

12 Land and planning issues

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Introduction

12.1. At the time of the reference to us the DGFT said that, in his view, the impact of land prices and related matters on the cost structure of grocery multiples was increasing. He was particularly concerned about escalating land costs, planning delays and site development costs and the extent to which they contributed to the cost structure of firms. He believed that significant barriers existed, such that potential competition from new entrants might not be an effective constraint on the pricing behaviour and other strategies adopted by grocery multiples (see the press release issued at the time of the reference in Appendix 3.1). We considered these issues in some detail and appointed specialist land and planning consultants to assist us. This chapter sets out our findings.

12.2. Land and buildings make up the bulk of the main parties' investment in fixed assets, so we begin with a summary of the property holdings of the major parties (Asda, Morrison, Safeway, Sainsbury and Tesco). We next examine the appraisal procedures that grocery multiples use to determine whether a proposed new investment is financially viable. We go on to examine the land use planning system in some detail since, in practice, this to a very large extent determines the number of new supermarkets that are built, their location and their size. We examine how grocery multiples acquire, use and dispose of land and, for acquisitions from June 1992 onwards, their costs of land acquisition and development. Finally, we examine how these differ from the non-food retail sector and how they differ from costs in other major European countries.

The major parties' property holdings

12.3. In this section, we concentrate on the major parties. Table 12.1 gives the total original costs and the depreciated value of land, buildings and other related costs of these five. It also shows the total fixed assets of these companies' UK grocery businesses, and depreciated land and building costs as a percentage of the total. (Morrison gave no figures for depreciation of land or buildings.)

TABLE 12.1 Land and building costs and total fixed assets

Major party	Cost of land £m	Cost of buildings £m	Other related costs £m	Total cost less depreciation £m	Total fixed assets £m	Depreciated land and buildings as % of fixed assets
Asda*	[[[[[]
Morrison						
Safeway						
Sainsbury						
Tesco						
	<i>Figures omitted. See note on page iv.</i>					

Source: The major parties.

*Asda's cost figures derive from an asset revaluation in 1996/97 and are not original cost.

12.4. Multiples own or occupy property chiefly for the immediate purposes of their main business (stores and their ancillary facilities, warehouses and distribution depots or headquarters and other offices). Nevertheless some hold significant property not used in this way. It may be in course of development, let (to commercial or residential tenants) or lie vacant awaiting letting or disposal.

Operational property

12.5. Table 12.2 lists the total gross floor space of the major parties, broken down into stores and other operational property.

TABLE 12.2 **Gross floor areas of operational property 1999**

<i>Major party</i>	<i>Number of stores</i>	<i>Gross store area '000 sq metres</i>	<i>Number of other properties</i>	<i>Other operational area '000 sq metres</i>
Asda	227	1,686	22	287
Morrison	95	644	7	217
Safeway*	498	1,659	28	358
Sainsbury	424	2,267	27	346
Tesco	639	2,610	33	675

Source: The major parties.

*Floor area data unavailable for some properties.

Land held for store development

12.6. Table 12.3 shows the number of new store developments proposed by each of the major parties on land in which it holds an interest (for example, through ownership, option or conditional contract), together with numbers of proposed store extensions on existing sites or on adjoining land. It shows Tesco to have the greatest expansion programme, and the greatest landbank of sites for development, of the major parties, though many may be at very early stages of planning and are not certain to be pursued to the point that contracts become unconditional.

TABLE 12.3 **Total numbers of sites held for new stores and extensions**

<i>Major party</i>	<i>Sites for new stores and replacements</i>	<i>Extensions proposed</i>
Asda	53	*
Morrison	13	1
Safeway	46	21
Sainsbury	114	24
Tesco	153	125
Total	379	171

Source: The major parties.

*Asda proposes five store rebuilds that incorporate extensions.

Non-operational property

12.7. The five also have significant non-operational property holdings, although there are some variations in the quantity and types of property held. Broadly speaking, the properties can be categorized under six headings:

- (a) properties that are surplus following the acquisition of another business (mainly former food stores);
- (b) properties built as part of a wider scheme, often as a planning requirement (normally small shop units or flats but in Morrison's case including 47 industrial units alongside a store);
- (c) vacated stores awaiting letting or sale;
- (d) surplus stores which have been let, held either as investments or pending disposal;
- (e) land acquired in conjunction with the acquisition of land for a store, now held for (non-food) development; and

- (f) land pending disposal where development proposals have been abandoned, usually because of insurmountable planning or site assembly problems.

There was no evidence of sites held solely for the purpose of preventing another operator from acquiring them (see paragraph 12.154). In practice, though, once any part of a site has been acquired by a major party, compulsory purchase by the local authority is likely to be necessary to enable a competitor to build a store there.

Investment appraisal

12.8. In this section, we summarize how main parties identify sites and how they evaluate proposals to build new stores. Further detail is given in Appendix 12.1.

12.9. Five of the main parties (Asda, Safeway, Sainsbury, Somerfield and Waitrose) gave us an example of formal appraisal documentation submitted to its board for approval to build a new store. These were dated between May 1996 and October 1998. The level of supporting detail and analysis shows that formal appraisal is a substantial process that is costly in management and staff time. Morrison told us about its appraisal methodologies but did not provide example documentation.

12.10. Asda, Safeway, Sainsbury and Somerfield all appraise development sites in the same way. First they estimate turnover from retail models. These models estimate total food spending in the proposed store's catchment area and apportion it between the new store and existing competing stores, taking account of drive times and the attractiveness of each store. The multiples then use a discounted cash flow calculation to determine their preferred maximum buying price. However, when bidding keenly for an important site this figure may be exceeded. Most use a similar real discounting rate of about 12 per cent after tax. All make allowance for periodic refurbishments and upgrades. They take into account losses likely to be suffered by any of their nearby stores and also any losses they might suffer should a competitor win the site in question. Sainsbury gave the only example which involved a store closure. It compared the impact on profitability of selling it to another food retailer with the loss of proceeds on sale to a non-food retailer.

Planning permission

12.11. Once a retailer has decided that it wishes to build a supermarket in a given location it must, if it has not done so already, obtain planning permission and acquire the site. We turn next to the procedures for obtaining planning permission.

The legislative framework

12.12. In common with virtually all development, the building or extension of a supermarket requires planning permission under the relevant legislation. In England and Wales, this is the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991. This Act¹ forms the basis of the system for regulating the development and use of land. It defines when planning permission is and is not required, as well as the procedures that need to be followed in applying for permission and the considerations that need to be taken into account in the determination of planning applications. In Scotland the statute that forms the basis of the planning system is the Town and Country Planning (Scotland) Act 1997.² In Northern Ireland it is the Planning (Northern Ireland) Order 1991.³

12.13. The procedure for obtaining planning permission is broadly similar across the UK. A description of the procedures for obtaining planning permission is given in Appendix 12.2, including the key differences between the four countries.

¹Together with the Town and Country Planning (TCP) (General Permitted Development Order) 1995, the TCP (General Development Procedure) Order 1995 and the TCP (Use Classes) Order 1987.

²Together with the TCP (General Permitted Development Order) (Scotland) 1992, the TCP (General Development Procedure) (Scotland) Order 1992 and the TCP (Use Classes) (Scotland) Order 1997.

³Together with the Planning (General Development) Order (Northern Ireland) 1993 and the Planning (Use Classes) Order (Northern Ireland) 1989.

12.14. Planning permission is sought from the local planning authority (LPA) (see Appendix 12.2, paragraphs 3, 11 and 13). In certain circumstances, LPAs are required to notify the central authority responsible for the relevant country before determining an application. In these cases the relevant minister or body may decide to ‘call in’ the application for determination (see Appendix 12.2). In England this is the Secretary of State for the Environment, Transport and the Regions. In Wales call-in powers are exercised by the National Assembly for Wales and in Scotland they are exercised by the Scottish Ministers. In Northern Ireland a slightly different system operates; it is described in Appendix 12.2.

12.15. In England and Wales section 54A of the Town and Country Planning Act 1990 introduced a ‘plan-led’ approach to development control, which requires LPAs to have regard to a development plan when determining an application for planning permission, and to determine the application in accordance with the plan unless material considerations indicate otherwise. Section 25 of the Town and Country Planning (Scotland) Act 1997 introduced an identical plan-led approach to development control in Scotland. There is currently no equivalent in Northern Ireland.

12.16. In England, within Greater London, within metropolitan areas and in some non-metropolitan unitary authority areas, a unitary development plan is prepared by the authority. In other areas there is a two-tier development plan which comprises the structure plan prepared by the county councils (and some unitary authorities) and the local plan prepared by district councils (and some unitary authorities). In Scotland, the development plan comprises a structure plan and a local plan. Seventeen structure plan areas have been designated. Eleven of these relate to individual council areas but, in a further six, joint working between councils is required. In Wales the unitary authorities established in 1996 and the National Park Authorities will all prepare unitary development plans which progressively will replace the two-tier system of structure and local plans. In Northern Ireland area plans, which generally cover one or more district council areas, provide the main development plan framework. These are prepared by the Department of the Environment.

12.17. The development plan sets out an authority’s policies for the development and use of land in its area. The policies contained in development plans should be prepared in accordance with national planning guidance. The plan-led approach means that, in preparing development plans, LPAs should, for example, define which centres should grow and identify sites for specific types of development where a need for additional provision has been identified.

12.18. Planning permission generally applies to the land in respect of which the application is made and selling the land has, therefore, no effect on the validity of the permission. Planning guidance in all parts of the UK states that it is seldom desirable to provide otherwise. However, in exceptional circumstances, it may be appropriate to make a planning permission personal to a specific user. In such cases the permission is normally made subject to a condition that it shall exist only for the benefit of a named person—usually the applicant. In England and Wales, guidance on the use of such conditions is contained in DoE Circular 11/95 (Welsh Office 35/95), which states that a permission personal to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company. Hence, the use of such a condition will scarcely ever be justified in the case of a permission for the erection of a permanent building (paragraph 93). In Scotland, Circular 4/1998 contains similar guidance (paragraph 92), while in Northern Ireland Planning Policy Statement 1: *General Principles* (paragraph 57) acknowledges that the personal circumstances of an applicant, or the difficulties encountered by a business that is of value to the local community, may, exceptionally, be material to the consideration of a planning application. While such arguments will seldom outweigh general planning policy considerations, the Department may grant planning permission subject to a condition that is personal to the applicant.

12.19. In addition to the guidance on the use of personal conditions, there are a number of tests of reasonableness for conditions that have been established in guidance and through case law. The DETR told us that a condition which has no relevance to land use planning in the context of the Town and Country Planning Act would be ultra vires. In this context it is, perhaps, not surprising that none of the multiples involved in the inquiry had been granted a personal user consent in the last ten years.

Planning policy for supermarkets

12.20. Planning policy is set out in different ways in the constituent parts of the UK.

12.21. In England, the policy is generally set out in Planning Policy Guidance (PPG) notes. Government policy for the planning of supermarkets is primarily set out in PPG6: *Town Centres and Retail Developments*. In addition, PPG13: *Transport* provides guidance on how local authorities should integrate transport and land use planning and includes advice on the location of different types of land use, including housing, employment, retail, leisure, tourism and recreation. This guidance is currently being reviewed and a revised draft was published in October 1999. The draft PPG13 contains the same basic principles as the existing guidance but elaborates on the ways and means of integrating land use planning and transport and reducing the need to travel.

12.22. PPG6 has evolved as circumstances have changed. It was first issued in January 1988 under the title *Major Retail Development* and has been revised twice, in July 1993 as *Town Centres and Retail Developments* and most recently in June 1996, again under the title *Town Centres and Retail Developments*. The principal issues covered by each version of PPG6 are shown in Table 12.4. In summary, faced with the very rapid growth in the number of supermarkets in the late 1980s and early 1990s, guidance has evolved from a position in which out-of-centre development was acceptable to one in which it should be seen as a last resort. All references to PPG6 in this report are to the 1996 version unless otherwise stated.

