permitted.
- 2.3 Where a proposal would result in the proportion of class A1 shop uses in the relevant length of frontage falling or remaining below 70% but not below 60%, then the overall concentration of non-shop uses will be considered to have the potential to undermine its character or vitality as a shopping frontage. Proposals which would result in the location next to one another of three or more non-shop uses will constitute an unacceptable concentration, unless the units are unusually narrow. The following other factors will be taken into account in assessing the impact of a proposal:
- the nature of the use proposed, in particular the extent to which it would be attractive to shoppers and contribute genuinely to diversity;
 - the size (frontage width) and prominence of the property;
 - if vacant, the prospects of the property finding another A1 use in the foreseeable future;
 - recent trends in the balance of shop and non-shop uses in the frontage, whether stable or changing, and at what pace;
 - the resulting frontage proportion - proposals which would result in an A1 frontage of between 65% and 70% will normally be more acceptable than those which result in a level below 65%.
- 2.4 To amplify the previous paragraph, proposals which are intermixed with shops, are attractive to shoppers and contribute to diversity will be assessed more favourably than those which adjoin other non-shop uses, do not provide a service to shoppers (such as businesses which only open on an evening) and simply add to existing concentrations of a single use. A change of use will be more acceptable in a frontage where the balance of shop and non-shop uses has been relatively stable than in one where there have been significant recent shifts, the consequences of which may still not be fully apparent. Proposals for the conversion of a small, inconspicuous, property will be more likely to be permitted than those for a prominent, large unit which might set the tone for a frontage. A vacant property which is eminently suitable for A1 use will be treated in the same way as one which is still in A1 use.
- 2.5 Where the particular kind of use proposed is a factor in making a proposal acceptable, then the Council will impose a condition on any approval of planning permission to prohibit future changes of use, even where that future change may be within the same use class.
- 2.6 If the Council considers that the number of unimplemented planning permissions for change of use in a frontage is accumulating, and thus causing uncertainty, it may impose tighter than normal time-limits for their commencement. Periods of 12 or 18 months should be sufficient for most changes of use to be carried out. The time-limits will be imposed by a condition on the planning permission.

3 Method of Calculation

3.1 The proportions referred to in the guidelines will be calculated as follows:

- they will be based on linear frontage, not number of units;
- totals will include all ground floor properties, commercial and non-commercial;
- outstanding, unimplemented, planning permissions for non-shop use will be taken into account;
- otherwise, vacant properties will be allocated to their previous permitted use;
- display windows, doors and blank walls, and entrances to basements, upper floors or the rear of premises, will be included where they form part of a defined frontage;
- access points to side streets, malls, yards and service areas will be excluded, as will side windows, doors and walls which are not part of a defined frontage.

3.2 The relevant length of frontage for which calculations will be made will depend on the location of the proposal: each must be assessed in its proper context. It is impossible to specify here the 'proper context' for all 235 properties in the secondary frontages because each location is unique. It is not appropriate to say simply that calculations will be made for 'streets' or 'blocks', as that would be to define a context arbitrarily on the basis of postal addresses, or physical gaps which may be insignificant in the functioning of the area. The following points are offered for guidance:

- It will never be appropriate to base calculations on the town centre or secondary shopping frontages as a whole.
- On the other hand, calculations should not be based on too limited a length, particularly where this appears contrived in order to distort an assessment.
- Pedestrian behaviour patterns will help determine a context, in particular the identification of 'decision points' - the places at which significant flows of shoppers make a decision on whether to proceed one way or another. Calculations will rarely be appropriate for a length shorter than that between two decision points.
- There is no direct correlation between context and length: the context of one property may take in the whole of a long street and beyond if this has a cohesive nature as a shopping frontage, whilst that of another property in a detached or fragmented location may be considerably shorter.
- For some properties, calculations should include both sides of a street where these relate well to one another. This is more likely, for example, in a narrow pedestrianised street than for a wide thoroughfare which carries constant vehicular traffic. Similarly, a property at a junction may need to be assessed in the context of three or more sides of nearby streets.
- Calculations regarding a property on or near a corner will usually need to take into account return lengths, where these are defined as shopping frontages.
- The context for a property may include parts of a nearby primary shopping frontage, which should be included in a calculation accordingly.
- Where, even after taking all the above into account, there are still genuine grounds for disagreement on the 'proper context' of a particular proposal then each of the alternative calculations should be made available for consideration when the Council determines the planning application.

