

Inspector's question 87

"I would welcome the Council's observations on representation 656 from Zahra Waters of Lichfields on behalf of Coal Pensions Properties Ltd commenting on the soundness of policy E5."

AVDC's Response to Inspector's question 87

Zahra Waters of Lichfields has made representations on behalf of Coal Pensions Properties Ltd. relating to policy E5 Development Outside Town Centres. The points made in the representations have been set out and considered below. All the proposed changes to the wording of the policy are set out at the end of this document.

Ms. Waters states that the wording of the policy is confusing and repetitive. The policy states that "A sequential test will be applied to planning applications for main town centre uses that are not in an existing centre", while criteria b. of the same policy stipulates that "proposed retail development on out-of-centre sites will need to demonstrate that no suitable site can be found, firstly within the existing town or local centre or, secondly, on the edge of the centre.". This is an unnecessary duplication which may cause confusion by implying retail development will be treated differently to other main town centre uses. The policy is therefore not justified nor effective.

Response

The Council acknowledges the unnecessary duplication of the sequential test in the opening paragraph of the policy and then in criteria b) and so proposes to delete the second and third sentences of the opening paragraph and rephrase the criteria to explicitly refer to the sequential test.

The representations further state that criteria e. and f. of the policy provide unnecessary and confusing additional commentary relating to the application of the sequential approach based on the types of retail goods sold. The NPPF does not require particular types of retail goods to be accommodated within sequentially preferable locations. These criteria are not justified nor consistent with national policy.

Response

The Council acknowledges the points made in regards to criteria e. and f. of the policy. The NPPF stipulates that local planning authorities should "promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres". The Council aims to achieve this by requiring the type of goods sold and the form of shopping unit proposed to be conveniently accommodated within the existing shopping centre, and for the proposed type of goods sold to complement those provided in the existing retail centre to ensure the diverse retail offer referred to in national planning policy. However, the Council does acknowledge that the criteria do not take into account service provision in addition to goods, and that the wording of criteria e. and f. are unnecessarily confusing, and proposes to merge the criteria into one criterion, changing the wording from: *"e. The type of goods sold and the form of shopping unit proposed could not be conveniently accommodated within the existing shopping centre, or where suitable sites and premises are not available, within the centre or edge-of-centre sites*

f. The type of goods sold and the facilities provided complement those provided in the existing retail centre”

To: *“e. The type of goods sold, the type of services provided and the form of shopping unit proposed could not be conveniently accommodated within a defined town centre or at an edge-of-centre location.*

f. The type of goods sold, services provided and the facilities provided do not complement those already provided in the defined town centre.”

The representation identifies other problematic aspects of the ‘impact test’. Criterion a. appears to apply to all out of centre developments regardless of their scale. It is suggested this criterion is merged or cross referred to criterion c. which sets out the floor space threshold where an impact assessment will be required.

Response

It is the view of the Council that criterion a. would still enable the local planning authority to make their own assessment on a proposal’s impact on the vitality and viability of the defined town centre, even without a full assessment being provided by the applicant. Criterion c. would make it a requirement to provide a full assessment of the potential impact on both the town centre and nearby centres if the created floor space of the proposal exceeds 400 square metres. As such the Council opts to not merge these two criteria together.

It is noted by the Council that footnote 31 refers to a non-existent entry in the glossary. As such, the Council suggests removing this footnote.

The representation notes that criterion d. requires retail development below the impact floor space threshold to be accompanied by a retail impact assessment if appropriate, but does not clarify what ‘appropriate’ means. This is held to be unjustified because a clear floor space threshold is set out in criterion c. The NPPF only requires an impact assessment to be required if development exceeds the proportionate locally set floor space threshold, therefore criterion d. is inconsistent with the NPPF.

Response

The Council acknowledges the point made above and acknowledges that the wording is not clear but still considers that assessments may be required below the locally set threshold where a proposal is deemed to be potentially impacting on a town centre or local centre even though it does not fulfil the floor space requirement. In order to clarify the requirements, it is proposed that the wording is changed from: “c. Proposals over the floor space threshold of 400 sqm are accompanied by a full assessment of the potential impact on town centres and nearby centres

d. Proposals less than the above floor space threshold are accompanied by a retail assessment report if appropriate”

to: “c. Proposals over the floor space threshold of 400 sqm are accompanied by an assessment of the potential impact on nearby town, village and local centres

d. Proposals less than the above floor space threshold are accompanied by an assessment of the potential impact on town, village and local centres report if appropriate”.

The representation also notes that criterion c. states that proposals over the floor space threshold of 400 square metres are accompanied by a full assessment of the potential impact on town centres and nearby centres. The NPPF identifies that where a locally set threshold is not in place a threshold of 2,500 square metres should be used. The 400 square metre threshold is unduly onerous as there is no evidence to suggest that developments under the NPPF threshold of 2,500 square metres will have a significant adverse impact on nearby centres, and as such the threshold in the test should be increased to 2,500 square metres.

