

Crowded Places Team,
Home Office,
Office for Security & Counter Terrorism,
5th Floor Peel Building,
2 Marsham Street,
London
SW1P 4DF

10 July 2009

Dear Sirs,

BCSC / BPF response to Home Office 'Crowded Places' consultation documents 'Working Together to Protect Crowded Places' (WTPCP) and 'Safer Places: A Counter Terrorism Supplement' (SPCTS)

BCSC and BPF welcome the opportunity to provide comment on the above documents. Our organisations promote best practice in the development and management of the built environment and aim to foster a professional, socially responsible and progressive property industry.

Our organisations broadly support the goals of the 'Crowded Places' initiatives however we do have a number of concerns which are set out below.

Our representations in response to the consultation documents are divided into three sections:

1. Initial broad concept reactions
2. Specific comments on the WTPCP document responding to the set questions
3. Specific comments on the SPCTS document responding to the set questions

We hope that you will take note of these representations as you move forward with your work and if you require clarification of any points please do not hesitate to contact us. If you feel that we can be of any further assistance in working with you we would be pleased to do so.

Yours sincerely,



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Executive Director
BCSC



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Director of Commercial Property
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1. Initial broad concept reactions

We have significant reservations about some of the implementation proposals, for example:

- Reliance on town planning measures (i.e. new build or extension, possible refurbishment cases) may mean that impact on national retail crowded places stock is slow. Only a small percentage of national commercial building stock is subject to planning application each year. Consequently the effectiveness of this policy approach is naturally limited.
- The impact of heavy handed application of controls (e.g. separation distances, protective cordons, etc.) is very wasteful in terms of land use and will:
 1. run counter to Government policy to encourage development in town
 2. frustrate regeneration projects by adding to development costs
 3. slow the re-development process resulting in deferred employment opportunities (both short term construction and long term within new schemes), and
 4. nullify potential redevelopment in marginal towns
- The focus of Government policy in this area is too much on dealing with Improvised Explosive Device (IED) and particularly Vehicular Borne Improvised Explosive Device (VBIED). High capital cost physical protection measures are out of proportion to wider/changing terrorist risks – but easier to specify given experience of IRA bombs etc. over 30 years. Would similar investment in intelligence gathering and training be of longer term and wider benefit and address developing and quickly changing terrorist techniques, such as was recently experienced in Mumbai? Otherwise there is a great danger of next war defence measures being taken on basis of last war. For example there should be better advice on measures in relation the impact of suicide bombers, small arms wielders, chemical, biological, radiological, and nuclear (CBRN), group hostage situations and terrorist's next step anticipation.

The importance of VBIED advice re physical mitigation measures given “bomber will always get through” is understood but proportionality is wrong, other risks deserve more attention.

- Would it be better to regulate through amending self-certifying fire certificate provisions to include basic counter-terrorism measures? Also what about the role of insurers' statutory inspections of lifts, boilers etc? This would certainly cover all retail environments, not just new build – and might be further from the dead hand within local planning authorities. This would also impact all stock more quickly.
- Whichever route is chosen, funding support should be provided for counter-terrorist measures to buildings in a parallel way to security measures for individuals are not taxable. We believe this approach is worth it, relative to the insurance implications for property owners, and we would welcome further exploration of an extension to capital allowances for counter-terrorist investment in a similar way to individuals taking personal security measures are able to claim tax relief.

In the current economic climate property occupiers and especially retailers cannot be expected to bear additional costs and development will be further stifled for even longer if this is not recognised. Consumers use shopping centres and office estates, but are not expected to contribute towards any further counter-terrorism investment, so this is not inconsistent with 'user pays' policy. Government should recognise the potential benefits of incentivising investment in counter-terrorism measures if it is to ultimately achieve its objective of ensuring suitable protective measures for new and retrofit development are introduced to commercial property.

- The opportunity to create specific accredited training courses should be explored. The combined application of human intelligence and technology may be much more flexible and longer lasting counter-terrorist measures compared to single function target-hardening in terms of reinforced concrete vehicle barriers – around which the terrorist may manoeuvre, nullifying the heavy capital investment in physical structures.
- The dissemination of information regarding terrorist threat assessments should be reviewed. At present, the advice source is the openly viewable, with the public MI5 website giving generic (and relatively bland, unchanging) information. Many private sector shopping centre and office estate owners and managers would welcome more targeted and confidential information which allowed for staff vigilance to be maintained more effectively by, for example, being varied over time and through targets etc.

