

Further Evidence to the Competition Commission Grocery Markets Inquiry

Planning Policy: the ‘town centres first’ approach, and the sequential and needs tests

Introduction

Further to our earlier submissions to this Inquiry and our hearing with the Competition Commission on 19th September 2006 this additional evidence relates specifically to some of the planning issues that the Commission is addressing in its current Inquiry and in particular its consideration of the ‘needs test’ and ‘sequential approach’ set out in Planning Policy Statement 6.

Friends of the Earth has already made clear its view that sustaining town centres is a crucial part of achieving wider sustainable development goals. However this submission concentrates primarily on the importance of PPS6 in sustaining the economic viability of town centres. We have also highlighted elsewhere our significant concerns about the policy bias contained in PPS6 in favour of large format stores, these concerns are not therefore repeated here.

As you will be aware from our submissions and oral evidence on 19th September we believe that planning policy needs to be strengthened at the national and local level to optimise retail diversity and consumer choice. We will set out our recommendations for changes to planning policy in a forthcoming document covering remedies. This paper focuses on the value of the existing policies. As set out in our previous submissions Friends of the Earth is very concerned that existing policies in Planning Policy Statement 6 which promote a ‘town centre first’ approach to planning for retail provision are under threat.

This submission explains the background to the development of the ‘town centre first’ policy and sets out why the sequential test and needs test were introduced through Planning Policy Guidance 6 and why they are still essential to implementing the Government’s policy of promoting new retail development within existing centres.

This submission demonstrates the importance of these policies in encouraging thriving town centres and shows that rather than restricting competition as suggested by the Office of Fair Trading (The Grocery Market, The OFT's reasons for making a reference to the Competition Commission, May 2006) , these policies encourage healthy competition and diversity in retail provision

What does “town centres first” mean?

The ‘town centres first’ policy in PPS6 is about boosting the economy of existing centres, (city and town centres, as well as major centres within urban areas) and market towns, as major drivers of the regional and/or local economies, and strengthening district and local centres as providers of accessible services to local communities

This means:

- promoting offices, shops, leisure, culture and public facilities within existing centres wherever possible
- promoting appropriate provision in different types of existing centres – appropriate to the type, scale and function of the centre
- creating vital and viable centres that are attractive places to invest and to do business as a result of promoting the attractions and creating an attractive environment
- strengthening district and local centres to enable them to provide a wide range of day-to-day needs – shops, post offices, pharmacies, health centres, etc
- developing a vision and strategy for each centre and taking a positive, and a proactive approach to identifying and bringing forward sites, improving access to the centre and improving the pedestrian environment

In summary it is about focusing growth so as to achieve vital and viable centres. For securing retail investment this means:

- ensuring that the right level of retail development is provided to meet need will ensure healthy competition – provision in excess of need would result in damage to smaller retailers
- avoiding the choice of out-of-centre sites when no suitable town centre sites exist if there is no need for more retail floorspace, but allowing out-of-centre development if there is a need and no more central sites are available

The policy is not therefore a prohibition on out-of-centre development. More detail on the aims of PPS6 can be found in **Annex A**.

The sequential approach

Background

The Government's policy toward new retail development from the mid 1980s enabled new development to locate more or less wherever developers wanted, as long as it was not in the Green Belt and did not cause too much harm to existing centres. The result was a rapid development of a large amount of out-of-centre retail schemes – regional shopping centres, supermarkets, retail warehouses and retail warehouse parks.

The Government decided to change this policy in the early 1990s due to rising concern about its impact on existing centres. The first attempt in 1993 merely established objectives and criteria for assessing proposals, but in 1996 the Government decided to focus new retail development in existing centres in order to promote their vitality and viability. This policy (PPG6) sought to do this by:

- planning for growth in town centres using a sequential approach to identify centrally-located sites to be allocated for retail development; and
- making applicants for out-of-centre schemes demonstrate that they could not find a more central site after having been flexible about scale, format and parking – the sequential test.

Use of the sequential test

PPS6 proposes the use of a sequential test to establish whether more central sites are available and suitable for retail development. This test is used:

- **in plan making** to identify suitable sites in or on the edge of the town centre to ensure that there are sufficient sites to meet forecast need for additional retail development over the time period of the plan – it is central to the positive and proactive approach to planning for growth (see PPS6, paras 2.44-46); and
- **in development control** to assess out-of-centre proposals to ensure that more central sites have been fully considered before proposing an out-of-centre site. (see PPS6, paras 3.13-19)

This discipline helps to ensure that central sites are fully exploited to promote the vitality and viability of the centre before allowing out-of-centre retail developments.

The sequential test is the key test to guiding development to central sites.

