

PPS4 and Impact Assessment

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Introduction

1. PPS4, launched in the final days of 2009, together with *Planning for Town Centres: Practical Guidance on need, impact and the sequential approach* (“**the Guidance**”) finally marks the end of the long process which saw earlier drafts of PPS 6 and PPS4 merged into a single draft PPS4 in May 2009.

Main policies on impact assessment

2. The policies relating to impact assessment are found in the “Development Management Policies” section, and have been restructured and redrafted since final draft and there are now several layers tiers of impact policies although not always termed such:

- (1) The general policy in **EC10** applicable to all applications for economic development;
- (2) **EC11** applicable to applications for non-town centre uses for economic development not in accordance with an up to date DP;
- (3) **EC12** applicable to economic development in rural areas;
- (4) **EC16** sets out the new impact assessment for main town centre uses not in a centre (with one exception) and not in accordance with an up to date DP;
- (5) **EC17** ties the new impact assessment into the general approach for determining applications out of centre for main town centre uses not in accordance with an up to date development plan.

3. The Guidance is the result of the “living draft” and consultations which accompanied draft PPS4. It states that:

“The practice guidance does not constitute a statement of Government policy. It is guidance to help those involved in preparing or reviewing need, impact assessments and sequential site assessments and to help the interpretation of town centre policies set out in the PPS ...”

Definitions

4. **“Economic development”** is very widely defined by paras. 4-8 of PPS4 of which “main town centre uses” form only part and (other than housing) includes development which provides employment opportunities, generates wealth or produces or generates an economic output or product.
5. **“Main town centre uses”** are explained in para. 7 and cover a range of retail, business, leisure and cultural uses:

“7. The main uses to which the town centre policies in this PPS apply are:

1. retail development (including warehouse clubs and factory outlet centres)
2. leisure, entertainment facilities, and the more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres, and bingo halls)
3. offices, and
4. arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities)

8. References to town centre(s) or to centre(s) apply to all types of centre defined in Annex B to this PPS which are identified in development plans. Unless they are identified as centres in regional spatial strategies or in development plan documents, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres for the purposes of this statement.”

6. Other definitions, largely familiar from Annex A of PPS6, are set out in PPS4 Annex B.

Need?

7. As envisaged by the White Paper and the earlier drafts, need no longer plays a direct role in the assessment of development proposals. Insofar as it remains a relevant consideration for the formulation of development plan policies (see EC3.1.b, EC5.1.a), it sits behind strategic and spatial choices for development, but ceases to be a direct development control (management) criterion although need may be a factor in considering certain impacts e.g. competing proposals involving an allocated site or competing centres.

Competition assessment?

8. Despite the Competition Commission’s reiteration of its competition test the Final Report on the *Remittal of the Competition Test by the Competition Appeal Tribunal* on 2 October 2009 no competition or fascia choice test has (yet) been incorporated into PPS4. The PPS4 Impact Assessment which accompanied the publication of PPS4 simply states:

“50. In addition, this impact assessment does not address the recommendation of the Competition Commission, for a competition test to be introduced into planning, following their investigation of the groceries market in the UK (final report published in October 2009). The Government will respond shortly to the Commission’s recommendation and will consider carefully what a new competition test in the planning system for the largest grocery stores would mean for business, local authorities, consumers and communities in conjunction with other recent planning policy developments.”

However, under *Competition Assessment* at paras. 123-125 the Impact Assessment points to the way in which it is considered that the removal of the need test and the new impact test will remove barriers to entry and facilitate a greater likelihood of entry by operators who may not otherwise have been able to enter a local market”, and a greater focus on competition and choice in policy, which suggests DCLG does not anticipate the need for a further test:

“125. Taking account of these considerations the proposal is expected to enhance competition, with no significant redistributive effects, and will improve entry to local markets.”

General impact consideration for all economic development

9. The following considerations apply to all economic development within PPS4:

“**EC10.2** All planning applications for economic development should be assessed against the following impact considerations:

- a. whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change [See Paragraph 9 and 42 of *Planning and Climate Change: Supplement to Planning Policy Statement 1* (CLG, 2007)]
- b. the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured [Advice on assessing transport impacts is set out in *Guidance on Transport Assessments* (DfT and CLG, 2007).]
- c. whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions
- d. the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives
- e. the impact on local employment.”

10. The terminology of impact is not wholly appropriate here, and these considerations do not appear in Part 7 “Assessing Impact” in the Practical Guidance, but nonetheless it is clear what DCLG is expecting of all economic development. It might be thought that EC10.2 is repetitious of existing policy in PPS1, PPS1 Supplement, PPS13 and otherwise.

