

Rep 1

Application No: Y09/0627/SH

Location of Site: Smiths Industries, Military Road, Hythe, Kent

Development: Demolition of existing buildings, construction of a new 5573 square metre retail superstore, together with associated engineering operations, car parking, delivery yard and vehicular access.

Applicant: Sainsbury's Supermarkets Limited

Agent: Mr S Wilson
WYG Planning & Design
100 St John Street
Farringdon
London

Date Received: 24.06.09 **Date of Committee:** 20.10.09

Expiry Date: 23.09.09 **NG REF:** 615579 134802

Officer Contact: Mr Ben Geering

RECOMMENDATION:

That the Head of Planning Services be given delegated authority to grant planning permission, subject to the completion of a legal agreement to secure improvements and funding to encourage linked trips to the High Street. The permission to be subject to the conditions set out at the end of the report including any revisions or additions the Head of Planning Services may consider appropriate.

1.0 LOCATION AND DESCRIPTION OF SITE

- 1.1 The application site consists of the former Smiths Medical International site and is approximately 1.833 Hectares in size, extending from Military Road to the south up to Sir John Moore Avenue to the north, east and west. The site fronts on to the one-way Military Road (A261), the principle route connecting to the coastal A259 route. The site is approximately 195 metres in width and 85 metres in depth.
- 1.2 The site is located upon an historic landslip, with the topography rising approximately 3 metres from Military Road (6.19m ODN) to a large retaining wall at the rear of the site (9.4m AODN). Beyond the retaining wall the levels rise steeply, with significant vegetation separating St John Moore Avenue to the north of the site (17.3m AODN).
- 1.3 Directly to the south of the site is the Royal Military Canal (RMC), a scheduled ancient monument dating from the Napoleonic Wars of the early 19th century. The site itself also has an historic military use. In 1853 the School of Musketry was established at the site, remaining in place until 1968. A plaque is located at the site commemorating its use.
- 1.4 In the early 1970's planning permission was granted for the comprehensive redevelopment of the site (including the demolition of the grade II listed barracks),

comprising of the erection of a complex of 4 interconnected office buildings, outbuildings, a service yard (accessed via Sir John Moore Avenue) and staff car parking. These buildings range from single to four storeys in height and are of a utilitarian form, constructed of brick and concrete with a maximum building height of approximately 12 metres (21.14m AODN), some 15 metres above the Military Road pavement level. Smiths Medical International (SMI) has stated that the existing building's air conditioning system no longer complies with EU regulations and the cost of its replacement was an unviable option for the company. The buildings have a footprint of 4056 square metres, covering approximately 22% of the site area. The buildings are set back from the Military Road frontage by approximately 10 metres, allowing for a large grass verge, planted with a number of trees and a shallow bank to the raised level of the car park. A number of residential flats and houses were also constructed at a similar time, including Halliday Court to the west of the site and the majority of properties in Sir John Moore Avenue.

- 1.5 Military Road forms the primary vehicular access into the centre of Hythe from the west, and the route for those heading through Hythe to the east towards Folkestone. The road runs straight, west to east and has an open character. To its southern side are a row of established trees, running along the northern side of the RMC. To the northern side of the road the site has an open grass verge with a number of smaller trees along the boundary of the site. To the east of the site, fronting the road is Military Terrace, a grade II listed mid 19th century terrace of 8 dwellings, set below the surrounding road level. To the northeast of the site is the grade II listed property Hay House – the former home of the builder of the RMC and later the commander of the School of Musketry.
- 1.6 Although located outside of the Hythe High Street and Vicinity Conservation Area (which extends to the midpoint of Military road to the South and Military Terrace to the east) the application has been advertised as affecting the setting of a Scheduled Ancient Monument (the RMC), Conservation Area and adjacent listed buildings.
- 1.7 Smiths Medical International (SMI) has now vacated the application site and relocated its commercial headquarters staff to Eureka Business Park, Ashford. As part of the relocation a number of jobs have been retained in Hythe, including the transfer of 65 staff from Military Road to join the existing 60 staff at Reachfields.

2.0 PLANNING HISTORY

- 2.1 CH/4/71/96 - Outline erection of offices, stores and workshops and ancillary buildings. Approved with conditions 17.12.71
- 2.2 CH/4/72/262/D1763 Details of Seeboard site. Approved with conditions 23.12.74
- 2.3 SH/75/909 - Display of site information board for contractor, etc. Approved with conditions 20.10.75
- 2.4 SH/77/602 - Display of flag pole. Permitted development 16.06.77

- 2.5 SH/83/730 - Siting of portable office for a temporary period of 2½ years. Approved with conditions 22.08.83
- 2.6 SH/88/244 - Erection of radio mast and aerials – operational use. Approved with conditions 25.04.88
- 2.7 90/742/SH - Installation of 1.8m, diameter microwave radio dish antenna to roof. Approved with conditions 06.08.90
- 2.8 93/847/SH - Alterations to existing oil stores. Approved 18.01.94
- 2.9 94/631/SH - Removal of existing cooling tower and replacement with heat pump units, erection of guard rails and installation of UHF aerial. Approved 17.10.94
- 2.10 97/7113/SH - Notification for the erection of three rooftop radio aerials and two rooftop microwave dishes and the installation of an equipment cabin at ground level. Approved with conditions 17.06.97
- 2.11 97/0793/SH - Notification for the erection of base receiver station on the roof. Approved with conditions 22.10.97
- 2.12 Y00/1034/SH - Conversion of a garage block to a technology centre. Approved with conditions 15.12.00
- 2.13 Y01/0636/SH - Installation of air handling plant to the east elevation. Accepted 06.07.01
- 2.14 Y04/0287/SH - Change of use of warehouse to pilot production facility for medical products. Approved 10.05.04
- 2.15 Y04/1290/SH - Air filtration plant to be sited inside facility with roof turrets for air circulation. Reduction of no. of windows and other minor amendments to Y04/0287/SH. Approved 10.11.04

3.0 PROPOSAL

- 3.1 The application seeks to demolish the existing buildings and build a supermarket with associated car parking, access and service yard. The planning application is for a scheme comprising of a 3,508 square metre sales area supermarket with a footprint of 4962 square metres, together with a 267 space customer car park and service yard.

3.2 The planning application has been submitted with considerable supporting information, comprising:

- Design and Access Statement
- Planning and Retail Statement
- Transport Assessment
- Draft Travel Plan
- Air Quality Assessment
- Noise Assessment
- Flood Risk Assessment
- Drainage Assessment
- Ground Contamination Report
- Geotechnical Stability Desk top Review
- Ground Conditions Assessment
- Conservation Area Assessment
- Archaeological Desk Based Assessment
- Tree Condition and Value Report
- Arboricultural Impact Assessment and Method Statement
- BREEAM Sustainable Construction Pre Report.
- Energy Statement and Renewable Energy Assessment
- Report on Community Engagement

3.3 During the course of the application various amendments have been made to the proposal, together with the submission of additional information in response to requests from consultees, neighbours and Council officers. The plans under consideration comprise of drawing numbers -

- 7495-000 – Site location plan
- 7495-001 – Existing Site plan and photos
- 7495-002 'c' – Proposed site plan
- 7495-003 'a' – Proposed store plan
- 7495-004 'c' – Proposed elevations
- 7495-005 'a' – Site sections
- 7495-006 'a' – Proposed roof plan
- 7495-008 – Topographical survey
- 7495-009 'a'; – Stair, plinth and planter details

In addition further 3d images have been requested in support of the application and a draft legal agreement for a Section 106 contribution has also been provided.

Layout and Scale

3.4 The layout seeks to locate the superstore and service area to the eastern side of the site, with the car park and customer access from Military Road to the west of the site.

3.5 At present the site is occupied by 4 buildings, located across the width of the site with a combined footprint of 4,056 square metres. The proposal seeks to erect a single superstore building, measuring a maximum of 85 metres in width and 70 metres in depth, with a footprint of 4,962 square metres. The building is

predominantly single storey, with a first floor section providing a staff area and plant room. The building has a maximum height of 10.4 metres above the Military Road pavement level, with the majority of the building having a maximum height of 8.4 metres above the pavement level. The height of the actual building itself is lower than this (7.8 metres max height, 5.6 metres for the majority of the building). However the finished floor level (9.2 metres AODN) is consistent across the site of the building so as to ensure the integrity of the retaining wall and slope stability is not compromised by the development, therefore the proposed building has to be built on a plinth 3 metres in height at the southern edge of the site.

- 3.6 To the western side of the site a 267 space car park is provided. As with the store itself in order to retain slope stability and the integrity of the rear retaining wall, a new retaining wall is proposed to the front of the site, with the ground level dropping from 9.4m AODN at the retaining wall to 8.60m AODN at the front of the site. As such the ground level drops from north to south, as well as from east (adjacent to the entrance of the store 9.2m AODN) to the west (8.35m AODN). Following amendments to the scheme the car parking area has been set back from the frontage of the site to allow for the retention of existing trees and the use of a natural earth bank finish to the frontage.
- 3.7 The building provides a sales area of 3508 square metres, with a total of 5573 square metres of floor area provided across the two floors of the building. To the east of the site is the service yard, accessed via Sir John Moore Avenue. At present there is an existing service vehicle access in place and the proposal seeks to relocate this approximately 10 metres further to the south, away from the listed property Hay House however closer to the listed properties of Military Terrace.