2. Specific comments on the WTPCP document responding to the set questions

Chapter 2: Delivery Framework

- *Is the Government's approach, through the introduction of a national strategic framework, with its emphasis on identifying and describing the potential contributions key stakeholders could make, the right one?*

Yes – although it focuses on buildings and physical changes to be associated with new planning applications (a small proportion of the terrorist's potential targets), perhaps the Government's approach misses the human resource issues and those associated with protecting existing buildings.

We would be interested in who will be the "local owner" [p13]. "What is appropriate" is bound to be subjective and a focused and informed local champion would be desirable, rather than a distributed ownership decision makers the [LSPs]. Will this champion be the Counter-Terrorism Security Advisers (CTSA) or will he advise the local authority CEO?

- *Is the Government right to rely on voluntary co-operation between key stakeholders and existing legislative arrangements (rather than considering new laws) to deliver the work necessary to reduce the vulnerabilities of crowded places to terrorist attack?*

Yes – there is significant commercial self-interest from building owners and their insurers in protecting their assets and people within them. However, the process would be

speeded up, particularly in current economic environment, by Government financial incentives through, for example, adjustments to the capital allowance regime.

- *Is the Government correct to adhere to the longstanding principle that funding for new protective security measures should fall where the responsibility for those measures lies, and should be based upon the “user pays” principle?*

This is difficult in relation to public spaces where no clear direct charge is made for entry – unlike, for example, passenger security charges at airports or paid entry tickets to leisure locations.

Many new commercial projects are built by ‘developer-traders’. As the developer does not use the building and is motivated only to fund building elements that either directly derive an income, or are essential in the process of deriving an income – they will have to be ‘induced’ to build in risk reducing measures.

Additionally, peripheral commercial activity benefits from pedestrian flow generated by others. Is it fair that the space owner funds extra measure costs, while others benefit without a contribution?

No mechanism is described, other than through the planning process, as to how the measures will be implemented. As these measures will not enhance value is there a way of reducing tax and potential fees associated with installing them?

- *The Government states that protective security responses need to be proportionate to the risk. Will the arrangements described in the document result in the proportionate action on the ground?*
 1. If action results predominately in relation to new build/planning application issues alone then action will have been disproportionate – why should terrorists only choose new targets to attack?
 2. By concentrating on physical design issues focus is given to capital intensive works. Once affected these are costly to change and terrorist may adapt much faster. Could significant risk reduction on multiple fronts be achieved by staff training and indeed more police on the ground / security employment? Would improved intelligence and communication thereof result in more cost effective and wider ranging protective measures?
 3. The focus of advice seems to relate to IED’s, particularly VBIED’s, and little attention is given to the other known terrorist tactics, quite apart from those as yet unknown.
 4. The security industry has formal qualifications [NVQ] for operatives. We are of the view that Government should explore sponsoring the creation of a related course that focuses on counter-terrorism awareness and response in public spaces. A similar training programme exists for Tel Aviv airport staff, which could be learned from.

5. The level of risk and type of risk changes over time and with the nature of threat it is unclear as to who will take ownership of the assessment when it has been completed until it is reviewed by the CTSA's periodically – proportionality is subjective and dependent on reasonableness by all individuals.

Chapter 3: Reducing the vulnerability of crowded places

- *Do you think the arrangements set out in the guidance make it clear how local Counter-Terrorism Security Advisers (CTSAs) and local authorities should engage with businesses in order to encourage them to deliver the contributions they can make to reduce the vulnerabilities of crowded places? If not, what changes would you suggest be made to these arrangements.*

There is little information as to how, in practice, these arrangements will work. Developers currently experience difficulty in effective communication with local authorities (even when special pre-application fees are paid) and it is likely that further delay and cost will become inevitable in new developments, reducing their commercial returns and regenerative effects.

It appears that the CTSA produces a report with recommendations to the business site owner. This is really not effective engagement and there remains a question over what the consequences are if the business site owner does not act on the recommendations.

It is unclear as to who in the local authority would have the knowledge or training to be competent in assessing the risk or an appropriate response. Will parties want to impose change for the sake of it or to fulfil targets?

Retail and office environments within urban settings can cover large areas and different ownerships. Negotiations or implementation on a piece meal approach could give rise to the protection of individual ownerships with no clear overview and could lead to poorly integrated developments. The Business Improvement District (BIDs) process may assist as might a good town centre manager.

One option may be to introduce a strategic security master plan to cater for towns and city centres, introduced early on in the process.

- *How should the results of the risk assessments be shared with local partners, whilst protecting sensitive information?*

Risk assessments are of no use unless accompanied by possible options for mitigating measures to assist owners and operators. Clearly there may be commercially sensitive information which could compromise an owner's position and therefore the local partners' possession of information will need to be legally protected.