TABLE 12.4 PPG6: evolution of planning policy in England—key changes

PPG6 (1988)	<p>The Government has no intention of identifying specific locations suitable for major retail development or for different types of retailing.</p> <p>Large new stores, especially those selling convenience goods, should be in locations which are accessible by both car and other forms of transport.</p> <p>The function of the planning system is not to inhibit competition between retailers. The public benefit from competition between retailers. However, in exceptional circumstances, it would be necessary to take account of the cumulative effects of a proposal and to consider whether they could seriously affect the vitality and viability of a nearby town centre as a whole.</p>
PPG6 (1993)	<p>The planning system should continue to facilitate competition between retail uses, by avoiding unnecessary regulation of shopping development, while taking into account the important contribution retail activity could make to securing the vitality and viability of town centres and villages.</p> <p>The PPG6 (1988) concepts of vitality and viability are extended. There is a need to find a balance in providing retail development between town centre and out-of-centre facilities.</p> <p>Acknowledges that out-of-centre retail developments offer benefits that consumers want.</p> <p>Acknowledges that retailing outside town centres may relieve congestion in the high street and stimulate competition.</p>
PPG6 (1996)	<p>Introduces a strong emphasis on a plan-led approach to promoting development in town centres.</p> <p>Major generators of travel should be located in existing centres, where access by a choice of means of transport, not only by car, is easy and convenient.</p> <p>The sequential approach is introduced for identifying sites for retail and other town centre uses such as leisure and commercial and public offices. The first preference should be for town centre sites, followed by edge-of-centre, district and local centres and only then out-of-centre sites in locations that are accessible by a choice of means of transport.</p> <p>If there is no need or capacity for further developments, there will be no need to identify additional sites in the town.</p>

Source: DETR.

12.23. The National Assembly for Wales is responsible for planning policy and guidance in Wales. Its land use planning policies are set out in *Planning Guidance (Wales): Planning Policy* (April 1999), which is supplemented by a series of Technical Advice Notes (TANs) including TAN(Wales)4: *Retailing and Town Centres* (November 1996) and TAN(Wales)18: *Transport* (July 1998). Much of the guidance is similar to that in England, including the commitment to vitality, attractiveness and viability of town centres and the application of the sequential approach to retailing and other key town centre uses. However, there are some distinctive elements such as advice in Planning Guidance (Wales) Planning Policy that out-of-centre food supermarkets should not be allowed if their provision is likely to lead to the loss of general food retailing in the centre of smaller towns. There are no predecessors to these documents, which were the first of their type for Wales, although before 1996 all PPG guidance applied to both England and Wales.

12.24. In Scotland, the Scottish Executive Development Department produces national planning guidance in the form of National Planning Policy Guidance (NPPG) notes. NPPG8 provides guidance on *Town Centres and Retailing* (October 1998). NPPG17 provides guidance on *Transport and Planning* (April 1999). Again, the guidance provided is broadly similar to that provided in England; however, it does not deal with the concept of need. Table 12.5 shows how policy has evolved from *National Planning Guidelines on the Location of Major Retail Developments* (1986) to the current version of NPPG8.

TABLE 12.5 Evolution of planning policy in Scotland—key changes

NPG on <i>Location of Major Retail Development</i> (1986)	<p>Guidance relates to retail developments for food shopping with a net area in excess of 2,500 sq metres. Replaces earlier guidelines from 1978.</p> <p>Wherever opportunities exist planning authorities should support the provision of sites for major retail development in or adjacent to existing centres.</p> <p>Policies which restrict all new development to existing centres could deprive consumers of choice and convenience, so retail policies should be tailored to the circumstances of particular areas rather than being based on the overall prohibition of off-centre development as set out in the 1978 guidelines.</p> <p>The protection of the commercial interests of existing individual retailers is not a land use planning consideration.</p> <p>It is necessary to take into account the likely longer-term effects of off-centre developments on the vitality and viability of existing centres.</p> <p>To be suitable for off-centre retail development sites should meet a number of environmental requirements. Sites outside the existing or proposed urban area or in green belts should not normally be considered for retail development.</p>
NPPG8 (1996)	<p>Guidance of broader application in that it covers retail development and other related activities in town centres, as well as retail development in out-of-centre locations.</p> <p>It is not the function of the planning system to preserve existing individual commercial interests or to inhibit competition between retailers or between methods of retailing.</p> <p>The Government wishes to support town centres, avoid inappropriate development in the green belt and countryside and promote urban regeneration.</p> <p>Sequential approach to selecting sites for new retail development. The first preference should be for town centre sites, followed by edge-of-centre, district and local centres and only then out-of-centre sites in locations that are accessible by a choice of means of transport.</p> <p>But local circumstances will mean that it is not always possible to locate retail development in or adjacent to town centres. In these cases out-of-centre developments may have a role to play in urban areas where accessible by choice of transport.</p> <p>Policies which restrict all new development to existing centres could prevent some towns and cities taking advantage of major new investment in shopping and deprive consumers of choice.</p> <p>Out-of-centre developments should not be of such a scale as to undermine the vitality and viability of town centres.</p>
Revised NPPG8 (1998)	<p>Increased emphasis placed on sustainable development through regeneration of urban areas, particularly town centres.</p> <p>Stronger emphasis on town centres as the most appropriate location for retailing.</p> <p>In terms of sequential approach, only if it can be demonstrated that all town centre options have been thoroughly addressed, and a view taken on availability, should less central sites in out-of-centre locations be considered for key town centre uses.</p> <p>Where development proposals in out-of-centre locations fall outwith the development plan framework, it is for developers to demonstrate that town centre and edge-of-centre options have been thoroughly assessed. Even where an out-of-centre location is shown to be the most appropriate location, the impact on the vitality and viability of existing centres still has to be acceptable.</p>

Source: Scottish Executive Development Department.

12.25. The Department of the Environment is responsible for planning control in Northern Ireland. The Planning Service, an Agency within the Department, administers its planning functions. The policies of the Department of the Environment on different aspects of land use planning are set out in Planning Policy Statements (PPSs). In addition the Department for Regional Development has responsibility for

the preparation of certain PPSs which have a more strategic function. The main document under which retail planning applications are assessed is PPS5: *Retailing and Town Centres* (June 1996) which is Northern Ireland's equivalent to PPG6. Also of significance is PPS1: *General Principles* (March 1998) which sets out the general principles that the Department of the Environment observes in formulating planning policies, making development plans and exercising control of development. The Statement also sets out the key themes that underlie the Department's overall approach to planning across the whole range of land use topics which are sustainable development, mixed use, quality development and design. Other relevant documents include PPS3: *Development Control: Road Considerations* (May 1996). Development plans are also considered, but there is no equivalent to section 54A of the Town and Country Planning Act for England and Wales, which gives prime importance to the development plan. PPS5 contains some of the same principles as PPG6 and its overall objectives are the same, but there are some fundamental differences, most relevantly in terms of the advice given on the location of supermarkets. However, the Department for Regional Development is set to undertake a review of the existing PPS5 and to produce a revised PPS on retailing and town centres. Prior to the introduction of PPSs, policy for the control of retailing was contained in Area Plans and the Planning Strategy for Rural Northern Ireland.

12.26. Further details of the planning policy guidelines and the differences between different parts of the UK are set out in Appendix 12.3.

Policy objectives

12.27. Broadly, the objectives of planning policy in England, Scotland and Wales (there are some differences in Northern Ireland—see Appendix 12.3) are:

- (a) to sustain and enhance the vitality and viability of town centres;
- (b) to focus development in locations where the proximity of businesses facilitates competition and maximizes the opportunity to use means of transport other than the car;
- (c) to maintain an efficient, competitive and innovative retail sector; and
- (d) to ensure the availability of a wide range of shops, employment, facilities and services to which people have easy access by a choice of means of transport.

The DETR said, in respect of England, that through these objectives the Government seeks to promote an urban renaissance, social inclusion and sustainable development patterns.

12.28. It is not the role of the planning system to restrict competition, preserve existing commercial interests or to prevent innovation (see Appendix 12.3, paragraph 5). However, neither is it designed to promote competition between retailers. As such, competition between specific retailers should not normally be taken into account when planning applications are considered. The identity of a supermarket operator is not material to the determination of a planning application which relates to a retail land use. Although retail impact assessments should be supplied in support of planning applications for large supermarkets on out-of-centre sites, their purpose is to test impact on nearby town and district shopping centres, rather than on individual competing retailers per se. It is the acceptability of impact on the vitality and viability of a town centre as a whole that is a material planning consideration and this may, or may not, coincide with an impact on a single existing supermarket in this centre.

The sequential approach

12.29. The policy is that city, town and district centres should be the preferred locations for developments that attract many trips; that is, for leisure and commercial, as well as for retail, development. District and local centres should provide for day-to-day needs and appropriately sized local supermarkets should be encouraged in these locations.

12.30. With this in mind, in England, Wales and Scotland, a sequential approach to identifying additional sites has been introduced for development (this is not incorporated in the current planning guidance for Northern Ireland). First preference should be for town centre sites followed by edge-of-

centre sites, district and local centres and only then out-of-centre sites in locations that are accessible by a choice of means of transport.

Need

12.31. In addition, in England and Wales (but not in Scotland or Northern Ireland) a test of need has been introduced. LPAs, in preparing planning strategies and policies, should consider the need for new retail development in the plan area over the lifetime of the plan.

12.32. Proposals for new retail development which accord with an up-to-date plan strategy, or are proposed on sites within an existing centre, should not be required to demonstrate that they satisfy the test of need because this should have been taken into account in the development plan.

12.33. However, developers proposing new supermarkets outside town, district or local centres, where the proposal is not in accordance with an up-to-date development plan strategy that is consistent with national planning guidance, must demonstrate that:

- (a) there is a 'need' for the retail floor space proposed; and
- (b) there are no more central sites that are suitable or available for developing such a store, after having been flexible about format, scale, design and amount of car parking required in a genuine attempt to fit into the centre.

12.34. The Government has reaffirmed its support for the policies set out in PPG6 on a number of occasions, most recently to the Environment, Transport and Regional Affairs Committee in October 1999. In particular, the Planning Minister clarified the requirement for 'need' in a statement on 11 February 1999. Details are given in Appendix 12.3, paragraph 9.

12.35. The DETR told us that the Government's current policy on supermarket development has all-party support as demonstrated by the Environment Select Committee, widespread public support and widespread industry support. It considered that there was a general consensus about the aims, with common concerns about the need to focus investment in existing centres, to ensure access for all to food, and to ensure access by a choice of means of transport. It concluded that the key issue was to ensure that the Government's policy provided a level playing field for *all* players seeking to open new stores, whether large companies or small operators. When applied consistently, firmly and even-handedly, it provided the industry with certainty, clarity and consistency, which gave them the confidence to invest.

Compulsory purchase

12.36. Various Acts of Parliament give powers to purchase land by means of a compulsory purchase order (CPO). The DETR told us that, in general, CPOs should not be made unless there is a compelling case in the public interest. Local authorities should, where practicable, seek to acquire land by negotiation before embarking on compulsory purchase. However, the DETR acknowledged that in some cases, for example large urban sites in multiple ownership or urgently required sites, it might be appropriate to seek the use of compulsory powers at the same time as attempting to purchase by agreement (Circular 14/94, paragraph 11).

12.37. In England and Wales, section 226 of the Town and Country Planning Act 1990 gives a local authority the power to acquire any land in its area by CPO if:

- (a) the land is suitable for and is required in order to secure the carrying out of development, re-development or improvement; or
- (b) it is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

The circumstance described in (a) is used by local authorities to assemble important sites, such as those needed to achieve town centre redevelopment schemes.

