

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning & Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY: The Borough Council of Gateshead

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. They consider it expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Sofa Design, Units 1-2 Meadow Court, Dukesway, Team Valley, Gateshead, Tyne And Wear, NE11 0PZ shown edged red on the attached plan.

3. **THE BREACH OF PLANNING CONTROL**

Without Planning Permission the unauthorised change of use of industrial unit to furniture showroom.

4. **REASONS FOR THIS NOTICE**

It appears to the Council that the breach of planning control has occurred within the last ten years.

A planning application was granted on 5th November 2003 for the erection of two industrial unit with ancillary office facilities (Use Class B1, B2 and B8), (ref DC/03/00953/FUL.).

A retrospective planning application No. DC/05/01716/COU was then submitted on 27th October 2005 to change the use to a furniture retail showroom. This application was subsequently withdrawn on 2nd December 2005 as it was invalid, and the Council had requested additional information and this was not received. A further planning application DC/06/00131/COU was submitted on 26 January 2006 for as change of use from an industrial unit to a furniture showroom. It was refused on 22nd March 2006 on the following grounds.

There is insufficient information to assess the need for the development (quantitative or qualitative), how the site has been chosen in a sequential manner, its impact or how it is accessible in a sustainable manner. Therefore, as an out-of centre retail in a

primary employment area the development may adversely impact on the provision of employment opportunities, the vitality and viability of Gateshead Borough's retail centres and would not be a sustainable development. On this basis the development would be contrary to national planning policy PPS6 (retail), which requires such uses to be fully tested in terms of retail need, impact and location. It is also in contrary to adopted UDP policies R7, R8, S19 and T6, and re-deposit draft UDP policies RCL7, JE1 and DC4.

The site is now occupied, and the occupier of the building is using it for retail purposes (use class A1). This is in breach of the existing planning permission for the site.

R7 Within Primary Employment Areas development for, and changes of use to, B1, B2, B8 and C1 uses as defined in the Town and Country Planning (Use Classes) Order 1987 (business, general industrial, storage and distribution and hotels) and leisure uses will be permitted subject to detailed considerations and providing that there is no significant adverse effect on the environment. In the case of large-scale leisure developments proposals must also satisfy the sequential test.

R8 Within Primary Employment Areas development of, and changes of use to, retailing, residential (including residential institutions) and other non-employment uses, will not normally be permitted. Exceptions may be made for:

- a) small shops (less than 250 square metres) which do not affect the vitality and viability of an existing centre;*
- b) petrol filling stations and/or car showrooms or drive-through restaurants (but not subsequent shopping use);*
- c) warehouse clubs which satisfy the criteria set out in policy S20;*
- d) proposals which would improve or provide public open space, landscaping or wildlife habitats;*
- e) proposals which would improve off-street car parking; and*
- f) proposals which would improve working conditions.*

S19 The development of free-standing food stores or any other large-scale shopping facilities (other than those which are the subject of Policy S18) outside existing shopping centres will be permitted only if the proposal meets the following criteria:

- a) it does not have a detrimental effect on the vitality and viability of existing centres;*
- b) it does not divert new investment away from existing centres;*
- c) it is accessible by a choice of means of transport;*
- d) it is physically incapable of being accommodated within, or on the fringe of, an existing centre; and*
- e) it is not on land allocated for, or currently in, employment use.*

T6 The following measures will be implemented to secure the safer use of the highway network:

- a) giving priority to safety in the design of roads, traffic management and regulation;*
- b) making safe provision for pedestrians, cyclists and people with disabilities, including the segregation of pedestrians and cyclists from vehicles wherever possible;*
- c) promoting road safety;*
- d) resisting development proposals which make inadequate provision for access and parking and are therefore likely to be prejudicial to road safety; and*
- e) resisting proposals for advertisements which are likely to be prejudicial to road safety.*

RCL7 Planning permission for town centre uses on sites not within an identified centre or Gateshead Primary Shopping Area, nor on sites allocated for such within the plan, will only be granted where the need for the development has been demonstrated and where no suitable sites are available within the city, town, district or local centres.

Where the need for the development has been demonstrated and no suitable sites are available within centres, planning permission for town centre uses on the edge of or outside existing centres will be granted subject to the following considerations:

- a) the extent to which the proposal would impact on the strategy and objectives of the development plan;*
- b) the extent to which the proposal would impact on the vitality and viability of existing centres, including Gateshead Primary Shopping Area, either by itself, or cumulatively with other proposals;*
- c) the accessibility of the site by a choice of means of transport, and the efforts made to maximise use of these – proposals should not add overall to either the number or length of existing car trips;*
- d) whether the development would assist in enabling the wider redevelopment of brownfield sites for a variety of uses;*
- e) whether the development would contribute to the grouped provision of retail outlets of a similar type;*
- f) the extent to which the proposal meets local convenience shopping needs;*
- g) the use of a condition on any planning permission restricting the range of goods to be sold in retail warehouses to goods such as DIY, furniture and carpets;*

The payment of a commuted sum towards transport improvements may be required for new development on edge or out-of-centre sites, including MetroCentre and Retail World, in line with policy PO1.