Chapter 5: Local partnerships – role of stakeholders

- *Is the Government's approach not to prescribe a "one size fits all" policy for determining the lead local partner the right one or should the Government prescribe an approach for local areas to take? If you think that the Government should prescribe an approach, what should that approach be?*

The Government should prescribe one type of body for all parts of the country – an option for consideration would be the Fire Emergency Service and its comparable role in fire safety.

- *Do other local bodies, other than those referred to in the document, exist to deliver or contribute to action required to reduce the vulnerability of crowded places to terrorist attack? If so, please state which.*

See above regarding a possible role for the Fire Service. Many towns have Town Centre Managers who could have a role in coordination between different landowners.

- *At a more strategic level, what can Government Offices, the Devolved Administrations, Counter-Terrorist Security Advisors (CTSAs), local authorities, businesses and local partners do to better engage and communicate about protective security at a local level? Is there local best practice that could be adapted?*

Government advice on security risks and alert levels might be more useful and targeted by use of non-public internet links.

A designated body, such as the local police, could be advised by the security services of changes in local risk. This could be sensitively shared with those responsible for direct action within the affected area. For example, if a shopping centre manager is told of a localised increase in risk, then he could deploy additional visible staff until the risk level changes. The additional cost may be tangibly justified, whereas non-specific, national risk levels do not result in significant changes.

- *Are there any other suggestions or comments you have in relation to this framework?*

The potential contribution of the insurance industry to the initiatives has perhaps not been adequately examined.

Impact Assessment

The Document questions are in common form to the SPCTS document and our responses are provided in those to that document below.

3. Specific comments on the SPCTS document responding to the set questions

- *Proportionality – Will this guidance enable counter-terrorism design to be delivered through planning decisions at the local level which are proportionate to the risk?*

There is a danger that the linkage to planning decisions will mean that most of the standing building stock will be unaddressed. In the immediate economic future there will be a low level of new development of retail centres and even this reduced level is likely to be adversely affected by additional costs of development arising from the introduction of capital intensive counter-terrorism initiatives.

The answer is dependent on the training, quality and quantity of resources available to the planners. The guidance note alone does not facilitate good proportionate decision making, particularly as subjective judgement plays a large part in the decision making.

As referred to above it is unclear as to who in the local authority would have the knowledge or training to be competent in assessing the risk or an appropriate response. There may be a danger that parties will want to impose change for the sake of it or to fulfil targets and Government needs to issue a clear statement to avoid this adverse outcome.

Retail environments and office estates within urban settings can cover large areas and different ownerships. Negotiations or implementation on a piecemeal approach could give rise to the protection of individual ownerships will no clear overview and could lead to poorly integrated developments.

Is there a need for a strategic security master plan to cater for towns and city centres showing physical security enhancements that might be needed so that an applicant or developer can understand the potential approach and contribution that he would need to consider early on in the process? It is not clear from the documentation if this would be provided in sufficient detail or clarifies who will be responsible for implementation and funding on an elemental basis.

As the preparation of planning applications and their implementation can take 10 to 15 years for regeneration projects this is a slow tool for addressing an immediate risk.

- *Does the content under section 1 adequately set out the nature of the threat and why designing in counter-terrorism design to be delivered through planning decisions at the local level which are proportionate to the risk?*

The content particularly reflects the considerable knowledge of the consequences of explosions but places too much emphasis on the risks of IEDs without considering wider and changing terrorist threats.

It does not provide a framework for clarity to developers as to the potential cost or measure that would be needed for a particular site / development and therefore it may be used as a political / planning negotiation tool.

- *Does this document provide sufficient information to persuade you of the importance to integrate counter-terrorism measures into new developments, including the public realm?*

Probably yes, but questions remain around the appropriate proportionality – are the risks facing all locations the same and can risk-reduction in fact be achieved on a more cost effective basis by other means; for example improved training of staff and wider employment of more trained staff? Is it right to focus on capital intensive (and fixed) works in preference to more flexible initiatives?

An important pre-requisite is that the local authorities have a clearly defined strategy for an overall area and do not approach it on an application by application basis. We think planning is a static approach to solving the problem.

- *Does the guide adequately explain counter-terrorism and where it fits in the planning system?*

Counter-terrorism is explained but the rationale for use of the planning system alone is unproven. For example perhaps some physical works could better be incorporated in Building Regulations legislation (e.g. glass specifications).

We are not sure that it explains where it fits into the planning system. Para 35 notes that it should be early along with the Building Regulations and DDA, but they are fairly tight controlling documents, whereas the required designing in of physical counter-terrorism measures is far less clear.

