Agenda

Participants; Inspector, Council, Barclays Bank.

Issues; policy DM26.

1) Council’s overall view of, and response to, representations and Inspector’s questions. Presentation of proposed amendments.

2) Policy DM26

Barclays Bank plc (representation dmpps150) observes that the Proposed Submission Development Management Policies DPD (the DMDPD) recognises that the wide variety of activities in shopping centres include businesses such as banks and that their presence “makes an important contribution to vitality and viability” (para. 27.1), but the Council’s approach to Primary and Secondary frontages in Policy DM26 and its Justification is confused and inconsistent.

Despite the acknowledgement that these locations are “the most appropriate locations for activities that attract many people”, the DMDPD makes no attempt to review whether existing policies need to be re-examined. Indeed Policy DM26 merely repeats the wording of UDP Policy TRL5, but in a slightly different order, without providing any robust evidence for doing so. Item (iii) of DM26 appears to recognise that banks and building societies “provide a service directly related to a shopping trip” but this is undermined by the rest of the policy wording which persists in an out-of-date attitude towards such financial service retailers that is unjustified and unsupported by any evidence. Furthermore the reference to unspecified “other qualifying tests” does not provide the clarity that the Government expects in planning policies and should therefore be removed from the policy.

Paragraph 27.7 alleges that “Most non-retail uses or service businesses rather tend to gain from the availability of footfall generated by other uses, particularly retail” but the Council provides no evidence for this assertion. In fact, as set out in this representation, the Bank’s evidence clearly shows that the opposite is true as it is other retail uses that tend to gain from the higher footfall associated with its branches. The paragraph then continues by perpetuating the outdated view that vitality and viability are dependant upon “the essential retailing function”, a view that
conflicts with more recent Government policy and is contradicted by the Council’s own acknowledgement in paragraph 27.8 that “Some non-retail uses, such as banks, building societies and café provide services which are directly related to a shopping trip ...... Therefore they generate high levels of pedestrian activity and need not cause blank spaces in the shopping frontage if shop style windows and displays are maintained”. The wording then goes on: “Therefore this policy makes some provision for such uses”, however that “provision” is severely constrained by Policy DM26 despite the acknowledged high levels of pedestrian activity such uses generate.

Paragraph 27.5 refers to “the key policy considerations” set out in paragraph 27.10 that will relate to the acceptability of non-A1 uses in designated frontages including “the extent to which the proposed use is related to a shopping trip and capable of attracting a significant number of shoppers/visitors to the centre”, and “the contribution the proposed use will make to the vitality and viability of the proposed frontage and the centre generally”, expecting applicants to justify their proposals. The Bank’s evidence previously provided to the Council and appended to this representation does so (see below) but no account has been taken of that evidence as Policy DM26 remains unchanged. The current wording of paragraph 27.10 refers to one determining factor as “the availability (as supported by evidence) of suitable alternative vacant premises outside the primary frontage”, in effect introducing a sequential test for appropriate town centre uses. That is contrary to National Policy and potentially extremely subjective. The now-dropped previous wording in the ‘Preferred Options’ version which stated “The Council will not grant planning permission for non-retail uses within a primary frontage if there are suitable premises in nearby secondary frontages”, indicates the real attitude of the Council. It is difficult to understand the Council’s intransigence about the acceptability of banks and building societies in primary frontages, particularly as “The Council accepts that non-retail uses, which provide services to visiting members of the public, make a contribution to the vitality of shopping centres” (para. 27.12). Furthermore, the references in paragraph 27.10 to identifying “need” should be removed as this is not National Policy.

On the matter of policy formulation the NPPF states that for plan-making:

- “local planning authorities should positively seek opportunities to meet the development needs of their area”; and
- “Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change” (paragraph 14).

The Government is clear that there should be a positive attitude to “proactively drive and support sustainable economic development” and to “respond positively to wider opportunities for growth”. Plans should “take account of market signals” and the needs of business communities (NPPF paragraph 17). “Planning should operate to encourage and not act as an impediment to sustainable growth” and “significant weight should be placed on the need to support economic growth through the planning system” (paragraph 19). Local Planning Authorities “should plan proactively to meet the development needs of business” (paragraph 20) and “Investment in business should not be over-burdened by the
combined requirements of planning policy expectations” (paragraph 21). In drawing up Local Plans, local planning authorities should set out a clear economic vision and strategy which “positively and proactively” encourages sustainable economic growth; and should “support existing business sectors, taking account of whether they are expanding or contracting”. The NPPF confirms that “Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances” (paragraph 21). In his Foreword to the NPPF the Minister for Planning is very clear that “Development means growth” and that “Sustainable development is about positive growth”, emphasising that “Planning must be a creative exercise in finding ways to improve the places in which we live our lives”. This reflects HM Treasury’s commitment that “the default answer to development is yes” in its ongoing ‘Plan for Growth’, which was launched at the time of the Budget in 2011, reinforced in the 2012 Budget and now underpins the NPPF.