4. Status of the Guidance

- 4.1 For the avoidance of doubt, this SPG is not intended to go beyond the Local Plan policies to which it relates, rather it is meant to assist in their interpretation. In particular, it must be emphasised that the proportions set out in Section 2 above are guidelines and not rigid thresholds. Planning proposals will continue to be determined in the context of the Local Plan policies and any other material considerations relevant to a case, of which this SPG will be one.

5. Further Information

- 5.1 Further information on the SPG can be obtained from Brendan Boyle of the Planning Policy section of the Borough Council's Department of Development & Environment; telephone (01325) 388630.

**Darlington Borough Council,
Town Hall,
Darlington,
DL1 5QT**

October 1998

ANNEX: CONSULTATION STATEMENT

1. This statement has been prepared in accordance with Planning Policy Guidance Note 12, Development Plans (December 1999) which requires that when a local planning authority adopts supplementary planning guidance (SPG):

"a statement of the consultation undertaken, the representations received and the local authority's response to those representations should be made available with each copy of the SPG (either in an annex or in a separate document)." (para. 3.16)

The Consultation Undertaken

2. A draft of the SPG was published on 3 September 1998 with comments invited by 2 October, a period of four weeks. A wide range of 130 local and national organisations and individuals were notified directly (see Appendix 1) and a public notice was placed in the Northern Echo on 4 September. Press news coverage ensured further publicity locally. The secondary frontages study (referred to in para. 1.4 of the SPG) was made available as a background document free of charge.

Representations Received

3. Comments were received from five organisations: Peter Freitag Associates, Sanderson Townend & Gilbert (STG), Simpsons Pharmacy, the Darlington District Civic Society and Whitbread plc. The Government Office for the North East replied to say that the Secretary of State had no comments to make. Appendix 2 summarises the comments and officer responses to them. A late objection was received from the owner of 12 Skinnergate making similar points to Whitbread.
4. The Civic Society supported the guidelines and STG commended the study. Freitags and Simpsons essentially believed it was 'too late' to save the shopping function of some secondary shopping frontages.
5. The only outright objection to the guidelines was from Whitbread who were at the time pursuing a planning appeal for a change of use at 12 Skinnergate.

Council Response to the Representations

6. The Council, at the meeting of the Economic Development and Planning Committee on 20 October 1998, welcomed the support of the Civic Society and STG. It did not consider that the comments of Freitags and Simpsons warranted any changes to the guidance.
7. The Council did not agree with the objection from Whitbread but decided in the light of it that the SPG should make clearer than in the draft that: it is consistent with the relevant Local Plan policies and is meant to assist in their interpretation not supersede or go beyond them; and that the guidelines are precisely that, not rigid thresholds. The Council therefore adopted the SPG with the amendments shown in Appendix 3.

APPENDIX 1:
CONSULTEES ON THE PROPOSED SUPPLEMENTARY PLANNING GUIDANCE

Estate agents:

Sanderson Townend & Gilbert
Peter Freitag
Reeds Rains
JW Wood
Malcolm Rennison
Alan Ayers
Tarn Bainbridge
Jackson Stops & Staff
Smiths Gore
Whitegates
Charltons
Halifax
Cornerstone
Bairstow Eves
Black Horse/ Storey Sons & Parker
Dodds Brown Commercial
Hill Woolhouse

Other planning and retail consultants:

Colliers Erdman Lewis
Conrad Ritblat
CR Planning
Cunnane Town Planning
David Stovell
DTZ Debenham Thorpe
G L Hearn & Partners
Grimley
Herring Baker Harris
Lamb & Edge
Matthew & Goodman
Montagu Evans
Rendel Planning & Environment
Robert Turley & Partners Ltd
Roger Tym Associates
Town Planning Consultancy

Individuals and organisations with an interest in
Skinnergate or the current planning appeals:

Allied Domecq Leisure
Argos Distributors Ltd
Camerons Brewing Company
Cobbetts Solicitors
Greenwoods (Menswear) Ltd
Guidehold & Dealerkirk Ltd
JD Wetherspoon plc
Mr M Craster
Pizza Express plc
The Mason Organisation
Vaux
The Residents of Arcadia Court