12.38. Broadly similar provisions are provided in section 189 of the Town and Country Planning (Scotland) Act 1997 and section 87 of the Planning (Northern Ireland) Order 1991.

12.39. The designation of the site in the development plan or the grant of planning permission for the proposed development will normally precede a CPO. Under section 226 of the Town and Country Planning Act the local authority and the Secretary of State should, in deciding whether to make or confirm a CPO, consider: the relevant provisions of the development plan; whether there are any extant planning permissions for the land; and any other considerations material to an application for planning permission for the development that has necessitated the use of compulsory purchase powers. It is immaterial who ultimately carries out the development.

12.40. Compulsory purchase is rarely used for site assembly for retail development. We were given details of some 150 sites which were being assembled from separate parcels, only two of which included pieces of land being acquired compulsorily.

12.41. In April 2000 the DETR told us that compulsory purchase powers had in the past been used extensively by local authorities, but their use had now declined. Specifically, in the early 1980s the Government was very much against the use of compulsory purchase power and it was seen as a last resort. The reduced use of CPO meant that skills within local authorities atrophied and much of the expertise was lost. The DETR explained that a review of compulsory purchase had been put in place and a manual of guidance for local authorities was being prepared in order to try and reinstate expertise in this area.

The planning system in practice

The growth of supermarkets

12.42. Data supplied by the main parties enabled us to construct Table 12.6 which shows the numbers of reference stores (net of closures), and their total net trading area, opened in each year from 1990 to 1998. Budgens did not give opening dates for its stores, which are therefore not included in the table.

TABLE 12.6 Reference store openings, 1990 to 1998 (net of closures)

Year	Number opened in year	Trading area (sq metres)	Cumulative total	Cumulative trading area (sq metres)
1990	130	368,700	2,050	4,598,000
1991	181	405,000	2,231	5,003,000
1992	222	435,100	2,453	5,438,100
1993	197	373,000	2,650	5,811,100
1994	304	487,600	2,954	6,298,700
1995	310	418,200	3,264	6,716,900
1996	167	230,800	3,431	6,947,600
1997	172	331,400	3,603	7,279,100
1998	135	219,100	3,738	7,498,200

Source: The main parties.

Planning applications

Determinations by local authorities

12.43. We examined the numbers and results of planning applications for new stores and extensions, including on the basis of PPG6¹ location (ie town centre, edge-of-centre, out-of-centre, out-of-town, district centre and local centre), in order to assess the effect of the 1996 guidelines. The results are summarized below. Further details are given in Appendix 12.4.

¹And its equivalents in Scotland and Wales.

12.44. We asked the main parties to provide details of all full, outline or change of use applications for new stores or extensions to stores determined since 1 July 1996 and also details of current applications as at September 1999. The applications were classified in terms of PPG6 locations. Where the classification of a site's location was an issue for dispute between an applicant and the LPA we took the view of the latter. 19 per cent of applications were made in respect of town centre sites; 25 per cent were on edge-of-centre sites; 45 per cent were on out-of-centre/out-of-town sites; while 9 per cent were in district or local centre locations. In a few cases the location of the site was not known (2 per cent).

12.45. Table 12.7 shows—for Aldi, Asda, Budgens, Morrison, Netto, Safeway, Sainsbury, Somerfield, Tesco and Waitrose—the outcome of local authority decisions on those applications on which the local authority had made a resolution since 1 July 1996. The decisions shown include the grant or refusal of planning permission, and also a resolution to grant consent as this indicates the 'in principle' acceptance by the local authority of the land use on the application site. Table 12.7 also includes those applications where an appeal had been lodged against non-determination, as in these cases the local authority would no longer be making a decision on the application and there has been a 'deemed refusal'. Some of the applications shown in Table 12.7 were made before 1 July 1996, and hence submitted when the 1993 version of PPG6 was in force. However, all the decisions were made under the 1996 guidelines.

TABLE 12.7 **Decisions by local authorities and appeals against non-determination of applications for new stores and extensions since 1 July 1996**

Retailer	Total LPA decisions + non-determinations	Granted		Refused		Resolution to grant		Non-determination		Grant/resolution to grant
		Number	%	Number	%	Number	%	Number	%	%
Aldi	82	45	55	18	22	16	20	3	4	74
Asda	76	55	72	8	11	12	16	1	1	88
Budgens	4	0	0	0	0	4	100	0	0	100
Morrison	26	13	50	4	15	7	27	2	8	77
Netto	5	5	100	0	0	0	0	0	0	100
Safeway	98	78	80	9	9	6	6	5	5	86
Sainsbury	224	157	70	21	9	41	18	5	2	88
Somerfield	28	20	71	3	11	4	14	1	4	86
Tesco	225	117	52	38	17	36	16	34	15	68
Waitrose	18	7	39	1	6	10	56	0	0	94
Total	786	497	63	102	13	136	17	51	6	81

Source: The main parties represented in the table.

12.46. Table 12.7 shows that there were significant differences between multiples, both in the number of applications they made and their success rate. Sainsbury and Tesco both made more than 200 applications; Aldi, Asda and Safeway between 75 and 100. No other retailer made more than 30. Tesco (68 per cent) and Aldi (74 per cent) had the lowest success rate in terms of achieving a grant of planning permission or a resolution to grant.

12.47. The proportions of decisions which result in planning consent being granted, or a resolution to grant, are high (81 per cent), reflecting the fact that, in many cases, an applicant will only let an application progress to the point when a decision is made where it is reasonably sure of success. In other cases, an applicant may continue to negotiate on a scheme, resulting in the long determination periods referred to by the main parties.

12.48. The figures in Table 12.7 do not necessarily reflect ultimate success rates. In some cases, applications which are supported by the local authority with a resolution to grant may ultimately be refused by the central authority for the relevant part of the UK if called in, or may subsequently be refused by the local authority if, for example, negotiations on legal agreements fail. Conversely some of the applications which have been refused by the local authority may be successful on appeal (see paragraphs 12.53 to 12.55).

12.49. Table 12.8 analyses the data on the basis of the location of each planning application in accordance with the definitions given in PPG6 (ie town centre, edge-of-centre, out-of-centre, out-of-town, district centre and local centre.) (Table 12.8 shows slightly fewer cases than Table 12.7 as it omits those where we did not know the location.) The proportion of applications resulting in a planning consent or a resolution to grant consent ranged from 77 per cent in out-of-centre and out-of-town sites to 89 per cent for town centre sites. Detailed results are given in Appendix 12.4.

TABLE 12.8 **Decisions by local authorities and appeals against non-determination of applications for new stores and extensions since 1 July 1996—by location**

Location	Total LPA decisions + non-determinations	Granted		Refused		Resolution to grant		Non-determination		Grant/ resolution to grant
		Number	%	Number	%	Number	%	Number	%	%
Town centre	161	118	73	10	6	26	16	7	4	89
Edge-of-centre	211	129	61	28	13	40	19	14	7	80
Out-of-centre/ town	331	205	62	50	15	49	15	27	8	77
District/local centre	72	41	57	11	15	17	24	3	4	81

Source: The main parties and local authorities.

12.50. As shown in Table 12.9, 20 per cent of the planning applications in our survey were awaiting determination by the local authority. These include applications which had been recently submitted but also applications that had been before the local authority for significantly longer than the target eight-week period for determination.

TABLE 12.9 **Applications for new stores and extensions made since 1 July 1996: proportion of applications pending**

Retailer	Total applications	Applications pending (number)	Applications pending %
Aldi	101	8	8
Asda	100	16	16
Budgens	5	0	0
Morrison	34	6	18
Netto	5	0	0
Safeway	125	25	20
Sainsbury	312	79	25
Somerfield	32	3	9
Tesco	339	82	24
Waitrose	18	0	0
Total	1,070	219	20

Source: The main parties represented in the table.

Local planning authorities' reasons for refusal

12.51. Where planning applications determined since 1 July 1996 had been refused planning permission by the LPA, we asked the main parties to give the reasons for refusal. The response was not comprehensive, but we analysed the responses that were submitted to see how often the reasons for refusal were related to policy contained in PPG6 or its equivalents in Wales, Scotland and Northern Ireland. The results are shown in Table 12.10.

TABLE 12.10 **Applications for new stores and extensions determined since 1 July 1996: LPAs' reasons for refusal**

Retailer	Applications refused planning consent by LPA (number)	Reasons for refusal include PPG6 non-compliance (number)	Reasons for refusal include PPG6 non-compliance %
Aldi	18	3	17
Asda	8	4	50
Budgens	0	0	0
Morrison	4	2	50
Netto	0	0	0
Safeway	9	4	44
Sainsbury	21	10	48
Somerfield	3	3	100
Tesco	38	19	50
Waitrose	1	0	0
Total	102	45	44

Source: The main parties represented in the table.

12.52. Table 12.10 shows that overall 44 per cent of the planning applications that were refused by LPAs included non-compliance with some aspect of PPG6 or its equivalents in the reasons for refusal. However, as reasons were not always stated, or only the briefest of details were given, the true percentage is likely to be higher than this.

Appeals and called-in applications

Appeals

12.53. We looked at the number of planning applications which involved appeals and examined the subsequent outcomes. The results are shown in Table 12.11. Fifty-one appeals were lodged against non-determination, 60 against refusal (59 per cent of all refusals) and the reason for appeal was not stated in three cases—giving 114 appeals in total. Tesco lodged almost half the total.

TABLE 12.11 **Applications for new stores and extensions determined since 1 July 1996 and current applications: reasons for appeal and appeals lodged following an LPA refusal**

Retailer	Refusals (number)	Appeal on refusal (number)	Appeal on non- determination (number)	Total appeals (number)	Proportion of LPA refusals appealed %
Aldi	18	9	3	13	50
Asda	8	5	1	6	63
Budgens	0	0	0	0	0
Morrison	4	3	2	5	75
Netto	0	0	0	0	0
Safeway	9	6	5	11	67
Sainsbury	21	13	5	18	62
Somerfield	3	3	1	4	100
Tesco	38	20	34	56	53
Waitrose	<u>1</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>100</u>
Total	102	60	51	114	59

Source: The main parties represented in the table.

Note: In three cases (two for Tesco, one for Aldi) the reason for appeal was not given.

12.54. The outcomes of the appeals are shown in Table 12.12. 30 per cent of appeals lodged were allowed; 23 per cent were dismissed; 17 per cent remained pending; and 24 per cent were withdrawn. In eight cases an outcome was not stated.

TABLE 12.12 **Applications for new stores and extensions determined since 1 July 1996 and current applications: number of appeals lodged and outcomes**

Retailer	Appeals (number)	Allowed Number	%	Dismissed Number	%	Pending Number	%	Withdrawn Number	%	Not stated Number	%
Aldi	13	7	54	1	8	2	15	1	8	2	15
Asda	6	0	0	4	67	0	0	2	33	0	0
Budgens	0	0	0	0	0	0	0	0	0	0	0
Morrison	5	0	0	2	40	2	40	0	0	1	20
Netto	0	0	0	0	0	0	0	0	0	0	0
Safeway	11	5	45	1	9	2	18	1	9	2	18
Sainsbury	18	3	17	6	33	5	28	3	17	1	6
Somerfield	4	3	75	0	0	1	25	0	0	0	0
Tesco	56	15	27	12	21	7	13	20	36	2	4
Waitrose	<u>1</u>	<u>1</u>	<u>100</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	114	34	30	26	23	19	17	27	24	8	7

Source: The main parties represented in the table.

12.55. We examined the appeal figures on the basis of the location of each planning application in accordance with the definitions given in PPG6 and its equivalents (ie town centre, edge-of-centre, out-of-centre, out-of-town, district centre and local centre). As shown in Tables 12.13 and 12.14, the highest number of appeals were in out-of-centre locations, but the highest rate of appeal against local authority refusals was in edge-of-centre locations (71 per cent). The success rates for appeals were fairly similar for all locations ranging between 27 and 32 per cent. Only 8 per cent of appeals in town centre locations

were dismissed, but this figure rose to 22 per cent for out-of-centre locations and 32 per cent for edge-of-centre locations. However, significant number of appeals had been withdrawn, or were still pending. Detailed results are given in Appendix 12.4.

