



## **COMPETITION COMMISSION INVESTIGATION INTO THE SUPPLY OF GROCERIES: PROVISIONAL FINDINGS AND POSSIBLE REMEDIES: BRITISH COUNCIL OF SHOPPING CENTRES**

At the heart of the retail property industry, BCSC works with its thriving membership, representing every aspect of retail property activity and providing a forum for networking, research, representation to Government and developing partnerships.

Representing the interests of the UK's retail property industry, BCSC welcomes the opportunity to comment on the Competition Commission's provisional findings and suggestions for possible remedies with regard to the investigation into the supply of groceries.

### **Our interests**

BCSC strongly supports the Government's town centre first policy, which seeks to focus new retail development in town centres and is concerned that proposals for changes in planning policy that encourage large out-of-centre stores could:

- undermine investor confidence in town centre developments which have long time-scales, and are expensive and risky; and
- if it led to large grocery stores being developed outside these centres, could divert a significant amount of non-food shopping from medium-sized and smaller town centres, so undermining their vitality and viability.

BCSC consider that to promote a general relaxation of planning policy to tackle an insufficiently specified problem in 'a number of local markets' is neither appropriate nor proportionate. If there is a real problem that needs tackling it needs better definition and a more focused remedy.

With regard to the proposal for a 'competition test', BCSC has some doubts as to how this might operate and who should operate it.

We have provided a summary of our concerns below and can provide further information if requested on your detailed questions on the possible remedies.

### **Our Conclusions**

BCSC is concerned that:

- there is little evidence to substantiate the view that planning policy has been a barrier to entry or expansion in those local markets where there is evidence of concentration in the sale of groceries
- the possible remedies, therefore, are not appropriate or proportionate and would have much wider implications than facilitating the development of new stores in a number of local markets where there is concentration of the grocery sector - they would affect retail, leisure and other town centre developments
- the likely implications of a relaxation of the tests faced by out-of-centre stores could be to undermine investor confidence in town centre retail developments and encourage large grocery stores selling a high proportion of non-food goods outside existing town centres, neither of which would benefit local consumers let alone town centres
- a better remedy would be to encourage local planning authorities to plan positively for new grocery stores and to be more proactive in identifying suitable sites through the local development plan for grocery stores, including sites in edge-of-centre locations. This is the main thrust of PPS6. The development of such sites will reinforce rather than undermine the vitality and viability of these town centres and maintain and enhance consumer choice. In contrast, new stores on the by-pass would be disastrous for many smaller centres. Positive planning is essential to revitalising medium-sized and smaller town centres - they must secure the investment that a new grocery store would bring. This is a win-win approach both for securing economically-successful town centres and to provide consumer choice.

These comments are elaborated further below.

## **Our concerns**

### **The need for evidence-based policy making**

We were concerned that the Barker Review of Land-Use Planning did not provide the evidence to justify the proposed changes to PPS6, despite placing great stress on the need for evidence-based policy making. Kate Barker was relying on the Competition Commission to provide the evidence. We, therefore, welcomed the Commission's comments in its Emerging Thinking (paragraph 24), which pointedly noted the Barker Review's 'opinion' that supermarket development in England and Wales is being restricted by the retention of the 'need' test. Like the Commission we were looking for hard evidence rather than theory, opinion or lobbying. We had, therefore, hoped that the Commission's report would provide the hard evidence to identify the scale,

nature and extent of the contribution of planning policy to problems of lack of competition in local markets and, if there were problems, to propose remedies that would be appropriate, proportionate and recognise the wider implications and consider the alternatives

### **The provisional findings**

We are, however, disappointed with the Provisional Findings and Possible Remedies Report, because:

