

Homework item #22 note to Inspector re: wording of Policy RET 7, criterion 3 (ii)

Introduction

1. This note reviews the context of Policy RET 7, criterion 3 (ii) and whether the wording is still effective and consistent with national policy in encouraging a greater diversity of uses within town centres, in light of the changes to the use class order (The Town and Country Planning (use classes) (Amendment) (England) Regulations 2020 (SI 2020 No 757) (20 July 2020).

Policy RET 7, Criterion 3

2. An extract from Policy RET 7 in the SADPD [ED 01b] is included below:

Policy RET 7

Supporting the vitality of town and retail centres

1. In line with LPS Policy EG 5 'Promoting a town centre first approach to retail and commerce', town centre locations are the primary location for main town centre uses to support their long term vitality and viability.
2. Primary shopping areas are defined on the adopted policies map for principal town centres and town centres.
3. In a primary shopping area, local centre or local urban centre:
 - i. development proposals for use class E(a) retail development or investment to enhance existing use class E(a) retail provision will be supported in principle;
 - ii. development proposals involving the loss of main town centre uses will not be permitted unless it can be demonstrated that:
 - a. there is no reasonable prospect of the existing use of the premises, or another main town centre use, continuing in the premises or on the site in the foreseeable future because of market demand; and
 - b. for primary shopping areas, the proposal does not unacceptably undermine the predominant character of the primary shopping area where retail uses (use class E(a)) are concentrated.
4. In a local centre or local urban centre, in addition to criterion 3(ii)(a) above, development proposals should be of a scale commensurate with the centre's role and function.

Figure 1: Extract of Policy RET 7 from the SADPD

3. In respect of criteria 3, the purpose and focus of this section of the policy is to:
 - support retail development or investment to enhance existing use class E(a) retail provision (criterion 3 (i)), in a primary shopping area, local centre or local urban centre;
 - add specific policy tests (criteria 3 (ii, a & b)) to minimise the loss of main town centre uses; and, in primary shopping areas, to ensure that proposals do not unacceptably undermine the predominant character of the primary shopping area, where retail uses are concentrated.

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4. Changes to the Use Class Order in July 2020, including the introduction of Class E (commercial, business and service), has facilitated a greater flexibility within town centres, whereby buildings can convert between commercial, business and service uses and into a mix of such uses without needing planning permission. Class E includes a wide range of uses including retail, office, financial/professional services, indoor sports, medical and nursery uses etc.
5. As outlined in ¶3 above, in relation to criteria 3 (ii, a & b), it is relevant to note that;
 - the policy is concerned with the loss of main town centre uses. The NPPF definition of main town centre uses is broad and covers several uses that would now fall within the 'E' Use Class. The reference to main town centre uses allows the relevant areas to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses, and reflects their distinctive characters (in line with ¶86a of the NPPF)
 - the policy requirement would not be triggered in relation to Class E uses that do not fall within the NPPF definition of main town centre uses.
 - it is acknowledged that the permitted development right for a change of use from Class E (commercial business and service) to residential use (subject to the prior approval process and certain limitations) may impact on the effectiveness of the policy. ¶86(f) of the NPPF recognises that residential development can play a role in ensuring the vitality of town centres.
 - the definition of main town centre uses in the NPPF Glossary provides for a wider definition of those uses currently included in Use Class E; there are main town centre uses that fall within 'Sui Generis' for example.
6. Given the context outlined above, there remains a need for a policy mechanism to avoid the loss of main town uses in primary shopping areas, local centres and local urban centres where it is important that an element of main town centre uses remain and retail uses are concentrated.
7. Policy RET 7, when read as a whole, is considered to define the primary shopping areas, and make clear the range of uses permitted in such locations, as part of the positive strategy for the future of each centre, in line with ¶86b of the NPPF.