
**NEWARK AND SHERWOOD AMENDED CORE STRATEGY DPD EXAMINATION –
QUESTION 15: IS CORE POLICY 8 A PROPER REFLECTION OF NATIONAL RETAIL POLICY?**

1. This Statement is prepared on behalf of Urban and Civic Plc, the Master Developer delivering the Sustainable Urban Extension (SUE) at Newark South (now called Middlebeck).
2. The SUE at Newark South benefits from a strategic site allocation in the Newark and Sherwood Core Strategy (adopted March 2011) under Area Policy NAP 2A Land South of Newark. The Amended Core Strategy continues to identify Newark South as a strategic site under Area Policy NAP 2A Land South of Newark. The land is identified as a strategic site for: housing; employment land uses; two local centres, including retail; and associated green, transport and other infrastructure. The site also benefits from outline planning permission (with means of access in part) under application 14/01978/OUTM. This planning permission is currently being implemented.
3. We do not consider Core Policy 8 to be a proper reflection of national retail policy. Core Policy 8 is considered to be unsound as it is inconsistent with the National Planning Policy Framework (NPPF) in three respects:
 - (i) Reference to 'need' (and scale);
 - (ii) Requirements for sequential/impact testing for in-centre development; and
 - (iii) Reference to 'harm'.

Reference to 'need' (and scale)

4. Core Policy 8 makes numerous references to 'need', including in relation to Newark South, which is of particular concern to Urban and Civic.
5. In this respect Core Policy 8 sets out that the District Council will, by working with partners and applicants (our emphasis):

*"Deliver new convenience retail development to the south of the Newark Urban Area which is of **a scale sufficient to meet the needs generated by population growth**. Support will therefore be provided for provision within the main built up area, in a sequentially appropriate location and subject to the application of the Impact Test at either:*

- *Land South of Newark (NAP2A)*
- *Land around Fernwood (NAP2C) or*

*Beyond this, additional comparison retail development and other main town centre uses of an **appropriate scale to meet local need** will also be supported in the above locations".*

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6. We consider that this may be interpreted to mean that an application for retail development will be assessed as to whether there is or is not a 'need' for convenience and/or comparison retail development. The implication is that where there is not a 'need' then an application would be refused on that basis. This is not consistent with the NPPF.
 7. In relation to the consideration and determination of planning applications, the NPPF (paragraphs 24 & 26) simply applies two tests (in certain circumstances) – that is, sequential and impact. The NPPF does not require applicants to assess or meet needs, and nor should an application be refused when there is no need. Core Policy 8, particularly in relation to Newark South, appears to suggest otherwise.
 8. In relation to this point, the Inspector's attention is drawn to the Secretary of State decision on Rushden Lakes (Appeal Ref: APP/G2815/V/12/2190175). Paragraph 14 of the Decision Letter and paragraphs 8.36-8.40 of the Inspector's Report (IR) deal with need and scale tests. The Decision Letter and IR are appended to this statement, with key parts of the IR quoted below:

"8.36 The NPPF [24, 26 and 27] sets out but two tests at the decision-making stage: a sequential test and an impact test. The whole of NPPF [23] deals explicitly and exclusively with "planning policies" and what should happen: "In drawing up Local Plans..." Although highly relevant to determining whether the NNJCS is up to date, the NPPF [23] does not purport to, and does not set, any tests for decision-taking. The paragraph stresses the "town centres first" approach to plan-making but when it comes to making a decision on a planning application then one has to turn to NPPF [24, 26 and 27] which deal explicitly with assessing applications. In other words, if a proposal meets these two tests then necessarily it is consistent with the town centres first approach.

8.37 It is clear that there cannot be a read across from the plan making NPPF [23] some form of additional test for decision-taking that a proposal must honour the hierarchy of town centres still less some form of test of "appropriate scale" which is not mentioned in NPPF [23]. Plainly, if the two tests are passed an application will be consistent with the NPPF.

8.38 The objectors seem bent on re-introducing additional need and scale tests; such an approach is misconceived. With regards to scale, the approach in the NPPF is clearly not to limit growth by reference to a separate test of scale. If an individual proposal is unacceptably large then it would be likely to fail the impact test and thus be harmful. If the scale of a proposal is not such as to give rise to harmful impacts, then the intention is clearly that it should not be refused simply on the grounds of scale. Scale in itself is not relevant.