Design and Landscaping

- 3.8 The superstore building is adjacent to the boundary of the Hythe High Street Conservation Area and adjacent to the listed properties of Military Terrace and Hay House. It would be located in the area of an existing 4 storey office building and other single storey associated buildings of a functional design and little aesthetic merit. The building has a contemporary design, largely single storey in height with a two storey central section to provide staff facilities at first floor level.
- 3.9 A mixture of materials is proposed, including timber effect cladding, terracotta cladding, white metal cladding and glazed elevations with a non reflective metal roof. The 'front' elevation of the building, facing west towards the car park is largely glazed, with a number of terracotta rainscreen clad sections in place. To the south western corner of the building is the entrance to the store. This is accessed via both the car park and pedestrian ramps and steps from Military Road. This full height entrance lobby includes a raised canopy that wraps around the building, onto the Military Road frontage so as to provide an entrance feature for both pedestrians and those travelling via vehicle to the store.
- 3.10 The most prominent public elevation of the building is that which fronts onto Military Road. In order to reduce its visual impact the building is set back from the pavement edge by 5 metres, allowing for the planting of replacement trees along the verge for 52 metres of the building's 85 metre length. The building is set upon and behind a new Kentish ragstone wall plinth, extending across the

building width and varying in height from 2 metres to a maximum of 3 metres. Incorporated into this ragstone wall is both a ramped pedestrian access and stairway to the entrance of the store.

- 3.11 The Kentish ragstone wall continues beyond the store to the west for approximately 20 metres, with the car park to the store above. This section of wall, which runs adjacent to the pavement, has been designed to incorporate a mid level planter, with the pavement fronting section of the wall reaching 1.7 metres in height and a further wall, located behind landscaping a further metre into the site reaching a combined total of 2.8 metres.
- 3.12 Beyond the Kentish ragstone wall to the west the car park is set considerably further back into the site, allowing for the retention of all of the existing trees along the pavement edge and the use of a grass bank from the street level to the car park level, hiding the retaining wall from the street view. Within the car park 19 trees are proposed to be planted.
- 3.13 The proposed development would result in the removal of 6 trees from the Military Road frontage, together with 15 further trees from within the site. The proposal does however seek to plant 9 new trees to the Military Road frontage and corner with Sir John Moore Avenue, with a further 19 trees to be planted within the car park.
- 3.14 The revised proposal ensures that all trees identified as "category A" are retained by the development and 22 of the 28 "Category B" moderate quality trees are retained. In total the proposal would remove 21 trees, 6 assessed as category B and the remaining 15 as low quality trees. Whilst 21 trees would be removed from the site a minimum of 28 new trees would be planted.

Slope Stability

- 3.15 Significant information regarding slope stability has been submitted with the application. These reports identify considerable geotechnical risks. The site is located within a known major landslide which extends well outside of the site boundaries and several hundred metres upslope of the site. Many buildings are situated within the landslide upslope of the application site and the existing retaining wall currently assists in stabilising the landslide. The main conclusions of the reports carried out by structural engineers are:
 - The slope at and beyond the site is likely to be sensitive to changes in existing conditions, such as excavations, groundwater drainage, adjustments to retaining walls and changes to loading within the landslip.
 - Adding weight to the upper part of the landslide e.g filling tends to reduce the overall stability of the slope. Conversely adding weight to the lower part of the landslide tends to increase overall stability.
 - Removing weight from the upper part increases overall stability which removing weight from the lower part reduces stability.
- 3.16 The application site is located within the lower part of the landslide. The design approach therefore seeks to minimise adverse influence on the existing retaining wall and the ground in front of the base with the aim of maintaining or improving

upon current conditions. Significant excavation in front of the existing retaining wall could have an adverse effect on the stability of the slope and associated properties higher up the hillside, above the application site. In conclusion the applicants therefore consider that the site should not be lowered as this may decrease the stability of the site. Adding material at the base of the site is likely to increase stability. All of this means that the site cannot be lowered to the Military Road level.

Vehicle and Pedestrian Access, Parking and Servicing of the store

- 3.17 Vehicular access to the car park is provided via an access road from Military Road. This access road bends around to the left (west) from the access, taking advantage of the lower levels of the site. Within the car park itself there are 242 regular spaces provided, 15 disability badge holder spaces and 10 family spaces, together with further spaces for mobility scooters, motorcycles and bicycles. No separate staff parking is provided in the development, with secure staff cycle parking provided to the rear of the store. The scheme includes the provision of 2 hours free parking for customers, so as to increase linked trips to the High Street.
- 3.18 Pedestrian access to the store is provided via a ramped walkway and separate steps from Military Road. The proposal also includes the provision of a pelican crossing across Military Road, connecting with the Royal Military Canal footbridge. The store is located within an edge of centre location, approximately 250 metres to the west of the High Street and 50 metres to the north of the canal footpath.
- 3.19 The store's service yard is provided to the eastern edge of the site, accessed via Sir John Moore Avenue. The service yard utilises the drop in land levels across the site to allow for HGV's to reverse into the unloading bay. Following amendments to the scheme the 'online' area has been removed from the service yard, allowing for further planting and greater separation of the building from the adjacent Military Terrace (20 metres to the east of the store). A vertical timber acoustic fence, measuring up to 4 metres in height surrounds the service yard to its eastern elevation facing Sir John Moore Avenue. Much of this fence, which is set a minimum of 4 metres back from the pavement, would be screened by landscaping proposed to the corner of Military Road and Sir John Moore Avenue.

Opening and Delivery Hours.

- 3.20 At present there are no restrictions in place for either opening or delivery hours at the Smiths Industries site. The application therefore provides the opportunity to control both opening and delivery hours via condition.
- 3.21 The operating hours of the superstore have been assessed by the Technical and Health Manager in paragraph 4.3 of the report. Following negotiation with the applicant operational hours have been requested as follows:

Opening -0800 -2200 M-S, 1000-1600 S, BH
Deliveries – 0730 – 2230 M-S, 0930 -1700 S, BH

No service yard activity between 2300 -0700 Monday to Saturday, and before 0900 and after 1800 on Sundays and bank holidays.

Employment

- 3.22 In support of the proposal, a detailed employment analysis has been submitted with the application. This identifies the employment needs, the benefits of retail employment and the benefits of working for Sainsbury's and is summarised below.
- 3.23 Job Centre Plus have indicated that Hythe provides the appropriate skills base for employers such as Sainsbury's, in particular the opportunity for part-time jobs would be particularly suitable for those with family responsibilities, single parents, those on incapacity benefit, students and mature non-claimants. It is anticipated that the majority of employees would be from Hythe.
- 3.24 In addition to the employment opportunities created by the construction of the store, the proposed store would provide the local economy with 300 full and part time jobs. This will cover a wide range of positions from sales and support services (such as delivery and security), skilled positions (such as the bakery) and a range of management positions. It is estimated that of the 300 employees 30% (90) would be full time, with the aim of providing flexible part time employment to the majority of workers.
- 3.25 The superstore would provide opportunities its entire workforce the chance to gain nationally recognisable qualifications, including level 1 numeracy and literacy qualifications (equivalent to GCSE level). Beyond this there is also opportunity for employees to achieve 'on the job' training to NVQ level 2 (the equivalent of 5 GCSEs A-C) whilst bakery, meat and fish craft apprenticeships are also available, allowing employees to become fully qualified in 12-18 months. The applicants states that Sainsbury's are also involved in a number of initiatives to help bring different groups back to or into work
- 3.26 The employment analysis concludes that the establishment of a new Sainsbury's supermarket at Military Road would bring significant economic benefits to Hythe and the wider District through the creation of a substantial number of new full and part time jobs at varying skills levels for all sectors of the community. A need for further retail employment has been identified by the local job centre, and the proposed store would result in 300 such new positions, all of which could be filled by people living in the local area. The creation of such jobs would be invaluable to Hythe, especially given the rising unemployment rates in Shepway and the fragility of the current economic climate.

4.0 CONSULTATIONS

4.1 Hythe Town Council –

RESOLVED – that the Town Council supports the above application, subject to following observations:

- (i) That there be a S106 agreement to include the following:
1. Events fund for administration by the Town Council.
 2. Road, pavement and street lighting improvements in Hythe High Street.

3. Public realm sign improvements, including continental style holder signs.
 4. Decorative lighting in the High Street and along the Canal Bank.
 5. Water feature in the Town Square.
 6. Illumination of the Town Centre signs at East Street Roundabout and in the Red Lion Square.
 7. Permanent seating on the Canal Bank
 8. 3 hour free car parking at the proposed store so as to permit time for people to visit the High Street.
- (ii) For the applicant to look favourably upon local employment recruitment opportunities and for materials to be sourced locally.
 - (iii) Opening hours to be limited to 8am to 8pm Monday to Saturday and 10am to 4pm on Sundays.
 - (iv) Deliveries to be made only between the hours of 8am and 8pm Monday to Saturday and between 10am and 4pm on Sundays.
 - (v) To instigate by means of a S106 agreement a separate substantial financial fund for noise amelioration measures in Military Terrace.

4.2 Kent Highways –

I confirm that I have been liaising with the applicant since the application has been submitted to tighten up and further clarify the content of the Transport Assessment and Travel Plan.

As a result further sensitivity testing has been carried out in respect of growth forecasts and pass-by and diverted trips to reinforce the capacity testing on the Scanlons Bridge junction. TRICS data has also been provided to demonstrate trip rates generated by similar sized stores in similar edge of town centre locations.

The results of the further sensitivity testing indicates that all junctions being Scanlons Bridge Road signalled junction, A261 Military Road/A259 Dymchurch Road, A259 Rampart Road/High Street/Station Road/A259 East Street will all continue to operate within capacity.

The testing within the Transport Assessment was carried out with the assumption that no improvements have been made to Scanlon's Bridge Road and Nickolls Quarry has not been developed. It was then further tested with the Nickolls Quarry development and the junction improvements subject to the Section 106 Agreement tied in to that development.

I am also now satisfied with the Travel Plan which has been re-negotiated and includes additional incentives and improvements to encourage sustainable travel to and from the site. I would however require the developer to sign up to the iTrace Travel Plan Management Software co-ordinated by KCC. This would involve a one off monitoring payment (further advice can be sought from graham.tanner@kent.gov.uk).

The proposal aims to provide a new pelican crossing on Military Road (A261) outside of the main pedestrian store entrance to link with the footbridge over the Royal Military Canal. This is an essential feature to this development and is detailed on submitted plan CHQ.07.7495.002A but no detailed design has yet been submitted. I will need assurance that since the crossing is to be traffic signal

controlled that it is not going to have a negative impact on the signalised Scanlon's Bridge Road junction. The proposed crossing will therefore need to be modelled and outcomes submitted for assessment.

