

BCSC response to the Draft National Planning Policy Framework (NPPF)

Introduction

BCSC endorses the Government's attempts to streamline and reform the planning system so that it plays a positive role in enabling economic, environmental and social progress for this and future generations. As we have noted in a recent submission¹, we welcome the Government's policy shift towards a system that supports planning for sustainable development, a position that we also supported through the evolution of PPS4.

We have consistently called for a clear and strong vision for growth that recognises city and town centres as the key driver of prosperous economies that could inspire confidence from the private sector to invest in town centre development. However, in our view, if the NPPF remains written in its current form the result will not match Government's public commitment for towns and cities. Therefore we were pleased to note the acceptance from Ministers, and indeed the Prime Minister, that constructive feedback will be welcomed and listened to.

In the interests of expediency, the focus of this paper is on changes to the text, principally within the Business and Economic Development section 'Planning for Prosperity', that will in our view strengthen the document and support the delivery of Government's objectives for towns and cities.

Key recommendations

1. a clearer definition of sustainable development which incorporates explicit reference town centres as sustainable locations for development
2. amendment of paragraph 78 so that the words 'should prefer' and 'where practical' are replaced or removed, as set out in detail below (pg 5)
3. retain offices (and consider other town centre uses such as hotels) in the sequential assessment given their impact as high generators of footfall and retail spend, their role in supporting a transition from a day time to a night time economy and ultimately, as an element of a mix of uses, their important function in ensuring the vitality and vibrancy of centres
4. provide Government endorsed supporting guidance to the NPPF, particularly on interpreting the sequential approach and assessing impact, using the accompanying Guidance to PPS4 as the starting point
5. include an assessment of impact for relevant developments over a short (i.e. immediate), medium (i.e. 5 years) and long (i.e. 10 years) term

¹http://www.bcsc.org.uk/media/downloads/110220_ResponseToNPPF20022011.pdf

General principles

It is worth initially setting out some guiding principles and our position on the presumption in favour of sustainable development.

We believe the new NPPF must continue to provide businesses with robust, long-term clarity and certainty in order to allow confident investment decisions to be made. We consider the NPPF should follow a number of principles that inform the planning process, including:

- a strong emphasis on promoting sustainable economic growth, greater productivity and building prosperous communities, including strengthening local economies by supporting development in town centres
- the benefits, role and purpose of a plan-led system. A totally flexible system is not a plan led system and would not create certainty for investment decisions
- the importance of maintaining up-to-date local plan documents
- the role of neighbourhood planning in the plan-making process, and the relationship between national and local plan making
- the importance of evidence-based planning that reflects the need and demand for new retail development and the capacity to accommodate it, to enable appropriate sites to be identified in the right locations
- the need for planning to be a transparent and democratic process emphasising the importance of appropriate, proportionate and representative consultation; and
- promoting the right business in the right place stimulating sustainable economic growth and enhancing competitiveness.

We consider sustainable development to be investment which achieves economic, social and environmental enhancement and we have been working with partners, led by Business in The Community (BiTC), on how such a sustainable investment framework could be applied to the consideration of retail-led schemes locally. We also believe that the most sustainable place for promoting development, when considering the combined economic, social and environmental impacts on a particular location, occurs in town and city centres and that this should be made explicit in the document.

We support the statement in section 15 that all plans should contain clear policies that will guide how the presumption in favour of sustainable development will be applied locally. However we are of the view that, given the time it is likely to take to get local plans agreed and in place, some further clarity in the definition of sustainable development should be included in the NPPF as decisions will be referred to national policy where local plans are absent, silent, indeterminate or out of date.

The absence of a clearer definition is likely to increase the risk of more decisions being taken at appeal, which is not in the interests of ensuring beneficial development is progressed. Naturally this should not be too prescriptive, but further guidance would only add clarity and therefore certainty which is extremely important to the retail development community where the costs and risks of new development or redevelopment are considerable.

Planning for prosperity - business and economic development

We have suggested some specific text changes below, which are highlighted for ease of reference and the current text also precedes our recommendations.

Section 72

Current draft NPPF text

72. To help achieve sustainable economic growth, the Government's objectives are to:

- plan proactively to meet the development needs of business and support an economy fit for the 21st century
- promote the vitality and viability of town centres, and meet the needs of consumers for high quality and accessible retail services; and
- raise the quality of life and the environment in rural areas by promoting thriving, inclusive and locally distinctive rural economies.

BCSC suggested amendment

72. To help achieve sustainable economic growth, the Government's objectives are to:

- plan proactively to meet the development needs of business and support an economy fit for the 21st century by promoting the right business in the right place
- promote the vitality and viability of town centres by proactively directing investment to town centres and meet the needs of consumers for high quality and accessible retail, leisure, office, culture, tourism, public administration and other services; and
- raise the quality of life and the environment in rural areas by promoting thriving, inclusive and locally distinctive rural economies.

