

22nd September 2006

Carmel Howard
Barker Review Team
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Dear Carmel

ACS welcomes the opportunity to respond to the interim report of the Barker Review and set our views on this vitally important area of policy. ACS is not able to speak on the wider planning and economic objectives of the review, equally we are not able to comment on how the planning system affects other parts of the economy than our own. Our comments are confined to the retail specific sections of the report.

ACS is currently developing evidence that will be submitted to the Competition Commission Inquiry into the Grocery market that looks specifically at the economic implications of a liberalised planning regime in the grocery market. We will share that evidence with the review once it has been completed. We expect this to be available by early November.

In our attached response we have set out our views on the issues raised in the Barker Review report. We welcome the opportunity to discuss these further and if necessary provide further detailed information on any of the points raised wherever possible or required.

We look forward to developing this points and discussion at our meeting on 28th September. For more information please contact me on 01252 515001 or email shane.brennan@acs.org.uk.

Yours sincerely

A handwritten signature in cursive script that reads 'Shane Brennan'.

Shane Brennan
Government Relations Manager

Submission of the Association of Convenience Stores

Barker Review of Land Use Planning

ACS believes that, in the case of the grocery market, any perceived problems with the planning system as it relates to retail are the **symptom rather than the cause** of the worrying trends in the market place. We are very concerned by suggestions that the solution to the competitive problems we face is to lessen or remove planning restrictions on new and large scale retail developments. The planning system sets stable boundaries of what society deems permissible: firms enter, or remain in, the market through knowing the extent of those boundaries. The ensuing stability permits sensible, long-term, business decisions.

ACS welcomes the interim report's focus on the delivery of sustainable development and we fully concur with this view. In all of ACS' work in this area our focus is on making the case for sustainable long-term variety and choice as well as simple price-based competition in the grocery market. Our grave concern is that, in a simplistic drive for short term economic and localised gains for certain sectors of consumers, the long term choice, diversity and accessibility for the overall grocery market can be compromised.

ACS does not believe that the current system always works well. We believe that the system can be frustrating, inefficient and extremely difficult to understand. We welcome moves and proposals to simplify and decodify the complicated procedures involved in large and small scale planning decisions. Our concern is that the inefficiencies should not be used as an excuse to sweep away local authority control over developments in their area, and certainly not to disenfranchise local people and businesses in decisions that affect their local economy, and their local community.

Competition Problems in the UK Grocery Market

The UK grocery market is one of the most consolidated in the world. Currently 4 companies control over $\frac{3}{4}$ of the total grocery spend. This has led to significant problems and competitive distortions in this market place. Right now, the Competition Commission is investigating these issues, alongside consideration of the competition impact of the UK planning system the Commission is looking at the crucial issues of buyer power, predatory pricing and local monopolies.

The main reason for this consolidation is the structural change in the market place as large supermarkets have been built and car-based consumer behaviour has been re-oriented towards them and away from the once-diverse High Street. This trend has had a direct impact on the total number of retail outlets in the UK. Through the dual efficiencies of economies of regional distribution structures and

more space under one roof, short-term, real food prices have been held in check and in some cases reduced. This leads many to an easy conclusion that supermarket retailing has benefited all consumers and that building supermarkets will always continue to have this low-price effect.

ACS believes strongly that this is not the case for many reasons of which we list just six:

1. The relationship between supermarket development and growth in the grocery market should not be assumed. The grocery market is slow growing and mature, the key feature of grocery in the last 10 years has been consolidation not growth. The significant level of supermarket development that has taken place in spite of national level planning policy has served to entrench the growing share of the largest retailers
2. Consumers behaviour is changing, the once weekly shop is becoming less and less a feature of consumer behaviour, and we see instead a combination of weekly and top up shopping. This has meant that the main growth areas for grocery market have been in small format stores or in convenience shopping missions through larger outlets.
3. Major supermarkets are dedicating ever more retail selling space away from grocery and into non-food items such as clothes, electrical equipment, books and CDs.
4. In many of the recent examples new supermarkets built because of an apparent demonstration of “need” have subsequently over-traded and caused the closure of surrounding retail businesses within a significant catchment area. Figures by NEF indicate that it only takes a decline in footfall of a third to make a high street unviable thereby depriving two thirds of people of a retail service that they valued and in some cases entirely relied upon. In other words, retail outlets built with a motivation to increase market presence and drive sales in areas outside of the core business function (grocery retailing) are causing the closure and removal of grocery provision in other parts of the community.
5. Once an oligopolistic situation is reached, which we believe it has, long-term price-based competition may not be the preferred option for the oligopolists themselves.
6. As the rise of sales of non-food items such as clothes, electrical equipment, books and CDs attests, grocery shoppers are now affluent enough to impulse purchase items that once were seen as luxuries. The corollary to this is that an increasing percentage of food shoppers prefer to pay extra for better quality food of known provenance. Alongside the

rise in sales of organic foodstuffs we see increased evidence that food sales competition is not exclusively price-based.

