

The Retail Planning Knowledge Base Briefing Paper 7

The Need Test

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Key Issue

There would seem to be no doubt that the land-use planning system for retail development, certainly in England, has become complicated over time, to the frustration of some in government and business. The Barker Review recommended that as part of a simplification and improvement the 'need test' be removed. The 'need test' applied to developments outside town centres, but some would argue given the role of impact assessment and qualitative need considerations that quantitative need is a 'redundant criterion'. Others argue that the 'need test' is a safeguard or check on whether there is a 'need' or 'space' for non-town centre developments.

This Briefing paper lays out the arguments on both sides, ahead (at the time of writing) of a new White Paper on Planning. The issue has somewhat energised, but polarised, opinions. This perhaps reflects the sense that PPG6 and PPS6 are having the desired effect, that environmental and competitive concerns require a degree of caution over changes to current processes, but also that the UK retail sector continues to lag (and the gap may be growing) international competitors and the planning policy is a barrier to new entry to the retail market.

Background

An extensive discussion of the background is given in Chapter 5 of Cliff Guy's 2007 book **Planning for retail development: A critical view of the British experience**. This highlights how the issue of need has become part of planning policy. Guy's 2007 article in *Regional Studies* provides a succinct resume of the key developments in the interpretation of the need test. The **Barker Review** in its recommendation that the need test could be removed from PPS6 without damage to the overall policy has brought the issue to the forefront of discussion over the past few months. The Competition Commission has taken up discussion of **Barker Review's** proposal in the investigation of the groceries market.

Terminology

A continuum appears to exist between retail deficit and retail saturation in terms of understanding need. Other terms such as capacity, need and demand are also used. Need is usually a quantitative measure based on an audit of existing and forecast population, forecast expenditure for convenience and comparison sectors and floorspace including forecast productivity increases (ODPM, 2005). It is perhaps unfortunate that quantitative dimensions of need have so dominated approaches to the subject at the expense of qualitative dimensions.

Scottish policy and English policy differ on the issue of need. Scotland has always followed a broadly similar, but more flexible, retail planning policy than that in England. In Scotland however, although the need test is not required, there is critically also a different sequential policy.

The meaning of 'need' has changed over time, but faces new challenges as a result of retail innovation, retail formats and consumer demand and aspirations. Qualitative aspects would appear to be more critical for consumers. Distinguishing need and

demand remains a difficult balancing act. Need has become part of the language of planning and physical development negotiation so much so that it takes on meaning not explicit in the term itself.

Key Quotes

‘Need must be demonstrated for any application for a main town centre use which would be an edge of centre or out of centre location and which is not in accordance with an up to date development plan document strategy’ (ODPM, 2005, para 3.9)

‘Planners should not be attempting to determine if there is sufficient ‘need’ for a given application – rather the applicant, who is bearing the risk, should be responsible for assessing that likely demand is sufficient to make the development viable. This has implications for the ‘town centre first’ policy priority. There are a number of means by whereby this goal is promoted including the sequential test and the impact tests of Planning Policy Statement 6. These should be retained. But the requirement for applicants to demonstrate need should be removed, and can be done without harm to the overall policy. In addition, where there are concerns about potential consumer detriment caused by restricted competition in local retail markets, should the Competition Commission conclude that there is evidence of anti-competitive conduct, the Government will also need to play a role in encouraging new entrants to a market where a new site becomes available.’ (Barker, 2006, 7)

‘The conclusion can be drawn therefore that policies relating to need assessment could be simplified in future government guidelines on retail planning. Quantitative need appears to be in most circumstances a redundant criterion.’ (Guy, 2007, 136)

‘BCSC is concerned that removing the need test will make it easier to get permission for large format, out of centre retail development which would:

- reduce the prospects of getting investment in town centres
- divert trade away from medium and smaller sized towns.

The need test has proved the most useful check on whether there is room for out-of-town proposals’ (BCSC, 2007, 6)

The Arguments

The table below attempts to summarise briefly the arguments for and against retaining the need test. It draws on material from the references cited in this Briefing Paper. In particular it reflects the opposing arguments of experts such as Cliff Guy and Michael Bach (email addresses at end of Briefing Paper). Those with town centre interests favour retention of the need test whilst those with an out of town perspective advocate removal. The grouping of the arguments into two sections is intended to clarify the different issues involved.

