



CPD: Retail Planning Update

21 April 2016

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- Est. May 2010
- 89 colleagues
- Four disciplines
- London & Leeds
- Out of town retail



This Evening's Discussion

- Policy Update
- Mezzanines
- Case Law
- SoS & Appeal Decisions
- Next 12 months

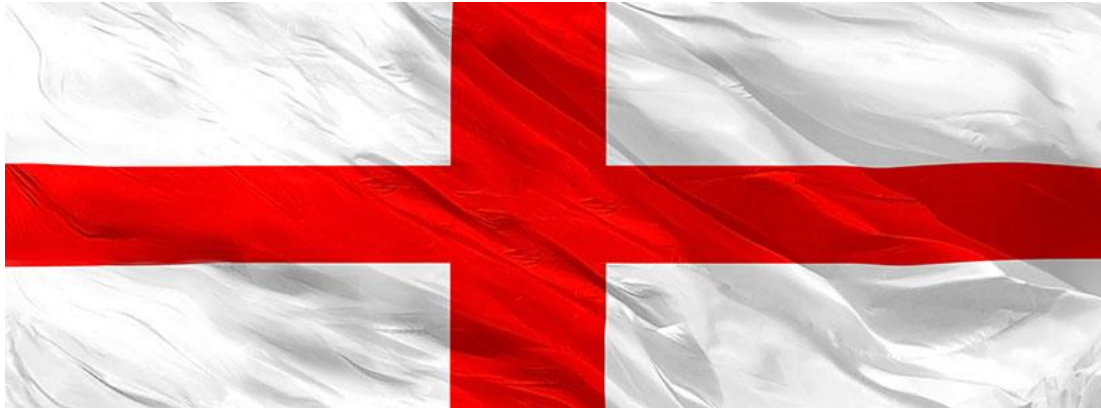
Central Government

- **New SoS**



Policy Update

- NPPF (March 2012)
 - ✓ The presumption
 - ✓ Sequential test
 - ✓ Impact test
- Online PPG (March 2014)



Policy Update Continued...

- PPW Edition 8 (January 2016)
 - ✓ Extensive retail considerations
 - ✓ Demonstration of “need”
- TAN 4: Retailing and Town Centres (1996)



Retail Mezzanines in Wales

- June 2015
- 200 sqm or more
- Onerous Policy Context



Case Law – Mezzanines & CIL

Orbital Shopping Park v Swindon BC

- CIL Regulation 6(1)(c)
- Tax avoidance cited
- Claim succeeded - 3rd March 2016
- Court of Appeal not pursued
- Reinforces approach

Case Law – Town Centre Protection

Skelmersdale Limited Partnership v West Lancashire BC & St Modwen Developments

- Town centre extension
- Challenge by neighbouring Shopping Centre
- Establishes keep open clauses
- Dismissed – 27 January 2016
- Court of Appeal

SoS Decision

Broomhills Industrial Estate, Braintree



SoS Decision (cont.)

Broomhills Industrial Estate, Braintree

- Sequential test met
- Rushden disaggregation point relevant
- Alternative sites need to accommodate the scale of development proposed
- Retail impact outweighed benefits
- Appeal dismissed – 25 June 2015

Appeal Decisions

Land at South Quay, Hayle Cornwall



Appeal Decisions (cont.)

Land at South Quay, Hayle Cornwall

- No substantive impact evidence
- Assessments should be proportionate
- Restrictions on George brand unduly precise and unreasonable
- Appeal allowed – 13 July 2015
- Full costs awarded

Appeal Decisions (cont.)

Jarman Park, Hemel Hempstead



Appeal Decisions (cont.)

Jarman Park, Hemel Hempstead

- Concern over 'mini town centre'
- Impact mitigated by conditions
- Appeal allowed – 4 March 2016

Appeal Decisions (cont.)

The Merlin, Billingham



Appeal Decisions (cont.)

The Merlin, Billingham

- Flexibility not properly considered
- Sub-division of vacant floorspace necessary
- Impact considered despite no policy test
- Appeal dismissed – 24 March 2016

SoS & Appeal Decisions

Key Findings

- No landmark decisions
- Rushden & Dundee
- Robust evidence is key
- Rushden –applicable to all retail & leisure development
- Flexibility needs to be demonstrated
- Cumulative impact well established

The Next 12 months

- Policy Review
- Major Planning Decisions
- Crossrail 2
- Local & London Mayoral Elections
- Brexit?



Thank you.

Any questions?

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