In order to assess proposals for out-of-centre retail developments, the sequential test requires the applicant to demonstrate that, after being flexible about site requirements, there were no more central sites that were suitable, viable and likely to become available within the next five years. To do this applicants have to demonstrate that they have fully assessed alternative, more centrally-located sites to see if they could accommodate such a development. By providing an assessment for each site, the analysis is transparent and the robustness of the exercise can be assessed.

The policy seeks to ensure that more central sites get developed before less central sites are chosen - it does not preclude out-of-centre retail development. If town centre sites are not available, edge-of-centre sites which could support the town centre are considered preferable to out-of-centre sites which would be a competing location. But out-of-centre sites can be considered if no more central site is available, suitable or viable after a developer has been flexible about the scale and format of the development, car parking provision and, where appropriate, the scope for disaggregation.

The needs test

Background

Although PPG6 expected local planning authorities to plan for future retail growth by assessing the amount of additional floorspace that would need to be accommodated over the plan period, it was less clear about whether out-of-centre development was acceptable if there were no forecast shortage of retail floorspace. It recognised that small, especially historic towns may not have any suitable town centre sites, but this should not mean that such places had to accept whatever quantity of out-of-centre development was proposed.

The issue came to head in 1998 when an out-of-centre supermarket was proposed outside a small town. There were no town centre sites, but also no need for a store that large as it would merely transfer retail sales out of the centre. The issue was why a small town should have to accept additional retail development outside the town centre just because there were no sites even though there was no need for this scale of additional development. This led to a Ministerial Statement (Caborn Statement) which required developers to demonstrate that there was a forecast need for additional retail floorspace which could not be met in the town centre - a needs test. This test only applies to proposals for development outside the town centre.

Use of the needs test

Like the sequential test the assessment of the need for additional retail development is also applied at two levels:

- **in plan making:** to assess how much additional retail floorspace of different types is needed in the plan area over the period of the plan. This is essential to understand the scale of growth that needs to be accommodated which in turn informs the strategic planning decisions about how the growth should be apportioned, the scale of growth that should go to particular centres to meet the need for both growth and regeneration. It helps planning authorities plan positively and to use growth to achieve broader policy objectives, such as:
 - promoting a more sustainable pattern of development,
 - regenerating existing centres,
 - tackling social inclusion by improving access to shopping
- **in development control:** to assess whether after having considered whether there are any more central sites, for proposals for development outside the primary shopping area, there is a need for further retail of that scale and type within the catchment area. The reason for this test is that if there are no more central sites, that is not sufficient justification for accepting out-of-centre developments as the development is likely to result in displacement of sales from the town centre to an out of centre location and have a detrimental effect on the vitality and viability of the centre. If there is a “need “ for more retail floorspace over the next 5 years the scheme may be justified, even if it is out of centre, provided that it does not adversely affect other centres and is accessible by a choice of means of transport.

Assessing out-of-centre proposals

An assessment of “need” seeks look ahead 5 years to establish how much retail expenditure can be met through existing retail floorspace and how much additional retail floorspace will be needed to provide for growth in expenditure of different types (eg comparison goods or convenience goods). It provides a broad, robust and transparent assessment of how much “headroom” there is likely to be in 5 years’ time for additional convenience or comparison retail floorspace.

This broad measure of “need” is a scoping tool for answering the questions about how much growth needs to be accommodated and whether this growth could be accommodated within an existing centre. It enables the case for new out-of-centre developments, whether new stores or extensions of existing stores, to be tested.

Whilst a “needs” assessment is in some ways the obverse of assessing impact in terms of trade diversion from existing centres, it is a much clearer indicator of whether such a development could result in trade diversion. However, impact assessment is more complicated and involves making further assumptions which

do not help answer the prior questions – does the additional floorspace required to meet future demand need to be this big and/or could it be accommodated in a more central location? Unlike impact, it is not a matter of precision (eg detailed impact), but about informing decisions about whether there are realistic choices about the quantity, type and location of new retail development.

This test does not apply to developments within an existing centre. The implication of the policy is that whilst out-of centre developments divert trade from existing centres, can even be anti-competitive and can be socially-exclusive if they are not accessible to all, additional retail floorspace in a centre adds to its competitiveness, increases the overall supply of floorspace, improves the choice, provides competition and is accessible to all. According to PPS6 such development is welcomed as long as the scale of the development is acceptable.

Why the sequential and needs tests are still relevant

Both approaches are central to plan making – to assessing how much development to plan for - and to the choice of sites. Without such a positive approach planning can only fall back on development control, and without these tests there is little left to steer new retail development to town centres.

Both approaches provide broad, robust and transparent tests about whether the town centre option could/should be the first choice, and provide a robust assessment to the questions: is it possible to use a more central site and is it necessary to choose an out-of-centre location?