Response

The NPPG provides guidance on how the NPPF should be applied. Paragraph 26 of the NPPG states that local planning authorities “should require an impact assessment if the development is over a proportionate, locally set floorspace threshold”. Paragraph 016 Reference ID 2b-016-20140306 of the NPPG sets out the following points to be important to consider in setting a locally appropriate threshold:

- scale of proposals relative to town centres
- the existing viability and vitality of town centres
- cumulative effects of recent developments
- whether local town centres are vulnerable
- likely effects of development on any town centre strategy
- impact on any other planned investment

The Aylesbury Vale Retail Impact Thresholds 2017 stipulates the threshold of 400 square metres. This is based on a range of centre sizes considered, from Aylesbury town centre which contains two shopping centres down to Walton Court which only contains seven units. The figure set out is a ‘blanket’ for the entire district to ensure that out of centre schemes are assessed when they are to draw trade from centres, including smaller centres. Seven of the nine defined centres are considered small, and 400 square metres is of a scale which needs to be carefully considered for any potential for significant adverse impacts on these centres. Alternatively having a range of thresholds relative to the size of centres would be difficult to manage and would not be an effective approach. Paragraph 6.5 of the Aylesbury Vale Retail Impact Thresholds 2017 report identifies that 75% of out of centre retail applications over the last 3 years have been less than 400sqm. As such, the Council does not agree that the 400 square metre threshold is ‘unduly onerous’.

Below is policy E5 with the proposed amendments shown as tracked changes.

E5 Development outside town centres

Proposals for main town centre uses not within defined town centres³¹ will undergo a sequential test. Main town centre uses should primarily be located within defined town centres. If no suitable sites are available within defined town centres, main town centre uses should be located in edge-of defined town centre locations. Only when no suitable sites are available in edge-of defined town

³¹ As defined in the Glossary

centre locations will out-of-town centre sites be considered. In assessing suitability, factors such as viability and availability should be considered.

~~A sequential test will be applied to planning applications for main town centre uses that are not in an existing centre³². Town centre uses should be located in town centres, then edge-of centre locations. Only when suitable sites are not available will out-of-town centre sites be considered. In terms of edge and out-of-town centre proposals, preference will be given to accessible sites that are well connected to the town centre.~~

In addition to the above sequential test, proposals outside defined town centres for non-food retail and food retailing, including extensions, will be granted subject to compliance with all the following criteria:

- a. The proposal does not have a significant adverse impact on the vitality and viability of the defined town centres, either as an individual development or cumulatively with similar existing or proposed developments
- ~~b. The proposed retail development on out-of-centre sites will need to demonstrate that no suitable site can be found, firstly within the existing town or local centre or, secondly, on the edge of the centre. Any assessment of suitability should consider factors such as viability and availability~~
- be. Proposals over the floor space threshold of 400 sqm are accompanied by a full assessment of the potential impact on ~~town centres and nearby centres~~ **nearby town, village and local centres**
- cd. Proposals less than the above floor space threshold are accompanied by a ~~retail assessment report if appropriate~~ **full assessment of the potential impact on nearby town centre, town, village and local centres if appropriate.**
- d. The type of goods sold, the type of services provided and the form of shopping unit proposed could not be conveniently accommodated within a defined town centre or at an edge-of-defined town centre location.
- e. The type of goods sold, services provided and the facilities provided do not complement those already provided in the defined town centre. ~~The type of goods sold and the form of shopping unit proposed could not be conveniently accommodated within the existing shopping centre, or where suitable sites and premises are not available, within the centre or edge-of-centre sites~~
- f. The type of goods sold and the facilities provided complement those provided in the existing retail centre
- fg. Servicing and customer traffic can be safely and conveniently accommodated by the surrounding road network and does not add to traffic generation in the defined town centre
- gh. The proposal is easily accessible by the highway network and public transport and includes provision for access by cycle and on foot, and

³² ~~As defined in the Glossary~~

- hi. The design of the buildings will not detract from the character or appearance of the site and/or surrounding area.

An entry for 'defined town centres' will be added into the glossary. The policies maps will be updated to include town centre definitions. The Winslow town centre definition will be a match to the designated Winslow Shopping Area as shown in Policy 17: Winslow Shopping Area of the Winslow Neighbourhood Plan. The Buckingham town centre definition will match the defined Town Centre Area as per figure 9.6 of the Buckingham Neighbourhood Development Plan. The Wendover town centre will be defined to match the Central Shopping Area of Wendover as existing in the Aylesbury Vale District Local Plan (2004).

Glossary

Term

Definition

Defined Town Centres

A locally designated area which defines the extent of a town centre. The defined town centres of Aylesbury Vale are located in Aylesbury, Buckingham, Winslow and Wendover respectively. The extents of the defined town centres are specified in the policies maps.