Parking has been provided in accordance with maximum parking standards of the formerly adopted SPG4 Kent Vehicle Parking Standards 2006, which were applicable during the pre-application discussions. Cycle parking, mobility impaired parking and motorcycle parking has also been provided in accordance with the same.

Access details have been revised to accommodate a 2m footway into the car park of the site and a reduced radii store entrance to better enhance pedestrian movement along the Military Road frontage. Kerb build outs are introduced to secure sight lines from the new access and from the existing service road access. A standard condition will be required for the removal of the existing vehicle access and reinstatement of the footway. All off site works will be subject to an agreement with Kent Highway Services. The provision of the pelican crossing, once approved will be incorporated into a Section 106 Agreement and constructed at the expense of the applicant.

The internal layout shall accord to amended drawing CHQ.07.7495-002C.

Subject therefore to a condition being imposed for details to be submitted in respect of the pelican crossing and works being carried out in accordance with the afore-mentioned plans I would not wish to recommend the application for refusal. Wheel washing facilities to be provided on site during construction to prevent the deposit of mud on the highway and provision being made within the site for plant and operatives' vehicles to be accommodated off the public highway during the construction period.

I am happy to discuss the detail of the Section 106 Agreement further in due course.

4.3 Technical and Health Manager –

With regard to this application EH have the following comments in respect of the impact to the local area from the proposed development.

- 1) A noise report accompanied the application which assessed traffic noise, building services and plant noise, and delivery noise. The assessment consisted of some local monitoring that was undertaken within the area of the development, and computer modelled scenarios to predict the possible impacts.
- 2) The traffic assessment shows the impact will be negligible. Building services and plant noise will be dealt with by condition once all the details of specific equipment are known.
- 3) Vibration arising from HGVs travelling at low speeds entering the service yard will be below criteria commonly used to test for effects.
- 4) Therefore the one area that remains of concern for EH is noise arising from deliveries and the times of deliveries. Also, premises opening hours need to be

considered. Neither of these were stated in the application, nor any indication given in the noise assessment.

EH therefore made some initial recommendations. No data is available to be able to compare the noise from use of the delivery yard by Smith's Medical to that proposed by Sainsbury's. It is acknowledged that Smith's Medical had unrestricted use of the site.

The report used data from deliveries being undertaken at similar supermarkets and works on the basis of two deliveries per hour. This provides a figure of 76.8 dB L_{Aeq} and 89.4 dB L_{max} . Table 12 shows the results recorded at sites ST1 and ST2 at various times of the day, although none of these were taken between 12 midnight and 12 midday. Therefore, it is assumed the delivery noise assessment data used in Table 17 was as a result of computer modelling predictions. It needs to be noted here that although attended monitoring was undertaken at ST2, outside No. 4 Sir John Moore Avenue, in computer modelled scenarios R8 is located at 6 Sir John Moore Avenue. This location was not looked at in the delivery noise assessment although R2, Hay House is close by, and it is accepted that it is unlikely there would be much difference between the results.

The report states that the results from Table 17 shows that deliveries are more than 5 dB above background at Hay House at all times. Although this is considered acceptable during normal working hours of 8 am to 6 pm, we are more cautious outside of these times, when things generally quieten down.

In a letter from Nigel Mann, addressed to EH dated 27th August 2009, it states that delivery noise is 'highly variable and erratic in nature. Most complaints regarding noise from deliveries relate to the clatter and bangs, breaking and door slamming... all of which have the potential to be significantly reduced by careful management'. It is this reliance on man management, and that some local residents will be affected by an increase of more than 5 dB above background that the delivery times as requested by the applicant are not suitable.

The World Health Organisation recognise night time hours as 2300 to 0700. PPG 24, although used as guidance for development of residential properties also provided some useful advice for a variety of different developments. Para 10 states that 'local planning authorities must ensure that development does not cause an unacceptable degree of disturbance'. Para 11 goes on to say that 'the character of the noise should be taken into account as well as its level. Sudden impulses, irregular noise or noise which contains a distinguishable continuous tone will require special consideration'. PPG24 also makes recommendations to mitigate the impact of noise, some of these include limiting operating times and restricting activities carried out on site.

EH therefore object to the proposals for delivery times of 0600 to 2300 hours Monday to Saturday, and 0800 to 2300 hrs Sundays and Bank Holidays.

- 5) In respect of the opening times EH consider that 0700 hrs as proposed by the applicant may cause some disturbance to the neighbours owing to the necessity of staff to turn up prior to this to prepare for the shop opening. Staff may be

having to park along Military Road/ Sir John Moore Avenue, slamming car doors thus causing a general disturbance.

EH therefore object to the store opening at 0700 Mondays to Saturday.

Environmental Health make the following recommendations should permission be granted for this supermarket:

1) Demolition/Construction

Prior to works commencing full details of the demolition and construction works environmental management plan are submitted to the local planning authority for approval.

2) Building Service Plant

Full details of all building plant services and equipment to be forwarded for approval by this department prior to installation.

3) Opening Times

0800 hrs to 2200 hrs Monday to Saturday
1000 hrs to 1600 hrs Sunday

4) Delivery Times

Deliveries – 0730 – 2230 M-S, 0930 -1700 S, BH

No service yard activity between 2300 -0700 Monday to Saturday, and before 0900 and after 1800 on Sundays and bank holidays.

5) Delivery Yard

To be enclosed with an acoustic fence, and solid gates which need to be closed during a delivery event (in line with the assumptions made in the acoustic report).

4.4 Contracts Manager –

Whilst not opposed to the plans to develop a new supermarket on the site, I am of the opinion that the current proposals do not take into account the valuable, established screen of trees along Military Road (T 3 to T22 in the tree schedule), the loss of which would be detrimental to the character of the road given that it forms an avenue along the main one-way system in to the town.

The tree survey submitted by the applicant clearly identifies the trees as moderate quality, category B trees as defined in British Standard 5837:2005 which are capable of making a significant contribution to the site for a minimum of twenty years.

As a result of this I would like to see the proposed southern elevation of the store and car park pulled back by approximately six meters from the existing kerb line to the north of the tree belt in order to accommodate the majority of this row of trees. I do however accept that the loss of trees numbered 16 to 19 would need to be

removed to accommodate the proposed access in to the car park and the loss of trees numbered 7, 11 and 37 to 43 is also acceptable due to the their poor quality.

The loss of the above trees would need to be mitigated and I am of the opinion that this could easily be achieved by the extension of the earth bunding created by the reduction of the car parking area on the southern elevation as well as the reduction in area around the currently proposed 'on line' area on the eastern elevation which I believe had already been discussed with the applicant.

I am satisfied that the current landscape plan includes provision for replacement tree planting although there would be scope for increased numbers should the store and car park be moved back. This would ensure that the character of the avenue would be further enhanced and preserved.

Amended Plans

Having discussed the amendments, we can confirm that we are satisfied with the new proposals although we would appreciate it if we could have the foundation design detail of the proposed retaining wall in order to establish how it will impact on the retained trees.

4.5 Environment Agency –

The Agency has no objection to this proposal provided that the conditions set out below are imposed on any permission granted.

Flood Risk

This development is likely to generate a large quantity of surface water run-off. Uncontrolled run-off could create or exacerbate flooding at or adjacent to the site. For this reason, it should be controlled on site before discharging to any watercourse to limit rates to that of the undeveloped site.

Condition

Details of a surface water attenuation scheme shall be submitted to and approved by the local authority prior to the commencement of any development works.

Reason

To prevent the risk of flooding.

Contamination

Condition

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority.

1. A preliminary risk assessment which has identified:
 - All previous uses
 - Potential contaminants associated with those uses
 - A conceptual model of the site indicating sources, pathways and receptors
 - Potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant images, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Condition

Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Condition

If, during development, Contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason

Controlled waters could be at risk from contamination identified at this site.

Planning Policy Statement 23: Planning and Pollution Control states that:

'In considering individual planning applications, the potential for contamination to be present must be considered in relation to the existing use and circumstances of the land, the proposed new use and the possibility of encountering contamination during development. The LPA should satisfy itself that the potential for contamination and any risks arising are properly assessed and that the development incorporates any necessary remediation and subsequent management measures to deal with unacceptable risks, including those covered by part IIA of the EPA 1990.'

Ground Contamination report

This report omits quite a lot of information. For example, a site plan; results from groundwater and soil samples; borehole location plan; borehole logs etc. are all missing. We can therefore not provide detailed comments on this report until the whole document has been received.

The report states that PAH contamination is evident in the groundwater. Hydrocarbons are classified as a List 1 substance under the Groundwater Regulations 1998, they are most toxic and must be prevented from entering groundwater. As the results have not been submitted it is not known what level of PAH is in the groundwater, where on the site it has been found and what the likely source is. An assessment has also not been undertaken on the risks to controlled waters. It is recognised that the site lies on non-productive strata, but the drift deposits above the clay may help provide baseflow to nearby surface waters. An assessment of the risks to controlled waters is required.

The Agency also provide additional, detailed advice to the developer regarding the responsibility to deal with contamination.

Drainage

Condition

No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason

The groundwater levels are very high at this site and any discharge to ground (i.e. via permeable paving, soakaway, etc) may allow a direct discharge to groundwater which is unacceptable.

The Drainage strategy does not provide much detail. It states that car park drainage will discharge via an "egg crate system", however, it is not clear if this is a sealed system that discharges to sewer or if it allows infiltration to ground. Clarification is required.

Any infiltration to ground will not be acceptable until it is proven that the ground is not impacted by contamination in line with the above investigations.

Fuel, Oil and Chemical Storage

Care should be taken during and after construction to ensure that all fuels, oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/unauthorised discharge to ground. The areas for storage should not drain to any surface water system.

Where it is proposed to store more than 200 litres (45 gallon drum = 205 litres) of any type of oil on site it must be stored in accordance with the Control of Pollution (oil storage) (England) Regulations 2001. Drums and barrels can be kept in drip trays if the drip tray is capable of retaining 25% of the total capacity of all oil stored.