TABLE 12.13 Applications for new stores and extensions determined since 1 July 1996 and current applications: reasons for appeal and appeals lodged following an LPA refusal—by location

Location	Refusals (number)	Appeal on refusal (number)	Appealed on non-determination (number)	Total appeals (number)	Proportion of LPA refusals appealed (%)
Town centre	10	6	6	13	60
Edge-of-centre	28	20	14	34	71
Out-of-centre/town	50	27	27	55	54
District/local centre	11	6	3	10	55

Source: The main parties and local authorities.

Note: In three cases the reason for appeal was not given.

TABLE 12.14 Applications for new stores and extensions determined since 1 July 1996 and current applications: number of appeals lodged and outcome—by location

Location	Appeals (number)	Allowed		Dismissed		Pending		Withdrawn		Not stated	
		Number	%	Number	%	Number	%	Number	%	Number	%
Town centre	13	4	31	1	8	3	23	4	31	1	8
Edge-of-centre	34	11	32	11	32	4	12	3	9	5	15
Out-of-centre/ town	55	15	27	12	22	9	16	17	31	2	4
District/local centre	10	3	30	2	20	2	20	3	30	0	0

Source: The main parties and local authorities.

Called-in planning applications

12.56. Table 12.15 shows the number and outcome of called-in applications. The overall percentage of planning applications called in was small (5 per cent). Called-in applications were more likely to be dismissed than allowed (21 dismissed against 9 allowed). However, the outcome of 16 called-in applications was 'pending', waiting for either the inquiry or a central authority's decision.

TABLE 12.15 Applications for new stores and extensions determined since 1 July 1996 and current applications: number of call-ins and outcomes

Retailer	Total applications	Call-in (number)	Call-in %	Allowed (number)	Dismissed (number)	Pending (number)
Aldi	101	1	1	0	0	1
Asda	100	9	9	2	0	5
Budgens	4	0	0	0	0	0
Morrison	34	2	6	0	2	0
Netto	5	0	0	0	0	0
Safeway	125	5	4	0	3	2
Sainsbury	312	11	4	3	6	1
Somerfield	32	0	0	0	0	0
Tesco	339	21	6	3	10	7
Waitrose	18	1	6	1	0	0
Total	1,070	50	5	9	21	16

Source: The main parties represented in the table and local authorities.

Note: Three called-in applications were withdrawn. In one case an outcome was not stated.

12.57. We examined the call-in figures on the basis of the location of each planning application in accordance with the definitions given in PPG6 (ie town centre, edge-of-centre, out-of-centre, out-of-town, district centre and local centre). As shown in Table 12.16, over half of all call-ins occurred in out-

of-centre and out-of-town locations (56 per cent). Of the 19 out-of-centre and out-of-town applications that were called in, and which had been decided, two-thirds were refused. Detailed analysis by PPG6 location is given in Appendix 12.4.

TABLE 12.16 Applications for new stores and extensions determined since 1 July 1996 and current applications: number of call-ins and outcomes—by location

Location	Total applications	Call-in (number)	Call-in %	Allowed (number)	Dismissed (number)	Pending (number)
Town centre	202	4	2	0	1	2
Edge-of-centre	270	11	4	1	5	3
Out-of-centre/ town	484	28	6	6	13	9
District/local centre	95	7	7	2	2	2

Source: The main parties and local authorities.

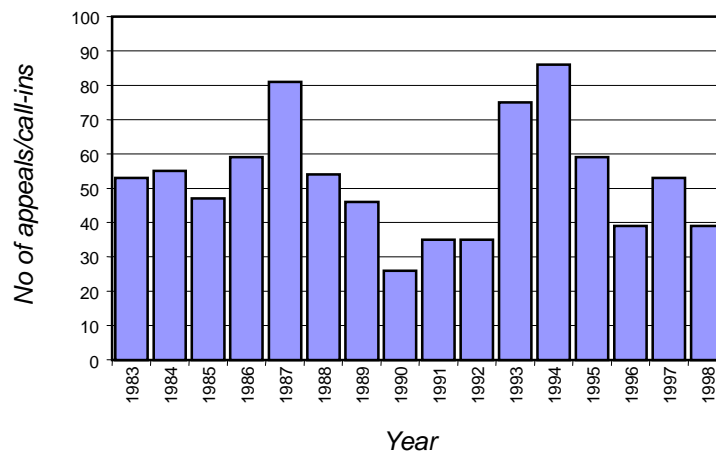
Note: Three called-in applications were withdrawn. In one case an outcome was not stated.

Trends in the number of appeals and called-in applications

12.58. Our consultants told us that during the period January 1983 to December 1998, there were some 842 decisions on appealed and called-in planning applications for new supermarket developments, an average of 53 per year. The trend is shown in Figure 12.1.

FIGURE 12.1

Long-term trends in appeals and call-ins



Source: Drivers Jonas.

12.59. Given that an appeal/call-in decision would typically occur some 12 to 18 months after an appeal was lodged or an application called in, the pattern broadly follows movements in the wider economy. There was a peak in 1987, a slump in the early 1990s and a new peak in 1994 as the economy moved out of recession. Between 1990 and 1994 the total number of schemes being appealed or called in more than doubled. However, the fall in the number of appeals and call-ins between 1994 and 1996—a reduction of about one-half—was out of step with the relatively strong performance of the sector. This could have been caused by uncertainty in the face of the imminent publication of revised PPG6 for England; general delays in the date for getting an inquiry; or the emerging plan-led system and general tightening of policy guidance.

12.60. The number of appeals increased again between 1996 and 1997 from 39 to 53. However, success rates at appeal and call-in were falling during this period. Perhaps as a result of this falling success rate and a slowing economy, the number of appeals and call-ins in 1998 fell back to 39 for the whole year, reflecting the continuing tightening of guidance, with retailers, developers and landowners looking for sites, attractive in terms of the sequential approach, in town centres.

Objections to planning applications

12.61. We asked the main parties whether, since 1 July 1994, they had objected to any planning application for a grocery store, by way of representations to the LPA or at an appeal, in circumstances where they were not competing for the same site, or whether they had funded a third party to do so. The results are shown in Table 12.17.

TABLE 12.17 **Objections to grocery store planning applications made since 1 July 1994**

<i>Multiple making objection</i>	<i>Number of direct objections</i>	<i>Number of funded third party objections</i>
Aldi	0	0
Asda	13	0
Budgens	30	3
Morrison	24	1
Netto	0	0
Safeway	114	45
Sainsbury	13	2
Somerfield	740*	0
Tesco	15	0
Waitrose	0	0

Source: The main parties represented in the table.

*Since 1993.

12.62. The responses indicate that the extent to which multiples object to grocery store applications varies enormously. Somerfield had undertaken a comprehensive monitoring programme of all planning applications since 1993 and frequently objected to schemes as a result of this programme. However, the results show that among the larger multiples the practice is not commonplace, with the exception of Safeway which has submitted 114 direct objections and funded 45 third party objections to competitors' schemes since July 1994.

Time taken for determination

12.63. The main parties drew to our attention the often lengthy time periods taken to obtain planning permission for new stores and extensions. We asked them how long, on average, it had taken to obtain planning permission by store type, location and region of the country. We also asked what practical measures they believed could speed up the process.

12.64. The responses varied between them, with a clear trend for the operators of smaller stores to report faster determination times. For example, Aldi said 4 to 5 months was the norm, the Co-ops 6 to 9 months, Netto 6 months and Iceland 6 to 8 months. In comparison, Asda allowed 18 to 24 months, Morrison 15 months and Tesco 11 months for determination by a local authority. However, most main parties reported that the time was very variable; in particular call-in by the central authority for the relevant part of the UK would typically add 18 months to the time taken to reach a decision. A number of proposals for improvement were made. Suggestions of clearer timetables (perhaps with sanctions for failing to meet them) were mentioned most often.

12.65. We asked the main parties if the average time it takes to obtain planning permission for supermarkets/superstores had changed over the last ten years. Most of the main parties considered that it had increased. There was also general agreement that a much wider range of supporting material was now required in association with major applications, including retail impact assessments, examination of the sequential approach and 'need', transport assessments that included public transport accessibility, and possibly environmental impact assessments. This inevitably meant that the applications took longer to prepare and often to process.

Costs

12.66. We asked the main parties for details of their abortive planning costs. These costs may not have been calculated on a consistent basis and may not, therefore, be directly comparable.

12.67. Asda said that a significant amount of time and expense was spent on aborted planning applications but that it did not keep records of the exact figures. Morrison, Sainsbury and Tesco spend about £5 million a year between them on abortive costs. For most companies the average cost per project is about £50,000, but for Morrison and Sainsbury it was between £150,000 and £200,000.

Views on the planning system

The main parties

12.68. We asked the main parties for their views on the planning system and its implementation. All except Budgens and Lidl responded.

12.69. Many of the main parties said that there was a substantial consumer demand for one-stop shopping using a car, and that attempts to restrict this form of shopping by the Government would be unsuccessful. Many of the smaller operators were concerned that consumers would continue to shop in those stores which could meet their bulk food shopping needs, resulting in those stores trading more heavily and consolidating the position of the companies operating them. On this view, the impact of PPG6 and its equivalents in Scotland, Wales and Northern Ireland on consumers' convenience and shopping patterns would depend on the extent to which new food-store development was of a kind which could compete directly with out-of-centre stores in attracting car-borne trade—in particular, on the ability of operators to achieve their required parking provision on town centre sites. Some argued that if PPG6 and its equivalents resulted in town centres becoming more attractive, this might help to offset the competitive advantage of out-of-town stores.

12.70. All the main parties which responded, except Tesco (see paragraph 12.73), believed that the impact of PPG6 and its equivalents on the groceries sector had been significant. Many said that, although the grocery sector was generally competitive, site availability and the current planning regime were serious constraints on entry and expansion. Many of the larger chains were responding by developing different formats suited to different locations, which were particularly pronounced in London and the South-East. Asda said that its financial crisis in the early 1990s meant that it had been unable to expand at a time when its competitors were engaged in intensive development. Its inability to expand significantly through new store openings since then largely reflected the impact of PPG6.

12.71. Some said that over-concentration of grocery development in town centres would increase traffic congestion and pollution. Others believed that appropriately located new superstores could serve to reduce traffic congestion in town centres by diverting some traffic away from some of the most heavily congested parts of town. Town centre locations were not, they said, necessarily the most accessible places for bulk weekly food shopping.

12.72. There was also concern over the draft revision to PPG13. Morrison argued that the way in which people shopped determined the provision which a store should make in order to be competitive. It said that a number of fundamental shopping habits underlay this:

- (a) the weekly bulk food-shopping trip had become the norm and, realistically, could only be undertaken by car; and
- (b) the only alternative was to make many more trips by other modes, on each occasion carrying less shopping. To expect people to shop in this different fashion was both unrealistic and probably undeliverable given the work patterns of people in modern society.

It suggested that the maximum allowance of car parking space was inadequate. It argued that its own survey into car parking take-up at its stores had established that a minimum requirement of one parking space per 14 sq metres of sales area was typically needed, although if a car park were for the sole use of the store and public transport facilities were both good and well used, this could be reduced to one space per 15/16 sq metres.