JE1 in order to protect and maximise employment uses and development opportunities, Primary Employment Areas, shown on the proposals map, are identified in the following locations:

- 1.1 Addison*
- 1.2 Blaydon/Derwenthaugh*
- 1.3 Dunston*
- 1.4 Teams*
- 1.5 Team valley*
- 1.6 East Gateshead*
- 1.7 Felling*
- 1.8 Follingsby*
- 1.9 Portobello, Birtley*
- 1.10 Durham Road, Birtley*

Within Primary Employment Areas, subject to satisfying the criteria set out in policies DC1, DC2, DC3, DC4 and DC5 development of, and changes of use to the following areas are considered acceptable:

- Research and development, business and light industrial (B1)*
- General industrial (B2);*
- Warehousing, storage and distribution (B8);*

Development of, and changes of use to, the following uses will not normally be permitted:

- Retailing*
- Residential (including residential institutions);*
- Leisure*
- Other non-employment uses.*

Exceptions may be made for complementary supporting uses A1, A2, A3, A5 and D1, (less than 200sq m) where local need is demonstrated.

Exceptions may be made for hotels within East Gateshead PEA.

Exceptions may be made for car showrooms within PEAs,:

- Demonstrating that the proposal cannot be accommodated on alternative edge of centre sites;*
- Locating in the vicinity of the main road network;*
- Integrating within an existing cluster of car showrooms; and*
- Being accessible by a choice of means of transport.*

The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

- (i) Cease the retail (Use class A1) use of the property.

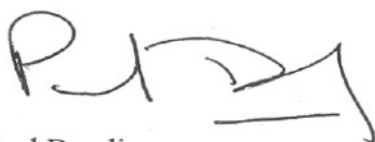
6. TIME FOR COMPLIANCE

- (i) Two calendar months after this notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 19th July 2006, unless an appeal is made beforehand.

Dated: 14th June 2006



Signed: Paul Dowling
Head of Regulatory Services

For and on behalf of the Borough Council of Gateshead.

EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received by the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed booklet "Enforcement Notice Appeals – A Guide to Procedure" sets out your rights. Please read it carefully. You may use the enclosed appeal forms.

- One is for you to send to the Secretary of State if you decide to appeal, together with a copy of this enforcement notice.
- The second copy of the appeal form and notice should be sent to the Council.
- The third copy is for your own records.

FEES

Upon lodging an appeal there is deemed to be an application for planning permission, whether or not reliance is placed upon the ground set out under Section 174(2)(a) of the 1990 Act. A fee, equal to twice that which would have been payable if a planning application were made for the development specified in the enforcement notice, is payable to have this ground considered.

No fee is payable if;

- you have already made an application for planning permission, accompanied by the appropriate fee, for the development specified in the enforcement notice, that was undetermined at the time the notice was served, or,
- you have already lodged an appeal with the Secretary of State against the Council's refusal to grant planning permission for the development specified in the enforcement notice that was undetermined at the time the notice was served.

The fee in this case would be £530.00, half of which should be paid to the Planning Inspectorate (made payable to the Office of the Deputy Prime Minister) and the other half to the Council (made payable to City of Sunderland).

If a fee is due, and you do not pay it within the period specified by the Secretary of State, the deemed application will not be considered by the Planning Inspector.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an enforcement notice, which has taken effect, can result in prosecution and / or remedial action by the Council.

PERSONS ON WHOM THIS NOTICE HAS BEEN SERVED

The Company Secretary
SD De Cora Mobel Limited
Sofa Designs
Meadow Court
Dukesway
Team Valley Trading Estate
Gateshead
Tyne & Wear
NE11 0PZ

The Company Secretary
North East Property Partnership Limited
Picture House
Queen's Park
Team Valley
Gateshead
NE11 0NX

The Company Secretary
Meadow Properties (Northern) Limited
1 Bewicke View
Bright Meadow
Northside
Birtley
Tyne & Wear
DH3 1RD

The Company Secretary
National Westminster Bank Public Limited
Company
135 Bishopsgate
London
EC2M 3UR

Dukesway

Not Set



Scale : 1:1250

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	14 June 2006
SLA Number	Not Set