

BCSC Conference & Exhibition

Bridgewater Hall and Manchester Central

Mon 9 - Wed 11 Nov 2009

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William Hicks QC

Landmark Chambers

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Planning for Economic Development

William Hicks Q.C.



Retail Development and Recession:

Economic importance of retail development

Recession intensifies conflicting views about retail development

On the one hand:

Concern about existing town centre shops heightened

Protectionism



BUT:

Food retail is one of the few uses that is capable of creating employment and economic activity and making a mixed use development work even during the recession.

If large comparison schemes are not given every encouragement the recovery will be slowed.

Planning System not well suited to recession:

Slow

Generally an emphasis on control and prevention

Delay as a major tactic of opposition

Procedure dominating merits

Little political interest in “difficult” decisions

Difficult to change approach quickly to deal with recession




Will town planning continue to lead regeneration and renewal of our towns and cities?

Will be some notable exceptions – but in general I fear that it is likely to be a question of trying to minimise the constraints rather than positively leading.

Minister in the forward to the draft PPS :

“we need to do everything we can to streamline the system to ensure it is not an obstacle to economic recovery.”



Aims:

Ensuring that appropriate weight is given to economic effects.

Being flexible to find ways to allow economic development to proceed.

Minimising delay.



The Development Plan:

In general far too slow and inflexible to achieve prompt change in approach.

Always been problem with development plans that take years to produce.

Situation has often changed by the time the plan comes out.

New system worse.



National policy

Draft PPS Defines economic development in suitably wide terms:

“... development which achieves at least one of the following objectives ...

1. provides employment opportunities
2. generates wealth or
3. produces or generates an economic output or product”

And includes a general policy supporting such development:

“EC12.1 Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development as defined for the purposes of this statement in both urban and rural areas.”

BUT:

The retail policies take a very different line

Relegate wider economic and regeneration effects to a secondary consideration.

EC20: uses not in accordance with the development plan:

“KEY IMPACTS”

- a) Limit carbon dioxide emissions and minimise **climate change**
- b) Impact on spatial planning / **role of the centre** in the hierarchy
- c) Impact on **investment in centres in catchment**
- d) **Scale**
- e) **Accessibility, distance travelled, congestion, linked trips**
- f) Impact on **in-centre and wider area trade** including rural economy
- g) Impact on **town centre v and v**, consumer choice, range, quality
- h) High quality and inclusive **design**

Either:

“impacts having particular local importance” if identified in the Plan

Or:

- a) Impact on allocated out of centre sites being developed
- b) **Deprived areas** and social inclusion
- c) Local **employment**
- d) Economic and physical **regeneration**

AND:

Effectively disapplies the positive support for economic development in relation to edge of centre and out of centre retail development.

Applies extraordinarily rigid Policy EC21 to edge of centre and out of centre.

Policy EC21: The consideration of planning applications for development for town centre uses not in a centre nor allocated in an up to date development plan.

1. **Refuse** planning permission where the applicant has not demonstrated compliance with the **sequential** approach
2. **Refuse** planning permission where there is clear evidence that the proposal is likely to lead to **significant adverse impacts** in terms of climate change or any one or more other key impacts under the impact assessment
3. Consider proposals **favourably** where any adverse **impacts under “Key Impacts” are not significant AND** these are **likely to be outweighed by significant wider economic, social and environmental benefits** arising from the proposal in relation to “Local” or “Wider” Impacts or other material considerations

Seems to seek to prevent appropriate weight being given to economic considerations in relation to retail development.

The opposite of a flexible approach.

Very rigid approach to edge of centre and out of centre.



Afraid to allow a balanced decision on the merits?

Likely to miss opportunities.

Particularly edge of centre.

Major “town centre” scheme may be technically edge of centre until development plan changed – may involve very significant delay.

Neither the current development plan system

Nor emerging national policy in its current draft form.

Appear likely to provide support, flexibility, and speed of decision in relation to retail development.

What could be done?



Decisions need to be taken promptly on their merits giving significant weight to economic effects.

Often will not be easy decisions. Priorities will have to be decided.

There will not be money for everything.

Realism will need to be applied.

But the decisions need to be taken, not fudged or delayed.



Decisions of the Secretary of State:

The Secretary of State obviously has the ability in those cases that come before him:

to give weight to economic considerations

be flexible,

and give speedy decisions

Such decisions can also have a wider influence.



However:

Wherever possible it would be much better if the matter did not have to be called in or appealed.

Call-in is again within the Secretary of State's control

Most appeal decisions are made by Inspectors.

The initial decision is taken by the Planning Authority



Decisions taken by Planning Authorities and Inspectors:

Little guidance as to how to take the recession into account.

How weigh economic activity created by development against protectionist arguments?

Relatively simple statement of the priority to be given to economic considerations in the current economic climate?



C22/80 had a significant effect in the early 80's recession:

“This circular Has two aims – the first is to secure a general speeding up of the planning system. The second is to ensure that development is only prevented or restricted when this serves a clear planning purpose and the economic effects have been taken into account.”

“The vitality of the economy depends on new development.”



Northern Ireland – May 2009 Ministerial Statement:

“ ... To underline the importance that I attach to ensuring the planning system makes its contribution to the growth of our economy. Especially at this difficult time. ...”

“I want to give decision-makers the confidence and support to make judgements which will give greater weight to economic considerations where it is appropriate to do so.”



Good Practice Guidance:

A draft Good Practice Guide has been issued alongside draft PPS4.

Deals with detailed matters in relation to need and impact assessments.

A greater consensus and standardisation in this area is very desirable.

Must be clear and balanced and cannot be definitive.




Comparison Benchmarks for centres.

Floorspace efficiency.

Transparency of impact assessments.

Technical issues – but greater understanding and common ground should enable a greater level of agreement in relation to the assessment of large comparison schemes.

That should increase the chances of a positive decision for the right scheme, and reduce the time taken if an appeal is necessary.



Conclusions:

The Development Plan system and currently emerging national guidance do not look promising.

Need speedy decisions taking a flexible approach on the merits – preferably without having to go to Inquiry.

The SoS has the ability to achieve this, and set the tone for other decision makers:

In the decisions taken directly by the SoS on appeals and call-ins,

In deciding whether to call in.

Need to get the message to other decision makers.

Need clear and balanced Good Practice Guidance.



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