Retail and the 'Town Centres First Policy'

ACS understands that the issues raised within 5.27 to 5.49 of the report do not represent the conclusions of the review at this stage and are merely challenges to policy thinking behind Planning Policy Statement 6. However we believe it is useful for us to set out our counter arguments to those issues. The sections in bold are summaries of the points made in the report the relevant paragraph is referenced in brackets.

ACS distinguishes between an out of town shopping centre such as Lakeside or Bluewater; a retail park or other non-supermarket based retail development and an out-of-town supermarket. Out of Town shopping centres and retail parks provide a forum for a number of competing retail outlets. We are not well placed to comment on the impact that these have on town centres. Major regional retail development projects are fundamentally different from large supermarkets that are operated by one large company and provide an increasingly wide range of goods – most once found only on the High Street. Out of town supermarkets impact directly on the local market for groceries and increasingly extend far beyond that into other types of goods.

Promoting Town Centres

The report challenges the premise of Planning Policy Statement 6 that restrictions are needed to promote town centres citing the following other explanations for the decline in town centres:

- ***recession***
- ***wealthy people moving away from the urban core***
- ***lack of an effective transport infrastructure***

ACS accepts that the development of out of town shopping centres is not necessarily the sole reason for town centre decline but we firmly believe that it is the primary cause. We would also add other factors to why town centres are in decline for example:

- nominally high parking charges in town centres as opposed to no parking charges on non-rated parking spaces at large retail sites.
- High Street rentals driven by upward-only rent reviews and quarterly rental charges
- competition problems in the UK grocery market that undermine grocery and increasingly non-food retail competitors ability to compete with the big four supermarkets

Given our members' experience, the bigger threat to choice in grocery shopping is the development of out of town supermarkets. We believe that out of town supermarkets can have a detrimental impact on a high street, examples include Stalham in Norfolk but also on the wider catchment area of grocery stores, such as shops in suburban, neighbourhood and more rural areas.

Total demand is rising and therefore there is no zero sum game between out of town and town centre retail allocation – if customers are choosing other areas, local authorities should work to increase the attractiveness of the town centres rather than preventing other potentially beneficial developments elsewhere. (5.33)

Overall, however, grocery retailing strictly-defined is a mature market with trade lost to take-aways and restaurants. Accordingly, much growth is driven by taking market share from competitors rather than growing the market as a whole. We believe that the assessments involved in deciding what the impact of The Mall development in Bristol would be on Bristol City Centre are very different considerations to the impact of allowing an out of town supermarket development within the catchment of a market town, for example Sheringham in Norfolk.

This statement needs much greater analysis especially sub-sectoral analysis before it could be used as justification for a liberalisation of restrictions on development, the consequences of which have to be fully understood, because once the change is made and the developments built there is no recourse if consumers and the local economy are damaged.

By not allowing large out of town development – rents remain high for retail space in town therefore pricing out all but the large multiples. Thereby exacerbating the 'clone town' effect. (5.33)

Out of town shopping centres are the exclusive preserve of the major brand retailers. Therefore these developments are created for the benefit of those types of businesses and can provide cheaper rates and rents. The benefits of these cost reductions are solely the preserve of the big brand retailers. Rents might be reduced in town centres as large retailers move out, but it is just as likely to be matched by a drop in footfall, rise of vacant premises and charity shops and therefore in extreme cases making it impossible to trade. Indeed the largest grocery superstore operators are immune from this in any case: they can fund development from cashflow before releasing equity via institutional sale and leaseback after making windfall rises in land values. In reality, the rental argument hardly applies to them.

Town centres thrive when they attract a necessary combination of national brands and local businesses, in this situation customers maximize choice.

The development of an out of town supermarket can lead to a reduction in the number of major brands on a high street, for example larger chains that deal in pharmacy, CDs, books, and clothes could choose to leave a town centre as a result of a major Tesco, ASDA or Sainsbury taking away business from the town. In this case the rents are reduced, the footfall is severely diminished and the consumers have lost choice altogether as the only provider of all the goods they could buy in one high street is now available from only one company in a retail unit on the periphery of town.

ACS understands the concerns about clone towns and the impact on choice, but we believe that the more worrying impact of the supermarket is actually the growth of ghost towns as set out in a recent report.