12.73. Tesco said that it was too early to assess the impact of PPG6 on the grocery retailing sector. In general terms, it said that there was a common misconception that PPG6 limited the amount of overall space available for the development of grocery stores, whereas it told us that overall new net grocery selling area had increased each year since 1996, from 320,000 sq metres in 1996 to 410,000 sq metres in 1999. Current planning policy had been principally directed at altering location: new stores were now more likely to be in town centre or edge-of-town-centre locations. Tesco said that in the light of this planning environment it had developed a new format strategy which provided it with more flexibility when assessing new sites. It told us that although it was intended that there should be a plan-led approach to identifying sites for new development, it was far more common for the proposal for a supermarket to come from one or more of the grocery retailers rather than as a planning authority initiative arising out of a development plan. Tesco added that with many authorities there was very little positive operation of planning policies to encourage investment.

12.74. A general view among the main parties was that the requirement to demonstrate need made the planning process more uncertain for out-of-centre/edge-of-centre sites due to the lack of clarity on how exactly 'need' was demonstrated or assessed. Some said that the Minister's statement had done little to clarify the position of need and provided LPAs with an excuse to be negative about most retail proposals. They also believed it opened planning authorities to criticism and challenge on the grounds of lack of consistency. The general view was that the Government should set out clearly the factors that constitute need. Some parties considered that this should include reference to choice. There was concern that the need test gave LPAs a very broad discretion and opened them to potential criticism and challenge on the grounds of lack of consistency.

12.75. There was also concern that the requirement for access by means of transport other than the car made it more difficult to pursue retail development on urban fringe and greenfield sites remote from public transport services. However, generally the main parties believed it was in their own interest to be as accessible as possible to as many people as possible whether they be travelling by car, public transport or other means, and to avoid congestion. It was, they said, of prime importance to the consumer that stores should be accessible by car and public transport. Several multiples provide free bus services to some of their stores. In addition, some liaise with local bus authorities to ensure that bus routes pass by the stores, helping the authorities to understand what local demand might be stimulated by the new store.

12.76. Safeway pointed out that the average weekly 'family' shop weighed around 36 kg (80 lbs) and contained frozen and other temperature-sensitive foodstuffs. It was neither feasible nor desirable for this to be carried by hand, bicycle or on the bus for any distance.

12.77. We asked the main parties how consistently PPG6 and its equivalents were applied across the UK. Comments were generally restricted to England, with only limited observations on experience in Wales, Scotland or Northern Ireland. The comments ranged from the Co-ops, which said that their experience suggested that PPG6 was being applied consistently, to Morrison which said that in England PPG6 was applied inconsistently at all levels—by the LPA, by the government offices in the regions and by the Secretary of State on call-ins. Morrison considered that the reason for this inconsistency was that much of the advice in PPG6, ie demonstrating need, the sequential approach, and assessing retail impact and impact on travel patterns, was subjective and open to wide interpretation. Most of the multiples thought that there were some inconsistencies in the way PPG6 and its equivalents were applied.

The Select Committee on Environment, Transport and Regional Affairs

12.78. Concerned at what it saw as threats to current planning guidance, the Select Committee on Environment, Transport and Regional Affairs held a short inquiry into the environmental impact of supermarket competition. It concluded in December 1999 that there was widespread support for the existing regime of planning policy guidance contained in PPG6 and PPG13, but that there were areas where it was too lax, or in need of clarification. It considered that PPG6 required some modification to ensure that it worked more effectively and gave town centres more protection, and that even if the planning guidance were a greater barrier to entry than the evidence indicated, any relaxation would not be justified because the effect on town centres and village shops would be far too damaging.

Local authorities

12.79. In order to ascertain the views of LPAs, we sent a questionnaire to a sample of 87 local authorities in England, Scotland and Wales. Applications for planning permission in Northern Ireland are dealt with under a different system—see Appendix 12.2—but a copy of the questionnaire was sent to the Planning Services Agency for its comments. The sample was selected at random, other than ensuring representative mixes of English, Scottish and Welsh authorities and, within England, of unitary and district councils. We received 66 responses which gave a generally positive view of the current and potential impact of the latest planning policy guidelines. Full results are given in Appendix 12.5.

12.80. Numerical information on the development of supermarkets was sought for 1992/93 to 1998/99, with a brief update on the situation as at 30 September 1999. A few authorities were unable to give specific data for the early years of the period. Hence, for some questions, the results may underestimate the effects of the most recent planning guideline changes.

12.81. The responses showed that for many authorities, a planning application for a new supermarket was a fairly rare event, although almost half said that they had dealt with an application that had raised significant policy issues over the seven years. The numerical results from the local authority questionnaire were not always consistent with the corresponding information supplied by the main parties. For example, local authorities reported higher refusal rates than the retailers. This may be because local authorities would record a site which had been refused but was successful on resubmission as a refusal whereas retailers were more concerned that the application had been ultimately successful.

12.82. The numbers of applications refused, called in, withdrawn and appealed all appear to have been lower since the latest guidelines were introduced. Most applications which were called in or the subject of an appeal were unsuccessful: only two instances of applications granted on appeal/call-in were reported for the period 1996/97 to 1998/99. The most frequent of reasons for refusing applications were: 'contrary to other land use policy (eg green field site)'; 'impact on other centres'; 'not in accordance with sequential approach'; and 'unacceptable traffic impact'. The relative frequency with which 'not in accordance with sequential approach' and 'lack of need' were cited has increased under the latest planning guidelines, while the other reasons were more frequent under the previous guidelines.

12.83. Three hundred and thirty-nine applications for new grocery outlets over 600 sq metres were granted in the seven-year period, but only 173 openings were reported in the same period (a ratio of 51 per cent). The low ratio of openings to consents is somewhat surprising. Clearly there is a lag between receiving permission and completing development, but it is assumed that the stores opening in the period, which received permission prior to 1992, should largely be balanced by those which received permission in the last two years of the period but have not opened yet.

12.84. Thirty-nine applications for extensions were reported for the last two years of the period, compared with only 20 applications in the preceding five years. There were no reports of applications for extensions being refused. Nineteen supermarket extensions opened during the period. One authority commented that most applications for supermarket extensions were below the 250 sq metre threshold for the questionnaire.

12.85. We asked LPAs for their views on the impact of supermarkets on towns and villages in the area, and on the operation of the current guidelines (PPG6/TAN4/NPPG8). 68 per cent considered that there had been some decline in the viability and vitality of their town since 1992, but 55 per cent considered that there had been an improvement since the issue of the latest guidelines. Nearly all thought that this would continue, at least to some extent. The Planning Services Agency commented that national grocery multiples had moved into Northern Ireland only relatively recently. Several new purpose-built superstores had opened in locations outside of town centres, but it was perhaps too early to gauge the impact of these developments on the vitality and viability of town centres in Northern Ireland. For more detail on local authorities' views on issues surrounding the decline of town and district centres, see paragraphs 13.82 to 13.95. For a broader discussion of this issue, see paragraphs 13.40ff.

12.86. The four most significant causes of the adverse effects on town centres cited were: lack of investment; economic changes; excessive high street traffic flows; and building out-of-town supermarkets. Nearly all respondents believed the impact of out-of-town supermarkets was influenced by the overall quality, number and range of retail outlets in existing centres and the range of franchised services

offered by supermarkets. The majority of respondents considered that local centres, district centres, small towns and villages had also been adversely affected by out of town centre supermarkets.

12.87. 36 per cent of LPAs considered that the latest guidelines would have major benefits in sustaining and enhancing town centres, while 62 per cent considered that there would be some benefits. 65 per cent believed there would also be at least some benefits for small towns and villages and 77 per cent believed there would be at least some beneficial impact on the competitiveness of town centre stores. There was a consensus that the latest guidelines would increase land costs in town centres, but improve the accessibility to sites by a variety of means. Opinion was divided on whether there would be a minimal or major impact on traffic problems, retail competition and the time and cost of planning applications. The Planning Services Agency again thought it was too early to comment on the effect of the latest policies on town centres and retail development in Northern Ireland.

12.88. We asked about issues relevant to determining applications. Of the nine we listed, five were cited as important for over 90 per cent of respondents:

- whether there is a need for a further store;
- whether there are suitable sites available in the town centre;
- whether there is likely to be an adverse effect on the vitality and viability of existing centres;
- whether there would be poor accessibility on foot, by bicycle or by public transport; and
- whether there would be an impact on traffic.

The remaining four issues were cited as important for over 75 per cent of respondents. 80 per cent of authorities considered that capacity assessment, the ratio of available expenditure to floor space, was a particularly important objective assessment criterion.

12.89. Some local authorities said that they believed that greater clarification of how need was to be demonstrated or assessed was required. Clarification of the application of the sequential approach, the requirements for retail impact assessments and the position of bulky goods sales would also be helpful. A selection of respondents' comments on the interpretation of the guidelines is included in Appendix 12.5.

12.90. 95 per cent of respondents agreed that current planning policy guidance would increase town centre and edge-of-centre supermarket development at the expense of out-of-centre and out-of-town locations. Respondents appeared to have a broad range of views on the extent of the impact in each area, but agreed that there would be a lesser impact on development in district centres. No respondent believed that the latest guidelines would reduce competition or consumer choice significantly—70 per cent believed that there would be no reduction at all. 92 per cent believed that it would increase choices for those without access to a car, at least a little, and 27 per cent thought this would be significant or a great deal.

12.91. We asked about the average time taken to determine planning applications. Some respondents commented that they received too few applications to estimate a realistic average and others quoted a range of times. Based on the responses given, a large out-of-town store takes about 6.6 months on average (with a range of 2 to 20 months) and a small town centre store takes 3.5 months on average (with a range of 1.5 to 9 months). These averages are somewhat lower than those reported by some multiples (see paragraph 12.63). 33 per cent of respondents thought that the time taken for determination was about the same as in 1992, 28 per cent thought that it had increased and 36 per cent did not give a view. Most of the main parties considered that the time had increased between 1989 and 1999 (see paragraph 12.65).

12.92. About one-half and one-quarter, respectively, of the local authorities thought that there were practical measures that could be taken to speed up and reduce the cost of applications to the multiples. Reasons for delays identified included:

- speculative applications which ignored national and local planning policies and plans could raise major policy issues for the local authority;
- retail and traffic impact assessments sometimes not forwarded for a considerable period after the planning application had been lodged; and

- applicants' retail and traffic impact assessments not seen as independent, meaning critical assessments need to be commissioned.

Suggested improvements included:

- applicants seeking pre-application meetings to confirm local planning policies and data requirements;
- submitting applications which took cognizance of national and local policies and plans;
- submitting all relevant data, including impact assessments with the application; and
- a system of independent transport and retail impact studies.

Some examples of respondents' comments are included in Appendix 12.5.

12.93. Local authorities were asked about the weight they gave to competition between grocery multiples in developing their plans and in determining planning applications. The most common response to both parts was 'none', but a substantial minority indicated that some weight was given to competition. The additional comments provided by some respondents suggested that this apparent difference reflected different interpretations of our question, rather than different views of the guidelines. Competition between multiples, on its own, was not a planning issue, but the latest guidelines make clear that the viability and vitality of town centres is a primary planning issue, and this is affected by competition between multiples.

12.94. Other points relating to the likelihood, or otherwise, of a planning application being successful were:

- (a) 53 per cent of respondents considered that willingness to provide planning obligations would speed up the process, at least a little. No instance of a multiple renegeing on a planning obligation agreement was reported.
- (b) 70 per cent of respondents said that they were not influenced by the likelihood or potential cost of an appeal.
- (c) 56 per cent of respondents believed that the limited resources available to them made it difficult for them to commission independent impact and other assessments to compare with work carried out by or for grocery multiples.
- (d) 30 per cent of respondents had, in the past five years, granted planning consent on land that they owned, or had previously owned, in whole or in part.
- (e) 67 per cent of respondents identified sites for retail development in their plans.

Other parties

12.95. Environmental protection groups, such as the Council for the Protection of Rural England (CPRE), believed that PPG6 and PPG13 still did not go far enough. In its evidence to the House of Commons Environment Committee, the CPRE welcomed the 1996 revision of PPG6, but said that some issues still needed to be addressed, including the need for further revisions to PPG6 to address the problems of traffic generation associated with new retail development and the impact on rural areas. It also wanted to see:

- (a) policy targets for land use planning;
- (b) a more proactive role for, and better structured and resourced, government regional offices;
- (c) more effective use of call-in procedures on development plans and planning applications; and
- (d) a selective third party right of appeal against planning consent for development in contradiction with an adopted development plan.