Amended Plans

No additional comments

4.7 English Heritage

Summary

While the buildings currently on the site are of no significance themselves, the development site is one of significant heritage interest as the location of the former School of Infantry which, though listed, was substantially demolished for the construction of the Smiths Industries building. One building, formerly Paddock House (now Hay House) listed at Grade II, which housed the Commandant of the Infantry School and has historical associations with the builder of the Royal Military Canal, remains standing immediately to the north of the development site. To the east, just outside the site, the Grade II listed Military terrace is also associated with the former barracks. The site is likely to retain archaeological reserves of considerable interest, however, and the Royal Military Canal scheduled monument with which the former barracks were associated is immediately adjacent the site.

English Heritage Advice

The proposal for a new supermarket on the site involves a substantial new building with a large footprint sited to the eastern end of the site, with a large open surfaced car park to the west. The new building is a high single storey but the underlying ground level is to be raised substantially to facilitate the retail operation and the building is sited much closer to the north eastern and southern boundaries of the site than the present buildings. This will bring it into much closer proximity with the listed buildings, particularly Hay House to the north where it will be close to the property boundary, and with the scheduled Royal Military Canal to the south. The bulk of the new building, allied with the increased height relative to the existing buildings, and its closeness to the Canal and Hay House will have a substantial impact on the setting of these heritage assets. This may be lessened to some extent by the difference in ground levels between the site and the Hay House to the north and some compensatory planting may provide enough of a screen to overcome this impact. There will be an uncomfortable change in scale and height in the street scene of Military Road as the land levels and building bulk increase greatly from the listed Military Terrace to the supermarket structure. The setting of this group of modestly scaled listed buildings would be harmed as a result.

In terms of the effect on the setting of the scheduled Royal Military Canal, an overbearing sense of the development on the Canal side in the immediate vicinity of the new building would result from the development. In views from the south over the Canal, the relative openness of the background to the Canal, which is an important part of its setting, will be diminished. It is unlikely that planting along the boundary of the development site would lessen this, particularly in winter when the trees are out of leaf. English Heritage would suggest that Council seeks an amendment to the application that re-sites the supermarket building to the west of the site, further from the listed buildings and Canal, so that their settings are better protected.

Recommendation

English Heritage would accept the redevelopment of this site in principle, subject to the settings of the various designated assets being appropriately protected. The proposal for a supermarket in the location indicated in the application does not, in our view, provide for the protection of the setting of the listed buildings and the scheduled Canal and therefore is not acceptable in national policy terms as set out in PPG 15 Planning and the Historic Environment. The Council should seek amendments to the layout and siting of the supermarket to lessen its impact on these nationally significant sites or, if this is not practical, to refuse the application.

Amended Plans

The substantive issues for English Heritage were set out in my letter of 20 July 2009 in response to the consultation on the original application. These related to the impacts of the proposed development on the setting of the adjacent listed building (Hay House, grade II, to the north-east and Military Terrace, also grade II, to the southeast of the site), and on the setting of the Royal Military Canal scheduled ancient monument. That letter set out the harmful impacts on the significances of these heritage assets arising from the development, but also made suggestions as to how the scheme may be amended to ameliorate the impacts and possibly allow the scheme to be made acceptable in terms of the effect on the assets.

Unfortunately, the amended plans have not substantially addressed these effects and the harm to the registered assets, as previously explained, remains. The amended proposals show minor and insignificant changes from the earlier scheme; there are minimal alterations to the main boundary arrangements but these do not improve the relationship of the site to the Military Terrace listed cottages or to the Canal. The new supermarket building will remain over-dominant and intrusive in the setting of these assets, in particular in the setting of the Canal, and in creating a hard edge to Military Road will detract greatly from the experience and enjoyment of the Canal and the towpath.

Military Terrace will also be overwhelmed by the supermarket structure and the domestic scale of this part of Military Road will be diminished by the intrusion of the large monolithic structure so close to the road. The listed cottages will experience a significant increase in heavy goods traffic in close proximity as pantechnicons access the site from the Military Road junction with Sir John Moore Avenue, a relatively narrow entrance, with potential effects on the structures of these buildings arising from vibration and even impact. I note that no detailed and conclusive studies of the vibration effects of these heavy vehicle movements so close to the listed buildings has been carried out; indeed, the need for this is summarily dismissed by the applicant in his letter accompanying the revised plans. I have no option but to maintain and reiterate the objections of English Heritage to this proposal for the reasons above and as set out in my original letter. I trust you will report this position in full to your committee.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

4.8 Southern Water

Southern Water has no objections to the proposal.

4.9 Veolia Water –

If permission is granted for this application we request a condition is attached requiring the Developer to agree with this Company, prior to commencement of development, all necessary works and charges, including the preparation of any legal agreements associated with the provision of a potable water supply.

4.10 Regeneration and Economic Development –

The Regeneration and Economic Development team support the application put forward by Sainsbury for the former Smiths Medical Site on Military Road, Hythe.

Smiths Medical International

The current office building was erected in the 1970s, and elements of the building have come to the end of their life - especially the building's air-conditioning system. The building no longer being fit-for-purpose, and the large costs in re-designing the building, has been a key impetus for SMI to relocate some of their functions away from the town.

When it became clear that SMI were moving a sizeable portion of their business out of Hythe, the Regeneration and ED team worked with agents and SMI to try and ensure that at least some of their functions remained relatively local to the area - through site searches and using our network of contacts to look at neighboring districts. Thankfully SMI have remained committed to their staff, and whilst some of the manufacturing function has been transferred to Mexico, they have recently relocated to Eureka Business Park in Ashford, taking a large percentage of their existing staff with them.

In addition, SMI have invested in their Reachfields site (in Hythe) using the capital receipt from the sale of the Military Road site to Sainsbury, and transferred 65 staff from Military Road to join the existing 60 staff there. As such, SMI have shown their commitment to the local area and their existing staff and the sale of the Military Road site has been essential in maintaining their presence locally.

Employment and Economy

Despite having the lowest year on year rise in unemployment levels (based on JSA claimants for July 2009) of any district in Kent (62.8% compared to a Kent average of over 95%), Shepway still has the third highest level of unemployment in Kent at 4%. Only Thanet at 5.5% and Gravesham at 4.3% are higher, indicating that Shepway has a relatively weak local economy (at least on that measure). It is therefore key that Shepway encourages the creation of jobs for local people.

Looking at a more local level, even though Hythe is traditionally seen as a more affluent part of the district, it also has its weaknesses in its economy. Although unemployment is lower than the district average with Hythe Central at 3.4% unemployment, Hythe East at 2.3% and Hythe West at 2.9%, the year on year increase has been high especially in Hythe Central, at 86.5%, albeit lower than the county average.

At a time when the local jobs market is quite weak, it is key that an opportunity to provide additional jobs is not missed.

On the planning application form, the applicant states that the site currently has 200 FTE jobs. If the proposal for the supermarket is granted, it will provide 90 full-time and 210 part-time jobs (please note: on the application this is calculated as equaling 300 FTE jobs, however, this must be a mis-calculation). This, in addition to the 65 SMI jobs which have been retained in the town, would be a positive impact on the local economy.

Town Centre

The Retail Impact Assessment produced by Roger Tyms and Partners is broadly supportive of the application on the basis of its impact on Hythe town centre. What appears to be key in ensuring this application has the desired effect is to encourage link journeys between the supermarket and the town centre, and to this end I would encourage the use of any planning gain to be used towards doing this - not only in terms of establishing an improved environment, signage and activities, but also enabling consideration to be given to the future role of the town centre and its mix of retail, office, residential etc uses.

The Regeneration and ED team would look to be an important part of the process in taking any such initiatives forward.

4.10 Channel Chamber of Commerce –

I would like to take this opportunity of confirming Channel Chamber's full support for Sainsbury's planning application for a new store in Hythe.

We believe that within the current economic climate this development will not only bring extra valuable employment opportunities to local residents but, this will also stimulate additional business across the town as a whole. Shopping at Sainsbury's in Hythe will no doubt be an attractive draw for many families in the surrounding area and this presents a unique opportunity for other local businesses, including retailers to increase their own sales.

4.11 Kent County Council Archaeology

The application includes an Archaeological Desk-Based Assessment of the site in question which was prepared by Trent & Peak Archaeology (University of Nottingham). The Desk-Based Assessment provides a reasonable assessment of the archaeological potential of the area. The Desk-Based Assessment highlights a general background potential within the vicinity of the application site for remains of Romano-British, early medieval and medieval date. The Desk-Based Assessment has also identified the possibility that part of the proposed development site might overlie part of the former grave-yard of the nearby Church of St Nicholas. Of particular interest is the use of the site in the nineteenth century as Barracks and latterly, a School of Musketry.

The Desk-Based Assessment notes that the application site is terraced and that this terracing is likely to have been associated with the construction of the present buildings on the site. It is suggested in the Desk-Based Assessment that this terracing is likely to have removed all but the deepest archaeological remains on the site. However I note from the historical illustrations of the site included in the

Desk-Based Assessment (especially Figs. 10 & 11 showing the site in c.1820 – 1840 and in 1838 respectively) that these appear to show that the site was already partly terraced in the eighteenth century. It is unclear to what extent the modern truncation reflects this early terracing. As such it is possible that more substantial buried remains of the School of Musketry survive at the site than is suggested in the Desk-Based Assessment.

Given the size of the proposed development and the archaeological potential of the site it is possible that important archaeological remains may be affected by the proposals. I therefore recommend that provision is made in any forthcoming planning consent for a programme of archaeological work. The following planning condition would cover what is required:

AR1 No development shall take place until the applicant, or their agents or successors in title, has secured the implantation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

I also note that the application site lies adjacent to the Scheduled Ancient Monument of the Royal Military Canal. The Desk-Based Assessment provides little assessment of the potential impact that the development may have on the setting of the Military Canal (as well as the setting of a number of Listed and other historic buildings which lie nearby), I suggest that the views of English Heritage are sought in respect of the impact of the development on the setting of the Military Canal (Judith Roebuck, English Heritage South East Region, East Gate Court, 195-205 High Street, Guildford, GU1 3EH; telephone 01483 252040; email: Judith.Roebuck@english-heritage.org.uk) and that the District's Conservation Officer will be able to provide advice on the impact of the proposals on the setting of the Listed Buildings.