Figure 1 is a good diagram but more information is needed on the quality and nature of information that should be expected from the local authority to assist the scheme design early on. There is no point in implementing this approach until the local authority has their documentation in order and to a consistent high quality.

- *Does the document adequately reflect that counter-terrorism is one of a number of issues considered within planning and that planning decisions often represent compromises between competing priorities?*

Yes – but these compromises can in practice be struck after intense local political discussion. Counter-terrorism is too important to be subject to these vagaries.

- *Are the counter-terrorism design principles helpful and comprehensive?*

They are helpful but are focused on physical and capital intensive design. Thought should be given to other initiatives – perhaps more human resource related – which might also give useful results.

The design principles are mostly comprehensive. However, cost will always be a factor in how far to go. Building in design potential is not discussed. Building in the capability to quickly upgrade or change design elements may be an achievable and cost effective approach to the higher cost items. For example, rising ram-proof barriers on vehicle routes are expensive, but the civil works during construction are not. However, retrofitting a large pit would be expensive.

So one option would be to design in appropriate pits during construction and backfill until a specific threat is perceived. The retrofit costs no more than it would have done during construction, is quick to install and the expense is justified. Another example is installing a CCTV system that is capable of supporting additional cameras, without necessarily installing them all on day one.

The design principles are good at highlighting the potential conflict between different design considerations but not showing how this should be appropriately resolved. DDA and good urban design principle are most at odds with the potential counter-terrorism design principles. There does not seem to be a clear process for deciding on the compromises that might need to be made of protection from legal action if it occurs. DDA is also based on reasonableness

- *What costs, if any, including staff and training costs, do you think would be incurred if you were to redesign your building to take account of the principles set out in the guidance?*

Costs will obviously vary according to design and location of building, and therefore identifying the costs to the property industry is complicated. They will also vary according to the degree to which full compliance is achievable. This question is too subjective in that the design principles are deter, detect, delay – but to what extent and just for today's risks or different future risks?

Another cost will be additional time for consultation and negotiation with relevant parties more information required to show what measures have been proposed.

- *Do you think there is likely to be additional construction costs for buildings designed in line with this guidance? If so, please state what those costs would be.*

Undoubtedly yes – these will vary from project to project. It is important not to overlook possible additional land costs too, these may stultify development.

One consequence may be that cost savings will be made on aesthetic finishes to pay for counter-terrorism measures and the overall development cost will be cost neutral. However the project may then simply not proceed because the quality of the aesthetic design is judged to be too poor to attract customers.

The extent of the additional costs will be very dependant on the attitude / training of the local authority. The issue might not be the increase build cost but the loss of space and so viability of the project. If more space needs to be given over to provide counter-terrorism measures on-, rather than off-site the project could soon be unviable. This could be used as a means to prevent development regardless of compliance with other planning policies.

- *Annexes A and B – Do the annexes enable you to understand the range of technical counter-terrorism design measures that are available and might be needed to reduce the vulnerability to terrorist attack?*

These are useful summaries of counter-terrorism measures but they are predominately IED (and particularly VBIED) related. These are surely not the only risks for which design and building management advice can be offered

It would be good to consider each of these related to building types/uses as this would help to highlight the need to be appropriate with the types of measure that should be considered reasonable and practical for the use.

- *Case Studies Annex F – Do these provide sufficient inspiration to produce innovative counter-terrorism design solutions?*

There are many useful ideas here although again the emphasis is on IED/VBIED threats. It would be sensible to give a wider range of examples so that experience of non-IED threats is shared and a false concentration of risk assessment is avoided.

We think the inspiration to pursue an innovative risk reduction design strategy should not depend on Annex F, but the motive should be rather stronger.

- *Case Studies – Annex F – Are there any more good counter-terrorism design case studies that can be used from within the UK?*

Yes. We believe it would be sensible to incorporate ideas from the international arena too, given the amount of good practice that exists abroad in relation to counter-terrorism design. We also believe there should be additional emphasis on human resource issues too.

- *Are there any other suggestions and comments you have in relation to this supplement.*

There are references to improved use of human resources but these should be given more weight as a flexible response to threats.

This document does not clearly identify the way that this proposal works with other strategies, also led by the local authority, to give joined up thinking.

We would like to see more emphasis on the importance good management of a facility and training of staff has and how this can work to create a vision rather than a fortress.

Impact Assessment

The impact assessment that accompanies this and the 'Working Together to Protect Crowded Places' publication is based upon four options:

1. *Do nothing – allow owners and operators of crowded places to continue as before, and manage the risk as they see fit.*
2. *(i) Home Office to publish guidance on good practice for local partners on how best to protect crowded places; and*

(ii) A third party publishes guidance on suitable protective measures for new and retrofit developments. As advice outside the planning framework, local planning authorities would not be required to have regard to it, although it may be considered material by a decision taker.