Barbara Winroth
Miss MJ and Mr J Parish
Mr & Mrs J Hutchinson
Mr J Biagioni
Mrs Margaret Lockett
Skinnergate Cycles
Haines & Sons
Darlington Society of Friends
The Rendezvous
Risbey's
The Three Needles
Main Engraving Services
Fabrica
Speedy Pepper
Isabel Moore
Remedies
Barbers Shop
Dawson's Locksmiths
Chips
Argos
Skinnergate News
Rock 90
Rowells Gents Hairdressers
Haines & Sons
Wren's Quickso
Euro Fashion
Robin Finnegan Jewellers
Rowells Ladies Salon
Leggs
Le Tiffin
Darlington Pine Centre
AA Insurance
Bag Scene
Berties
British Red Cross Shop
Gala Bingo Club
Greggs
Ladbrokes
Leveys
Lloyds Bank
Newcastle Building Society
Savers
Scope Shop
St Cuthbert's Care Shop
St Theresa's Hospice Shop
The Samaritans Shop
Alan Nicholls
Bubbles
Christine's
EF McMahon
Games Workshop

Geoffrey Mash
Hair & Beauty
Halfords
Lotties Kitchen
M Denham
Malcolm Smith
Malings
McWills
Motor Mania
Normans
Petstop
Saks
Simpsons
Tasty Macs
Taylors
Three Squares
Traditions

Others:

Secretary of State for the Environment, Transport
& the Regions
Darlington Chamber of Trade
Darlington District Civic Society
Darlington Environmental Watch
Clark's Yard Traders Association
Noble Organisation Limited

**APPENDIX 2:
SUMMARY OF COMMENTS RECEIVED ON THE PROPOSED SPG, Sept-Oct 1998**

RESPONDENT	SUMMARY OF COMMENTS	OFFICER RESPONSE
Peter Freitag Associates (estate agents)	<ol style="list-style-type: none"> 1. Considers that Skinnergate and 'the Wynds' are no longer shopping streets. 2. Reports decreasing interest for 'normal shopping uses' in Skinnergate. 3. The long term alternatives are to grant changes of use "according to your normal previous criteria" or to see an increasing number of empty shops. 4. To spread entertainment venues around elsewhere in the town could lead to "law and order problems". 	<ol style="list-style-type: none"> 1. Not accepted: both Skinnergate and Post House Wynd still contain significant numbers of A1 shops, albeit reduced in recent years. 2. Noted. There is, however, still sufficient demand to keep all but one A1 unit occupied at present; indeed Freitags themselves recently let No. 78 Skinnergate to an incoming A1 user. 3. Local Plan Policies S4, S5 and S19, and their aim of protecting the shopping character and vitality of the secondary frontages, remain unaltered; the proposed guidelines are intended to establish objective criteria for doing so, not to replace any. Vacant units are not a problem in Skinnergate, or in Darlington town centre in general, so there is no reason to believe that adopting the SPG will lead to any increase in long-term empty shops. 4. This comment is somewhat melodramatic and without substance.
Sanderson Townend & Gilbert (estate agents)	<ol style="list-style-type: none"> 1. Considers that the study "is a very thorough document and a good reflection on the Council that future policy will be based on such a comprehensive study of the facts". 2. Remarks upon the apparently "unstoppable" commercial pressures in other towns for conversion to A2 and A3 uses. 3. Observes that "the worst thing is a long-term empty shop, but the reasons for empty shops in Darlington town centre are often based on problems of repairing liability and/or legal problems of tenure etc and nothing to do with lack of demand for A1 space". 	<ol style="list-style-type: none"> 1. Noted. 2. One of the roles of the planning system is to regulate otherwise 'unstoppable' commercial pressures for the use of land and property, in the public interest. 3. Noted. There are indeed few long-term empty shops in the town centre and only one in Skinnergate (No. 40, the subject of a recent planning permission).
Simpsons Pharmacy (corner of Bondgate / Skinnergate)	<ol style="list-style-type: none"> 1. Questions whether adopting the guidance will have any significant effect. "A1 shops have closed or relocated to higher foot-fall locations (e.g. out of town, Cornmill). Given the right opportunity I would not hesitate to relocate my business to a 'better' location." 2. Would prefer to see Skinnergate fully let to A1, A2 and A3 in any proportion rather than see empty units. 3. The 'forces of nature' are now at work and planning guidance should reflect this. "I sincerely believe you may be accused of shutting the stable door after the horse has bolted should this proposal be adopted". 	<ol style="list-style-type: none"> 1. Only two former Skinnergate retailers moved to an 'out-of-town' retail park and two others relocated to the Cornmill; all are multiple retailers whereas Skinnergate is traditionally occupied mainly by local independent retailers. If the SPG helps control changes in this and other secondary frontages to the benefit of the underlying shopping function it will have an effect. 2. See above response to Peter Freitag Associates, point 3. 3. See above response to Sanderson Townend & Gilbert, point 2. The retailers who have objected to the recent change of use proposals in Skinnergate do not appear to consider it too late to control such 'forces'.
The Darlington District	"Fully support the guidelines."	Noted.

