



Maria Stasiak
Communities and Local Government
Zone 1/J1
Eland House
Bressenden Place
London SW1E 5DU

13 August 2009

Dear Ms Stasiak,

BCSC response to the consultation paper on “greater flexibility for planning permissions”

BCSC represents businesses operating in the retail property sector, our mission being to promote industry best practice and advance the professional aims of the retail property industry. Our membership is a broad church of nearly 3,000 property professionals including owners, developers, retailers, surveyors, architects and public sector managers.

As a consequence of the significant impact of current economic conditions, and the uncertain future, many developers and retailers are experiencing problems promoting viable schemes. More so than at any time in the last two decades, there is a need to be responsive and flexible to the market. This is of significant concern to the BCSC: retail is an important contributor to the economy in terms of both employment and contribution to GDP, accounting for 8% of GDP and employing an estimated 2.9m people.

However, retail represents more than that:

- Well integrated retail development brings economic and social benefits through creating vitality and viability, a place to dwell and a space to interact.
- Shopping centres are often located where there is a range of convenient transport modes and can provide choice and convenience through offering a wide range of services.
- Town centre retail developments which make efficient use of land, particularly where they are integrated with other uses, can reduce the need to travel and enable multi-purpose trips.
- The inclusion of ground floor retail in commercial and residential development creates active frontages and security.

We consider the draft consultation on the greater flexibility for planning permissions outlines a positive context for providing a more flexible approach in the difficult economic climate. This, in turn, will allow flexibility for development proposals and operator formats.

We particularly welcome the three areas of review:

- 1. We support the proposed changes to the planning system to allow the time limits for implementation of extant planning permissions to be extended.**

Although under S.91 of the 1990 Town and Country Planning there is the discretion which local planning authorities have to grant planning permission for periods other than three years, the changes which provide greater latitude and opportunity for latitude are most welcome.

While the default period for planning permissions is three years (s.91(1)(a)), local authorities have discretion under s.91(1)(b) and 91(2) to grant permission for any other period which they consider to be appropriate, having regard to the provisions of the development plan and to any other material considerations.

Ahead of this position being finalised, and in the current conditions, we would urge the Government to emphasise that local planning authorities should consider the position on a case by case basis. There must be the opportunity to grant permissions with a longer duration in those complicated schemes where additional time may be required for the further submission of detail or where there is the potential issue of viability.

2. We support the recommendation that the Government should take steps to allow a more proportionate approach to minor material amendments in development proposals after permission has been granted.

Although we appreciate there is some latitude in the determination of that which constitutes a 'minor amendment' to a proposal, this is in almost all cases dependant on the nature and approach of the relevant planning authorities. It is also set against the backdrop of there being established in case law with there being no such thing as a 'non material' minor amendment. Sadly, in some cases this is seen by planning authorities as necessitating a new planning application, supported by (in many cases), a new planning application fee.

Clarification and a framework in this regard to judge what may constitute a non material minor amendment and what is a 'material' minor amendment is therefore most welcome - as is the further definition of the proportionality of information required to support such minor material amendments.

This, in combination with (3) below will ease the pressure and administrative burden on those developers and operators which are required to make minor changes to approved schemes to incorporate operational and other requirements.

3. We support the commencement of S.190 of the Town and Country Planning Act 1990 (and therein S.96A) which provides a mechanism for the making of non material changes to planning permissions.

As I have previously stated, the latitude in the determination of that which constitutes a 'minor amendment' to a proposal depends on the nature and approach of the relevant planning authorities, against the backdrop of there being established in case law there being no such thing as a non material minor amendments.

This position is particularly unhelpful when there is a need to target investment quickly to realise return, notably on new retail and other development proposals. Such an approach can wrap changes of a relatively minor nature in the red tape of planning procedure. As we have identified above, sadly in some cases, this is seen by planning authorities as necessitating a new planning application, supported by (in many cases), a new planning application fee.

Clarification to provide the framework for dealing with such minor non material changes is welcomed. It will provide flexibility and a much needed application of commercial common sense to development proposals, particularly those of a complicated or mixed use nature.



Conclusion

BCSC welcomes the opportunity to respond to this consultation paper and the potential reduction of the burden on developers, operators and other key stakeholders involved in the planning system, promoted by the proposed changes for greater flexibility in the consideration and implementation of planning permissions.

These changes are particularly welcomed at a time when many developers and retailers are experiencing problems promoting viable schemes in a poor economic climate, exacerbated by yet any clear positive economic outlook.

If there are any comments, queries or points of clarification, please do not hesitate to contact me.

Yours sincerely,

Edward Cooke
Executive Director, BCSC