

## **BCSC's Conclusions on the Preliminary Findings**

### **BCSC considers that the Commission:**

- has failed to present the evidence on the scale, nature and distribution of local markets where there is limited competition, the scale and nature of the problem and the degree to which planning is a barrier to entry for new large grocery stores;
- does not appear to understand the role of local planning authorities in planning for development and, in particular, planning for economically-successful town centres, from city to local centres, and that this includes assessing need and identifying sites
- does not appreciate that in PPS6 edge-of-centre sites are second only to town centre sites in the search for sites to allocate in development plans and the preferred option in applying the sequential test to out-of-centre sites not allocated in development plans.
- is not fully aware of the scale of new foodstore floorspace completed since 2000, the degree to which this is in new large stores or extensions to create such stores, the vast majority (ca 90%) is outside town centres.
- does not appear to appreciate that PPS6's primary aim relates to successful town centres – with competition and consumer choice as subsidiary issues

### **Scale, nature and distribution of the problem:**

From a detailed reading of the report, it is not evident what is the scale and distribution of the problem - the existence of local markets which could accommodate a large or mid-sized grocery store where the planning system has actually prevented new large or mid-sized grocery stores being built.

Whilst evidence has been provided on the number of local markets where a single operator has more than 40% or 60% of the grocery retail floorspace, no assessment is provided about:

- how many of these are in 'areas of small populations' which could not support another large or mid-sized stores (eg small towns in rural areas)
- how many of these could support a new store; and
- in how many of the latter, problems had been experienced which suggest that the application of planning policy had proved to be a barrier to entry.

This would then make it possible to assess whether in practice the planning system has proved to be a barrier to entry in those markets.

From the information provided in the report, It is impossible to come to a finding of fact that the planning system is a barrier to entry in all, some or any of these markets. To do this the Commission would need to have investigated the reasons why additional stores had not been developed. To do this, the Commission would need to know:

- whether there was market interest in building a foodstore;
- whether there was any evidence of failure to secure planning consent; and
- whether any failure was due to not being able to find sites.

In addition, the Commission would need to know what the development plan for the local area says and whether it has identified sites.

This would not be a difficult task to undertake, but as presented in the report, there is no factual evidence to support the finding that the planning system or the local application of PPG6/PPS6 has prevented a new store being built.

As a result, the only basis for the Commission's finding seems to be a general belief that planning creates barriers to entry and that certain stakeholders have claimed that there are. The Commission has not provided evidence that in most, many or, even, some of the local markets with a monopoly or duopoly, this has been the problem

The next question is to what extent **are** consumers in these areas with monopoly or duopoly situations actually adversely affected? The report's conclusion is:

*“consumers **may** be adversely affected by the fact that the market is highly concentrated rather than more competitive.”*

which suggests that consumers **may be** adversely affected, not that they are.

Recent work by Rachel Griffith and Heike Harmgart of the Institute for Fiscal Studies at University College London on Supermarkets and Planning Regulation concludes that:

- planning regulation is not the main reason for lower labour productivity in the UK supermarket sector; and
- the effect on prices due to planning is small.

It is also unclear as to whether the Commission is concerned to reduce concentration, promote competition or increase consumer choice. However, promoting large grocery stores could have the opposite effect to that intended on each of these aims

### **BCSC, therefore, questions**

- (i) the scale of the **potential** problem  
How many local markets are 'highly concentrated'?  
How many of these could not support another large grocery store?
  
- (ii) the scale of the **actual** problem:  
In how many of the remainder has the planning system **proved** to be a barrier to entry?  
In how many local markets have barriers to entry been experienced?

It should be possible to name them – provide a list of these local markets, distinguishing those where there is no or limited scope for a new store due to small populations. For the rest, the issue of new store entry could be explored to establish the history of store development applications since 2000.

It would appear from the evidence presented that the number/proportion of local markets where the planning system has been or is a barrier to entry or expansion has not been established. Although the findings are qualified in that “in a number cases” these stores may be in areas where small populations limit the number of mid-sized and larger stores which can be supported, no indication is given of what proportion of local markets with a high degree of concentration are of this nature.

The key question – what is the scale, distribution and nature of the problem – has not been answered. In short, the audit trail, from factual evidence, through findings, conclusions to recommendations for action, does not provide the evidence to justify the proposed remedies.

### **Understanding the Planning System and Planning Policy**

#### **BCSC's concerns:**

BCSC is concerned that the report displays:

- a misunderstanding of the Government's planning policy (PPS6) and how it
  - should operate for planning for retail development; and
  - is used for assessing and deciding applications for new grocery stores

- a lack of understanding of what development has taken place since 2000, including not just new stores built but also extensions and mezzanine space but excluding the acquisition of convenience stores or renting existing shops, which is not a planning issue
- insufficient understanding that any change in policy would apply to all types of development to which PPS6 applies – all types of retail development, not just grocery stores, as well other town centre uses.

See Appendix One for further discussion on the workings of PPS6

**BCSC considers, given the objectives of PPS6, that:**

- PPS6 already encourages the allocation and development of edge-of-centre retail developments, but that local planning authorities have not yet designated enough new edge-of-centre sites;
- PPS6 already gives preference to edge-of-centre sites - second only to town centre sites
- There is little if any evidence that the need test, let alone other criteria, has had a determining role on its own in decisions on applications for new large grocery stores,
- competition and consumer choice, whilst important, needs to be subservient to the main, overriding objective – to create vital and viable town centres.

**Retail development since 2000**

Based on recent research undertaken for BCSC, we consider that the report may underestimate:

- the amount of new floorspace in grocery stores completed since 2000;
- the amount and proportion of this additional floorspace that is within larger grocery stores;
- the proportion of all grocery floorspace that is in larger grocery stores;
- the proportion of new retail floorspace, especially grocery floorspace, completed since 2000 that is in out-of centre locations.

