



In introducing the new guidance, CLG has explained that its purpose is to introduce a tougher "impact" test. The Housing and Planning Minister, John Healey, explained that the guidance provides authorities such as Shepway with 'new tools' which "go further than ever before to protect town centres from the harm large out-of-centre developments can have" (see CLG web-site). As you will know, a substantial part of SECN's objections to the proposal have been based on its impact on Hythe town centre.

We have previously set out to you the reasons why the retail impact assessment carried out for this application does not meet the requirements of PPS6. One of our principal criticisms is the lack of a systematic and thorough survey of the views of existing town centre traders, either by the applicant, or as is required by the PPS, by the Council. Also, we have yet to understand why such research as has been carried for the Council (by KCC in 2007) is dismissed as irrelevant by officers. Concerned residents have now carried out a survey and will be submitting the results to you under separate cover. You will see that these results contradict the assumptions made by the applicant regarding the attitude of existing traders, and constitute a further material consideration in this case.

A review of the application against the new PPS4 shows that it does not meet the new requirements any more than it complied with PPS6. If the application is judged against the now finalised practice guidance published alongside PPS4, its shortcomings are clear.

In circumstances where CLG has made it clear that the tests set out in the new policy are tougher than those which previously applied, there can be no doubt that the new policy and guidance is a highly important consideration which must be brought to members' attention. As you will know, the resolution to approve was only by a **majority of 9:4**. It is impossible to conclude that, if the application was subjected to the "tougher" impact tests required by the new guidance, members would not reach a different conclusion. In the circumstances, it would be an error of law if officers did not take the application back to committee.

Yours sincerely

David Plumstead

Cc Alistair Stewart

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