

Minister for Local Government and Planning
Ministear airson Riaghaltas Ionadail agus Dealbhadh

Derek Mackay MSP
Derek MacAoidh BPA



F/T: 0845 774 1741
E: scottish.ministers@scotland.gsi.gov.uk

Andrew Howlett
Assistant Clerk
Public Petitions Committee
T3.40, The Scottish Parliament
Edinburgh
EH99 1SP



27 February 2014

Dear Andrew,

Petition PE1497 – Supermarket Expansion on Local High Streets

Thank you for your letter of 4 February requesting the Scottish Government's response to the questions below. I will address each in turn.

1) What is the Scottish Government's view on what the petition seeks and the discussions that took place at the meeting on 28 January?

Use Classes Order

The petition is principally seeking the Scottish Government give local councils and communities the power to stop unwanted supermarket expansion on their local high streets. The petition suggests major supermarkets are opening more smaller stores on high streets because they do not require the same planning permission as larger stores. The petitioners are requesting a change in legislation so that local councils have power to actively support local independent traders and discriminate against supermarket giants when necessary.

Under the Town and Country Planning (Scotland) Act 1997 (the Act) planning permission is required for the development or material change of use of buildings or other land. The planning process then enables consideration of the impact of the proposal. However, the Act also allows exclusions from the definition of development, including changes of use where both the existing and proposed uses fall within the same class set out in an Order made by the Secretary of State. The classes are groups of certain uses of land or buildings whose impact on amenity are similar. This exclusion prevents the planning system considering a large number of unnecessary applications, where the change of use does not result in significantly different impacts on amenity, for example traffic generation, noise and visual appearance.

Victoria Quay, Edinburgh EH6 6QQ
Cidhe Bhictòria, Dùn Èideann, EH6 6QQ
www.scotland.gov.uk



The classes are set out in the Town and Country Planning (Use Classes) (Scotland) Order 1997 – the UCO. Class 1 ‘Shops’ covers the retail sale of goods as well as a variety of other similar uses where a service is provided principally to visiting members of the community e.g. post offices, travel agents, hairdressers, laundrettes and dry cleaners etc. The UCO is a de-regulatory mechanism that is intended to permit and not restrict compatible land uses, therefore freeing from planning control changes of use which there are no reasonable planning grounds to control. It serves no-one’s interest to require planning permission for types of development that generally do not damage amenity. Changes to the UCO should therefore relate to change in land use impacts e.g. associated with number of visitors, transport impacts, noise, litter or visual amenity, rather than who the applicant is as proposed by the petitioner. The Scottish Government monitors interest in proposed changes to the UCO but has no specific plans to review it at present.

National Planning Policy

The two national planning policy documents, the National Planning Framework and the Scottish Planning Policy (SPP), are currently being reviewed. As the background information to the petition indicates, both proposed new versions emphasise the importance of vibrant and diverse town centres. The Scottish Government’s Position Statement on the SPP (January 2014) indicates the commitments that have been made as a result of the National Review of Town Centres and how they will be incorporated into national planning policy.

The review of the SPP is also looking to address a point raised in the committee discussion of 28 January around account being taken of jobs that are lost (column 1986). The Draft SPP ‘Sustainability and Planning’ Consultation proposes that planning decisions should be guided by a number of policy principles, including giving due weight to net economic benefit. This means that the likely number of jobs to be gained and lost as a result of a proposal should be part of the consideration of the impact.

2) What is the Scottish Government’s view on introducing Retail Impact Assessment for proposals to open new small local supermarkets?

SPP is the statement of the Scottish Government’s policy on nationally important land use planning matters. It is a material consideration that informs the content of development plans and is a consideration in decisions on planning applications. Whilst SPP outlines the expectation of Ministers, it is policy, and not legislation as suggested in column 1981 of the Official Report of 28 January 2014.

The current SPP (2010) covers town centres and retailing and outlines at paragraph 65 when a retail impact assessment (RIA) should be undertaken. This includes where a retail and leisure development over 2,500 square metres gross floorspace outwith a defined town centre is proposed which is not in accordance with the development plan. The SPP also states that an impact analysis may be necessary for smaller retail and leisure proposals which may have a significant impact on vitality and viability. The policy therefore provides flexibility for situations where small local supermarkets may have an impact, depending on the circumstances of the area. ‘As referred to above, SPP is currently under review. Draft SPP (published April 2013) proposes retaining the flexibility for planning authorities to advise when retail impact analysis may be necessary for smaller scale development proposals.’

During the discussion on 28 January 2014 a suggestion was made that the cumulative shop floor space that one company operates in an area be taken into consideration for determining whether a RIA is undertaken (column 1982). Reference is also made to an experimental by-law that could be used to distinguish between applications from supermarkets and applications from local independent traders (column 1989). However, individual planning applications are determined on their own merits. The particulars of the applicant are not a matter for consideration. Circular 3/2013 Development Management Procedures, Annex A on Material Considerations states:

"The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development."

Point of clarification: It was suggested in the discussion that a RIA would enable people to be consulted and allow consideration of the situation in an area (column 1988). While a RIA considers the specific situation in an area, it is predominantly a quantitative assessment that uses assumptions and data to calculate the impact on the trading position of existing floorspace in that area. It is not a method that involves the consultation of local people.

I trust the information outlined above addresses the questions of the committee.

DEREK MACKAY