

14 October 2013

Dear Sir/Madam

National Planning Policy Guidance

I write on behalf of Accessible Retail (AR), the organisation which represents the property interests of the retail warehouse and retail park sector of the retail industry. AR has over 1000 members comprising owners/investors, developers, retailers and advisers, a membership which includes most of the major companies active in the sector. The majority of our member's interests are located in out-of-centre locations, but also, they have significant town centre interests.

The retail industry constitutes a major part of the UK economy accounting for some 8% of GDP and employing nearly 3 million people. Of this, retail warehouses and retail parks comprise some 30% of total retail spend from 3% of all retail outlets, with significant property assets of which over half is owned by pension funds and other institutional investors.

General comments

AR welcomes the new NPPG in beta-mode as a further welcome step along the path the Government has taken to simplify the planning system in order to make it more fit for purpose including especially development which will lead to the creation of new economic activity and new jobs.

The reduction in length of the guidance is to be applauded, as is the web-based format. The document in large part complements the simplified and shortened NPPF by providing concise and to the point guidance and explanation of policy. Welcome also is the guidance given on navigating procedural matters.

However, the parts of the Guidance on the sequential test and prematurity amount to policy-making and, more importantly, contradict what is said on these issues in the NPPF. Also, it does not take account of case-law in some important respects. By definition, the NPPF must carry greater weight and these parts of the NPPG should be changed to make them consistent with policies in the NPPF.

The section dealing with car parking also contradicts what is said on this issue in the NPPF. However, in this instance we consider the aims set out in the guidance to be superior to the policy in the NPPF and more aligned with the need to stimulate development and economic growth. As we have just said, the NPPF is the superior authority and we urge you to amend it to reflect the new approach set out in the NPPG.

Specific Comments

Status of the NPPG

At present, the NPPF and NPPG appear to have equal status. The NPPF, however, is the superior authority and this should be made explicit if needless conflict in determining applications and appeals is to be avoided.

Planning for Economic Growth

Generally, to match the intention of the Government, the Guidance needs to take a more positive approach to facilitating how the policy in the NPPF to promote economic growth and the creation of jobs should be approached and implemented.

This aim would be facilitated by more guidance on the method to be used to calculate future requirements for economic development outside the B class uses.

The retail industry is an important provider of employment and economic growth in the UK economy as set out earlier and many of the jobs it provides meet the Government's social inclusion objectives being part-time with flexible hours and with training provided.

However, the requirement for local authorities to plan for retail need and to meet the structural challenges outlined earlier is not dealt with strongly enough in the NPPG and may result in significant and appropriate opportunities for economic and employment growth being missed. Facilitating the creation of retail growth is a key pathway towards maintaining and strengthening the economic recovery.

Viability

AR welcomes the additional requirements placed on LPAs to take into account viability on schemes where section 106 obligations or other contributions are being considered. Also, that LPAs should apply policy flexibly where the viability of a development is in question.

Planning for Retail Development

General:

There is a heavy town centre focus which is unnecessary and biased. The retail market place is undergoing permanent structural change in response to competitive pressures imposed by the advent of multi-channel retailing. The spatial result of this

is a need for a multi-locational approach to the provision of new retail floor space. For a growing number of retailers, town centres no longer provide the new efficient and cost-effective trading formats they need to survive the new on-line competition.

Planning guidance should facilitate the growth opportunities being created in this new restructured retail market place and LPAs encouraged to adapt their approach to meet these new circumstances where needed and appropriate.

The Sequential Test:

Regarding the sequential test, the Guidance describes it as a 'gateway test' which contradicts paragraph 6 of the NPPF which states that the NPPF should be considered as a whole. Also, it contradicts Section 38(6) of the Planning & Compulsory Purchase Act 2004 which requires consideration of the development plan and any other material considerations. The Guidance should not go further than the policy in the NPPF which does not refer to a single gateway test.

The Guidance requires LPAs to consider the scope for flexibility in the format and/or scale of proposals and whether a proposal can be altered to fit into a suitable town centre location; for example, whether town centre sites individually or collectively could meet the same requirement as an out of town proposal.

This amounts to a new policy which runs contrary to well-established case law and the position as set out in PPS4. Whilst the latter required applicants for out of town proposals to consider the scope for disaggregation, it also stated that LPAs should not seek arbitrary sub-division of proposals. The NPPF only refers to demonstrating flexibility not disaggregation.

Any requirement to consider disaggregation will stifle development, economic recovery and most importantly, the necessary restructuring of the retail sector pointed out earlier. Disaggregated sites result in uneconomic trading formats and additional costs which reduce productivity and impact on customer choice. The Guidance should be amended in line with the NPPF.

The Impact Test:

The publishing of the Guidance presents an opportunity to clarify how the new impact test threshold introduced in the NPPF should be used. Whilst it is clear that an impact assessment cannot be required for schemes below the threshold, it is understood some LPAs believe such schemes can nevertheless be refused under

the test. It would be helpful if the Guidance clarified that schemes under the threshold cannot be refused on impact grounds.

Town Centres

As a needed corollary to this, the NPPG should encourage local authorities to plan positively for town centre needs recognizing that all but the strongest will need to diversify as they cannot any longer in the new retail market place rely just on shops for their vitality and success.

Prematurity

The NPPF (paragraph 14) states that where LPAs have no plan, the presumption in favour of sustainable development should be applied. It goes on to say that refusal of planning permission will seldom be justified where a draft Local Plan has yet to be submitted and that where planning permission is refused on grounds of prematurity, the LPA will need to justify clearly how the granting of permission for the development concerned would prejudice the outcome of the plan-making process.

The NPPG contradicts this stating that an adverse effect of an application can outweigh the presumption in favour of sustainable development, and therefore prematurity could be used as a reason for refusal.

The Guidance should be changed to conform with the view expressed in the NPPF. This is particularly important as, although the Local Plan is the core of the planning system, half of LPAs do not have one and many of those which exist are not up to date. Until streamlined and suitable plans are in place and kept up to date, the misuse of the prematurity argument must be clearly prevented.

Parking Provision

The draft NPPG says that LPAs should seek to ensure that parking provision is appropriate to the needs of a development and not reduced to a level below reasonable. This a welcome recognition of the need to meet the needs of occupiers which has not been the case for some time.

This approach, however, is inconsistent with the NPPG. We urge the revision of the NPPG to include this more appropriate approach to the provision of car parking.

If you wish to discuss the issues raised in our response, please contact me as shown below.:

Yours sincerely

A handwritten signature in black ink, appearing to read 'William A. McKee', with a large, sweeping flourish at the end.

William A. McKee, Chief Executive

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