Finally I would be grateful if the applicant could be asked to submit a bound hard copy of the Archaeological Desk-Based Assessment to this office for inclusion in the county Historic Environment Record.

4.12 Natural England

Thank you for your letter dated 29 June 2009 consulting Natural England on the above application. We note that there is no ecological survey submitted in support of the application and we direct you to our recently issued standing advice which can be found at

http://www.naturalengland.org.uk/regions/south_east/ourwork/standingadvice/default.aspx.

In addition, this application has many opportunities to incorporate features into the design which are beneficial to wildlife such as the incorporation of roosting opportunities for bats, the installation of bird nest boxes or the use of native species in the landscape planting, for example. As such we would recommend that should the Council be minded to grant permission for this application,

measures to enhance the biodiversity of the site are secured from the applicant. This is in accordance with Paragraph 14 of Planning Policy Statement 9. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

4.13 Senior Project Engineer

I don't believe that the applicant has proved that from an engineering point of view that the store and car park have to be as currently proposed. There do seem to be a number of ways in which the appearance from Military Road could be improved, but most require more details than have been provided to date.

Amended Plans and Additional Information

I am content that the reports provided are now appropriate. Cutting into the slope was always the least preferred way to improve the appearance along Military Road, which the applicant now seems to have achieved by easier means.

From the information provided by the applicant I agree that raising levels across the site seems to be the safest of alternatives discussed from a slope stability point of view. This approach may actually increase slope stability due to the additional load on the base of the landslide.

The reports provided are, I believe appropriate and sufficient for planning purposes. As the reports themselves suggest, further investigation and design work is required to inform the final design.

5.0 PUBLICITY

5.1 Neighbours notified by letter. Expiry date 27.07.09.

5.2 Site Notice. Expiry date 27.07.09.

5.3 Press Notice. Expiry date 23.07.09.

6.0 REPRESENTATIONS

6.1 Letters and emails (totalling objections from 24 properties and support from 6 properties) received from Mr and Mrs Massie, 17 Military Terrace; Mr P Taylor, 3a North Road; Mrs D McCormack, 43 Turnpike Hill; Ms JM Pearson, 115 Sir John Moore Avenue; M Stanley, 4 Findlay Court; Ms J Millins, 86 Sir John Moore Avenue; Mr N Parsons, 73 Nursery Fields; Mr & Mrs Lyndoe, 13 military Terrace; Mr MA Moore, 10 Blackhouse Hill; W Kent, Military Road; J Mertens & S Atkins, 13 Sir John Moore Avenue; Mr & Mrs Cooper, 3 Military Road; G Whitehead, 20 Findlay Court; P Lilley, 16 Sir John Moore Avenue; S Pavitt, 63 North Road; J Gorsham & S Frost, 1A Military Road; P Wright, 8 Old London Road; Mr A Beggs, Gresham House, Quarry Road; T Hixon, 9 Laudedale; Mr PF Christie,

Frenchman's Field, Sir John Moore Avenue, Mr & Mrs Cresser, 31 Military Terrace; Mr A Barber, 15 Military Terrace; Mr J Meek, 4 Redoubt Way, Dymchurch; Y Kuroczycki, L Whybrow, Mrs E Cooper, 36 South Road; Mrs A Earl, 66 Sir John Moore Avenue; Mr R Wolfe, 25 Corunna Close; Mr & Mrs Unsworth, 3 Brockman Crescent, Dymchurch; Hythe Civic Society; Mr C Double, 14 William Pitt Close; providing the following comments:

- Overshadowing, a loss of light and an overbearing impact to Military Terrace.
- Hazards to pedestrians and increased risks of traffic accidents, particularly at the junction between Military Road and Sir John Moore Avenue.
- Increased levels of noise, smells, litter and disturbance to Military Terrace from traffic, HGV movements and the service yard. The proposal will more than double the number of HGV movements along Sir John Moore Avenue, leading to noise and vibration disturbances to Military Terrace. If permitted it is vital that the operating hours of the store and service yard, and numbers of vehicles are conditioned and controlled by the Council.
- Development of a poor design and out of scale with the surroundings
- Loss of important trees
- Unacceptable impact on listed buildings and the conservation area.
- The proposed opening hours are unacceptable in a residential area and should be restricted to match that of Waitrose.
- There will be an increase in noise and air pollution in a small town of unique character.
- Whilst a contemporary approach may be preferable the proposal fails to enhance or conserve the character of the conservation area and is of a poor, box like design.
- The proposal will remove many of the trees from Military Road to the detriment of its attractive character.
- The proposal will remove on street parking from the corner of Military Road and Sir John Moore Avenue
- The proposed first floor element of the building will overlook gardens of Military Terrace.
- The proposed 2 hours free parking is not sufficient to encourage trips to the town centre.
- Hythe is not as big a town as Folkestone and therefore should not be compared as such in the retail hierarchy.
- The proposal fails to reflect the historic architecture, design styles or materials of Hythe.
- The existing buildings are an ugly architectural mistake from the 1970's. The same mistakes should not be made. Please allow Hythe to retain and reclaim its architectural identity.
- The removal of ALL trees to Military Road will be an environmental disaster for the area and of detriment to the Royal Military Canal and Conservation Area opposite.
- Military Road will fail to cope with the increased traffic movements, to the detriment of amenity and the environment.
- The Retail Impact Assessment does not stand up to scrutiny.
- There is no need for a new supermarket in Hythe, given its population and the fact it has 3 already.

- The proposal will have an unacceptable impact on the High Streets independent shops. Further, Hythe already has enough supermarkets – Waitrose, Aldi and Iceland. We do not need another.
- The proposal will account for 50% of the convenience retail floorspace within the town.
- The proposal will lead to a loss of parking for residents along Military Road.
- The site should have been developed by the Council as an indoor sports facility, or for the library and museum.
- The proposal could lead to unacceptable light pollution and disturbance.
- Where are the employees going to park?
- The proposal will bring new employment opportunities to the town and could attract further trade to the High Street.
- Whilst traffic may be an issue the site is adjacent to the main road and there do not appear to be similar problems for Waitrose.
- The proposal will help meet the needs of people living at the western end of Hythe who have to travel to Ashford to do their shopping.
- Whilst supportive of the principle the proposal should retain trees and increase planting.
- Living in Dymchurch we are forced to drive to the Park Farm Sainsbury's to get a "full shop" If the store offers similar services it may be used, if smaller then it would not offer more to people than the existing supermarkets.
- The proposal will bring more shoppers to the Hythe area and may influence other traders to take up the empty retail premises in the High Street
- Not all residents of Hythe have the luxury of a vehicle to take them to Folkestone, the proposal will be within walking distance and give some competition to Waitrose.

7.0 RELEVANT POLICY GUIDANCE

- 7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.
- 7.2 The following policies of the Shepway District Local Plan Review 2006 apply:
- SD1, S2, BE1, BE2, BE4, BE5, U2, U4, U10a, U15, TR5, TR6, TR11, TR12, TR13.
- 7.3 The following policies of the South East Plan 2009 apply:
- SP3, CC1, CC2, CC4, CC6, T4, NRM1, NRM4, NRM11, BE1, BE4, BE6,
- 7.4 The following Supplementary Planning Documents and Government Guidance apply:
- PPS1 – Creating Sustainable Communities
 PPS1 Supplement – Planning for Climate Change
 PPS6 – Planning for Town Centres
 PPS9 – Biodiversity and Geological Conservation
 PPG13 – Transport

PPG15 – Planning and the Historic Environment
PPS22 – Renewable Energy
PPG24 – Planning and Noise
Planning for Town Centres – Good Practice Guide on Need, Impact and the Sequential Approach (living draft)
Draft PPS4 - Planning for Prosperous Economies

8.0 APPRAISAL

General Principles

- 8.1 The site is located within the settlement boundary of Hythe and forms part of a mixed area of residential properties and commercial/business uses approaching the High Street. The site is to the immediate north of the Hythe High Street Conservation Area and Royal Military Canal and adjacent to a number of listed buildings. The site was formerly used by Smiths Industries as their commercial headquarters, providing office and research facilities, with a large service yard and service access to the rear of the site, as such it can be considered to have a "mixed use incorporating B1 (offices/research facility) and B8 (storage and distributions). Whilst having an employment use for over 30 years the site is not allocated as a designated employment use within the Shepway District Local Plan Review, nor are there any such policies within the Local Plan that seek to retain the employment use of unallocated or designated sites within the district.

Planning Policy

- 8.2 Government Advice contained in PPS6 – Planning for town centres sets out the approach that Local Authorities should take when assessing applications for town centre uses (including retail uses). The application site can be classified as an "edge of centre" site as it is situated 250 metres from the primary shopping area of Hythe. Paragraph 3.4 of PPS6 states that local authorities should require the applicant to demonstrate:

1. The need for the development
2. that the development is of an appropriate scale
3. that there are no more central sites for the development
4. that there are no unacceptable impacts on existing centres
5. that locations are accessible

- 8.3 In March 2009 the Government announced its intention to streamline national policy currently set out in draft PPS4 (sustainable economic development), PPS6 and PPS7 (planning for the rural economy). The interim Good Practise Guide (GPG) states that both qualitative and quantitative needs have a role to play, and identifies 3 key variables whether quantitative need is likely to arise. These are apportioning growth, existing baseline performance and existing market share. The GPG states that qualitative need is a more subjective concept, listing five relevant factors –

1. Deficiencies or gaps in existing provision;
2. consumer choice and competition;

3. overtrading, congestion and overcrowding of existing stores;
 4. location specific needs such as deprived areas and undeserved markets; and
 5. the quality of existing provision.
- 8.4 The GPG can be considered to echo the guidance within PPS6 and therefore qualitative and quantitative need, the sequential approach and the impact test are all required to be undertaken in assessing the application.
- 8.5 The South East Plan sets out the regional planning framework for the period 2006-2026. Policy SP3 seeks to focus development to existing urban areas, improving accessibility to employment, housing, retail and other services and to avoid unnecessary travel. Policy BE4 relates to the role of small rural towns (market towns), encouraging local authorities to initiate schemes and proposals that help strengthen the viability of small rural towns. Local authorities, through their local development documents and other means should:
- Support and reinforce the role of small rural towns as local hubs for employment, retaining and community facilities and services
 - Protect and enhance the character and appearance of individual small rural towns

Chapter 13 relates to town centres. This reiterates a number of the policies set out in PPS6, with paragraph 13.6 stating that "the development of dynamic and successful town centres is central to the achievement of sustainable development in the southeast....policies aim to distribute growth to middle and lower order centres to create a balance network of centres not overly dominated by the largest centres. Local centres are likely to be a focal point for some but not necessarily all development and should develop their distinctive features and nature."