8.39 Legal & General suggests that the sequential test should have regard to the hierarchy of settlements. However, for reasons already explained, the adopted settlement hierarchy is itself

out of date certainly as it applies to Rushden. Simply placing the old policy from PPS4 alongside the up-to-date policy in the NPPF demonstrates that these contentions are misleading. The notion of a hierarchy of town centres does not feature in the sequential or impact tests.

8.40 In terms of need, if there is no quantitative local need or capacity for a development, such that it has the effect of drawing in significant levels of trade from a wide catchment area, any harm that results to neighbouring centres would manifest itself under the impact test; there is no requirement for a separate free-standing test of need and none is included in the NPPF."

Requirements for sequential/impact testing for in-centre development

9. In relation to convenience retail development at Newark South, Core Policy 8 also infers the requirement for in-centre retail applications to demonstrate compliance with the sequential and impact tests.
10. In this respect, Core Policy 8 sets out that the District Council will, by working with partners and applicants (our emphasis):

*"Deliver new convenience retail development to the south of the Newark Urban Area which is of a scale sufficient to meet the needs generated by population growth. Support will therefore be provided for provision within the main built up area, in a **sequentially appropriate location** and **subject to the application of the Impact Test** at either:*

- *Land South of Newark (NAP2A)*
- *Land around Fernwood (NAP2C) or*

Beyond this, additional comparison retail development and other main town centre uses of an appropriate scale to meet local need will also be supported in the above locations".

11. This is not consistent with the NPPF. The NPPF (paragraph 24) requires local planning authorities to apply a sequential test to applications for main town centre uses, but only where they are not in an existing centre and are not in accordance with an up-to-date Local Plan. Similarly, the NPPF (paragraph 26) requires an impact test assessment only where proposals are not in a centre and are not in accordance with an up-to-date Local Plan.
12. Newark South benefits from a strategic site allocation in the adopted Core Strategy, and this continues under the Amended Core Strategy. Two local centres, including retail, are part of this allocation. This is reflected within the hierarchy of centres set out at Core Policy 8.
13. Therefore, sequential and impact testing should not be required for any application for development of retail (or other main town centre uses, where applicable in accordance with the

NPPF) within the local centres at Newark South. It is acknowledged, however, that the tests would apply if an application was made for such development outside of a centre. The policy should be reworded to make this clear.

Reference to 'harm'

- 14. Core Policy 8 sets out that the District Council will, by working with partners and applicants (our emphasis):

*"Ensure that the development of new centres consolidates and enhances the hierarchy of centres and does not **harm** the vitality and viability of existing centres".*

- 15. This is not consistent with the NPPF. Under the NPPF (paragraph 27) the test is not 'harm' but whether there is likely to be a 'significant adverse impact'.
- 16. Notwithstanding the above, more importantly, development within a centre should not be subject to the impact test, for the reasons set out above.

Amendments

- 17. Arising from the above, we do not consider that Core Policy 8 as currently worded is sound. In order to be found sound, we consider Core Policy 8 should be amended to be consistent with national policy as set out in the NPPF.

- 18. Our suggested revisions are as follows:

"Deliver new convenience retail development to the south of the Newark Urban Area ~~which is of a scale sufficient to meet the needs generated by population growth~~. Support will therefore be provided for provision within the ~~main built up area, in a sequentially~~ an appropriate location and subject to the application of the Sequential and Impact Tests (where applicable) at either:

Land South of Newark (NAP2A)

Land around Fernwood (NAP2C) or

Beyond this, additional comparison retail development and other main town centre uses ~~of an appropriate scale to meet local need~~ will also be supported in the above locations".

And

"~~Ensure that the development of new centres consolidates and enhances the hierarchy of centres and does not harm the vitality and viability of existing centres".~~

19. In addition, Core Policy 8 should be amended to identify Land South of Newark (Area Policy NAP 2A) as the most appropriate location to accommodate a superstore. This is addressed in our Statement on Question 20 – *Should Policy NAP 2A (Land South of Newark) be amended to provide for the early delivery of a large foodstore or superstore?*