Transport

PPS6 presumes that town centre retail is easier to access by public transport and this reduces congestion and generating carbon emissions. BUT customers visit out of town sites less than town centre or neighbourhood outlets. On average only 12% of the miles people drive are attributable to shopping. (5.34)

The problem of accessibility is far more complex than whether a customer can reach a town centre easier than they can an out of town centre. In grocery retailing and more specifically convenience retailing, 75% of customers on average are drawn from a catchment of less than 1 mile. However this is affected by the proximity of a supermarket. A convenience store will lose business as a result of a new supermarket which will draw business away on a larger catchment area than 1 mile, even for convenience shopping. This is because certain types of consumers will drive 5 minutes rather than walk 5 minutes as they determine that as more 'convenient.'

So whilst the majority of customers might still use the store, the decline in trade caused by the new development could affect the business so significantly that it closes. This will create significant accessibility problems for the small store customers that cannot travel to the out of town supermarket as this invariably requires a car. For those that can, however, a choice has been removed.

Planning cannot change transport behaviour - just because public transport is available, it does not mean people use it. (5.36)

Public unwillingness to use public transport is a perennial problem in the UK as in many countries in the world. However, what is clear is that for those people that use their car for all journeys, even for journeys where they could really walk, their behaviour is seriously distorted by the advantages of the free and abundant parking afforded by out of town shopping sites.

Out of town shopping reduces shopping miles by making one car journey valid for more shopping missions thereby reducing the number of trips a car using shopper will make. (5.36)

This seems to be a theoretical point and is less relevant to supermarket shopping. The growing number of visits to large out of town supermarkets for convenience or top up shopping shows that the existence of a supermarket, combined with a decline in local or walkable alternatives is just as likely to increase shopping missions undertaken by car.

Recent consumer surveys have shown that 47% of consumers admit that they top up shop once or twice a week at a supermarket. In response, superstores are systematically removing trolley-style checkouts in favour of small basket/self-scan tills.

Larger shops have larger storage facilities and therefore road haulage miles are less. Small stores in town centres need more delivery journeys. (5.37)

This assertion must be challenged. The use of “just-in-time” delivery models actually means that large supermarkets currently receive significantly more drops than they have done in previous years. The average convenience store requires a major delivery three times a week, this is the same as an out of town supermarket. Indeed, the amount of warehouse space in the largest stores has been squeezed to the lowest possible capacity. Probably the peak levels of in-store warehousing were actually in the 1970s.

Also the volume of goods involved also means that more retailers travel to out of town centres by car therefore the actual ‘food miles’ that a product travels to the end consumers plate is not necessarily less than if the product was bought from a smaller store that a customer walked to.

Social Inclusion

- **Whilst town centre locations are accessible by public transport**
 - **Deprived communities are not always in the centre**
 - **Encouraging retailers to invest in no go areas can benefit regeneration**
 - **If prices are higher because retailers pass on cost of higher rents and smaller economies of scale this would disproportionately impact on lowest income groups (5.38)**

A key concern in the deprived communities debate is the accessibility of food. ACS agrees that deprived communities may not be in the town centres, but if a supermarket is only really accessible by car, located on a major A Road or

intersection for example, it is unlikely to be any more accessible to local residents. The great concern is that without major incentive or subsidisation major retailers are unlikely to prefer deprived or problem areas. These areas are in fact serviced by smaller businesses and chains. The existence of a new out of town supermarket will affect these types of businesses and this has to be a material consideration in retail planning.

The issue of significantly higher prices in smaller outlets as compared to supermarkets is not solved by allowing the major retailers to build more sites, and to entrench their dominant position. This type of approach is placing a sticking plaster over the wider problems in grocery retail and is not a sustainable solution.

Productivity

Unlike the manufacturing industries, productivity measures are particularly problematic for services – especially retailing. ACS is so concerned about the difficulties surrounding this that it is preparing economic evidence that will provide a comprehensive response to the points made about productivity. This will, however, not be available until early November 2006.

In response to the arguments about greater and larger development driving scale economies we would sound a significant note of caution concerning the relevance of these points to the grocery market. We believe it is necessary to show at what point scale economies are exhausted, as it is clear that beyond a certain size/scale they won't increase.

The dominance of the market by 4 players is so entrenched that allowing significant further development (more than is currently taking place under the PPS6 restricted system) would mean not the introduction of greater choice but less. The real issue here is barriers to entry for those not already on the scale of the big four. Accordingly, competitors to the big 4 are not primarily inhibited in competing with the major multiples by the problems and frustrations of the planning regime, they are restricted by the massive scale and buying advantages that operate within the oligopoly of UK grocery retailing. A global scale retailer can obtain big new stores in the UK in the same manner as ASDA and Morrisons (and to some extent Waitrose) have done in the last decade: by buying them from rivals.