Arguments for retaining need test	Arguments for removing need test	Comments
1. Arguments relating to the retail regulatory environment		
<p>Pipeline development would dry up if there was a hint of relaxing policy threatening town centre vitality and viability. Without it policy would be weakened and planning by appeal would increase.</p>	<p>Scottish policy does not require the need test. The need test is not integral to retail planning policy implementation and town centre goals.</p>	<p>The context of change, whether across planning or just in retailing, would impact on the interpretation of the removal of the need test. Scottish policy is also different in other integral ways.</p>
<p>Satisfying demand is only part of good planning. Planning is about good management of resources and welfare issues rather than fostering competition which may waste resources. Big retailers adopt 'bullying' tactics and misuse planning gain.</p>	<p>Planners should have robust development plans which would be effective in curtailing inappropriate applications. The market should determine need and development including levels of competition not planners. The need test favours extensions and reduces new entry and thus competition and productivity levels.</p>	<p>Retail planning policy should be aligned with wider planning goals and the balance between demand and provision. Current retail policy is aligned in this way although policy is shifting and retail demand and provision are continually being redefined.</p>
2. Arguments relation to the implementation of the need test		
<p>The need test is considered robust and is the only 'headroom' test used. Impact tests are based on assumptions which are hard to verify and open to varying interpretations. The need test could even be strengthened further to assist existing businesses including small retailers.</p>	<p>The need test is considered nebulous and less satisfactory than impact tests. Impact tests are more significant in terms of town centre vitality and viability which are what is being tested. The variables taken into account in the need test do not reflect the variations in retailing or shopping expectations. Convenience and comparison concepts are too general. Research into impact assessment and outcomes could clarify processes.</p>	<p>The need test may not be as robust as claimed and may not take into account the fact that one sq m of retail use is not the same as another. In concept, however, it offers 'legibility' but at the expense of superficiality and neglect of quality aspects.</p>
<p>Neither Barker nor the Competition Commission are engaged in promoting successful town centres. Even with the need test there is still significant out of town development.</p>	<p>Regeneration sites are outside town centres. There is an inverse relationship between negative impact and need, so impact is sufficient. (By the same relationship it could be argued that need test is adequate)</p>	<p>This could be argued either way but deficiencies should be distinguished from need (as in Scotland). Qualitative factors measure positive impacts which are often ignored.</p>
<p>In a regulated market retailers are forced to be innovative</p>	<p>Space restrictions raise rents and land prices</p>	<p>Both of these are true but they are not central to the need test, but rather regulation as a whole.</p>

References

Background texts

Adlard, H.

The 'need' for retail development,

Journal of Planning and Environment Law, May 2001, 522-534.

A study of the legal practice of the concept of 'need' defined in terms of its materiality and whether retail issues such as competition between retailers are a material consideration. Different definitions of the term 'need' are discussed. The whole concept of 'need' remains ill-defined. Fulfilling the requirement of 'need' will not necessarily result in the overriding objectives of focusing new developments in town centre locations.

England, J.

Retail impact assessment: a guide to best practice,

London: Routledge, 2000, 225p. 0415216664

This volume is the published version of England's PhD thesis. It is concerned with the ways in which retail impact assessment has and can be used within the contemporary planning framework. The policy context is developed. A survey of appeal decisions was carried out. Local authorities were questioned on retail impact assessment. A range of measures of retail impact are discussed and qualitative and quantitative measures are both considered. The study attempts to identify procedures which can be termed best practice in the context of PPG6 and current thinking on its interpretation.

Guy, C.

Planning for retail development: A critical view of the British experience,

London: Routledge, 2007, 292p. 0415354536 (Email Guy@cardiff.ac.uk)

This volume updates Cliff Guy's 1994 volume on the same subject. It covers the last decade of retail planning policy in the UK which has been a substantial departure from the previous decade. Chapter 5 specifically considers need and impact assessment as planning tools.

Guy, C.

Choice cuts,

Town and Country Planning, 73(10), 2004, 276-277.

The Competition Commission, in its decision making on recent acquisitions in food retailing, has taken the position that there are two food retail markets, main and top up shopping. Thus the acquisition of convenience retailers by major operators such as Tesco has not been a competition issue. Guy shows that the situation is in fact more complex with different types of store being used by different consumers for different purposes. Some consumers have started using superstores for top up items whilst others for whom accessibility is an issue may use convenience stores for their main shopping. He also raises the issue of choice and its significance in consumer

evaluation of shopping facilities as and in the context of planning considerations of what constitutes 'need'.

Guy, C. and Bennison, D.

Retail planning policy, superstore development and retailer competition,
International Journal of Retail and Distribution Management, 30(9), 2002, 431-434.