11. **EC10.2a** Requires consideration of the PPS1 Supplement, Planning & Climate Change, paras. 9 and 42

(1) Para 9 requires the delivery of *spatial strategies* which meet the seven listed key planning criteria, which appear to be used for assessment of *applications* under PPS4 –

“– make a full contribution to delivering the Government’s Climate Change Programme and energy policies, and in doing so contribute to global sustainability;

- in providing for the homes, jobs, services and infrastructure needed by communities, and in renewing and shaping the places where they live and work, secure the highest viable resource and energy efficiency and reduction in emissions;
- deliver patterns of urban growth and sustainable rural developments that help secure the fullest possible use of sustainable transport for moving freight, public transport, cycling and walking; and, which overall, reduce the need to travel, especially by car⁹;
- secure new development and shape places that minimise vulnerability, and provide resilience, to climate change; and in ways that are consistent with social cohesion and inclusion;
- conserve and enhance biodiversity, recognising that the distribution of habitats and species will be affected by climate change;
- reflect the development needs and interests of communities and enable them to contribute effectively to tackling climate change; and
- respond to the concerns of business and encourage competitiveness and technological innovation in mitigating and adapting to climate change.”

(2) Para 42 sets out the requirements against which planning applications should be assessed -

“In their consideration of the environmental performance of proposed development, taking particular account of the climate the development is likely to experience over its expected lifetime, planning authorities should expect new development to:

- comply with adopted DPD policies on local requirements for decentralised energy supply and for sustainable buildings²⁸, unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable;
- take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption, including maximising cooling and avoiding solar gain in the summer; and, overall, be planned so as to minimise carbon dioxide emissions through giving careful consideration to how all aspects of development form, together with the proposed density and mix of development, support opportunities for decentralised and renewable or low-carbon energy supply;
- deliver a high quality local environment;
- provide public and private open space as appropriate so that it offers accessible choice of shade and shelter, recognising the opportunities for flood storage, wildlife and people provided by multifunctional greenspaces;
- give priority to the use of sustainable drainage systems²⁹, paying attention to the potential contribution to be gained to water harvesting from impermeable surfaces and encourage layouts that accommodate waste water recycling;
- provide for sustainable waste management; and
- create and secure opportunities for sustainable transport in line with PPG1330 including through:
 - the preparation and submission of travel plans;

– providing for safe and attractive walking and cycling opportunities including, where appropriate, secure cycle parking and changing facilities; and

– an appropriate approach to the provision and management of car parking.”

Non main town centre uses

12. When determining applications for non main town centre uses, the following matters should be considered:

“a. weigh market and other economic information alongside environmental and social information b. take full account of any longer term benefits, as well as the costs, of development, such as job creation or improved productivity including any wider benefits to national, regional or local economies; and
c. consider whether those proposals help to meet the wider objectives of the development plan.”

Rural areas

13. **EC12** deals with applications for economic development in rural areas, although local services and village shops are specifically dealt with by **EC13**:

“EC12.1 Re-use of buildings in the countryside for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations and for some types of building. In determining planning applications for economic development in rural areas, local planning authorities should:

- a. support development which enhances the vitality and viability of market towns and other rural service centres
- b. support small-scale economic development where it provides the most sustainable option in villages, or other locations, that are remote from local service centres, recognising that a site may be an acceptable location for development even though it may not be readily accessible by public transport
- c. take account of the impact on the supply of employment sites and premises and the economic, social and environmental sustainability of the area, when considering planning applications involving the loss of economic activity.
- d. approve planning applications for the conversion and re-use of existing buildings in the countryside for economic development, particularly those adjacent or closely related to towns or villages, where the benefits outweigh the harm in terms of:
 - i. the potential impact on the countryside, landscapes and wildlife
 - ii. local economic and social needs and opportunities
 - iii. settlement patterns and the level of accessibility to service centres, markets and housing
 - iv. the need to conserve, or the desirability of conserving, heritage assets and
 - v. the suitability of the building(s), and of different scales, for re-use recognising that replacement of buildings should be favoured where this would result in a more acceptable and sustainable development than might be achieved through conversion”

Local centres and villages

14. Where proposals are likely to have an effect on local services and shops in local centres and villages the following matters should be considered:

“EC13.1 When assessing planning applications affecting shops, leisure uses including public houses or services in local centres and villages, local planning authorities should:

- a. take into account the importance of the shop, leisure facility or service to the local community or the economic base of the area if the proposal would result in its loss or change of use
- b. refuse planning applications which fail to protect existing facilities which provide for people’s day-to-day needs
- c. respond positively to planning applications for the conversion or extension of shops which are designed to improve their viability
- d. respond positively to planning applications for farm shops which meet a demand for local produce in a sustainable way and contribute to the rural economy, as long as they do not adversely affect easily accessible convenience shopping”

15. Accordingly, the question of impacts is directed to the significance of the local facilities which may be affected and they are protected, especially where those facilities cater for day-to-day needs. No limit is placed on the extent of the policy so it is capable of applying to developments in other towns which might undermine local services outside those towns.

