



Appeal Decision

Site visit made on 29 October 2025

by **C Harding BA (Hons) PGCert PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2025

Appeal Ref: APP/J4525/W/25/3371934

Premier Store, 48 Eglinton Street, Sunderland, SR5 1DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by HOSSEIN RANJBAR / ICY PRICE LTD against the decision of Sunderland City Council.
 - The application Ref is 25/01439/FUL.
 - The development proposed is change of use from existing use Class E commercial retail unit to also allow for hot and cold food commercial catering for takeaway and delivery (Proposed sui generis mixed use: Display/Sale of goods including the sale of cold and hot food) with new extraction system including external ducting and cowl to rear of property.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal upon the health and wellbeing of local communities, and;
 - the effect of the proposal on the living conditions of occupiers of nearby properties with particular reference to noise and disturbance.

Reasons

Health and wellbeing of local communities

3. The appeal site comprises a convenience store located at the corner of a street of terraced residential properties. Although a residential area, other small commercial premises can be found close by. Grange Park Primary School is located to the north, further along Eglinton Street.
4. Policy VC4 of the Sunderland Core Strategy and Development Plan ('CSDP') states that to promote healthier communities, that the development of hot food takeaways is prevented within a 400 metre ('m') radius of entry points to all primary and secondary schools; and that such development is prevented in wards where the prevalence of obesity is more than 21% for Year 6 pupils or 10% for reception pupils.
5. Paragraph 96 of the National Planning Policy Framework ('the Framework') advises that planning decisions should enable and support healthy lives through promoting good health and preventing ill-health, especially where this would address identified local health and wellbeing needs and reduce health inequalities

between the most and least deprived communities, for example through access to healthier food. Paragraph 97 of the Framework states that applications for hot food takeaways and fast-food outlets ('HFTAs') within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre, should be refused.

6. The Council has stated, and it is not disputed, that Grange Park Primary School lies around 150m from the appeal site. The proposal would conflict with CSDP Policy VC4 for this reason. Moreover, there is no dispute that the most recent data on obesity rates within the Southwick ward indicate that Year 6 and Reception Year childhood obesity rates stand at 28.9% and 14.9% respectively. The proposal would therefore conflict with CSHP Policy VC4 for this reason also.
7. I acknowledge that as a primary school, that in most cases that children would be accompanied to school by adults, and that they would be unlikely to be leaving the school site on a lunchtime. Although it is asserted that all primary schools have to "hand over" pupils under 11 years of age to a responsible person, there is no evidence before me to demonstrate that this is the case at Grange Park Primary School. I cannot, therefore, be certain that pupils, particularly those towards the upper age range would not be travelling to and from school alone or in groups, particularly if they reside only a short distance away.
8. However, even if it were the case that children were not accessing or leaving school premises alone, CSDP Policy VC4 is clearly concerned with child obesity, and access to HFTAs more generally. The policy seeks to prevent HFTAs being established anywhere within a ward where child obesity rates exceed the stated thresholds, not just where they are close to primary schools. Therefore, the potential for children to access HFTAs more generally is also the focus of the policy, rather than that it solely relating to the proximity of such proposals to school premises, and there is nothing to indicate that the proposal would prevent children access hot-food to takeaway outside of school hours, or at weekends or during holidays.
9. I acknowledge that the appeal premises is a modest convenience store serving the local neighbourhood. It may be the case that the amount of hot food served may not be significant in comparison to other existing outlets. Nevertheless, it would still represent an addition to the number of such outlets in the area, contrary to the aims of SCDP Policy VC4 and paragraphs 96 and 97 of the Framework. Although with young children, there is an element of parental or carer responsibility in terms of diet, it would be unrealistic to assume that no children would purchase hot food from the proposal whether supervised or unsupervised, and by increasing the choice, convenience and availability of such goods, I consider it likely that the proposal would be harmful to health and wellbeing in the local area.
10. It is not within the scope of this appeal to consider the merits of SCDP Policy VC4, or its potential effectiveness, or indeed the effectiveness of other similar policies elsewhere. Ultimately, the policy forms part of an adopted development plan, which was subject to public consultation and examination, and it aligns strongly with advice set out in Framework. I therefore afford significant weight to it.
11. My attention has been drawn to a grant of planning permission for an HFTA in County Durham where a planning condition was attached to restrict the opening hours of the unit to outside of school hours. As the harm that would result from the

proposal which is before me would not result solely from its proximity to a school, I consider that such a condition would not adequately mitigate the harm that I have found in this instance.