Competitors to the big 4 are not primarily inhibited in competing with the major multiples by the problems and frustrations of the planning regime, they are restricted by the massive scale and buying advantages that operate within the oligopoly of UK grocery retailing.

Furthermore a more liberal approach to retail development would not improve the competitive situation for anyone other than the big four, and whilst it might be possible to construct a compelling short term case for how this will benefit consumers. We are absolutely clear that the prognosis for competitors in the wider grocery market is bad in the short term and in the long term will be bad for consumers as choice is reduced.

Allowing significant increases in supermarket development is in no way a sustainable solution to driving growth in the retail economy in deed it might have the exact opposite effect.

Barker Conclusions

The complexity of the system promotes insider power for incumbent firms.

ACS fully agrees with this conclusion – though the definition of incumbent is vague – no major new retailers have entered the market since PPS6. We believe that the current planning system is actually inaccessible to smaller retailers and to local people. We believe that the players with the best planning and legal expertise and resources are the largest retail developers. These resources far outstrip local people and businesses and even outstrip the development control departments in the councils they deal with. This can lead to one sided and rushed decisions by local authorities that are not consistent with national planning policy.

Where developments are opposed or face resistance those same resources can be used to complicate and confuse the process so as to circumvent opposition raised. Above all else those resources can be used to mount protracted and financially devastating legal challenges against local authorities that attempt to resist the development.

ACS supports the development of a streamlined efficient system – we believe that crucial to that is a system where large retailers have to accept that an application has failed when it is rejected by the local Council and where large well resourced businesses cannot refuse to take no for an answer.

Plan-led system may enable incumbent firms with strongest lobbying powers to influence the location and availability of development sites.

The plan led system affords a further advantage to large or incumbent businesses. Consultation on local plans impenetrable to the general public and small business operators, this is a forum in which planning consultants financed by the biggest developers interact with planning officers, in the name of public consultation.

Planning requirements require development to be below economically optimal size, shape and condition – this can lead to reduced efficiency in use of capital and reduced competition as developments underperform.

It is not clear quite what this means. The most powerful retailers have market information that allows them to tailor a store to fit a particular site by using analogies from previous stores. The best large retailers can profitably operate very large stores right down to mid-sized ones. It is doubtful if there are existing large retailers so incompetent and inflexible that they could never run a store of anything less than 20,000 m². (Such a size of store could not expect to find many sites in the UK as Carrefour soon realised in the 1970s when they left the market after opening some of our largest-ever stores) Generally it is in large retailers interests to over-develop a site rather than under-develop it. ACS accepts that there is a judgment to be reached on what is the correct size for a particular development but we are not willing to accept that the best people placed to make that decision are the large businesses. The point of the planning system is to ensure that developments are appropriate to the needs of the area and not for that to be decided by the outside party wishing to impose its 'pet' format on unwilling customers

We also reject the fundamental assumption that big is best in all situations – a conclusion that seems best suited to the wide open plains of the USA. UK market trends show the increasing need for smaller units and, in the interests of sustainability, the same retail need could be met by other means than building a large retail shed as PPG6 proved.

Reduced availability increases costs and raises barriers to entry on land

This is the case in the grocery market just as much because of the over inflated prices large retailers are able to pay for sites as a result of their buying scale. Barriers to entry have been raised significantly in small format stores with the advent of the major multiples deciding to dramatically expand their estates. The barrier in this instance is not planning restrictions but the ability to price competitors out of the market.

There is no reason to suggest the same is not the case in large format stores, whether the planning regime is derestricted or not.

Opens opportunity for land bank strategies by incumbent firms

ACS is very concerned that any move to open land banks and allow retail developments on them would lead to a major increase in turnover through the major companies and the further erosion of non big four retailers share of the grocery market place.

Conclusion

ACS is very concerned that the recommendations of this review will be for greater liberalisation of retail planning policy. We believe that this will exacerbate the structural problems in the UK grocery market. On a local basis the impact of developing new supermarkets can be devastating for independent retailers in the areas they set up and leads to reduced choice and a net detriment for consumers in local retail markets. We believe that reforms should focus on improving access to the planning system for all parties and providing greater legal certainty to those that apply and those that oppose particular developments.

The Planning system alone is not the reason for the gap in retail productivity and we caution against any conclusion that de-restricting supermarket development is in the long term interest of grocery market consumers. Any liberalisation of planning would be extremely dangerous when the only companies that would benefit from this are the existing dominant players in an over consolidated market.

For more information please contact Shane Brennan on 012525 515001 or email shane.brennan@acs.org.uk