Out of centre proposals for town centre uses

16. This is the key impact test in terms of what was understood as retail impact prior to PPS4, namely the assessment of the impact of town centre uses proposed to be located outside of centre (or within EC16.1.e, see below). This then links into the overarching policy for out of centre applications in EC17.

17. The requirement for an assessment is found in EC14.4:

“EC14.4 An assessment addressing the impacts in policy EC16.1 is required for planning applications for retail and leisure developments over 2,500 square metres gross floorspace or any local floorspace threshold set under policy EC3.1.d not in an existing centre and not in accordance with an up to date development plan.”

18. It should also be noted what is meant by “planning application for main town centre uses”:

“EC14.1 References in this policy to planning applications for main town centre uses include any applications which create additional floorspace, including applications for internal alterations where planning permission is required, and applications to vary or remove conditions changing the range of goods sold.”

This covers mezzanine development, extensions and applications to vary/remove range of goods conditions.

19. This is the provision to which the *Practical Guidance* is primarily directed:

“EC16.1 Planning applications for main town centres uses that are not in a centre (unless EC16.1.e applies) and not in accordance with an up to date development plan should be assessed against the following impacts on centres:

- a. the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal
- b. the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer
- c. the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan
- d. in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy
- e. if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres
- f. any locally important impacts on centres under policy EC3.1.e”

20. When reaching judgments on the extent and significance of the impacts, it is necessary to consider them (see EC17.3):

- (1) in the context of the DP, where this is up to date;
 - (2) by reference to recent town centre health assessments under Annex D (v & v indicators); and
 - (3) in the context of any other published (and presumably relevant) local information
- e.g. town centre and retail strategies.

21. The relevance of the impact assessment is then found in EC17 which is the main control policy for out of centre development proposals for town centre uses not in accordance with an up to date DP. Although the drafting of the policy is considerably less problematic and rigid than the earlier draft EC21 it nonetheless gives sequential and impact considerations centre stage in determining such applications:

“EC17.1 Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where:

- a. the applicant has not demonstrated compliance with the requirements the sequential approach (policy EC15); or
- b. there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments

EC17.2 Where no significant adverse impacts have been identified under policies EC10.2 and 16.1, planning applications should be determined by taking account of:

- a. the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and

b. the likely cumulative effect of recent permissions, developments under construction and completed developments

EC17.3 Judgements about the extent and significance of any impacts should be informed by the development plan (where this is up to date). Recent local assessments of the health of town centres which take account of the vitality and viability indicators in Annex D of this policy statement and any other published local information (such as a town centre or retail strategy), will also be relevant.”

Comment

22. The first point to note is that this is a much streamlined version of the more unwieldy list which appeared in the July 2009 version as draft EC20, although this is in part due to the fact that four of the items have now been moved to the general EC10.1. The confusion caused by 20.4 “wider impacts” has been removed by integrating the relevant factors in a simpler and clearer way into the main heads of EC16.1. Once the EC10.1 items are removed, the main heads of impact remain those set out in the draft EC20 (with some redrafting). The draft introductory paragraph EC20.1 referring to focussing on the first five years, and conducting a transparent, justified, realistic and internally consistent assessment has been removed (and appears in different form in the Guidance) and the general reference in draft EC20.1 to considering positive and negative impacts is now found in EC17.2.b.
23. The first curiosity with regard to EC16.1 is the parenthetical “(unless EC16.1.e applies)” which is less than clear. On the one hand it could mean (likely to be the intended meaning) that “in or on the edge of a town centre” proposals are included in “main town centres uses that are not in a centre” although it could mean that the satisfaction of criterion E16.1.e (appropriate scale edge of centre proposal) leads to the disapplication of EC16.1. The former meaning therefore would mean that considerations of scale and relationship to the role of the centre are applicable even to in centre proposals. If that is what was meant, it is odd to say the least that it is put in the middle of a policy that is directed to uses that are not in a centre. It is certainly how the policy is interpreted by the Guidance at 7.33- 7.36.
24. In view of the content of the new EC16 it is questionable to what extent this is a new impact test as promised by the White Paper as opposed simply to a systematisation of existing and well-known factors.