- we are unable to follow an audit trail from factual evidence, through findings and conclusions to possible remedies
- it does not set out the scale, nature and extent of the problems in local markets where there is concentration which could be directly ascribed to the planning system - this is not the case in smaller markets
- no analysis is presented of the problems experienced in getting permission for new grocery stores in those local markets where there was capacity for additional stores (ie excluding those in areas with small populations)
- it is not sufficient to say that town centre sites are costly and that planning applications for supermarkets take time and require considerable information and that this represents a barrier to entry if all applicants face the same conditions
- it is not evident that the planning system has actually prevented new entrants from developing larger stores - smaller operators seek to differentiate themselves from rather than compete head to head with the 'big four' and the 'new entrant' overseas operators - Walmart, Aldi, Lidl and Netto - who have all actually been operating in the UK for 10 years or more. Their planning problems relate to corporate inflexibility rather than with the planning system
- it would appear that the Commission is not fully aware of the scale of new supermarket floorspace that has been completed since 2000 that is in out-of-centre locations -recent BCSC research shows that less than 15% of new supermarket floorspace completed since 2000 has been in town centres (see BCSC's submission to DCLG on the Barker Report. BCSC could provide the Commission with further evidence on the location of new supermarket floorspace since 2000 if requested)

## Proposed Remedies

### Changes in Planning Policy

BCSC considers that:

- the proposed remedy, to relax the tests facing applicants, is not appropriate, proportionate and does not recognise that PPS6 relates to a wider range of developments than just retail, let alone supermarkets - there is more at stake than solving a few, as yet unspecified, problems in a number of local markets
- it does not appear to understand that PPS6 requires local planning authorities to identify town centre sites and, if needed, edge-of-centre sites as well as to treat edge-of-centre sites as the best option if no suitable town centre sites are likely to be available within a reasonable period: edge-of-centre sites already have considerable priority in PPS6; and
- it does not appear to understand that there could be a more focused approach which addresses the lack of suitable sites in areas where additional large grocery stores will be needed - this would be more effective than across the board relaxation of planning policy.

With regard to **proposals for changes in planning policy**, BCSC considers:

- the preliminary findings provide **insufficient evidence** of the degree to which concentration in 'a significant number of local markets' exists, and, in those where there is likely to be capacity for further supermarkets, that the planning system has proved to be a major barrier to the development of supermarkets
- the cost of applying for planning consent for new grocery stores on out-of-centre sites reflects the cost of town centre developments and the need to assess out-of-centre applications - **it is neither appropriate nor proportionate to make a special case for securing development opportunities for supermarkets** when there would be major implications for the whole retail development industry, as well as the leisure and office industries
- such a policy relaxation would be **unlikely to provide significant consumer benefits**, such as lower prices, and **might even reduce consumer choice** by leading to the closure of small grocery stores and, more significantly in smaller towns, divert non-food trade from town centres to out-of-centre locations

- a relaxation in the town centres first policy would lead to considerable uncertainty among town centre investors, which would adversely affect the prospects of attracting investment to smaller and medium-sized town centres; and
- out-of-centre large grocery stores are likely to have a major impact on small and medium-sized towns (see DETR research: “The Impact of Large Foodstores on Market Towns and District Centres”, 1997)

### **Competition Test**

With regard to introducing a competition test for grocery store applications, BCSC considers:

- this could be achieved by making OFT a statutory consultee on supermarket applications which triggered a specified threshold and that OFT would need to undertake an assessment and inform the local planning authority whether the application would result in excessive concentration of the local market for groceries;
- local planning authorities have no experience or advice on how to handle this issue. They are not equipped to assess competition issues
- it is not clear how facilitating competition by a company not yet represented in a local market will secure an improvement in consumer choice, unless this is limited to choice between the big four supermarkets.

### **Alternative Remedies**

The most effective remedy is for local authorities through their development plans to assess the scale of need for new grocery stores, to identify the locations, to allocate sites and, where necessary, assist with site assembly.

In particular, if the Commission has identified those local markets where there is a problem of concentration and/or lack of consumer choice and there will be enough capacity to support a further store, to name these areas. This should put pressure on the local planning authority to plan positively to meet these needs through the local development plan.

The Department of Communities and Local Government should, in its proposed good practice guidance, advise local planning authorities how to tackle this issue.

BCSC considers that a more targeted approach is needed to tackle those local markets where a more proactive approach to planning is needed rather than propose a general relaxation which may have considerable unintended effects on the future of town centres as a whole, with no real benefits for consumer choice, indeed the opposite.

We would be very happy to meet you to discuss or elaborate our concerns.

Yours sincerely



Michael Green