This article describes research commissioned by the British Council for out of Town Retail (BCOTR/ Accessible Retail). It examines the case in favour of superstore development. In particular it was concerned to ask whether planning policies were adversely affecting particular format development and reducing competition. The findings showed that retail planning policy had become opposed to particular types of retail development as the preferred locations were incompatible with preferred formats. It is concluded that this is inconsistent with government policy to promote competition. Superstores bring benefits to consumers and enhance retail competition and are therefore in the consumer interest.

Harris, D.

Ministers prepare to reinforce policy,
Estates Gazette, 344, 2003, 88-89.

Harris discusses the emphasis on quantitative rather than qualitative assessments of need on the out of town retail sector. He stresses that some see the present PPG6 as having had the desired negative effects but not the desired positive effects so that whilst out of town retailing has been controlled town centre retailing has not grown as it needs to do.

Morley, S.

Working on the shop floors,
Planning, 23/04/04.

A discussion of what is involved in making quantitative need assessment calculations and predictions. Retail planners in particular require knowledge of expenditure growth rates and their effect on floorspace demand, sales density increases and how these affect turnover and the effect of internet shopping on expenditure growth.

Stock, G.

Need key in retail controls,
Planning, 12/09/03, 19.

The measurement of 'need' is discussed. The article looks at the different sources which might be used to assess need suggesting that finding consensus on the detail behind the figures is not as straightforward as suggested.

Williams, H.
A need to classify 'need',
Town and Country Planning, 68(4), 1999, 112.

A discussion of the concept of 'need' as defined in PPG6 and later further narrowed by Richard Caborn in June 1999. It is not sufficient to define 'need' as capacity in physical terms or in expenditure potential. It is concluded that there is a lack of understanding of the retail industry by public authorities.

Policy Documents

Barker, K.
Barker review of land use planning: final report - recommendations,
Norwich: HMSO, 2006, 226p. (Available online from
www.barkerreviewofplanning.org.uk)

The Barker report considers the role of planning policy. It presents a much stronger emphasis on the economic aspects of planning than formerly. The policy makes a number of specific references to retail policy. Specifically the report states that the need test is not required (p36) and it discusses this within a context of competitiveness of the sector and the vitality and viability of town centres.

CB Hillier Parker and Cardiff University
A policy evaluation of the effectiveness of PPG6,
London: ODPM, 2004, 96p.

This substantive report assessed the effectiveness of PPG6. The findings emphasise the acceptance and success of overall goals but accept that there have been problems in the implementation and interpretation of policy. It is also acknowledged that the policy has been more successful as a development control tool than as plan-led proactive policy with restrictions being observed but a lack of commensurate town centre investment.

Competition Commission
Working paper on planning issues
London: Competition Commission, 2007, 53p. (Available online from
www.competition-commission.org.uk/inquiries/ref2006/grocery/emerging_thinking_working_papers.htm)

From a retail planning perspective this is the key paper produced by the Competition Commission to date. The paper focuses on ways in which the planning system could either favour incumbents and inhibit new entry or be used to gain competitive advantage. It details the way that the need test is used and discusses how this could impact on new entries to the market.

House of Commons

Office of the Deputy Prime Minister: Housing, Planning and Local Government and the Regions – twelfth report,

London: House of Commons, 2004.

Given the number of responses during the PPS6 consultation process an evidence session was held in July 2004. This publication is the outcome of that session. It notes the topics which were presented to the minister for further review. These included extensions in out of town locations, quantitative need and class of goods, edge of centre sites and possible abuses and managing decline.

Office of the Deputy Prime Minister

Planning policy statement 6. Planning for town centres,

London: ODPM, 2005, 36p. (Available at www.odpm.gov.uk) 0117539392

The final revised version of PPS6 was published on 21st March 2005. It is very similar to the draft version. Some minor amendments have been made with a more careful use of terminology, greater specificity of a few sections and amplification of some sections such as that relating to extensions.

Office of the Deputy Prime Minister

Memoranda

London: ODPM, 2002. (Available from www.publications.parliament.uk/pa)

Memoranda from interested parties were submitted to House of Commons Select Committee on planning and competitiveness and productivity. Of specific relevance were the memoranda from **The British Retail Consortium (PCP31), Tesco (PCP27), Sainsbury's Supermarkets Ltd (PCP16), Accessible Retail, Marks & Spencer Plc (PCP03), B&Q (PCP08), Ikea Property Investments Limited (PCP15).**

These addressed problems both with the implementation of the planning system and the planning policies themselves.

A key aspect of planning policy to be noted was the concept of 'need'. Unsatisfactory definitions of 'need' and who should define 'need' exist. Problems with the way that the sequential approach is implemented were noted. Lack of clarity about need and the use of ministerial statements were both seen as unsatisfactory. Some argued that current directions in policy are inhibiting consumer choice and competition. Some went further saying that planning policy in the UK has become opposed to certain types of developments.