3. *(i) Home Office to publish guidance on good practice for local partners on how best to protect crowded places; and*

(ii) Home Office / Communities and Local Government to publish joint supplementary guidance to the “Safer Places: The Planning System and Crime Prevention” on suitable protective measures for new and retrofit developments. Under planning law, local planning authorities must have regard to the guidance and it would support delivery of the existing requirement under section 17 of the Crime and Disorder Act 1998 for local authorities to give due regard to terrorism-related crimes in the exercise of its functions.

4. *Legislate: enforcing suitable security measures for the highest risk buildings.*

- *Are there additional options to be considered?*

A possible additional option could be the requirement for developers to demonstrably prove that every element of the design has been checked against a supplement to the CDM regulations and that this is undertaken by a competent / qualified person.

- *What measures if any, do owners of crowded places believe they would take in the absence of guidance or compulsion?*

The focus of this question is on owners of existing spaces. The primary impetus of this document appears to be on development. Without setting out what is good practice or compulsion, expectations should be low. If the question refers to developers, then developer traders will do almost nothing, while developer owners are more likely to take steps to protect their asset.

It is worth recording that many BCSC members have introduced counter-terrorist measures into their staff training without compulsion.

- *Are consultees able to share estimated costs for suitable protective security measures for crowded places which they own or operate?*

Costs of individual retrofit measures may be obtainable (e.g. extended CCTV systems, Automatic Number Plate Recognition (ANPR), etc.) but these will be scheme specific and may not be indicative of equivalent costs in other schemes/locations. “Costs in use” (e.g. recurring annual costs, maintenance, etc.) should also not be overlooked.

- *Are consultees able to share estimated costs for suitable protective security measures for new crowded places which they are involved in constructing?*

Like for like comparisons would be very difficult to provide in a meaningful way. Costing a major mixed-use town centre design incorporating measures to contrast with the theoretical cost of a scheme otherwise identical, save for the counter-terrorist measures, would be difficult while it would also be relevant to compare the costs-in-use of the two designs as well as the potential income generation.

- *What protective security measures, if any, do owners of crowded places believe they would take given guidance but in the absence of compulsion?*

Risk assessment is part of an owner's Health & Safety obligation which will impact on investment decisions. Clearly before committing to build in design elements that reduce risk that risk level must be understood and although Annex A in WTTPCP starts to touch on the issue of risk, it seems to be more a work in progress rather than providing complete advice. It mentions risk, but not the other factors that enable decisions on design and management to be made.

Generally, there seem to be 4 stages to risk assessment:

1. Current known risk: Is the development/space/building an attractive target and by whom?
2. What areas of the development/space/building are specific targets and why? This should include adjacent buildings and developments which may be desirable targets - and there is the potential for collateral damage.
3. What are the range of outcomes from a successful terrorist strike on specific target areas? E.g. from deliveries disrupted – through to scores of casualties
4. What can be done to mitigate against a successful strike in the specific areas?

Then the design should be tested against different possible future risks, i.e. dirty bomb, rather than VBIED.

Additionally, the guide does not discuss how to respond proportionately and whether/how a design element or installation should be identified as 'essential', 'highly desirable', or 'just nice to have'. This type of approach would help to ensure that finite funds will be spent in a manner that maximises useful impact per pound invested.

- *Are consultees able to share estimated costs for counter-terrorism protective security measures for crowded places which they own or operate, where such measures have been introduced?*

Please see response above.

- *As a site/business owner, do you think your customers would be prepared to pay more for facilities in your area if it meant that they would be more secure against a terrorist attack?*

At present no charge is made for public entry to any UK shopping centre. Introduction of a specific security charge seems an option unlikely to be attractive to the public. At present the retailers who trade from centres are under extreme financial pressure and would be highly reticent to any increased rental or service charge costs. It is possible that another successful attack on a retail environment might change perceptions but the desired principle of free entry is unlikely to change.

- *Are you more or less likely to use facilities in your area if it meant that they have been made physically more secure against a terrorist attack?*

Increasing the customers' perception of safety (for example in car parks) has been accepted as a way of increasing custom. However creating fortresses is not likely to make people feel safer, but could dissuade consumers from visiting a particular centre.

- *In addition to the costs and benefits mentioned in the documents, do consultees identify other costs or benefits being realised on implementation of these guidance documents? If yes please state what they are.*

Please note comments on costs in use of measures introduced as above.