12.96. The CPRE made a number of specific recommendations:

- (a) It should be a specific objective of PPG6 to reduce the amount of car travel for shopping purposes.
- (b) The test of accessibility by a choice of means of transport should be strictly applied and high thresholds of use by modes other than the car should be included.
- (c) Reducing the dominance of the car in the layout and design of new retail development should be a specific objective of a revised PPG6.
- (d) PPG6 should encourage smaller, more locally-based retail outlets to help counter these environmentally damaging trends.
- (e) PPG6 should be much stronger in requiring a cumulative assessment of the impact of retail development proposals on villages and in protecting them from damaging competition.
- (f) PPG6 should address retail development at petrol filling stations in the same way as it addressed it elsewhere and the same standards of design and layout should apply.

12.97. The CPRE's main concern, however, related to the need for more effective implementation of policy shifts such as that involved in the 1996 review of PPG6. It said that there remained a significant gulf between the views expressed in Ministerial speeches and national planning guidance on the one hand, and the reality of policy and development on the ground on the other.

Planning regimes for supermarket development in other European countries

12.98. The CPRE's part of their investigation into land and building costs in France, Germany and Holland (see paragraph 12.132) our consultants examined recent developments in the planning regime for those countries. We were also provided with some information on the planning regime in Italy by the DETR. These reviews are summarized in Appendix 12.6.

12.99. France, Germany and Holland have planning regimes which are designed to control the growth of large supermarkets. As a result, the planning regime in these countries is at least as restrictive as it is in the UK. The regime in France has been so restrictive since the enactment of the Loi Raffarin in 1996 that very few large supermarkets have been built since. In Italy, by contrast, where the retail sector is less well developed, the law has been modified to make it easier to establish new retail outlets, in order to modernise the market. An important feature of the planning regime in France is that, in addition to needing a building permit, the developer of a large retail outlet also needs a licence. In the UK, planning and licensing are both included in the planning consent.

A possible licensing system for the UK

12.100. In France, the licensing system is independent of the planning system and the licence has some of the characteristics of a personal user planning consent (see paragraph 12.18) in that it does not necessarily transfer to the new owner if the land is sold before the completed outlet has been in operation for some time.

12.101. We asked our consultants what resources might be required to operate a similar licensing system in the UK on the assumption that such a body would deal with applications for new stores over 1,400 sq metres and extensions over 500 sq metres where these were made by an operator who already had a large market share in the locality. As a guide we suggested that this might cover perhaps a quarter of all applications from the major parties.

12.102. We also carried out an assessment of the staffing resources that would be required for such a self-standing unit in the OFT. We assumed, based on historic trends, that one-quarter of the 125 applications a year by the major parties would be referred to the unit and that one-third (about 11) of these would then be contested, leading to an appeal. We estimated that a unit consisting of up to four full-time professional staff and up to four support staff (including one legal adviser) would then be required.

12.103. We recognize that this can only be a broad estimate but we do not think that a specialist unit would need to be larger than this. Our consultants observed that it was difficult to predict the level of resources required with any degree of certainty, bearing in mind that the level could change from year to year reflecting changing market trends and the impact of planning policy.

Site acquisition

Methods of site acquisition

12.104. In edge-of-centre and out-of-centre locations, the main parties generally buy sites freehold or on long leases and develop stand-alone stores themselves. Less often, a developer will acquire a site (assembling it from separately-acquired plots if necessary) and sell it on to a retailer with a commitment to build the store shell. Stores in a town or district centre development are more likely to be rented than stand-alone stores. Overall, fewer than 10 per cent of proposed supermarket developments are rack-rented. Larger multiples told us that there were no financial advantages in renting (see paragraph 12.121) and that factors which militated against rack renting included the freedom ownership gave from landlord interference in land use and the lack, in the UK, of any turnover and profit-related components of rents.

12.105. The main parties acquire land in a number of ways. First, they may buy existing stores from other multiples (though sales of larger properties are comparatively rare). Second, they may compete for entire sites where planning consent is likely, either in private negotiations or on the open market. The successful bidder will then either enter into 'preferred developer' arrangements (in which the vendor gives the bidder exclusive negotiating rights for a short period to resolve outstanding issues) or short-term contractual commitments conditional upon the grant of planning consent. Third, they may acquire entire sites for which planning consent is uncertain, by way of conditional contracts or options. An initial fee or deposit is paid and the buyer takes the site through the planning process. If the planning application is successful, the retailer acquires the site at the agreed price. If not, it remains with the original owner. There may be a lengthy interval between the initial conditional contract or option and the eventual completion of the transaction. Fourth, main parties may acquire sites unconditionally, even though planning consent is uncertain.

12.106. Significant numbers of store sites are assembled from more than one parcel of land. Risk can be controlled by securing options or conditional contracts, but outright strategic purchases of component parcels are also made. Site assembly is generally slow—we were told of sites taking five years to put together and of one taking ten. Even then planning consent may not be granted.

12.107. Details given to us of site-purchase contracts entered into but not yet completed show that the proportion of single-plot sites fell in the period from 1996 to 1999. This suggests that large, single-plot sites for superstores were becoming harder to find.

12.108. Once a retailer has acquired a site and built a store it may choose to sell it and lease it back. Such arrangements were commonly used in the late 1980s when interest rates were running at historically high levels while property yields remained low. Since then, interest rates have fallen to levels close to the yields on supermarket property investments and straightforward sale and leaseback is no longer so attractive.

Differences between major parties' acquisition profiles

12.109. We examined the differences between the acquisition strategies of Asda, Morrison, Safeway, Sainsbury and Tesco. Two-thirds of Sainsbury's sites for which we had sufficiently detailed information were assembled from multiple ownership as were one-third of Morrison's sites. Asda, Safeway and Tesco tended to concentrate on sites in single ownership under conditional contracts or options, while also buying some sites in multiple ownership.

12.110. Asda limited its acquisitions to sites for large-format stores—typically of 6,500 sq metres (gross) and upwards—more often than not at premium prices, although it stated during our inquiry that it was now considering smaller formats. Safeway, Sainsbury and Tesco looked for a wide range of sites in a wide range of places while Morrison bought mainly large sites in secondary, less expensive, locations.

Bidding

12.111. We analysed bidding data in some detail. We were particularly interested in whether bidders took similar views about the value of sites.

12.112. The major parties provided particulars of their unsuccessful as well as their successful bids. We were given data on 144 separate sites across the UK, with sufficient for an analysis of outcomes in 138 cases (for example, we were unable to determine the outcome of bidding where the buyer was not a multiple). Table 12.18 analyses these 138 cases, showing the number of successful and unsuccessful bids made by each of the five between 1994 and 1999 and the percentage of successful bids.

TABLE 12.18 **Bidding outcomes**

<i>Multiple</i>	<i>Number of successful bids</i>	<i>Number of unsuccessful bids</i>	<i>Total number of bids made</i>	<i>% of successful bids</i>
Asda	40	24	64	62
Morrison	9	28	37	24
Safeway	18	57	75	24
Sainsbury	31	42	73	42
Tesco	40	39	79	51

Source: The major parties.

12.113. We compiled a bidding profile for as many sites as possible. (There were sufficient data in only 46 cases.) The data in these cases show that Tesco and Asda generally tendered higher bids and succeeded most frequently. Morrison, in contrast, did not bid the higher prices needed to secure the better sites and had a lower success rate. Safeway was also relatively unsuccessful but sometimes bid high to obtain a specific site. Sainsbury was somewhat less successful than Tesco. The data also show that in about 25 per cent of cases the highest bid was more than 50 per cent above the second highest—our consultants advised us that spreads of up to 50 per cent might be expected when there was no directly comparable development site locally and where bids were calculated by reference to each bidder's estimate of profitability, and we saw examples where the successful bidder bid twice as much as the second highest and three times the third highest.

12.114. The differences in proposed store area or development costs do not appear sufficient to account for such a wide spread of bids. Retailers may differ in their views on a site's potential turnover and profitability (see, for example, the differences in turnover per sq metre in Table 12.22) but, again, the differences appear too great to be explained by this alone. Some may bid in hope rather than expectation. Others may have strategic reasons for acquiring particular sites—such as breaking into a new area.

Costs of land

12.115. We looked at two aspects of land prices. First, we looked at the land costs of operational stores. Second, we looked at the prices specified in conditional contracts or options agreed between 1996 and 1999 and yet to become unconditional, which represent the most up-to-date information on land prices available to us.

Land costs of operational stores

12.116. Table 12.19 summarizes the spread of costs agreed by a number of the main parties, over the period 1992 to mid-1999, for the acquisition of land for complete stores which had opened by mid-1999. (Sites acquired for extensions to stores are not included.) The data were incomplete. In particular, site area was not always given—rarely so in Sainsbury's and Somerfield's cases—so land costs per hectare could not be calculated. Consequently, Table 12.19 does not take account of all stores opened. Despite the small number of Sainsbury and Somerfield stores, it shows a very clear division between five multiples who paid, on average, more than £[30] million per hectare for sites (Safeway, Asda, Tesco, Sainsbury and Waitrose) and four others whose average land costs were less than £[10] million per hectare. The latter are mainly discounters, with the exception of Morrison whose policy has been to avoid prime sites and whose supermarkets are nearly all located in the North of England. The high average price paid by Waitrose reflects, at least in part, its concentration in the South of England.

TABLE 12.19 **Average land costs of existing supermarkets (prices agreed, 1992 to 1999)**

	Netto	Morrison	Somerfield	Aldi	Safeway	Asda	Tesco	Sainsbury	Waitrose
Average land cost (£'000 per hectare)	[<i>Figures omitted. See note on page iv.</i>]								
Number of sites	11	28	1	112	78	18	66	7	9

Source: The main parties represented in the table.

12.117. Table 12.20, based on the same data as Table 12.19 (except for two transactions agreed in 1999), shows the average prices agreed by these two groups of multiples, for each of the years 1992 to 1998.

TABLE 12.20 **Spread of land costs (prices agreed, 1992 to 1999)**

		<i>Year of price agreement</i>							
		1992	1993	1994	1995	1996	1997	1998	
Asda, Safeway, Sainsbury, Tesco and Waitrose	Number of sites	28	42	25	31	22	21	9	
	Average price (£'000/hectare)	2,239	2,431	1,473	1,690	1,725	1,945	3,094	
Aldi, Morrison, Netto and Somerfield	Number of sites	21	37	24	16	24	16	12	
	Average price (£'000/hectare)	852	764	1,236	420	1,203	1,564	983	

Source: The main parties represented in the table.

Land prices in recently-struck deals

12.118. Table 12.21 summarizes the information on recently-struck deals given to us by the major parties. It is our most up-to-date information on food store land prices. Table 12.20 shows little consistent trend in the prices agreed for large food store sites between 1992 and 1997 but both Tables 12.20 and 12.21 suggest a significant rise between 1997 and 1998, at least for the larger multiples. Asda and Sainsbury also commented that prices had risen in the period from 1996, though Tesco considered that prices had tended to fall over this period. Over the same period, there was a rapidly hardening market for development land in London, the South-East and more favoured residential areas in the rest of the country.

TABLE 12.21 **Spread of land costs: deals struck, 1996 to 1999**

	<i>Year deal struck</i>			
	1996	1997	1998	1999*
Number of deals	10	35	60	30
Lower quartile (£'000/hectare)	1,285	1,532	1,468	1,631
Average price (£'000/hectare)	2,147	2,019	2,743	2,735
Upper quartile (£'000/hectare)	2,943	2,347	3,259	3,138

Source: The major parties.