Keeping significant generators of footfall out of primary frontages will actively work against the achievement of the Council’s strategic objectives and is inconsistent with national policy. The Council should recognise the positive impact that financial service retailers such as the Bank have upon vitality and viability. The review of the plan provides an opportunity to examine new evidence and to revise out-of-date policy, particularly if it is not consistent with national policy. Limiting certain Part A uses in the primary frontage undermines the Council’s intention to attract private sector investment in the town centre. The implication that only A1 uses are appropriate derives from very outmoded and discredited thinking that other uses such as banks detract from the vitality and viability of town centres. By definition, uses that fall within Part A of the Use Classes Order are appropriate in town centres as they are “shopping area uses” and are acceptable without any need for restriction or qualification. This is particularly the case for the financial services sector. ODPM Circular 03/2005 “Changes of Use of Buildings And Land” which accompanied the last major revisions to the Use Classes Order specifically states in relation to the A2 Financial and Professional Services use class (which was created to separate those uses “serving the public, from other office uses not directly serving the public” - paragraph 32), that the Class is also “designed to allow flexibility within a sector which is very much a part of the established shopping street scene, and which is expanding and diversifying”. The uses within Class A2 are noted as being those “which the public now expects to find in shopping areas” (paragraph 38).

The wider role played by town centres than a pure shopping function has been recognised throughout Government policy on town centres. Government Policy in the NPPF particularly emphasises the importance of economic growth and the promotion of town centre vitality and viability. Paragraph 23 requires that “Planning policies should be positive” and states that local planning authorities should “promote competitive town centres that provide customer choice” and allocate a range of sites because it is important that needs for retail, leisure, office and other main town centre uses “are met in full”. The clear message is that “local planning authorities should plan positively for their future to encourage
economic activity”. In fact there is nothing in Government policy that recommends or supports imposing restrictions upon acceptable town centre uses at all and indeed, as noted above, paragraph 21 of the NPPF requires flexibility in policies in order to allow a rapid response to changes in economic circumstances. It is therefore essential that Development Plan policies should facilitate the positive approach required by the NPPF.

Promoting vitality and viability in town centres are objectives of the Government and the Council. To succeed, town centres need to provide a full range of services and these often need to be located in ground floor premises in accessible locations. Indeed, Class A2 retailers such as the Bank routinely experience very high levels of customer visitation, contributing significantly towards pedestrian movement and therefore the vitality and viability of town centres. The Bank has undertaken a number of comparative footfall surveys in connection with its current acquisitions programme at its branches in various towns and cities in the UK (copies are attached). These conclusively show that the level of footfall associated with Bank branches is commensurate with, and often higher than, the best known national multiple Class A1 traders.

Banks also have moved away from the traditional style of frontage, preferring to have an open, visually interesting and attractive face to the ‘high street’. The Bank has become increasingly retail in its presentation and has introduced an innovative ‘flagship’ branch design, which has been developed in association with its customers, to transform banking into what it terms as “a retail focused experience”. The Bank estimates that some 10 million customers use its branches each week and through listening to their feedback, a design has been developed that meets their requirements for modern banking and provides branches similar in appearance and in operation to retail shops. This is an example of the “changes in economic circumstances” that the NPPF recognises and to which all Local Plans must positively and flexibly respond. Whilst the design of every new branch has to be flexible in order to be sensitive to the requirements of each building occupied, the aim is generally to ensure that over 70% of the internal space at ground floor is accessible to customers. The Bank’s managers regularly report that upon the opening of a ‘flagship’ branch the customer visitation levels significantly increase and thus the level of activity helps to underpin pedestrian flows to the benefit of surrounding traders. It is therefore important that planning policy recognises the benefit of bank uses in fostering footfall and pedestrian activity and that it should not resist much-needed investment by financial service retailers.

The Bank’s footfall surveys have been a key element in helping to change attitudes towards the presence of banks in core shopping areas and primary frontages. Even planning authorities that once strongly resisted Class A2 uses in their primary areas have granted permission for Barclays ‘flagship’ outlets. Examples of authorities that have recognised the wider benefits of the ‘flagship’ design (following receipt of applications which have been supported by evidence of high footfall), include Southampton, Reading, Manchester, Milton Keynes, Romford, Southend, Leicester, Plymouth, Sheffield, Kensington & Chelsea and Cambridge. Follow up
surveys were carried out in 2010 at Milton Keynes, Southend, Reading and Southampton (13 charts provided). In every case the new ‘flagship’ branch significantly increased footfall, confirming the Bank’s beneficial effect on vitality and viability.

The Council’s objectives require major commitment and substantial investment by the private sector. Pursuing restrictive policies to keep significant generators of footfall such as the Bank out of primary shopping frontages will actively work against the achievement of those objectives and is an outdated and discredited approach. The Council has provided no robust and credible evidence to justify the arbitrary restriction of financial service retailers in primary frontages and furthermore has not given consideration to reasonable alternative strategies. The Bank therefore considers that, in the light of its evidence, it is imperative that the Council revises Policy DM26 as it is neither Consistent with National Policy nor Justified and is therefore not ‘sound’.

