

CONSULTATION ON PROPOSED CHANGES TO NATIONAL PLANNING POLICY STATEMENT 6 - PLANNING FOR TOWN CENTRES

1. Executive Summary

- 1.1 This report summarises the Government's proposed changes to Planning Policy Statement 6 - Planning for Town Centres, which were issued for consultation on 10th July 2008. The report recommends that the Directors Comments in Section 4 form the basis of the Council's response. The closing date for comments is 3 October 2008.

2. Background

- 2.1 The current Planning Policy Statement 6 (PPS6), issued in March 2005, included a number of measures for the assessment of development proposals for retail and other town centre uses. The measures, which applied to both development plans and planning applications, included the requirement to show the "need" for the proposal, to demonstrate that a sequential approach had been adopted for the selection of the site in question and an assessment of the impact of the proposal against a list of relevant matters (PPS6, paragraph 3.22 refers). Scale and accessibility were also significant factors in these assessments.
- 2.2 The Planning White Paper published in 2007 stated that the current approach to assessing the impact of proposals outside town centres would be reviewed. The White Paper also indicated that the current need and impact tests were to be replaced by a new test which would avoid what it described as the "unintended" effects of the current needs test. These effects had been identified in the earlier Barker review of planning, which found that the need test was distorting competition and denying consumer choice. It also found that the planning system had become too involved in technical definitions rather than focusing on what a proposed development would actually mean for the town centre and the people who rely on it.
- 2.3 The Government has issued draft amendments to the existing PPS6, rather than an entirely new version of the guidance. The consultation document can be viewed at:
- <http://www.communities.gov.uk/publications/planningandbuilding/pp6consultation>
- 2.4 The ministerial introduction to the consultation document stresses that the changes are not about revisiting the fundamentals of the

Government's policy, such as the town centre first approach. The consultation document, nevertheless, includes an entire replacement of chapter 3 (which is concerned with development control) as well as changes to selected paragraphs in chapters 1, 2 and 4 of the existing PPS6.

- 2.5 Annex C of the consultation document sets out in more detail the extent to which the current need test has led to unintended outcomes and the extent to which the current impact test has not worked in practice.

3. The Main Changes

- 3.1 There is no change to the requirement in the current PPS6 for planning authorities to assess the need for new town centre development when selecting sites for development in development plans (consultation document, proposed replacement paragraph 2.16). The proposals would, however, remove the requirement for an applicant for planning permission to submit a separate assessment of 'need' for development located outside an existing centre, even if that development would not be in accordance with an up to date development plan (consultation document, page 5).

- 3.2 The consideration of need will instead form one element of a new impact assessment framework which applicants would need to undertake in certain circumstances. The main features of the new test are summarised as follows (consultation document, proposed replacement paragraphs 3.19e-g refers):

- The impact test would have a broader focus with an emphasis on economic, social and environmental as well as strategic planning impacts, to enable positive and negative town centre and wider impacts to be taken into account. Although not explicitly identified as such in the proposed revisions, the impact test will potentially operate as a two-stage process:
- Proposed paragraph 3.19e identifies key impact considerations which all applicants must assess, including: impact on planned in-centre investment; whether the proposal is of an appropriate scale (the previous 'scale' test); and impacts on in-centre trade/turnover, which should take account of current and future consumer expenditure capacity. Where there is clear evidence that negative impacts are likely to be significant this will normally justify the refusal of planning permission.
- However, where there are only some adverse impacts, there is the potential to balance these against wider environmental, social or economic benefits listed in proposed new paragraph 3.19g, which could mean that the proposal should be considered more

favourably. The wider impacts that should be considered include: accessibility (the previous 'accessibility' test); sustainable transport considerations; impact on traffic; effects on employment and regeneration; claw back of trade; and whether the proposal would represent an efficient and effective use of land.

- 3.3 The threshold of 2,500 sq m gross floorspace above which impact assessments will always be required is retained, as is the provision to request them for smaller schemes where there are particular concerns about impact on smaller town centres (consultation document proposed replacement paragraph 3.19b refers).
- 3.4 The revisions to PPS6 had also been expected to address the findings of the Competition Commission's investigation into the UK groceries market (Competition Commission, 30 April 2008). A key recommendation of that investigation was that the Government should introduce a 'competition test' into the planning system, to require local authorities to assess planning applications for new grocery floorspace over 1,000 square metres for their impact on competition, in consultation with the Office of Fair Trading.
- 3.5 The consultation document indicates that the Government's response to the Competition Commission's report will be published shortly. However, reports elsewhere in the press indicate that this may be further delayed by Tesco's application to the Competition Appeal Tribunal (CAT), to challenge the Commission's proposal to introduce the 'competition test' into the UK planning system. One of the main points in Tesco's application is that the competition test would fail to remedy the adverse effects on competition identified by the Commission. In the meantime, the PPS6 consultation document lists the promotion of competition between retailers as one of the Government's key objectives for town centres and includes a requirement for proposals to be assessed on the extent to which they promote consumer choice and retail diversity (consultation document, proposed new paragraphs 2.18a-c).
- 3.6 The existing advice that local authorities should consider setting an upper limit for the scale of developments likely to be permissible in different types of centre (PPS6, paragraph 2.42 refers), is proposed to be replaced with a more general consideration of the scale of development likely to be permissible (consultation document proposed replacement paragraph 2.42 refers).
- 3.7 The consultation document now also states that new centres should be designated through the plan-making process, where a need has been established, with a particular reference to growth areas and eco-towns (consultation document, paragraph 2.53).