12. I have also been presented with an appeal decision relating to a site in South Tyneside. While I have had regard to the decision and reasoning of the Inspector in that case, I note that it related to the introduction of a hot-food takeaway element to an existing food establishment, and moreover, that there was no relevant Local Plan policy relating to that proposal, rather the Council was reliant upon a policy set out in a Supplementary Planning Document. The circumstances of that case, therefore, were not wholly comparable to the proposal and circumstances that are before me now, and therefore this decision does not lead me to conclude that the proposal before me would not result in harm in relation to this main issue.
13. Drawing these strands together, I find that the proposal would harm the health and well-being of local communities. It would conflict with CSDP Policy VC4, the content of which I have set out above.

Living Conditions

14. The proposal would include the installation of a flue to the rear of the appeal property. I understand that a residential flat is located at first floor level, accessed by means of a door in the side elevation. A large, single storey, flat-roof rear projection is located at the rear of the appeal property.
15. The proposed flue would project upwards from a point above the flat roof rear projection. Although there are windows at first floor level within the rear elevation of the appeal property, there would be separation between them and the proposed flue.
16. The evidence which is before me includes full specification of the proposed flue and extraction equipment. While the property is located in a predominantly residential area, which is likely to be relatively quiet, particularly at night, there is no indication that the proposed equipment would be unusually noisy. However, there is the possibility that the equipment could be audible given its relatively close proximity to windows in the rear elevation of the appeal property.
17. It is asserted that the fan would be silent running, however, there is no confirmation of this within the provided specification. Nevertheless, given the nature and scale of the proposal and level of detail provided in relation to the extraction equipment, it would be excessively onerous in this case to require the appellant to provide a full noise survey.
18. However, given that I have identified that the possibility of harm to occur exists, it would be necessary to control the noise level from the proposed extraction by means of a planning condition, such as that suggested by the appellant, and I consider that this would adequately mitigate any potential harm.
19. Concluding on this main issue, the proposal would not unacceptably harm the living conditions of occupiers of nearby residential premises with particular regard to noise and disturbance. It would accord with CSDP Policies HS1 and DP Policy BH1 insofar as they relate to this main issue, which together and among other factors state that developments must not result in unacceptable adverse impacts which

cannot be addressed through appropriate mitigation, and ensure a good standard of amenity.

Other Matters

20. My attention has been drawn to another business which is said to operate as a Class E operation, but with a greater degree of hot food to takeaway than is proposed in the case which is before. However, the reference is very general, and no specific premises have been put before me to demonstrate the lawfulness or otherwise of such examples, or that they would be directly comparable in nature or circumstances.
21. I acknowledge that it is the appellant's intention to continue to operate the convenience store element of the business alongside the HFTA element, and that this would avoid a "shutters down" scenario, which might be expected with some HFTA businesses which may only open in the evenings. However, the effect of the proposal on the vitality of the area is not a matter of dispute. In any case, the continuation of the existing convenience store operation would be a neutral factor, and would not weigh in favour of the proposal, particularly as there is no suggestion that it would cease should the appeal fail.
22. It has been put to me that the appeal premises could sell ancillary amounts of hot food as part of the existing use, and that this represents a fallback position. This may be the case. However, the proposal before me amounts to an unrestricted mixed-use and the permission would extend to allowing sales of potentially far greater volumes than might be considered ancillary. Therefore, while the fallback position may exist, and I recognise that there is a greater than theoretical prospect that the appellant could seek to make use of it should the appeal fail, there is no evidence before me which would demonstrate that it would be more harmful than the appeal proposal. Accordingly, it is not a factor that weighs in favour of the proposal.
23. Similarly, it has been highlighted that the appeal premises could operate as a café, nursery, gym or other indoor recreation operation without the need for further planning permission. However, even if this is the case, there is no substantive evidence before me which would demonstrate that these alternative uses would be anything other than theoretical, particularly in the context of the appellant's stated intention of continuing the convenience store operation. Accordingly, they do not form fallback positions to which I can afford anything other than very limited weight in favour of the proposal.
24. I acknowledge that the appellant has a desire to ensure that the business operates with the appropriate permissions. I am also mindful that the diversification of the existing business would increase the services on offer to local residents, and the level of support that the proposal has received from interested parties in this respect.

Planning Balance and Conclusion

25. The Framework states that significant weight should be placed on the need support economic growth and prosperity. The proposal would represent a diversification of the appellant's business, and would have the potential to strengthen it. However, there is no evidence before me which would indicate that the existing business is

not operating successfully. It would also increase variety and choice within the local area and has received support from interested parties on this basis.

26. Weighing against this is the harm that I have identified and the associated development plan conflict. I am also very mindful of the firm advice set out at paragraphs 96 and 97 of the Framework in relation to proposals such as this.
27. The proposed development conflicts with the development plan when considered as a whole. Whilst the proposal would not harm the living conditions of neighbouring residents, this, nor other matters, do not outweigh the identified harm and associated development plan conflict that I have identified. There are, therefore, no material considerations which would indicate taking a decision other than in accordance with the development plan in this instance.
28. For the reasons given above, I conclude that the appeal is dismissed.

C Harding

INSPECTOR