Finally, paragraph 27.33 suggests that changes to designated frontages will be made through the preparation of documents “to be adopted as Supplementary Planning Documents”. That is contrary to National Policy as such matters should be set out in formal DPDs and be subject to independent scrutiny to determine whether they are based on robust evidence.

CLOSING COMMENTS The Government has confirmed its commitment to HM Treasury’s ‘Plan for Growth’ and it is clear that the Council’s objectives for town centres will require major commitment and substantial investment by the private sector. Up-to-date development plans are an essential element in providing support for economic growth. In the light of our Client’s evidence and the Government’s determination set out in the NPPF that planning policies and their implementation must facilitate economic investment and growth, it is imperative that the Council ensures that its planning policies in respect of bank and building society uses in designated shopping frontages are consistent with National Policy and fully justified by robust evidence. The Bank is an important retailer and must be in a primary location to serve its customer base and justify investment.

The need for significant private sector investment in the town centres means that policies in the LDF must give greater encouragement to appropriate Part A uses to invest and to improve the quality of their representation. Restrictive planning policies designed to keep significant generators of footfall such as the Bank out of primary shopping areas will actively work against the achievement of the Council’s objectives and is inconsistent with national policy. The Bank’s evidence of how it increases vitality and viability in primary frontages shows that there is considerable benefit in seeking to attract those A2 users such as banks and building societies who provide a high level of investment in, and maintenance of, their premises resulting in active and attractive street frontages. This will foster very significant footfall and pedestrian activity and attract investment by others, helping to provide the confidence and commercial viability necessary for any programme of regeneration and investment.
The Council’s documents show no indication that it has gone through an objective process and audit trail of assessing alternatives, or indeed that alternatives have even been considered at all. To be Justified and Consistent with National Policy the emerging Local Plan must review the out of date wording in Policy DM26 that restricts the presence of financial service retailers such as the Bank in designated frontages. We suggest that this can be done by replacing the 1st paragraph of Policy DM26 as follows:

"A) In the primary shopping frontages of Walthamstow and the District Centres (See Schedule 5 and the Policies Map), the Council will seek to ensure that retail uses (use class A1) predominate on ground floors Class A1 shops together with banks and building societies will be encouraged and such active ground floor uses which contribute to the vitality, viability and diversity of town centres will be permitted without restriction. Other uses will be permitted where all of the following criteria are met:"

The words “banks, building societies” within the brackets can then be omitted from final line of point (iii). Consequent alterations to the justification paragraphs will then be necessary. The words “or meets other qualifying tests” in point (iii) should also be deleted as they do not provide the clarity that the Government expects in planning policies. Alternatively, if they are necessary, any such tests should be clearly specified in the policy so that they can be subject to representations and to examination.

**The Council** responds a) The performance of the Council's retail protection policy has been monitored over the years through the Annual Monitoring Report. Evidence from shopping surveys have also indicated that although Banks and Building Societies tend to be frequently visited as part of a normal shopping trip, this did not generally apply to other Class A2 uses. The Council acknowledges the positive contribution Banks and Building Societies in particular make to town centre vitality and viability. Accordingly, the policy grants exception to this use as provided by Policy DM26(iii). The policy approach taken however is mindful of the need to maintain a good balance between retail and non retail in both primary and secondary frontages hence the percentage approach applied. The Council considers that the safeguards built into the policy are appropriate to control non retail uses generally, also taking into consideration the opportunities through the Use Classes Order for Banks and Buildings to set up and operate from other non retail premises without planning permission.

b) The Council considers that the policy provides sufficient clarity. The footnote at the end of the policy sentence (No.40) provides reference to Paragraph 27.10 which sets out the qualifying tests the Council will apply. c) This policy is also intended to manage the tendency for long term vacancies to occur in the designated frontages and requires applicants for planning permission to consider opportunities to occupy existing vacant premises. The Council considers that it is appropriate to apply this test. Opportunities to occupy vacant premises in secondary frontages would support town centre regeneration efforts. d) Paragraph 27.10 makes reference to a 'local need survey'. This is in accordance with the NPPF which urges local planning authorities to take into account the local needs
of an area. The Council considers that the policy approach taken is sufficiently flexible and very positive towards the development of new banks and building societies within town centres.
e) Core Strategy Policy CS14 (E) provides the policy framework for managing changes of use within town centres. Paragraph 17.17 of this document sets the criteria for the review of primary and secondary frontage designations. With this policy provision in place, as supported by Policy DM26 and the accompanying schedules, it is considered appropriate to use Supplementary Planning Documents as an additional mechanism for making subsequent minor changes to frontage boundaries pending the next review of the Development Management Policies Document.
f) The proposed change is not accepted. As mentioned above, the policy as currently worded is designed to control all non retail uses, but gives reasonable exception to banks and building societies where justified. The proposed change would give undue favour to banks and building societies when the trend both locally and nationally has been towards bank closures. The most recent involved the Barclays Bank along Forest Road, E17. There has generally been little interest by the banks in opening new facilities in the borough's town centres. Should there be renewed interest in future, the approach as set out by the policy would not be a constraint.