General approach to assessments

25. The Guidance gives some general indications of what is required of the new-style impact assessments (“IAs”) [7.1-7.3]:

- (1) Proposals in accordance with an up to date DP strategy will not require an IA (this may be contentious, of course);
- (2) Scope and level of detail of IA’s should be agreed in advance of the submission of applications (this may be difficult if the application is called-in). This is further discussed at 7.37-7.39. While it clearly makes sense to try and agree the areas for concern with the LPA there may be little choice for a developer but to cover the full PPS4 range of impacts if there is a real prospect of call-in or the proposals are locally controversial, raising many issues;

- (3) IAs must identify the key EC16 impacts focusing on the first five years after implementation of the proposal;
- (4) The new IA is particularly relevant to retail and leisure/entertainment uses and with regard to other uses the scope and level of detail will vary according to local circumstances;
- (5) While IAs will measure the impacts it is still a matter for the decision maker as to what impacts will be “acceptable”, “adverse” or “significant adverse”.

26. Unless floorspace thresholds are otherwise specified by DPs, the policies apply to all retail and leisure applications of 2,500 sqm and over.

27. The Guidance also states at 7.6 that IAs should:

- (1) Be fit for purpose, setting out what the purpose of the IA is (testing policy options or the principle of development or testing a specific proposal);
- (2) Avoid duplication (with up to date regional and local impacts assessments for DP purposes)
- (3) Be proportionate having regard to the nature of the policy or proposals under consideration – *“it should not be necessary to undertake detailed impact assessments or consider the effects of minor proposals where the scope for significant adverse impacts is agreed to be limited”* or where there is no established methodology for impacts of some non-retail uses. This is discussed by reference to IAs for different uses, using examples, at 7.8 to 7.15 which demonstrate a lack of real clarity for uses beyond retail and leisure/entertainment ending with this uninformative statement -

“7.15 In every case it will be necessary to reach a balanced decision, having regard to the provisions of the development plan, the sequential approach and impact considerations.”

- (4) Focus on the key issues which should be agreed in advance, which should be evident in the cases of up to detail local retail policies and strategies;
- (5) Set out clear conclusions with regard to impacts both in terms of national and local policy.

Heads of impact

28. Each of the heads of impact is the subject of further discussion in the Guidance under the major heading “Measuring Town Centre Impacts” at 7.16-7.36. Figure D1 in Appendix D “Quantifying Impact” should “additional steps to quantify retail impact”.

29. The Guidance then examines the heads of EC 16 under 5 headings. To some degree this guidance is obvious, frequently repetitious and might have been more sharply focused, given the frequent repetition that in the final analysis the relevance of the impact is a matter for planning judgment. However, at 5.10 the Guidance (which is not policy) gives a number of mixed messages:

“5.10 Under Policy EC17, it will be expected that the LPA will refuse planning permission where there is clear evidence of a significant adverse impact against one of the impacts identified in EC10.1 or EC16.1. In assessing whether an impact is significant, it should be remembered that any new development involving town centre uses will lead to an impact on existing facilities, and as new development takes place in one town centre this will enhance its competitive position relative to other centres. This is a consequence of providing for efficient modern retailing and other key town centre uses, and promoting choice, competition and innovation.”

(i) Effect on planned investment

30. See 7.17-7.21 which urge consideration of impact:

31.

(1) On investment opportunities in the town centre, whether public or private, which are being actively progressed having regard to the stage they have reached, the degree of commitment to them and the significance of impacts. Impacts of development of one part of the centre on another part may not be relevant, unless in breach of a clear town centre strategy, providing the overall effect is positive

(2) In “quantitative terms” of current/forecast turnovers, demand and investor confidence

(3) In “qualitative terms” e.g. whether anchor retail or leisure operators underpinning the viability of a planned or committed investment are likely to be affected in terms of reduced turnover levels or rental growth - though the examples appear to be quantitative in nature

(4) In terms of adverse effects on planned investment in nearby centres, having regard to policy status, progress and degree of risk of that other investment.

32. A table then summarises the position and ends with the suggestion that “any adverse impacts as outlined above should be balanced against the positive effects of the proposals, in terms of; investment; employment generation; social inclusion; and physical and economic regeneration.”

(ii) effects on vitality and viability

33. See 7.22-7.25 which begins with the view that

“Taken as a whole, consideration of the effects on the development plan, committed and planned investment and impacts on the town centre turnover provide a good indication of the overall effects of a proposal on the vitality and viability of town centres.”