4. DIRECTORS COMMENTS

4.1 The proposed changes to PPS6 have largely been prompted by the Barker review of land use planning and its recommendation that the need test be replaced.

4.2 A number of specific questions have been included in the consultation document upon which views are requested. A suggested response to each question is set out below:

1. *Will the proposed changes support current and prospective town centre investment?*

4.3 The critique of the existing needs test in Annex C of the consultation document is largely focused on the extent to which it has hindered edge and out of centre development rather than on the benefits that it has provided to existing centres.

4.4 Need is generally not a consideration for town centre development under the current PPS6 at application stage, so its removal as a separate test is unlikely to promote any further increase in the number of town centre schemes gaining planning permission. The effect of the removal of the separate needs test could however be seen as increasing the likelihood of proposals securing permission in edge of centre and out of centre locations.

4.5 In the absence of the separate needs test, the proactive assembly and bringing forward of sites in sequentially preferable town centre locations would also become more important. The deliverability of such sites will remain a key consideration. Although the emphasis on a plan-led approach would remain, the complicated and lengthy Local Development Framework process and the greater focus on Core Strategies rather than site-specific Development Plan Documents in the revised PPS12, will mean that it will become more difficult to bring town centre sites forward through the development plan within a reasonable period of time.

4.6 The new impact test needs to be counterbalanced by additional measures to support town centre development, particularly in areas of lower growth. An existing weakness of the current PPS6 (and the proposed changes) is the lack of recognition that many Local Planning Authorities have town centres which face significant physical and environmental constraints and face a shortage of resources and expertise in relation to the CPO process.

4.7 One of the most significant impacts of the existing PPS6 has been the impact of polarisation, which has affected many industrial towns in the north of England especially in HMRI areas, where major new retail development is becoming increasingly concentrated within the larger centres to the detriment of smaller towns and centres. The role of regional planning strategies in relation to the relative balance between existing centres needs to be strengthened.

2. Does the scope of the new impact test achieve the right balance and is it robust enough to thoroughly test the positive and negative impacts of development outside town centres?

- 4.8 The comments in reply to question 1 also apply here. Out-of-centre schemes may find the new impact test easier to satisfy, as quantitative aspects will now be able to be balanced against a wider range of other considerations. A positive benefit of the new test is that applicants will now be encouraged to pay more attention to a wider range of factors in their application submissions. It is important that proper guidance is provided on how to evidence and assess these other matters.
- 4.9 Under the current PPS6 the focus has tended to be on the need and sequential “tests”, while the consideration of wider impact has tended to be of secondary importance. Experience has shown that applicants have sometimes been reluctant to commission potentially costly original research and need assessments submitted with planning applications often rely on outdated information. The general complexity of need assessments, combined with a reliance on assumptions, a lack of up to date data and professional judgment can result in some needs assessments being of reduced value to the decision-making process. Similar criticisms can be leveled at the quality of many retail impact assessments.
- 4.10 Given the wider scope of the impact test, the level of detail and complexity of impact assessments is likely to increase, as could the cost of their preparation. This will have implications for both developers and Local Planning Authorities, as the draft guidance indicates that these assessments should now also be undertaken as part of the development plan. They could also take longer for local planning authorities to assess, at application stage, entailing the greater use of consultants from a wider range of disciplines.

3. Is there scope to simplify and streamline the various impact considerations further?

- 4.11 Some of the other considerations set out in paragraph 3.19g of the consultation document could be pulled together within a regeneration impact statement

4. Is the consideration of consumer choice and retail diversity as part of assessing the impact of a proposal appropriate and will it be sufficient to help promote competition?

- 4.12 It is regrettable that the deferral of the competition test issue will probably mean that a further round of consultation will be required. General comments can, however, be made on the principle of introducing a competition test.