Section 73

Current draft NPPF text

73. Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including poor environment or any lack of infrastructure, services or housing. In drawing up Local Plans, local planning authorities should ensure that they:

- set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth
- set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated requirements over the plan period
- support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate requirements not anticipated in the plan and to allow a rapid response to changes in economic circumstances
- positively plan for the location, promotion and expansion of clusters or networks of knowledge driven, creative or high technology industries
- identify priority areas for economic regeneration, infrastructure provision and environmental enhancement; and
- facilitate new working practices such as live/work.

BCSC suggested amendment

73. Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including poor environment or any lack of infrastructure, services or housing. In drawing up Local Plans, local planning authorities should ensure that they:

- set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth
- set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated requirements over the plan period
- support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate requirements not anticipated in the plan and to allow a rapid response to changes in economic circumstances
- promote and plan positively for economically successful and attractive town centres as a key focus for new economic activity, especially retail, leisure and office uses
- plan positively for the location, promotion and expansion of clusters or networks of knowledge driven, creative or high technology industries
- plan positively to meet the current and future sustainable transport needs of economic development by developing supportive transport strategies and delivery mechanisms
- identify priority areas for economic regeneration, infrastructure provision and environmental enhancement; and
- facilitate new working practices such as live/work.

Section 76

Current draft NPPF text

76. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. Local planning authorities should:

- recognise town centres as the heart of their communities and pursue policies to support the viability and vitality of town centres
- define a network (the pattern of provision of centres) and hierarchy (the role and relationship of centres in the network) of centres that is resilient to anticipated future economic changes
- define the extent of the town centre and the primary shopping area, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations
- recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites
- allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, community services and residential development needed in town centres. It is important that retail and leisure needs are met in full and are not compromised by limited site availability. Local planning authorities should therefore

undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites

- allocate appropriate edge of centre sites where suitable and viable town centre sites are not available, and if sufficient edge of centre sites cannot be identified, set policies for meeting the identified requirements in other accessible locations; and
- set policies for the consideration of retail and leisure proposals which cannot be accommodated in or adjacent to town centres.

BCSC suggested amendment

76. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. Local planning authorities should:

- recognise town centres (city, town district and neighbourhood centres) as the heart of their communities and pursue policies to support their viability, vitality and accessibility by sustainable means of transport
- define a network (the pattern of provision of centres) and hierarchy (the role and relationship of centres in the network) of centres that is resilient to anticipated future economic changes
- define the extent of the town centre and the primary shopping area, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations
- plan for competitive town centre environments that provide customer choice and diversity of offer, and which respect and protect the individuality and character of that town centre
- where a town centre is in decline, local planning authorities should plan for the regeneration of that centre or for its re-shaping or exceptionally for its managed decline where there may be limited retail demand and land might be better used for other development purposes
- recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites
- allocate a range of suitable sites to meet the scale and type of retail, leisure, office, community services and residential development needed in town centres. It is important that retail, leisure and office needs are planned for in each 5-year phase of the local plan to meet the full needs for additional space over the life of the plan, and are not compromised by limited site availability. Local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites
- allocate appropriate edge of centre sites where suitable and viable town centre sites are not available, and if sufficient edge of centre sites cannot be identified, set policies for meeting the identified requirements in other accessible locations that are well connected to the town centre
- set policies for the consideration of retail, leisure and office proposals which cannot be accommodated in or adjacent to town centres; and
- however in doing so consider the impact of large developments, (e.g. over 2,500 sq m) and developments that are out of scale with the centre and its catchment on edge of centre or out of centre sites, on existing, committed and planned public and private investment in a centre or centres in the catchment area of the site

Section 77

Current draft NPPF text

77. Local planning authorities should apply a sequential approach to planning applications for retail and leisure uses that are not in an existing centre and are not in accordance with an up to date Local Plan.

BCSC suggested amendment

77. Local planning authorities should apply a sequential approach to assessing planning applications for retail, leisure and office uses that are not in an existing centre and are not in accordance with an up to date Local Plan. Where an application does not satisfy the sequential approach then it shall not be sustainable under the terms of the presumption in favour of sustainable development [and should be refused].

Current draft NPPF text

78. Local planning authorities should prefer applications for retail and leisure uses to be located in town centres where practical, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. In applying this sequential approach, local planning authorities should ensure that potential sites are assessed for their availability, suitability and viability and for their ability to meet the full extent of assessed quantitative and qualitative needs.