To illustrate why both tests are essential for assessing proposed out-of-centre retail development the situation in England and Scotland can be compared. In Scotland there is no “needs” test for out-of-centre development. This means that if a developer can demonstrate that there are no more central sites available, out-of-centre developments may be approved. Recently a large number of out-of-centre schemes have been permitted. This is deterring town centre schemes being brought forward and the effect of future out-of-centre completions could have a significant impact on these centres.

In England, the application of both tests has given investors and developers the confidence to invest in city and town centres in the knowledge that only if both tests have been applied are major out-of-centre retail developments likely to be permitted. This confidence has led to large-scale investment in city and town centres.

Sequential Test

If proposals did not have to meet the sequential “test” - demonstrating that all possible more central sites had been fully assessed - developers could choose out-of-centre sites and ignore town centre sites. This test is crucial to securing the Government’s “town centres first” policy – consultation on SPP8 concluded that: “the sequential approach is regarded as a fundamental tool” for implementing the policy of concentrating retail and other activities in town centres (Scottish Executive Draft Scottish Planning Policy 8: Town Centres and Retailing: Analysis of Consultation Responses, August 2006). We already know what the alternative would be from our experience of the pattern of development after the policy change in the mid 1980s.

Need Test

The effect of not operating a need test would be a reversion to the pre-1999 situation where, if there are no suitable or viable sites likely to be available in the town centre in the next 5 years, a developer could propose any size of development in an out-of-centre location without the need to demonstrate that there is a need for this scale of development. The only constraints would be the impact of existing centres and accessibility. This would fail to secure the primary aim of the policy – to promote retail development in town centres.

The absence of a needs test in Scotland may account for the lower (and falling) proportion of new retail floorspace being completed in town centres in Scotland compared with England.

Conclusion

Both tests are designed to answer the broad questions of whether a more central option could/should have been the first choice by establishing whether the town centre option was possible and whether out-of-centre provision was necessary. Other factors, such as impact on existing centres and accessibility are subsequent tests if out-of-centre proposals provide satisfactory assessments on these two dimensions.

Without robust tests – such as the sequential test and the needs test – local planning authorities would only be left with refusing out-of-centre retail proposals or applying some ineffective criteria such as were used in the 1980s. Since the “town centres first” policy is not a ban on out-of-centre retail development the implementation of the policy requires robust criteria for assessing such proposals. The sequential test and the needs test do just that, with the onus on the applicant to demonstrate the need for development and why a more central site could not have been chosen.

Annex A

Aims of PPS6

The primary aim of PPS6 (paragraph 1.3) is to promote the vitality and viability of town centres by:

- planning for the growth and development of existing centres; and
- promoting and enhancing existing centres, by focusing development in such centres and encouraging a wide range of services in a good environment, accessible to all.

This means promoting and encouraging retail development in existing centres – city and town centres, district and local centres – encouraging comparison shopping developments in the larger centres, whilst promoting the provision of everyday shopping needs in the most local centres.

The “other Government objectives” (paragraphs 1.4 and 1.5) are subsidiary – to be achieved within the context of a “town centres first” approach. In this context this means:

- promoting city and town centres as major drivers of regional, sub-regional and local economies by planning for their growth, creating competitive places and encouraging new retail investment as retail is a major economic driver for town centres; and
- strengthening smaller centres - small towns, district and local centres - to enable them to provide a wide range of shopping and other services appropriate to such centres, to enhance consumer choice by “clustering” shops to provide a genuine choice in an accessible location, and to improve accessibility, promote social inclusion and deliver more sustainable patterns of development.

This will help:

- enhance consumer choice by focusing a range of shops, leisure and local services in centres to meet the needs of all the community;
- improve accessibility by focusing new development in places which are or will be well-served by a choice of means of transport – centres are usually the focus for public transport networks;
- promote social inclusion by ensuring communities have access to a range of shops and other services that meet their everyday needs; and

- promote regeneration and an improved environment in existing centres, secure investment, improve the public realm and create attractive and competitive centres.

Securing Town Centre First

The planning system seeks to secure these outcomes by:

- **planning positively for growth within and on the edge of existing centres** through:
 - assessing the need for additional retail floorspace,
 - identifying centres where development will be encouraged,
 - identifying where capacity exists;
 - applying a sequential approach to selecting sites for development;
and
 - develop a vision and strategy for their centres to secure investment.
- **assessing developments proposed outside centres** to ensure that:
 - there are no more central sites that could accommodate the development (sequential test)
 - there is a need for additional retail floorspace of that type over the next 5 years (needs test)
 - there are no unacceptable impacts on existing centres ; and
 - the location is accessible by a choice of means of transport.