New floorspace comprises not only new stores but also extensions and mezzanine floors. Taken together large grocery stores, extensions to existing stores and mezzanines to create larger grocery stores account for a high

proportion of the new floorspace – the vast majority of this new floorspace (85-90%) is in out-of-centre locations. This would suggest a number of things:

- despite the sequential and needs tests, permission has been given to both new out-of-centre grocery stores and extensions to existing stores. Edge-of-centre sites may play a significant role in this, but extensions to out-of-centre stores seem to be easier to get consent for than a new store in the same location; and
- there has been a large increase in the number of larger grocery stores and the proportion of the total supermarket floorspace in such stores.

BCSC could provide the Commission with additional evidence to support this.

**Policy change would apply to all types of development to which PPS6 applies** – all types of retail development as well other town centre uses

Since PPS6 already encourages the consideration of edge-of-centre sites both through allocating them for retail development in development plans and treating them as the next best location when no suitable town centre sites are available, BCSC considers that no further changes are needed to accommodate large grocery stores.

However, if any changes were made which sought to provide greater opportunities for large, edge-of-centre grocery stores, the policy change would apply to all uses to which PPS6 applies, unless it were limited solely to helping grocery store developments. This change could, however, be most effectively secured through the allocation of such sites in development plans.

The implications of PPS6 are that:

- local planning authorities are encouraged to assess the need for additional floorspace for grocery stores, identify locations and sites; and
- edge-of-centre sites are the preferred location for new grocery stores where there are no more central sites.

Whilst there is evidence of lack of sites for new grocery stores due to the absence of an up-to-date development plan, BCSC is not aware of any evidence to support the view that proposals grocery stores on edge-of-centre sites have failed to gain planning consent where no more central sites are available. Since PPS6 advocates:

- the allocation of edge-of-centre sites for retail development; and

- the choice of edge-of-centre sites as the next best location where there are no suitable town centre sites

**Conclusion:**

**BCSC** considers that:

- no change in policy is required to provide greater opportunities for edge-of-centre retail developments. However, we propose that the Competition Commission should identify those local markets where there is local dominance and where additional grocery floorspace is likely to be needed during the plan period.
- a more targeted approach is needed rather than an across the board change in planning policy.

## **Appendix One**

### **Misunderstanding PPS6**

The document does not go much beyond the headlines in chapter 1 of PPS6. As a consequence it does not fully appreciate the importance of PPS6's main driver – to maintain and enhance the vitality and viability of town centres – in practice covering the whole range of centres from regional city centres to local centres. Retail development, let alone grocery stores, is only one part of a policy which seeks to achieve economically-successful centres at regional, sub-regional and local levels. Nevertheless the location of new retail development is a critical part of the policy package. This is the primary objective, with issues of productivity at the firm level and competition/consumer, being subsidiary considerations. The location of new retail development is, therefore, critical to achieving the main driver of this policy.

### **Planning for Town Centres and Retail Development**

PPS6, therefore, encourages local planning authorities to plan positively for new retail provision and, specifically, for economically-successful town centres, by:

- forecasting the amount of new retail floorspace that will be needed for different types of retail, including grocery/convenience goods, in 5-year periods over the life of their development plan;
- specifying where such development is needed; and
- identifying proposed sites, and, if necessary, help assemble them

At the plan-making stage, local planning authorities should assess the need for, among other things, new grocery stores and identify suitable sites. Following the sequential approach, the search should start with town centre sites starting with the primary shopping area, followed by edge-of-centre sites with good pedestrian links to the primary shopping area. Indeed, local planning authorities are urged to consider the need for expanding their town centres by designating edge-of-centre sites for retail expansion, particularly for supermarkets.

BCSC recognises that the new system of development plans has not yet produced many of the new-style plans, with a clear vision for its town centres and sites allocated for retail expansion. This is, however, likely to happen over the next 3-5 years. The current lack of suitable sites is the main impediment to new grocery stores.

## Applying PPS6 in assessing out-of-centre retail developments

PPS6 positively encourages town centre retail development, with the only reservation being that of scale of the development being proportionate to the scale and catchment of the centre.

Out-of-centre sites – which includes edge-of-centre sites as those closest to the centre – are subject to testing with regard to:

- whether there are any more centrally located sites
- whether there will be a capacity for another grocery stores in 5 years time
- what impact the store would have on existing centres
- how accessible is it for people without access to a car
- how much car use it would generate.

In terms of location, edge-of-centre may well turn out to be the most central location possible for some centres. Edge-of-centre sites are in the front line for development if town centre sites are not suitable, available or viable.

Out-of-centre developments are, therefore, subject to:

- **a sequential test** – developers are asked to demonstrate that they have assessed all central sites. If, after being flexible with regard to format, design and parking there are no more centrally located sites that are suitable, viable and likely to become available within the next few years, permission is likely to be given for the development subject to the other tests. In some circumstances edge-of-centre sites are likely to be the preferred option.
- **Needs test** – PPS6 asks developers to provide information on the likely capacity for additional retail floorspace in 5 years time with the catchment of the centre as an indicator of whether there is likely to be capacity for another grocery store. The needs assessment provides a robust indicator of likely impact of an out-of-centre store.
- **Impact test** – PPS6 provides a list of likely impacts which the local planning authority needs to assess
- **Access** – the developer needs to indicate how potential customers would reach the store – edge-of-centre is defined in terms of easy walking distance of the primary shopping area of a centre.

PPG6 advises local planning authorities that information requirements should be proportionate to the scale of the proposal.