BCSC suggested amendments

78. Local planning authorities are expected to require applications for retail, leisure and office uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. In applying this sequential approach, developers will need to demonstrate that more central sites are not available, suitable and viable. The local authority should take a realistic and commercial approach to considering whether the proposal should be flexible in terms of its scale, format and its scope for disaggregation in order to be accommodated on sequentially preferred and local plan allocated sites and should ensure that potential sites can meet the full extent of assessed quantitative and qualitative needs.

Current draft NPPF text

80. Planning policies and decisions should assess the impact of retail and leisure proposals, including:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to ten years from the time the application is made.

BCSC suggested amendments

80. Planning applications for development over the threshold should include an assessment of the impact of those retail, leisure and office proposals, including:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, in the short (i.e. immediate), medium (i.e. 5 years) and long term (i.e.10 years) from the time the application is made; and
- the accessibility of the site by customers on foot, bicycle and public transport

Where an application is likely to have a significant adverse impact in any one or more of these regards, it shall not be sustainable under the terms of the presumption in favour of sustainable development [and should be refused]

Explanation

In our view it is most important to undertake an assessment looking ahead to a date when the trading effects of the proposal have settled, and thus an assessment of impact is most accurate due to the robustness of the evidence i.e. two to five years after the scheme has opened. Looking ahead too far reduces the strength of the empirical basis of an assessment and subsequently leaves it open to greater interpretation.

The sequential assessment and testing impact

As set out in PPS4 we believe the assessment of non-conforming proposals should be done in three stages:

1. the sequential test; and if that is passed then
2. assessment on the main impacts; and only then should there be
3. an assessment against wider impacts

We believe the sequential assessment should be a gateway test ensuring the Government's message on town centres first is not diluted.

If the sequential assessment is not seen as a gateway then there is a danger that it becomes part of the wider considerations expressed in an impact assessment and thus a judgement which could be balanced or offset by other positive impacts arising from the proposal which may not be situated within a town centre.

We are of the view that if an application for planning permission complies with the town centre first policy and an assessment of impact, along the lines of the assessment of impact in PPS4 and associated guidance, then an additional assessment of need is unnecessary. The removal of the previous need test was partly as a result of the unintended consequences resulting from its application and in any event an assessment of diversion of trade under the PPS4 impact test requires a consideration of need. As a result the test remains implicit in the impact test.

One of the amendments we have suggested above (section 78 of the draft NPPF) is to put the onus on the developer to prove that more central sites are not available, suitable and viable for its development, rather than the local authority being responsible for ensuring potential sites are assessed for their availability, suitability and viability and for their ability to meet the full extent of assessed quantitative and qualitative needs. Our position is not borne out of some ideological perspective; indeed there are good arguments that Government's proposals are the most desirable in the long term. Rather our practical concerns that if local authorities are being expected to shoulder more responsibility for establishing an evidence base on the suitability, availability and viability of sites for a development then Government needs to ensure that Councils are equipped to do so at the highest professional standard. Otherwise there is a danger of delays, due to challenges and appeals, and inappropriate development being delivered as a result of poor decision making. As it currently stands we are not confident this would be the case and therefore believe that the developer is best placed to understand the commercial and economic issues that drive the sequential test and present a complete and realistic picture for consideration.

Guidance to support a successful outcome for Government's planning reforms

We recognise the Government's reluctance to provide centrally produced Guidance given its commitment to local decision makers having greater autonomy over decision making. However we strongly believe there is a requirement for Government to work with local councils and industry to produce some form of advice to local planning authorities on the interpretation of elements of the NPPF, and especially in our view the application of the sequential approach and assessing impact. From our perspective the Guidance document in PPS4 was a very useful resource for councils, developers and planning advisors and should be the starting point for any discussion on Guidance that might support the streamlined NPPF. We are of course willing to contribute to any working group which may be set up to examine this.

Conclusions

BCSC members have been responsible for investing tens of billions of pounds in towns and cities, and delivered numerous examples of positive retail led regeneration. The current economic climate makes establishing viability and securing lending for development extremely difficult. Therefore now more than ever our industry requires clarity, certainty and consistency of policy to secure and encourage continued future investment. Indeed the policy consistency of the last decade and a half has produced investment in our town centres at a significantly higher level than that seen in the preceding years: providing economic, environmental and social renaissance. Any significant relaxation in the sequential approach and impact tests to plan making and decision making could undo the positive effects of established policy and create uncertainty on long term investments and decision making.

We believe there remains a strong economic, and clear social, rationale for promoting economic development in town and city centres given their role as drivers of local economies due to their critical mass, the agglomeration effects that result from a concentration of the centres, the economic synergies between uses, and critically the degree of existing physical, transport and social infrastructure that exists.

We will of course continue to work with Government Ministers and officials on this reform to ensure it genuinely supports the delivery of town and city centre regeneration and renewal.