*Incomplete year.

12.119. Most prices for the stand-alone store sites included in Table 12.21 ranged from around £1.5 million to £3.3 million per hectare (£3.7 million per hectare in London and the South-East).¹ There were exceptions: some prices in the conditional contracts reported to us were in a range from £0.5 million to more than £8 million per hectare. Prices will depend on many factors including: location; competition for the site; whether the site is bought with planning permission or not; whether the site is a

¹It should be noted that these figures represent the prices paid to the vendor, excluding financing costs and fees. We were not able to obtain full-cost data on a consistent basis from the five.

single plot or in fragmented ownership; and whether it is a replacement store or not. It should be noted that if we had excluded Morrison from Table 12.21, the average land values would have been higher.

Rents

12.120. As already noted (see paragraph 12.104), most main parties prefer to buy sites freehold or on long leases rather than rack-rent stores (though this is not always possible, especially in town centres). However, we did review 20 rack-rental contracts entered into between 1997 and 1999, which covered the whole of the UK. In 16 cases, the annual rent was between £110 and £180 per sq metre. In three cases, all in central London, it was significantly higher (ranging from £240 to £538 per sq metre) and in one poor location it was significantly lower (£73 per sq metre). Rents for deep discounters typically ranged from £80 to £120 per sq metre.

12.121. Asda and Sainsbury told us that in strict financial terms the advantages of rack renting were marginal at best and could be negative. A similar view was put to us by Morrison. Sainsbury told us that it could borrow (for example, by issuing ten-year bonds) at about 7 per cent before tax while the developer of a rack-rented store might expect an immediate yield of 8 to 8.5 per cent on his investment and upward-only rent reviews. Over a ten-year period, this might equate to 13 to 13.5 per cent, well above Sainsbury's cost of borrowing for purchase. Non-food retailers, on the other hand, might find rack rental the cheaper, or only, option.

The cost of land for other uses

12.122. In view of the importance of main parties' land and buildings in their asset structure and their potential impact on profitability and consumer prices, we sought to compare their land costs with those of land for industrial or residential use and with those of retailers in non-food and discount food sectors. Most of the main parties did not have details of any valuations of their property on the basis of non-supermarket use so we relied on indirect methods of comparison.

Industrial and residential values

12.123. We used Valuation Office Agency (VO) statistics on prevailing industrial and residential values. The VO publishes six-monthly average prices for a sample of towns and cities across England, Wales and Scotland. These were compared with the main parties' data on prices paid for a sample of stand-alone store sites. In making site-by-site comparisons we used, wherever possible, VO data relating to a nearby town at the time the price of the store site was agreed; we relied on the market knowledge of our consultants when no statistics were available for a nearby town.

12.124. Though our methodology was indirect, the results are reasonably clear. There are some low-price transactions for store sites but, in the majority of cases, such sites command prices substantially greater than local values for residential or industrial development. The average cost per hectare of the sample of transactions for stand-alone supermarket and hypermarket sites in Table 12.21 was some six to eight times the VO's prevailing industrial values and around four times its prevailing residential values (although these factors vary greatly from site to site).

Other retail values

12.125. We next looked at values of land for non-food retailing. The most valuable non-food sites tend to be those for large-scale retail outlets ('retail warehouses'), for example for electrical goods or DIY. Those with 'open A1 retail (non-food)' consents are more valuable than those with conditions limiting retailing to the sale of bulky goods. Away from town centres, food and non-food uses are not readily interchangeable because of planning restrictions. Although the same PPG6 sequential approach applies to both uses, retail impact tests for food and non-food developments are differently based. Whilst an area may have a shortfall of floor space for food sales it could have a surplus of non-food space and vice versa. Accordingly developers cannot usually choose between retail warehouse or food-store use of a site.

12.126. There is no public register or list of sales of retail warehouse sites. The market, like that for food-store sites, is highly secretive. We were given data on a number of retail warehouses owned by two of the major parties and, through our consultants, obtained information on other transactions involving third party developers. Though prices varied considerably, most sales in 1998 and 1999 for which we had details were in the range £1.1 million to £2.7 million per hectare. Though these figures could not be considered fully representative, they are not inconsistent with our consultants' advice that, in their experience, the general level of retail warehouse land costs in recent years had been some half to two-thirds those of Asda, Safeway, Sainsbury, Tesco and Waitrose stores. Several main and other parties suggested that the prices of land for supermarkets and for retail warehousing were converging.

12.127. Land prices for different uses will depend on the profit that can be generated from the land in future years. Supermarkets achieve higher sales densities than other forms of retail, although in some cases the profit margin will be lower. We compared turnover and operating profit per sq metre for different retail sectors. Where we were able to obtain figures from annual reports we have used them, but in some cases we have relied on the *Retail Rankings—1999 Edition* (Retail Intelligence 1999) for estimates of sales per sq metre of selling area. The results are shown in Table 12.22. Given that the data have been gathered from different sources, the figures for different retailers are not necessarily directly comparable, and should be treated as indicative only.

TABLE 12.22 Sales per sq metre by retail sector

Retailer	Year	Sales (£ per sq metre)*	Operating margin %	Operating profit £ per sq metre
<i>Grocery sector</i>				
Sainsbury	1998/99	11,442	5.90	675
Tesco	1998/99	11,465	5.37†	617
Morrison	1998/99	8,027	6.67	535
Asda‡	1997/98	9,135	5.43	496
Safeway	1998/99	7,993	5.62	449
Waitrose‡	1998/99	9,263	4.01§	374
Somerfield	1997/98	5,896	3.68	217
Budgens	1998/99	5,550	3.60	200
<i>Furniture</i>				
IKEA‡	1998	2,808	18.27	513
DFS‡	1998	4,423	11.39	504
MFI‡	1998	2,033	8.24	168
Furniture Village‡	1998	2,453	3.37	83
<i>Electrical & other durable goods</i>				
PC World‡	1997/98	7,145	6.64¶	474
Dixons‡		6,510		432
Currys Superstores‡		5,068		337
Powerhouse‡	1997/98	4,950	3.91	193
Comet	1999	4,710	3.87Ⓜ	182
Tempo	1999	3,340	5.24	175
<i>DIY</i>				
B&Q	1999	1,419	9.86Ⓜ	140
Wickes‡	1998	2,077	4.16	86
Homebase	1999	1,260	5.24	66
Focus Do It All Ltd‡	1999	769	5.3	41

Source: Company annual reports, Retail Rankings 1999.

*Excluding taxes.

†Corrected to 52 weeks.

‡Sales per sq metre figures from Retail Rankings.

§Trading margin.

¶Breakdown for individual companies not available—figure is for Dixons Group in total.

ⓂRetail margin.

12.128. Table 12.22 confirms that, in general, the larger food retailers make more profit per sq metre than is made by non-food retailers, whereas for smaller operators the figures are similar. However, the most successful non-food retailers achieve levels of operating profit per sq metre similar to those of the larger food retailers. We had insufficient data to determine whether the more successful non-food

retailers generally paid more for sites than others (and, in any event, non-food retailers do not typically purchase their stores) although we did see some isolated examples suggesting that, to some extent, land prices depend on the profit stream that can be generated.

12.129. Tesco confirmed that a differential existed between what it paid for land and the alternative use value and that this differential was depreciated in its accounts. It attributed the differential mainly to the fact that buyers frequently contracted to buy land only on condition that they got planning consent (relatively hard to obtain for food use). This increased the risk to the seller who then needed to be compensated via a higher price.

Land costs outside the UK

12.130. Some parties suggested to us that property costs in the UK were high in international terms and independent surveys of property markets tend to support this view. Table 12.23, based upon analysis by Deutsche Bank, suggests that leading UK grocers face land prices up to six times those of leading Continental European retailers. Deutsche Bank suggests that land in the UK costs around \$3,000 per sq metre of selling space; in France, before the Raffarin Law was passed, it rarely exceeded \$1,200 per sq metre, while in the USA, the cost is \$500 or below (Global Food Retailing, Deutsche Bank Research (August 1999)). Taking a typical UK ratio of 1,250 sq metres of sales area per hectare of land, and an exchange rate of 1.6 dollars to the pound, \$3,000 per sq metre of selling space equates to £2.3 million per hectare for the land—very much in line with the range £1.5 million to £3.3 million per hectare shown by our data (see paragraph 12.119).

TABLE 12.23 **Comparison of the cost of land between UK, European and US Retailers (US\$ per sq metre of selling space)**

	US \$		
	1991	1996	1999*
Tesco	2,150	3,000	3,040
Sainsbury	2,700	3,350	3,400
Safeway	1,280	2,700	3,150
Asda	1,680	2,240	2,800
Morrison	1,600	2,000	2,560
Stoc (Carrefour group)	200	350	500
Albert Heijn (Ahold group)	450	500	750
Pryca	800	900	1,000
Colruyt	400	500	550
Safeway Inc	250	280	300

Source: *Global Food Retailing*, Deutsche Bank Research, August 1999.

*Estimated.

12.131. Deutsche Bank Research concluded that land costs tended to be higher in the UK than in other countries because of:

- population density;
- planning constraints; and
- poor road infrastructure.

LE, echoing these views, said that planning constraints were the most important reason, since the introduction of PPG6 and PPG13 and their equivalents had reduced the ability of retailers to develop out-of-town sites, reducing the choice of locations for the retailer and increasing the demand for, and therefore price of, town centre sites. It added that poor road infrastructure in the UK relative to Continental Europe and the USA may also limit the number of suitable locations for development in the UK and again increase their price. We noted that sales densities were higher in the UK than in some other countries (see paragraph 10.89), which might also contribute to higher land prices.

12.132. In order to investigate these issues in more detail, we asked our consultants to carry out a detailed survey of land costs in France, Germany and Holland. A summary of their analysis can be found in Appendix 12.7. This suggests that land costs for supermarkets outside the centres of cities such as London and Paris are typically five to ten times higher in the UK than in France, two to three times higher than in Germany and five to seven times higher than in the Netherlands. As noted in paragraph 12.99, a key point of difference between the UK and France is the requirement for a licence in addition to the equivalent of planning consent. Licences are not tradeable, but our consultants considered that, if they were, their value could be 100 to 300 per cent of the cost of the undeveloped land. This suggests that, if licences were tradeable, UK land costs would be some two to three times the cost of land plus the licence in France.

12.133. We sent our consultants' reports to the main parties for their comments. In general, they were accepted as a reasonable attempt to quantify the differences between the countries, given the scarcity of market data. Tesco appointed its own consultants to prepare a critique. Tesco's consultants, apart from pointing to what they considered to be a number of factual errors in the reports, were of the view that they did not arrive at any useful or supportable conclusions that would give worthwhile pointers to areas for better practice in the UK. No alternative land valuations, or approaches to land valuation, were proposed. Sainsbury was also critical of the reports, suggesting that worthwhile conclusions could not be drawn from them (but without offering any alternative approach).

12.134. LE suggested that the cost of renting also varied widely from country to country. It observed that the structure of leases varied between countries—see Table 12.24—and this could lead to differing costs between countries. It said that leases in the UK were generally longer than leases elsewhere though the length of UK leases was falling. In 1989 the average length of new commercial leases was 20 years but by 1993 this had fallen to ten years. The biggest falls in lease lengths had been for retail property where the traditional 25-year lease common ten years ago had been widely supplanted by 10- or 15-year leases.¹

TABLE 12.24 **Typical lease structures for retail property**

	<i>Length (years)</i>	<i>Rent increases</i>	<i>Premiums and key money</i>	<i>Tenant's leasing fees</i>
France	Minimum 9	Indexed annually to INSEE construction cost index	In some prime locations	Up to 30% of first year's rent
Germany	Generally 10	Turnover to rent common indexed annually to cost of living index	Rare	15–30% of annual rent
Italy	6	Indexed annually to a maximum of 75% of cost of living	Common and often substantial	10% of annual rent
UK	Traditionally 25, but 10 now common	Upward-only review every 5 years	Sometimes payable to landlord or tenant	7–10% annual rent
USA	Between 5 and 10	Rent as a percentage of turnover common with minimum payment indexed to cost of living	Rare	Not applicable

Source: Jones Lang LaSalle.