- 4.13 Traditionally, the identity of an operator has not been a planning consideration. The introduction of personal permissions tied to a specific operator (which is hinted at in the draft guidance and seems to be potentially a key element of a competition test) seems fraught with difficulty. It is, for example, difficult to envisage how a workable condition could be drawn up to deal with future changes in format, trading name, and the setting up of separate trading companies, etc.
- 4.14 One adverse impact of a competition test could be the creation of an oversupply of floorspace in an attempt to deal with a local monopoly, which may already more than adequately provide for the local needs of the area. This could especially impact on smaller independent retailers.
- 4.15 The role of the Office of Fair Trading will be critical, if they are to be involved in carrying out the test and in providing advice to Local Planning Authorities. For example, the willingness of the OFT to defend their advice at appeal may need to be a key component of the new procedures.

5. *It has been suggested by some stakeholders that we should consider limiting impact assessments and that it should be confined to retail developments. PPS6 and our proposed revisions maintain a flexible approach to the preparation of impact assessments for all main town centre uses and do not limit assessments to larger developments or retail proposals. Do you think our flexible approach should be maintained?*

- 4.16 There is no objection in principle to broadening the scope of impact assessments as non-retail uses can be important draws to town centres. The main issue is identifying workable methodologies for non-retail uses, particularly in terms of assessing impact. These will need to be identified in the practice guide. The area of greatest difficulty would, however, appear to relate to the quantitative impact of office proposals.

6. *Are the existing health check indicators in chapter 4 sufficient to enable informed judgments to be made about the various impact considerations which have been identified?*

- 4.17 The indicators are reasonable and would be necessary (and of greater importance) to inform the application of the impact test. A major long-standing issue has been the lack of consistent data on many of these indicators, while other data can be costly to obtain from commercial companies. Some of the data would be sensible to provide in a better and more accessible form at national or regional level, such as turnover estimates (particularly for smaller centres), floorspace statistics and some form of vitality and viability database to make it

possible to make meaningful comparisons between centres of measures such as pedestrian flow.

7. Do you agree with the proposed approach to the practice guidance which will support PPS6?

- 4.18 The commitment to produce a practice guide is welcome, as is its proposed scope. The current PPS6 promised the publication of separate guidance on undertaking assessments of need and impact, which has not yet been issued. This has resulted in delays in the consideration of retail assessments submitted with planning applications due to ongoing discussions between applicants and officers over the methodology to be adopted and the assumptions and inputs to be used. There are concerns over consistency, with different districts applying different measures of assessment.
- 4.19 Given that other considerations, such as impacts on urban regeneration, are likely to assume greater importance in the new impact test, the practice guide now needs to be wider in scope, to advise on how these other factors should be evidenced and assessed. The definition of a significant adverse impact in quantitative terms would be particularly important.
- 4.20 Guidance will also be needed on the weight to be given to regeneration impacts in different parts of the country and in different socio-economic circumstances and applicants will, for example, need to be clear about how to assess and demonstrate regeneration benefits over, say, a 5 year period. It will be important to give priority to the availability of up to date data sources at national and regional level.

8. Other comments on the scope of the proposed changes

- 4.21 No comment

9. We are committed to producing policy that promotes equality of opportunity and good relations between people of different racial groups and eradicates unlawful discrimination. We would welcome views on whether the changes we are proposing to PPS6 will impact differently on people from different ethnic groups, on people with disabilities and on men and women? We particularly welcome the views of organizations and individuals with specific expertise in these areas

- 4.22 The policies proposed are unlikely to have an adverse impact if they are applied equally across the country.

5. Financial Implications

- 5.1 There are no financial implications arising directly from this report. The new tasks set out in the proposed changes to PPS6 may, however, have implications for the resources needed to assess proposals for town centre uses.

6. Staffing Implications

- 6.1 There are no staffing implications arising directly from this report. The new tasks set out in the proposed changes to PPS6 may, however, have implications for the time needed to assess proposals for town centre uses.

7. Equal Opportunity Implications

- 7.1 There are no equal opportunity implications arising directly from this report.

8. Community Safety Implications

- 8.1 There are no community safety implications arising from this report.

9. Local Agenda 21 Implications

- 9.1 There are no Local Agenda 21 implications arising directly from this report. The promotion of more sustainable development is one of the stated objectives of PPS6.

10. Planning Implications

- 10.1 The final version of the proposed changes to PPS6 will become material considerations in future planning decisions under the Planning Acts.

11. Anti Poverty Implications

- 11.1 There are no anti poverty implications arising from this report.

12. Social Inclusion Implications

- 12.1 There are no social inclusion implications arising from this report.

13. Local Member Support Implications

- 13.1 There are no specific ward member implications arising from this report.

14. Background Papers

- 14.1 The consultation document setting out the proposed changes to PPS6 (July 2008) can be viewed at:

<http://www.communities.gov.uk/publications/planningandbuilding/pp6consultation>

14.2 The existing PPS6 (March 2005) can be viewed at:

<http://www.communities.gov.uk/publications/planningandbuilding/pps6>

15. Recommendation

15.1 That the Director's comments in Section 4 of this report form the basis of the Council's response to the Department of Communities and Local Government

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