- 8.6 The Shepway District Local Plan Review was adopted in March 2006, with a number of policies "saved" for continued use in February 2009. Policy S2 states that retail development should be located within existing town and district centres. Where suitable locations within centres are not available, edge of centre sites should be chosen. Where this is not possible, out of centre sites within the urban area may be acceptable. Proposals for retail development located outside town centres will only be acceptable where a number of tests are met (as set out in PPS6).

9.0 Retail Impact Assessment

- 9.1 The application has been supported by a comprehensive Retail Impact Assessment, which has been independently examined and reviewed on behalf of Shepway District Council by Roger Tym and Associates. A copy of their final report (August 2009) is available to download from the UK Planning website (www.ukplanning.com/shepway).
- 9.2 The site is located within an "edge of centre" location and is therefore subject to the full tests of PPS6 and the GPG set out in paragraphs 8.1 and 8.2 above. The Retail Impact Assessment submitted by the applicant includes analysis of a 6 zone study area, equating to a 15 minute drive time from the store of the following:

- Population data from MapInfo and Kent County Council. This identifies that the population of the study area in 2007 was 90,323, rising to 91,407 by 2017. Zone 1, which approximates to the urban area of Hythe has a population of 12,258 (2007) rising to 12,405 by 2017. All projections exclude any additional population growth brought about by future residential development in the locality.
- Convenience goods expenditure within the study area from MapInfo.
- Comparison goods expenditure within the study area from MapInfo.
- A telephone household survey, completed by NEMS market research, achieving 1,000 responses of households within the study area, completed in January 2009. The primary purpose of the survey to ascertain food and non-food shopping patterns for local residents.

9.3 The key findings of the applicant's Retail Impact Assessment were:

- 63% of residents travelled outside of Hythe to undertake their main food shopping with in excess of a third of residents (34%) visiting the Tesco store at Cheriton.
- Stores in Hythe do not attract main food shoppers in significant numbers from any other zone, with the exception of Waitrose which attracted just over 12% from zone 5 (Hythe rural).
- Overall the most visited main food shopping destination was the Tesco store at Cheriton, which attracted 22.5% of respondents, followed by Sainsbury's at Park Farm, Folkestone (21%).
- Within Hythe itself, the 3 main food stores within the town – Aldi, Iceland and Waitrose- together with local shops attracted approximately 37% of main food shopping trips from the Hythe zone (zone 1). Of that 37%– 22.5% was attracted to Waitrose (61% of expenditure from within Hythe).
- Of the respondents –
 - 78% undertook their main food shop by car.
 - 82% undertook their main food shop at least once a week.
 - 36% of people linked their main food shop with another activity.
 - Of these 36%, almost ½ of these 'linked trips' took place in Folkestone town centre
- Folkestone proved to be the most popular destination for all categories of non food shopping.

Independent Review of Retail Impact Assessment

- 9.4 Roger Tym and Partners (RTP) consider that the survey work and analysis which underpins the Retail Impact Assessment, together with the catchment area, population, expenditure rates, growth rates and other issues is appropriate for the application. The report then looks at each of the policy tests set out in PPS6, as follows:

1. Is there a need for the development?

- 9.5 At the time of the survey, on an annual basis, food stores in Hythe were retaining £17.3 million of convenience spend, equating to just 11.1% of the study area's convenience expenditure (£156.4 million). Even allowing for the fact that the catchment includes Folkestone, which is a higher order centre, such a retention

rate is surprising and, is not, in principle, sustainable. Inflow of expenditure into Hythe equates to £2.6 million.

- 9.6 Factoring the proposed Sainsbury's store increases the retained comparison goods expenditure to £39.4 million, with inflow of £6.5 million. This means that after factoring in the proposed development, food stores in Hythe would retain 24.7% of the total catchment expenditure. This is a significant increase from the existing 11.1%.
- 9.7 Whilst the catchment area used by the applicant corresponds to a 15 minute drive time to the proposed store this includes Zone 3 (Folkestone) and Zone 4 (Folkestone hinterland). It is unlikely that significant expenditure would be drawn from these catchments, given the presence of alternative superstores within the catchment areas. It therefore makes sense to consider the retention level and available expenditure, excluding zones 3 and 4, as set out in table 1 below.

	2009 Pre Sainsbury's	2014, including Sainsbury's (constant market share)
Catchment area expenditure (£m)	£94.5m	£96.4m
Retention level of Hythe Stores (%)	18.3%	40.9%
Retained expenditure (£m)	£17.3m	£39.4m
Inflow (£m)	£2.6m	£6.6m
Turnover of existing stores (£)	£19.9m	£20.5m
Allowance for overtrading (£)	£5.9m	£5.8m
Residual expenditure (£)	£5.9m	£31.3m

Table 1 - (adapted from table 4, p9, Review of RIA, RTP August 2009)

- 9.8 The information set out in table 1 above identifies that the retention rate of convenience goods expenditure in Hythe, excluding zones 3 and 4 increases from 18.3% to 40.9%, with retained expenditure increasing by £22.1 million. The proposed store has an estimated convenience turnover from all catchment areas of £21.8 million. Thus it can be concluded that there remains sufficient expenditure to support the proposed store without drawing expenditure from zones 3 and 4 to the store.
- 9.9 In respect of comparison goods Hythe only retains £14.5 million of comparison goods expenditure within the district, far less than half that spent by the occupants of Hythe (zone 1) alone – £39.3 million. As such the 20% of comparison goods floor space proposed (667sq/m) can easily be supported by the occupants of zone 1 alone.
- 9.10 RTP therefore concludes that there is quantitative need for a new large foodstore in Hythe. Whilst the store proposed is at the upper end of convenience need the Retail Impact Assessment results make a strong case. RTP appreciates there is a case for a modest quantum of comparison floor space in a modern foodstore, which can be controlled via condition should permission be granted.

- 9.11 The three main foodstores operating in Hythe are the town centre Iceland and Aldi and the edge of centre Waitrose. The applicants consider there is no 'mid range' supermarket in Hythe, with Aldi and Iceland a lower ranking stores and Waitrose as a high ranking store. This is a reasonable stance to take and it is clear from the survey that the majority of residents undertake their main food shopping outside of Hythe. RTP thus agrees that there is a qualitative deficiency in Hythe and the proposed foodstore will help to meet this need.

2. Is the scale of the development appropriate?

- 9.12 The applicants consider that residents in Hythe travel greater distances to larger stores elsewhere. In order to bring about a change in shopping patterns therefore it is necessary for the development to provide a store of the same broad scale as stores in Ashford and Folkestone.
- 9.13 At present Hythe has 3 main food foodstores, providing an estimated 1,756 square metres convenience floor space. The proposed Sainsbury's store has a net convenience floor space of 2,841 square metres. If built, this store would represent 60% of the convenience floorspace in main stores within the town (centre and edge). At an estimate RTP consider that the proposal would account for approximately 50% of the total convenience goods floor space in the town (centre and edge).
- 9.14 The issue of scale needs a careful approach. On the one hand the proposed foodstore represents a very significant increase in convenience floorspace within Hythe and will have a large impact on trade draw. On the other, Hythe functions as the second largest centre in the district, the towns existing stores are of only modest size and the proximity of the store to the town centre will encourage linked trips to the town centre. RTP expects a smaller store of between 2500-3000 sq/m could still accommodate the range of goods to achieve a shift in shopping patterns, however this reduction of approximately 500 sq/m would not necessarily materially influence the scale argument and we consider there are arguments that support the proposition that the store would relate to the role and function of Hythe in the wider hierarchy of centres.
- 9.15 Taking an holistic approach, bearing in mind the opportunity to reduce expenditure leakage, the sites edge of centre status, the potential for linked trip spending and the effective role of Hythe as the second largest centre in the district means that RTP are satisfied that the scale test has been met.

3. Are more central sites available – has the sequential test been passed?

- 9.16 PPS6 makes it clear that all options within the town centre should be explored before less central sites are considered. Policy S2 of the Shepway Local Plan Review states that development outside town centres will only be appropriate where alternative sites higher up the search sequence have been thoroughly investigated. As the application site is "edge of centre" this means that all town centre sites should be thoroughly assessed by the applicants.

- 9.17 The applicants state that the site is a 3 to 4 minute walk from the nearest part of the primary shopping area of Hythe, the western end of Hythe High Street. The applicants consider that the site is excellently located to maximise linked trips to the town centre.
- 9.18 The applicants have undertaken an assessment of sequential site possibilities. This shows that the only site in the town centre with the possibility of accommodating a foodstore is the car park associated with the Aldi foodstore. The conclusion drawn is that there are no sequentially preferable sites on which the proposed foodstore could be accommodated.
- 9.19 RTP agrees with the applicants that the site is potentially a 3-4 minute walk to the primary shopping frontage, with Military Road providing a pleasant, flat easy route into the town centre. There is no need for pedestrians to cross a major road to access the town centre, although the High Street is not visible from the site. RTP agrees with the applicant that the application site provides, in principle, a good opportunity to facilitate linked trips to the town centre.
- 9.20 It is clear that the only available town centre site available is too small to accommodate either the convenience or comparison floorspace, nor is the site suitable for such development. Based on our own survey work we agree that there are no suitable town centre or edge of centre sites which are preferable to the application site.