12.135. Our consultants looked at rental values in France, Germany and Holland, and found significant differences: rents in the UK were typically 20 to 100 per cent higher than in France, 40 to 80 per cent higher than in Germany and 60 per cent above those in the Netherlands.

Comparison of land costs

12.136. In summary, a group of the main parties—Asda, Safeway, Sainsbury, Tesco and Waitrose—have paid much more for land than other main parties (including Morrison). They have also paid more

¹*Commercial Leases—A permanent Revolution?* Drivers Jonas, 1997.

for land than non-food retailers or industrial and residential users in the UK, and their counterparts in other European countries. Table 12.25 shows typical values in each case (bearing in mind that land values vary enormously, depending on location and condition).

TABLE 12.25 Comparison of land costs

	<i>Land cost £'000 per hectare</i>
Asda, Safeway, Sainsbury, Tesco and Waitrose	1,500–3,300
Other main parties	500–2,000
UK retail warehouses	1,100–2,700
UK industrial use	180–520
UK residential use	330–800
France food store	140–750*
Germany food store	500–1,600
Netherlands food store	250–500†

Source: CC analysis.

*Excludes 'licence premium'.

†Excludes payments in lieu of parking spaces.

12.137. We discussed the financial impact of differences in land prices on profitability in paragraphs 8.90 and 8.91. There, we estimated that an increase of £125,000 per hectare in land prices would require an increase in store prices of 0.14 per cent to maintain the same RONO. The figures in Table 12.25 indicate that some of the larger main parties have, indeed, paid much higher prices for land, at least by comparison with other retailers and their European counterparts. Prices paid by other main parties are in line with those paid by non-food retailers but still higher, in general, than elsewhere in Europe.

Costs of development

12.138. The main parties gave us details of the development costs of store buildings opened from mid-1992 onwards. The data did not include the costs of fixtures, and fittings were broken down into four categories:

- the shell building;
- internal finishing;
- external works (eg site decontamination, parking, roads); and
- fees related to these.

The shell building was usually the largest part of total costs, although external works could sometimes exceed it. Finishing costs ranged widely, from small up to as large as and occasionally greater than, the cost of the shell building. Fees were almost never a significant element.

12.139. Table 12.26 shows averages of total building costs per sq metre of gross floor area for the major parties for the period 1996 to 1999. Data are included only when figures were given for each of the four cost categories listed above and rack-rented stores are excluded.

TABLE 12.26 Average costs of buildings

£ per sq metre of gross floor area

Major party	Year of opening							
	1996		1997		1998		1999*	
	Cost	Number of stores	Cost	Number of stores	Cost	Number of stores	Cost	Number of stores
Asda	[]	2	[]	9	[]	9	[]	2
Morrison	[]	-	[]	6	[]	5	[]	-
Safeway	≈	7	≈	12	≈	16	≈	4
Sainsbury	[]	5	[]	12	[]	10	[]	3
Tesco	[]	15	[]	16	[]	20	[]	2

Source: The major parties.

*Part year.

12.140. Table 12.26 shows that, in 1996, these parties were paying similar amounts. Since then costs have risen, but Sainsbury's and Tesco's costs have risen significantly more than the others'. The comparison between these and land costs in Table 12.27 shows that building costs and land costs are similar for a typical store built at 2,100 sq metres of gross floor space per hectare.

TABLE 12.27 Comparison of food-store land and building costs

	1996	1997	1998	1999
Average building cost (£ per sq metre)	1,264	1,395	1,540	1,507
Average building cost (£'000 per hectare @ 2,100 sq metres per hectare)	2,653	2,791	3,234	3,165
Average land cost (£'000 per hectare)*	2,147	2,019	2,743	2,735

Source: The major parties.

*Figures from Table 12.21.

12.141. We did not have data on the building costs of multiple non-food retailers. Current representative figures are given in *Spon's Architects' and Builders' Price Book*¹ which quotes retail warehouse costs (including fitting-out) of £470 to £630 per sq metre of gross floor area. The same publication gives a range of £850 to £1,140 for a large food store. None of these figures includes fees or costs of external works such as site preparation and roads (included in the data we obtained from the parties) but they do include costs of fixtures and fittings such as refrigeration, shelving and check outs, excluded from our data. Spon's figures are therefore not directly comparable with the figures in Tables 12.26 and 12.27 but nevertheless indicate the substantially greater building costs of supermarkets.

Costs of development outside the UK

12.142. Published information suggests that not only does land for UK stores cost more to acquire, but that building costs are also higher. Deutsche Bank calculations of gross tangible assets per sq metre of retail space for leading grocery retailers (taken as land costs, construction, other store build costs, fixtures and fittings and IT systems) suggest that in the UK a store of 2,500 sq metres net floor space costs between £15 million and £18 million.² This would be 2.5 and 3.5 times the cost in Spain, Germany and France and five to six times the cost in USA.

12.143. LE suggested that tight planning restrictions in the UK might force external appearances to conform to a higher specification than those in other countries, where retailers operated from factory-like sheds rather than brick buildings, and that restrictions aimed at protecting old buildings could also increase costs for town centre stores.

¹Davis Langdon & Everest, 2000.²Global Food Retailing, August 1999.

Comparison of development costs

12.144. Our consultants also examined building costs in France, Germany and the Netherlands (see Appendix 12.7). Their analysis suggested that development costs in the UK were typically 2.5 times higher than in France, 1.6 times higher than in Germany and 2.7 times higher than in the Netherlands. Since development costs in the UK are the same order of magnitude as land costs for a typical supermarket, these differences are significant.

TABLE 12.28 **Typical recent construction costs**

	<i>Construction (shell only) £ per sq metre*</i>
Asda, Safeway, Sainsbury, Tesco and Waitrose	800
Other main parties	300
UK retail warehouses	300
France food store	320
Germany food store	500
Netherlands food store	300

Source: CC analysis.

*Total building costs (including shell, externals, finishes and fees) are about twice those shown for shell.

Letting and sales: restrictions on use

12.145. The main parties cited a number of reasons for the sale of surplus stores—most frequently: poor trading; the store did not fit company criteria (usually too small); or a replacement store had been acquired or built. Occasionally stores are sold because an exceptional offer is received or to escape from an onerous lease. Land becomes surplus and is sold usually because the supermarket fails to secure planning consent or, occasionally, because site assembly proves too difficult.

12.146. We reviewed the main parties' data on lettings and sales of surplus stores and land for evidence bearing on two questions in particular:

- whether they restrict the use to which their surplus stores are put; and
- whether they hold non-operational land principally for the purpose of blocking development by a competitor.

There are two main ways a multiple might restrict or prevent the reuse of a surplus store (or land) for food retailing:

- let or sell to a non-food retailer; or
- sell for redevelopment or break-up.

In both cases the seller may also place a restrictive covenant on the property, precluding food sales.

Letting of former stores

12.147. Table 12.29 shows the number of former stores held by each of the major parties now let or sub-let for food store use. It shows that, with the exception of Safeway, these parties rarely let or sub-let former stores to other food retailers. Most of the few counter-examples are comparatively small leasehold properties let to budget operators such as Kwik Save, Somerfield or Lidl, and independent retailers. We saw no case in which store occupancy had changed between the major parties.

TABLE 12.29 **Stores let for food and non-food use**

<i>Multiple</i>	<i>Former stores for food store use</i>	<i>Former stores for non-food use</i>	<i>Total</i>
Asda	2	3	5
Safeway	35	50	85
Sainsbury	1	8	9
Morrison	0	0	0
Tesco	<u>1</u>	<u>28</u>	<u>29</u>
Total	39	89	128

Source: The major parties.

Sales

12.148. When disposing of a surplus store, a retailer may have little choice over its future. For example, if a retailer were looking to build a new store the planning authority may consider that such a development would be inappropriate if it entailed closure of an existing outlet in the town or district centre.

12.149. When selling surplus property the main parties aim to maximize the value obtained. If the value for non-food retailing or development exceeds the food store value, it can simply sell to the highest bidder, with or without a restrictive covenant precluding use as a food store. If the food-store value is likely to exceed any alternative use value, then the retailer will take into account any effect that a sale to a competitor will have on their trade from nearby stores. If this effect is likely to be significant, a retailer may seek to avoid selling to a competitor, even if this means accepting a lower price. The examples described in Appendix 12.1 illustrate how certain of the main parties assess the effect of retention of the former store on their turnover and profitability and compare this with any reduction in sale proceeds if the property is sold for non-food use.

12.150. If a main party imposes a restrictive covenant, it is usually to restrict the use of former stores to non-food retailing where a replacement store is to be opened, with the aim of protecting the trading position of the new venture. Sometimes a retailer may impose a covenant to satisfy the planning authority's requirement to restrict the total amount of space for food sales, but this is unusual. We noted that, under section 84 of the Law of Property Act 1925, the Lands Tribunal has powers to modify or overturn restrictive covenants in a variety of circumstances, including if it is against the public interest, and can require compensation to be paid to the beneficiary of the covenant. The Lands Tribunal told us that most of the requests relate to residential properties and concern historic covenants (more than ten years old) where circumstances have changed. It would be very unusual to overturn a recently-imposed covenant (say within the previous five years) without a material change of circumstances.

12.151. If a store is sold for non-food use, without a covenant on the purchaser precluding food sales, there is no guarantee that food sales will not be restored in the future, but early resumption is unlikely. Redevelopment and, to a lesser extent, break-up offer more certainty that large-scale food retailing will not be resumed on the site.

12.152. The main parties gave us details of sales of surplus properties since July 1994—mainly of stores but also of land. These data suggest that many of them sometimes try to prevent stores surplus to their needs being reused for food by potential competitors, particularly when the sale is associated with the opening of a new store. On the other hand, some of them appear to be content to sell small stores for reuse as convenience stores. Safeway and, to a lesser extent, Somerfield have sold many smaller properties for such use. Slightly larger stores are sometimes sold for continued use as food stores—mainly to operators such as Kwik Save, deep discounters and independents. There was no evidence that such stores are traded between the larger main parties though they occasionally buy going concerns from smaller operators. In line with this, Safeway commented to us that the likelihood of negotiating a store-swap with another of the major multiples was minimal.

12.153. Table 12.30 summarizes our findings in respect of the major parties by numbers of properties and the use to which they were subsequently put.

TABLE 12.30 **Uses of former sites**

	<i>Asda</i>	<i>Morrison</i>	<i>Safeway</i>	<i>Sainsbury</i>	<i>Tesco</i>
Total sales	9	3	475	49	60
Former use:					
Food store	7	3	466	22	43
Other*	2	-	9	29	17
New use:					
Convenience			344		
Frozen food			16		2
Supermarket	1	1	21	4	7
Non-food retail	2	1	45	12	24
Development or break-up	6	1	49	33	27
Subject to covenant	4	1	8	7	14
Replacement store?	2	1	25	N/A	16

Source: The major parties.

*Mostly land.

Blocking purchases and retention

12.154. Most surplus sites are held pending disposal following refusal of planning consent. We found no evidence in the data of surplus property retained primarily to block a competitor. Nevertheless, where land is acquired to assemble a site for development it will effectively exclude a competitor from acquiring it, unless the local authority resorts to compulsory purchase (an example is described in the following paragraph).

12.155. In some cases we noted that the major parties had bought or acquired options on small parcels but had not followed them up. Safeway told us of sites it held but where development had been suspended as the expected financial returns had become inadequate. In another case a local authority, having chosen Morrison to develop a site, is having to compulsorily purchase a part of the site which Morrison told us had been bought by Tesco.