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COPY

4th January 2010

Dear Ms Kahn,

Application Y09.0627/SH
Site: Smith's Industries, Military Road, Hythe, Kent

I am writing to you in respect of the proposed Sainsbury's superstore, on behalf of Shepway Environment and Community Network. At a meeting of the Development Control Committee on 15th December, Shepway District Council (SDC) was minded to permit the application. SEDC requests that it be called in by the Secretary of State on the grounds that it conflicts with national policies on important matters.

1. *Potential harm to the viability and vitality of Hythe town centre.*

No detailed work has been done either by the applicant or SDC on the current or future financial viability of Hythe town centre. The focus of the Reports prepared in connection with the application was a survey of consumers and potential competition with other supermarkets in Hythe and a suspiciously extensive hinterland¹. The Roger Tym & Partners Review of the Retail Impact Assessment (RIA) done for the applicant criticizes it on this point:

There is no assessment of the RIA of impact on other, smaller convenience stores in the town centre. Such impacts ... can have a negative bearing on the town's vitality and viability. At the margin we expect there to be some draw from these stores... and this should have been recognised in the RIA².

Although reference has been made to PPS6 para.4, it is not followed up by the details required by para.22:

- *The likely effect of future public or private investment needed to safeguard the vitality and viability of the centre;*
- *The likely impact of the proposed development on trade/turnover on the vitality and viability of existing centres;*

¹ See Letter from CPRE Kent in Supplementary Information to the Schedule of Applications (Pink Papers)

² Roger Tym & Partners, Review of the RIA as submitted by Sainsbury's Hythe, final Report, para. 5.10

- *Changes to the range of services provided by the centre that could be affected.*

In the Reports supporting this application there is no in depth survey of the circumstances and profitability of traders in the High St. Had this been done it would have revealed real concern about the loss of trade due to traffic rerouting and pedestrianisation of the High St and the recession, and profound anxieties about the slashing of margins by Sainsbury's increasing convenience floor space by 60%. A number of leases will be terminating in the next few years and the intention of traders is that shops will close. Thus the so called "health check", based on current vacancy rates, is both superficial and misleading. It should be noted that SDC's Annual Monitoring Report is deficient in terms of retailer intentions to change.

The statement that loss of trade due to competition will be compensated by linked trips, combining a visit to Sainsbury's with an expedition to the High St., is grossly inadequate given the town centre's parlous financial state. Much more needs to be known about the circumstances of linked trips e.g. does Hythe town centre have the facilities which would attract a substantial number of people away from the superstore to walk several hundred metres to the town centre? No information is given on this. Hythe is too small to attract the comparison good multiples like Folkestone or Ashford. The mix of a sufficient number of small independent convenience and comparison goods shops is critical to its financial viability. In the current climate the closure of some shops for good endangers the viability of others. Hythe will die like many other town centres.

Why does this matter? It affects the whole of the local economy. Local traders deal with local suppliers of goods and services. Ninety fulltime jobs are no compensation for the death of the High St. and the dereliction of the built environment, including many listed buildings. That only the lesser supermarkets would be affected is not proven. Hythe town centre will require regeneration in years to come if this application is not called-in. Nationwide independent shops have become an endangered species. Convenience shops are closing at a rate of 2000 a year and an All Party Committee forecasted that independent retail may die out by 2015. The death of the high street is a national issue, the *raison d'être* of PPS6, yet SDC has seen fit to ignore an important part of it.

2. *The importance of the 1990 Planning (Listed Buildings and Conservation Areas) Act*

The Officer's Report compares the proposal with the existing structure on the site, paying lip service to the 1990 Planning (Listed Buildings and Conservation Areas) Act. This says that even development affecting views into or out of a conservation area should conserve or enhance the character or appearance of a conservation area: a four way test if considered properly³. The Appraisal of the Conservation Area undertaken by the applicant⁴, carefully describes the buildings and amenity space bordering the Royal Military Canal, which is a scheduled ancient monument. It is impossible to see how the proposal complies with the statutory test. There is also a duty to preserve the setting of a listed building⁵, in this case and Hay House and

³ S.72

⁴ Section 4

⁵ S.16

Military Terrace. To say the final proposal is only 1.2 m. above it⁶ is disingenuous given that the latter is substantially below the level of the road and the proposed superstore has to be built on top of a significant landslip. No poetic language⁷ can disguise the fact that a hulk is a hulk whatever its colour or texture. The unusually feisty correspondence from English Heritage shows that SDC have no understanding of the requirements of the 1990 Act.

Conclusion

Hythe may only be a small town in East Kent but this application raises national issues: one by one our historic town centres lose their commercial life blood to the supermarkets that are only responsible to their shareholders. The findings of the Competition Commission (2000) have never been implemented. This application will have long term adverse effects not only the local economy but also the historic heritage.

Whilst I am fully aware of the Caborn principles, applied by all Government Offices to cases of this sort, I would point out that this is contrary to the Aarhus Convention to which the British government is a signatory. The expenses incurred in judicial review, even if one wins the case, are an effective deterrent against public bodies taking action, much less private individuals. English Heritage cannot afford the risk in this case. Elections are too blunt an instrument to deal with individual cases. This situation has been compounded by the introduction of cabinets to local government by concentrating power into a few hands within the ruling party⁸. This particular case is good example: the portfolio holder for finance drove through the proposal at Committee, discounting the long term damage to Hythe town centre. The only practical option is a public inquiry. Therefore Shepway Environment and Community Network respectfully ask that this application be called in by the Secretary of State so that a fair hearing given to these and other vital issues, and an impartial judgement made.

Yours sincerely,

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Honorary Research Fellow, University of Kent

Enc: SDC's Officers Report,
Supplementary Papers
"Death of a High Street: Decay of a Town"

⁶ Para. 12.10.

⁷ Conservation Area Appraisal section 6.

⁸ As Planning consultant to the National Association of Local Councils I can assure you that parish and town councils feel even more disenfranchised by cabinet government.