Scottish Executive

Scottish planning policy SPP8: Town centres and retailing

Edinburgh: Scottish Executive, 2006, 16p. (Available from www.scotland.gov.uk/Publications/2006/07/26112710/0)

This is the final policy statement. It outlines the key principles and the way they will be applied. The town centre focus remains. The importance of the plan-led approach is emphasised in the recognition of a network of centres, flexibility, the involvement

of stakeholders and negotiation between developers and planners on issues such as design.

Scottish Executive

Research study on the effectiveness of NPPG8: Town centres and retailing,

Edinburgh: Scottish Executive, 2004, 152p. (available from www.scotland.gov.uk/planning)

This document presents the research commissioned by the Scottish Executive from CBRE, University of Stirling and Colin Buchanan and Partners. The research included an assessment of existing findings on retailing in Scotland, survey work and focus groups and represents a broad based consultation with experts and practitioners. Topics included in the document are: retail change, defining centres - their use mix and status, sequential approach – flexibility and definition, support for new development, retail deprivation and retail assessment methodology.

A Selection of Responses to the Barker Review

Action for Market Towns

Keep need test for superstores urges AMT,

Bury St Edmunds: Action for Market Towns, 2007. (Available online at www.towns.org.uk)

This response argues for the maintenance of the need test to ensure that policy is not significantly weakened. What has been achieved through existing policy should be continued.

Bach, M.

A changing planning agenda?

London: National Retail Planning Forum, 2007. (Available online at www.nrpf.org)

A presentation to the National Retail Planning Forum on the possible implications of the removal of the need test.

British Council of Shopping Centres

BCSC response to Barker Review of land-use planning,

London: BCSC, 2007 (Available online at www.bcsc.org)

The British Council of Shopping Centres believes that the removal of the need test would be detrimental to the town centre first policy and that impact assessments would not be adequate to exercise control on out of town development resulting in a stop in pipeline developments.

Friends of the Earth

Shopping the bullies: why the planning system for retail needs to be strengthened not weakened,

London: Friends of the Earth, 2007, 60p. (Available online at www.foe.co.uk/resource/briefings/shopping_the_bullies.pdf)

This report continues Friends of the Earth belief that the major supermarkets use bullying tactics to manipulate the planning system to their own ends. It is opposed to any move towards removal of the need test and indeed proposes tightening controls. It suggests that planning controls remove the bias towards big retailers including a suggestion that operator might be considered. A cap on space at the national level is also mooted. Planning gain should be reformed and local authorities should have more expertise available to them to counter unwelcome proposals.

Guy, C.

Is 'demonstration of need' necessary in retail planning policy?

Regional Studies, 41(1), 2007, 131-137.

A resume of how the need test became an integral part of planning policy. Within this context the article then asks whether this is enough to justify its continued use as a planning tool. The opinion of the article is that it could be subsumed within impact analysis.

Guy, C.

Who needs need?

Town and Country Planning, 76(4), 2007, 111-2.

A resume of the issues concerning the need test. The idea that the need test might be abandoned has raised controversy but Cliff Guy indicates his support for abandoning the test. He views it as a by-product of impact studies and as such considers that indeed town centre vitality would be unaffected by abandoning the test. Development plan policy should ensure that a suitable level of out of town investment is achieved through the use of capacity studies based on quantitative and qualitative needs. Out of town shopping is viewed as a critical part of the retail landscape.

Kelly, R.

Moving towards the planning White Paper,

London: Royal Town Planning Institute, 2007. (Available online at www.nrpf.org)

A speech by Ruth Kelly answering concerns of planners over the Barker Review. In response to criticisms about the need test Kelly assures planners that there is no intention to depart from the town centres first policy, but that there is a requirement for competition in retailing.

Nathan, M.

A question of balance,

London: IPPR, 2007, 12p. (Centre for Cities Discussion Paper 9) (available online at www.ippr.org/centreforcities)

Within this response to the Barker Review a section deals explicitly with Barker's position on the need test.

Quin, S.

Position paper- need test,

London: ATCM, 2007, 3p. (Available online at www.atcm.org)

This paper provides the Association of Town Centre Management response to the Barker Review proposal to remove the need test from PPS6. Such a decision they claim would accelerate the decline of town centres, stop the pipeline of investments in town centres and undermine current retail planning policy.

Websites

Action for Market Towns www.towns.org

Association of Town Centre Management www.atcm.org

Barker Review www.barkerreviewofplanning.org.uk

British Council of Shopping Centres www.bcsc.org.uk

Competition Commission www.competition-commission.org.uk

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