34. However, the Guidance also suggests that it will also be appropriate to factor into such an assessment the implications of a proposal on retail diversity, particularly on the range/type/quality of goods available, which will be “especially relevant” in historic market towns, or centres which have developed a distinct and unique character which contributes to their vitality and viability.

35. These aspects of the IA may require an understanding of the history of the centre(s) in question, how diversification may have occurred, and whether what is proposed will upset the DP strategy and undermine demand and investor confidence.

36. A table then summarises the position.

(iii) effects on allocated sites outside town centres

37. See 7.26-7.27. This will depend on whether the DP is up to date or not. Where not, the LPA will have to balance the competing considerations (especially if there are competing allocated edge of centre with new in centre proposals) and how they fit in with national policy. Where multiple proposals come forward, cumulative impacts will also need to be considered.

(iv) impact on turnover/trade

38. See 7.28-7.32. Some impact is inevitable from new retail or leisure development. A 5-step approach is set out in Appendix D, much of which is repeated in 7.28-7.32. In general the

Guidance endorses current best practice of a transparent, stepwise analysis where the data, assumptions and judgments can all be clearly understood and examined.

(1) **Establish base/design year** (normally 1-2 years after completion). In the case of major applications, a longer term view may be necessary [D.2-D.3]

(2) **Examine the “no development” scenario** [D.4-D.10]. Will the proposals exacerbate an existing situation, or will it be part of inevitable change? Do not assume all centres will benefit from expenditure growth between the base and design years and longer terms trends should be considered. Also consider-

(a) Commitments/cumulative impact [D.7-D.8]

(b) The “fall back” scenario [D.9-D.10]

(i) Its relevance – is it purely hypothetical (in which case it is not a fall back)

or is there a realistic possibility of implementation (in which case it is)

(ii) Consider impact cumulatively with other commitments and not merely incremental differences between subject proposals and fall back

(3) **Assess turnover and trade draw** [D.11-D.22]

(a) Turnover assumptions

(b) Trade draw assumption

(4) **Assess impact.** NB in the case of larger developments, sensitivity testing of assumptions is “always” appropriate since there are wide margins of error. Gravity models may be better suited to the assessment of wider scale impacts, especially at sub-regional and regional levels, where traditional planning judgments “would be challenging” though such models may lack transparency and still require up to date survey data. Most planning cases may better employ more traditional and transparent judgment based assessments, using zonal based judgments. Common starting point is existing trade patterns and how they will be affected. Take into account the following [D.30]

(a) Generally assumed that “like effects like” (i.e. if number of large competing foodstores, normal to assume impact of new store will fall mainly on them)

(b) Consider distance based on the assumption that consumers generally will use the closest comparable facility.

(5) **Consider the consequences of impact on existing centres and facilities** [D.31-D.39].

A key factor which will influence impact is “*is the current performance of existing centres (based on an up to date health check), and the extent to which any strategy or planned investment in a centre could potentially be prejudiced by the levels of impact predicted*” [D.33]. Otherwise modest impacts may have a disproportionate effect on a vulnerable centre or one where a new strategy is being established.

“D.39 The significance of any impacts will be a matter of informed judgement and depend on the individual circumstance of the locality and type of centre or facility. There is no universal threshold which could be applied to indicate whether an impact on trade/turnover is likely to be significant, but the guidance suggests how different impact considerations may be scored, and weighted to reflect the significance of each.”

(v) Whether in centre/edge of centre proposals are of an appropriate scale

(6) See 7.33-7.36. The essential question, often to be resolved by reference to the RSS or other parts of the DP is

“whether a proposal is consistent with the role and function of the town centre and its catchment, as specified in the network or hierarchy set out in the relevant RSS\LDF. The consistency or otherwise of the scale of any proposal with similar facilities at other centres at a similar level in the retail hierarchy, and the scale of the proposal itself relative to similar retail developments in those centres are also relevant considerations.”

(7) In addition to considering the scale alongside DP assumptions of scale and distribution, it may be relevant to consider questions of accessibility to intended catchments (including impact on travel patterns) and impacts on nearby centres

(8) The section ends with a table which is not entirely a summary of what has preceded it. Where thresholds are not set by the DP, relevant considerations “may include”:

“• Whether the proposals could be accommodated in whole or in part on more central sites in other centres (i.e. the sequential approach).

• Whether the proposals will be accessible to their likely catchment by alternative means of transport.
• Whether if they rely on a significant change in market shares, they will have an adverse effect on planned investment or the trade/turnover of nearby centres. Equally, in reaching a balanced judgement, it may be relevant to consider the positive effects of the proposed scale of development, such as employment; infrastructure or physical and economic regeneration of areas of social deprivation.”

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