4. Will the proposed development have an unacceptable impact on existing centres?

- 9.21 PPS6 requires Impact Assessments for any application for a main town centre use proposed on an edge of centre site. Policy S2 of the Shepway District Local Plan Review also states that "proposals for retail development outside of town centres will only be acceptable where the development would not....have a detrimental impact on the vitality and viability of any nearby centres, or prejudice the prospect for further investment."
- 9.22 The impact assessment provided by the applicant addresses the convenience trade aspect of the store and does not focus on the comparison trade impact. The applicants estimate a number of impacts on existing stores by 2014 (% of total store turnover), the most relevant being:
- Waitrose, Hythe -25%
 - Aldi, Hythe -13%
 - Iceland, Hythe - 7.6%
 - Sainsbury's, New Romney -18%
 - Sainsbury's, West Park Farm -18%
 - Tesco Folkestone -17%

Of the town centre stores within Hythe, it is estimated that Aldi will be impacted upon by 13% and Iceland by 7.6%. As Waitrose is an edge of centre site (like the application site) it has no policy protection, nor do the edge of centre and out of centre stores in New Romney and Folkestone.

9.23 WYG's Retail Impact Assessment states that all 3 of Hythe's food stores are overtrading above company average. The total convenience impact upon the town centre stores of Aldi and Iceland is given as 12%, or £0.8 million. The applicants suggest that this would be mitigated by linking trips from the proposed store to the town centre.

9.24 RTP considers that, following a visit to the town centre that Hythe is performing well and provides a positive centre. RTP agree with the applicant that the largest convenience impact would be felt by Waitrose in Hythe. The judgement that the impact on Aldi and Iceland would be less than that on Waitrose is also reasonable as they both provide a materially different offer. No assessment is provided by the applicant of the impact upon other, smaller convenience stores in the town centre. RTP expect there to be some draw from these stores to the proposed superstore and this should have been included within the Retail Impact Assessment. To balance this, the applicants have not accounted for any "spin off" trade that is likely to occur as a result of the development. RTP consider that two factors are likely to lead to an increase in spin off trade from the proposed development. First, the linkages between the proposal site and the town are potentially excellent. Secondly, the household survey has indicated that 36% of people undertake a linked trip with their main food shopping. Taking these two factors together RTP consider that there is a strong possibility that the proposed store would increase turnover of other businesses in the town centre, with the likelihood that new linked trips will at least counter-balance the loss of footfall due to impact, subject to satisfactory controls over the proportion of non-food goods sold from the store.

9.25 RTP considers that in order to satisfy that linked trips will take place between the proposed store and town centre funding should be secured to improve the public realm. RTP consider that the impact of the store is likely to be benign or positive, depending on the linked trip spend that occurs. The wider benefits of more sustainable patterns of movement, improved competition from a new store and linked trip expenditure means that RTP consider the impact of the proposed store acceptable, subject to satisfactory controls over the proportion of floorspace devoted to comparison goods and potential improvements to the public realm to encourage linked trips between the store and the town centre.

5. Conclusions of Independent review of the Retail Impact Assessment

9.26 In summary RTP consider that –

- Whilst the RIA has some omissions these do not materially affect our ability to make an independent judgement on the retail policy case put forward by the applicant.
- On the evidence submitted RTP conclude that the application successfully meets the requirements of PPS6 and S2. These conclusions are based upon the comparison floorspace and the services offered by the store being controlled by condition.
- On balance RTP advise that should the Council decide to approve the application, planning conditions are imposed that control the net floorspace of the store, the proportion of floorspace devoted to comparison goods, the

extent of retail services offered and the range of comparison goods sold from the store.

- The Council may also wish to consider securing funding from the applicant, via a s106 agreement public realm improvements to provide the Council with further confidence that linked trip spending between the new store and existing businesses will take place.

9.27 It is your officer's opinion that the independent review of the Retail Impact Assessment completed by Roger Tym and Partners has provided a robust analysis of the proposed development and its findings should be given significant weight when considering the policy requirements of the development.

9.28 A number of representations (see paragraph 6) have raised concerns over the validity and extent of the survey work accompanying the Retail Impact Assessment, upon which a large extent of the analysis is based. The survey methodology, study area and findings have been independently assessed by RTP. Further, a similar study, covering a similar study area was completed in July 2008 in support of application Y09/0681/SH. Comparison of the two, separate and independent household surveys finds that –

- Total expenditure within the Hythe area, from residents of the Hythe area is nearly identical for the 2 surveys.
- Retention of expenditure on convenience goods within Hythe is less than 50%.
- The vast majority of leaked expenditure (approx 80%) is being spent in Folkestone.
- Of this leaked expenditure from Hythe to Folkestone, over half is spent at Tesco, Cheriton, accounting for over 20% of the stores turnover.
- The expenditure from within the Hythe area accounts for the significant majority of turnover for the Waitrose, Aldi and Iceland stores.

10.0 Character, Layout, Scale, Appearance, Visual Impact and Amenity

10.1 Policy BE1 of the Shepway District Local Plan Review states that a high standard of layout, design and choice of materials will be expected for new development. Materials should be sympathetic to those predominantly locally in type, colour and texture. Development should accord with existing development in the locality, where the site and surrounding development are physically and visually interrelated in respect of building form, mass, height and elevational details.

10.2 Kent Design seeks to ensure that development respects the context and character of an area by:

Respecting the scale, street patterns, landscape, local materials, colours, style and detailing of surrounding areas, carefully managing differences in building and eaves height and including public areas that draw people together, creating a sense of place.

10.3 Policy BE4 of the Shepway District Local Plan Review seeks to ensure that the height, scale, form and materials of new development respect the character of the

conservation area, retaining its historic pattern, building lines, open spaces, footpaths and kerb lines which are essential to its appearance.

- 10.4 Policy BE5 of the Local Plan, expanding on advice contained within PPG15 seeks to ensure that development does not adversely affect the character or setting of a listed building.

11.0 Layout

- 11.1 The proposal seeks to locate the supermarket to the eastern half of the site, with the frontage of the store facing across the car park to the west. The 267 space car park accounts for approximately half of the site, with the store, back up area and service yard occupying the other half. The store has been located to the eastern side of the site so as to utilise a similar position to the existing service access from Sir John Moore Avenue and maximise its proximity to the High Street.
- 11.2 English Heritage has suggested that the location of the store and car park could be swapped so as to reduce the impact of the proposed development upon Military Terrace, from the building itself and the service yard. The applicants consider the existing layout is appropriate. It is your officer's view that, on balance, and considering the considerable amendments to the scheme including setting back the car park to allow for the retention of existing trees, the importance of seeing the active store frontage on approach from the west (rather than the service yard) and the reduction in height and removal of the 'online area,' the proposed layout is not of detriment to the character and setting of the adjacent listed buildings, Conservation Area and Scheduled Ancient Monument.

12.0 Scale, Bulk and Massing

- 12.1 At an early stage in negotiation with the applicant Officers have been keen to reduce the ground level across the site so as to reduce the height of the new retaining wall to the frontage with Military Road. Investigation by the applicant has been reviewed by the Council's Senior Structural Engineer who agrees that the slope stability cannot be compromised by the development. This has obvious implications regarding the scale, bulk and massing of the store itself, and the car park to the west of the site.
- 12.2 Since submission the scheme has been significantly amended in order to reduce the bulk and visual impact of the proposal when viewed from Military Road. In particular the car park area has been set further back into the site to allow for the retention of a significant number of trees to the frontage, with the car park set behind a sloping grass bank, retaining the openness of the prominent western side of the site when approaching from Military Road.
- 12.3 This is particularly important when considering the impact of the proposed development upon the pedestrian environment. Currently Military Road has an open character due to the set back of the large existing buildings into the site and the number of trees in place along the frontage. The application now seeks to retain this openness (and landscaping) between the car park and pavement, with all existing trees retained along this 80 metre long section of the site.

- 12.4 The frontage of the store is set back from the pavement by a minimum of 3 metres, with the majority set back by over 5 metres from the pavement, allowing for tree planting to the frontage. Two sections of the store frontage are just 3 metres from the pavement – the pedestrian ramp and stair and two storey elements. It is considered that these two sections will be highly prominent within the street scene and could, in isolation be considered of detriment to the pedestrian environment and wider street scene as a whole. That said, when viewing the proposal in its entirety along the pavement frontage it is considered that the combination of set backs, retained trees, additional planting and the Kentish ragstone wall will ensure that the pedestrian environment and wider street scene character is preserved.
- 12.5 The store itself has been substantially reduced in height, and can now be considered of a modest scale, mainly single storey in form, reducing in height towards Military Terrace. At its highest point the store is 10.4 metres above the pavement level of Military Road, significantly lower than the tallest existing building at the site (15 metres above pavement level). The majority of the building is 8.4 metres above the pavement level, with the eastern end of the building 7.2 metres above the pavement level. The height of the majority of the building is therefore less than 2 metres higher than the existing single storey buildings at the site, including the additional height resulting from the raising of the ground levels across the site.
- 12.6 In order to reduce the bulk of the store and retaining wall structure, a traditional Kentish ragstone wall is proposed along the frontage of the development, with the store set slightly back, behind the wall. The incorporation of a ragstone wall, a traditional material to Hythe helps reduce the bulk of the proposed store by providing visual differentiation with the more contemporary building. Over time it is considered that the store will appear as a newer addition to the site, with the wall below blending into the wider historic environment of Hythe.
- 12.7 The building has a long southern elevation fronting Military Road, by varying the height of the building, the materials used and the incorporation of landscaping features its horizontal mass is, to an extent reduced, whilst at street level the use of the Kentish ragstone wall gives the building texture and helps assimilate the development into the locality.
- 12.8 The western elevation forms the front elevation of the store, with pedestrian access to the southern corner adjacent to Military Road. The store is single storey in height to this frontage, with a low roof height of 5.4 metres above the ground level of the car park. Whilst extending across the depth of the site, the store is therefore considered to be of a low bulk and mass when viewed from the west of the site and the car park. The use of glazing to this elevation further reduces its visual bulk.
- 12.9 The eastern elevation of the store will be prominent from Sir John Moore Avenue, Military Terrace and when walking west along Military Road. Given the sunken ground level of Military Terrace this section of the building has the lowest roof level, at a maximum 7.2 metres above the road level (reducing as Sir John Moore Avenue ascends to the north). This section of the building has been set back from the frontage and reduced considerably to allow for greater physical separation

from Military Terrace, the result being that a distance of 17 metres is maintained to the service yard acoustic wooden fence and 21 metres to the building itself, with landscaping to the junction of the road providing screening and further separation.