RESPONDENT	SUMMARY OF COMMENTS	OFFICER RESPONSE
Civic Society		
Whitbread plc	<p>Objects to the SPG on the following grounds:</p> <ol style="list-style-type: none"> 1. It conflicts with Government advice on supplementary guidance in PPG1 and PPG12. 2. It advocates an overly restrictive and inflexible approach to the determination of planning applications through the use of set percentages. 3. The percentage thresholds are not appropriate to secondary frontages and fail to take account of the nature of the use proposed. 4. There is a conflict in approach within the guidelines with sites being treated on their locational merits but against rigid criteria in terms of their use. 5. The timescales for implementation of permissions are unreasonable. A minimum period should be at least 2 years. 	<ol style="list-style-type: none"> 1. This claim is unsubstantiated and not accepted. The SPG is consistent with the Local Plan policies to which it relates and is intended to assist in their interpretation not replace them. 2. The SPG puts forward <i>guidelines</i>, and deliberately avoids fixing a 'set', single, percentage point above which proposals would be permitted and below which they would be refused. The approach adopted allows all relevant factors to be taken into account in borderline cases. Furthermore, exceptional circumstances would constitute 'other material considerations' to be weighed into the assessment of an otherwise unacceptable proposal. 3. The objector fails to put forward any alternative thresholds although it must be noted that as recently as 21 May, in support of the proposal at 12 Skinnergate, the company freely submitted that "it is generally accepted that a balance of 70% retail to 30% non-retail uses is a balance which maintains retailing as the dominant activity". This suggests thresholds similar to those in the SPG were initially considered appropriate by the company. The Council's ability to control the future use of premises is limited by the Use Classes Order, but the nature of a particular use may make one proposal more acceptable than another, as is made clear in the SPG. 4. The objector proposes the use, in isolation, of criteria such as those in SPG paras. 2.3/2.4. This ignores the fact that the starting point of the guidance is to assist the Local Plan policies in interpreting 'concentration' and relevant 'length of frontage'. 5. Any timescales attached to a permission would be as appropriate to the individual proposal and would be discussed with applicants. A period of 2 years may well be appropriate in some situations.

APPENDIX 3:
AMENDMENTS TO THE DRAFT SPG FOLLOWING CONSULTATION

A. Changes made to paragraphs 2.1, 2.2 and 2.3:

- 2.1 Where a proposal can be implemented without taking the proportion of class A1 shop uses in the relevant length of frontage below 70%, then the overall concentration of non-shop uses will not be considered to be such as to undermine its character or vitality as a shopping frontage. The proposal will thus accord with Policies S4, S5 or S19 of the Local Plan and be permitted (subject to criterion A of Policy S19, in the case of amusement centres).
- 2.2 Where a proposal would result in the proportion of class A1 shop uses in the relevant length of frontage falling or remaining below 60%, then the overall concentration of non-shop uses will be considered to be such as to undermine its character or vitality as a shopping frontage. The proposal will thus conflict with Policies S4, S5 or S19 of the Local Plan and, in the absence of other material considerations, will not be permitted.
- 2.3 Where a proposal would result in the proportion of class A1 shop uses in the relevant length of frontage falling or remaining below 70% but not below 60%, then the overall concentration of non-shop uses will be considered to have the potential to undermine its character or vitality as a shopping frontage. Proposals which would result in the location next to one another of three or more non-shop uses will constitute an unacceptable concentration, unless the units are unusually narrow. The following other factors will be taken into account in assessing the impact of a proposal:

B. Additional paragraph:

4. Status of the Guidance

- 4.1 For the avoidance of doubt, this SPG is not intended to go beyond the Local Plan policies to which it relates, rather it is meant to assist in their interpretation. In particular, it must be emphasised that the proportions set out in Section 2 above are guidelines and not rigid thresholds. Planning proposals will continue to be determined in the context of the Local Plan policies and any other material considerations relevant to a case, of which this SPG will be one.