12.10 It is considered that, by removing the 'online' element of the service yard, setting the building line back to match that of Military Terrace and reducing the height of the building to 1.2 metres above that of the Terrace the proposed development will not result in harm to the setting of the listed Military Terrace. In making this assessment the comments of English Heritage have been considered. These comments relate to earlier plans. The final proposal is now 1.2 metres lower than that commented on by English Heritage and it is your Officers' opinion that, on balance these final amendments are sufficient to overcome the concerns raised in this representation to the extent that the proposal will have a neutral impact on the setting of Military Terrace. By reducing the height of the store by up to 1.2 metres, the proposal will also be considerably lower in relation to the listed Hay House to the north and Royal Military Canal to the south, both of which are separated by considerable landscaping and changes in ground levels from south to north.

12.11 Taking all of the above factors into account, including representations received from neighbours and English Heritage it is your officers' opinion that overall the proposed development would not adversely affect the setting or character of adjacent listed buildings and Scheduled Ancient Monument nor would it be harmful to the existing character and appearance of the Conservation Area. It is therefore considered the proposal meets with the requirements of policies BE4 and BE5 and government advice contained in PPG15.

13.0 Amenity

13.1 The proposed development is located within close proximity to Military Terrace, Hay House and a number of other properties located within Sir John Moore Avenue. The site has an existing B1/B8 historic mixed use comprising of a combination of office uses, research and development, manufacturing and storage and distribution. Whilst this use has declined over the last 3 years and recently ceased altogether the application must be compared against the existing lawful use of the site when considering the impact of the proposal upon residential amenity.

13.2 Analysis of previous planning applications and neighbour representations identifies that the existing use generated significant HGV and other service vehicle movements into the service yard via Sir John Moore Avenue. At present the number and timings of vehicle movements are entirely unrestricted. Neighbours have suggested that Smiths Industries previously experienced 8 HGV deliveries per day, with occasional peaks beyond this at times of increased output.

13.3 The following hours of operation have been suggested by the Technical and Health Manager so as to ensure that the residential amenity of nearby residents are protected:

Opening Times

0800 hrs to 2200 hrs Monday to Saturday

1000 hrs to 1600 hrs Sunday

Delivery Times

0730 – 2230 M-S, 0930 -1700 S, BH

No service yard activity between 2300 -0700 Monday to Saturday, and before 0900 and after 1800 on Sundays and bank holidays.

The above operating hours, together with the control of noise and the management of the service yard can be controlled through the imposition of conditions which would offset the unacceptable impact of the development. It is therefore considered the proposal will not result in a significant loss of residential amenity for occupants of neighbouring properties due to unacceptable levels of noise and disturbance.

13.4 A further amenity issue is whether the proposed development is overbearing and oppressive to neighbouring properties or results in the overlooking of such properties or their gardens. The store would be largely screened from properties to the rear of the development due to the significantly higher ground level of these dwellings. The narrow two storey element of the proposal, housing plant, is over 23 metres from these properties. To the east of the site Military Terrace is 16.5 metres from the service yard and over 21 metres from the side elevation of the store itself. The single storey element of the store adjacent to Military Terrace is 7.2 metres in height above pavement level, a similar height to the terrace itself (6.0m). The two storey element of the store, measuring 10.4 metres above pavement level is located 35 metres from the terrace, a sufficient distance to avoid any overshadowing or overlooking.

13.5 Given the above assessment it is considered, that on balance the proposed development would not lead to a significant loss of residential amenity to neighbouring residents that would warrant the refusal of the application, providing appropriate conditions are put in place to regulate the opening and operating hours of the store and service area.

14.0 Highways, Access and Transport

14.1 The site is located within a central location within a short walking distance of the High Street and many residential properties. Level access is available along Military Road, whilst directly opposite the site is a footbridge crossing the Royal Military Canal. The proposal includes the provision of a pelican crossing across Military Road, improving pedestrian access and movement associated with the store. Ramped and stepped access is provided to the store, directly from Military Road.

14.2 Military Road is located on the principle bus route through Hythe, with services connecting to the Romney Marsh, Folkestone, Ashford and Canterbury, as well as local villages. Services that stop on Military Road include 10, 10a, 16, 101, 102 and 160 and therefore the superstore would be well served by existing public transport provision.

14.3 Kent Highways have raised no objection to the proposal, subject to a number of conditions including the provision of a travel plan for staff. The proposal meets with Kent Highways maximum standards for retail developments, including parking for mobility scooters, motorcycles and cyclists. Whilst staff vehicular parking is not provided the superstore is centrally located within walking and cycling distance of

many properties, is well served by bus services that extend into the evening and within Military Road itself there is unrestricted car parking available.

- 14.4 In order to allow for appropriate visibility the restriction of parking at the corner of Sir John Moore Avenue and Military Road, adjacent to Military Terrace would need to be enforced by either kerb build outs or a traffic regulation order to add double yellow lines. Kent Highways Services have confirmed that parking at a junction is illegal and therefore the proposal should not lead to the loss of any legal on street public parking.
- 14.5 A number of residents have raised concerns regarding the increase in traffic using Military Road. Military Road is the principle eastbound 'A' road through Hythe. The proposal was submitted with a full Transport Assessment which has been assessed by Kent Highways. The testing within the Transport Assessment was carried out with the assumption that no improvements have been made to Scanlon's Bridge Road and Nickolls Quarry has not been developed. It was then further tested with the Nickolls Quarry development and the junction improvements subject to the Section 106 Agreement tied in to that development. Kent Highways have confirmed that subject to appropriate conditions they have no objection to the development and therefore an objection to the proposal on highway grounds would be unreasonable and undefendable.

15.0 Landscaping

- 15.1 Following amendments to the proposed development objections regarding the loss of landscaping and existing trees have been withdrawn by the Contracts Manager. It is considered that the development, which retains all trees identified as "category A" and 22 of the 28 "Category B" moderate quality trees ensures that sufficient landscaping is retained to the Military Road and Sir John Moore Avenue frontages. The planting of trees and other landscaping can be controlled and retained via conditions.

16.0 Sustainable Construction and Energy Use

- 16.1 Policy CC4 of the recently adopted South East Plan states that the design and construction of all new development, and the redevelopment and refurbishment of existing building stock will be required to adopt and incorporate sustainable construction standards and techniques. Policy NRM11 requires all major developments of 1000 sq/m or more to provide at least 10% of energy used via decentralised zero or low carbon sources.
- 16.2 The applicant have provided a renewable energy assessment in support of the development in order to comply with the above policies. This demonstrates that, by incorporating low and zero carbon technologies on site a CO₂ emission saving of 10% can be achieved, reducing emissions from 959,682 kg/per annum to 863,876 kg per annum. In addition to the reduction in CO₂ emissions the development is also required to incorporate methods of sustainable design and construction. Supporting documentation demonstrates that the proposal will meet an overall BREEM "very good" rating. By incorporating 10% on site low/zero carbon technologies the proposal would also achieve an "excellent" BREEM rating for energy.

- 16.3 Given the above, and subject to an appropriate condition, it is considered the proposal meets with the relevant development plan policies regarding sustainability and the incorporation of low/zero carbon technologies.

17.0 Matters to be Covered by S106 Agreement

- 17.1 As set out in the Retail Impact Assessment and assessed in the independent review of this document carried out for the Council by Roger Tym and Partners (RTP) it is considered that for the proposal to have an acceptable impact upon the High Street it is vital that linked trips are encouraged.

- 17.2 Annex B of Circular 05/05 states that planning obligations are intended to make developments acceptable which would otherwise be unacceptable in planning terms, including mitigating against the impact of the development.

A planning obligation must be:

- (i) relevant to planning;
 - (ii) necessary to make the proposed development acceptable in planning terms;
 - (iii) directly related to the proposed development;
 - (iv) fairly and reasonably related in scale and kind to the proposed development;
- and
- (v) reasonable in all other respects.

- 17.3 Hythe Town Council have made a number of suggestions for items that could form part of the legal agreement. These are set out in full in paragraph 4.1 of the report. It is considered that, of these 8 items, number 1 the provision of an event fund for administration by the Town Council and numbers 2-6 meet with the tests set out above.

- 17.4 A draft section 106 agreement has been progressed with the applicant, with the following contribution agreed -

"The sum of £200,000 to be provided to be used for Town Centre Purposes to include:

1. The establishment of a fund to enable the holding of public events in Hythe Town Centre (such fund to be administered by Hythe Town Council and Shepway District Council) for a minimum period of 3 years.
2. Public realm improvements within Hythe Town Centre, to include road, pavement, street and decorative lighting, street furniture, public art and signage improvements.

- 17.5 It is considered that the above sum will offer significant opportunities for the funding of additional events within the High Street (for example £30,000 to be spent on events over 3 or 5 years) with a significant contribution (£170,000) towards public realm and street scene improvements to the High Street and the pedestrian environment between the superstore and the High Street. The precise nature of the public realm improvements will need to be agreed by the Council however the priority for funding will relate to improvements to the pedestrian street surface, lighting, landscaping and furniture within the High Street.

17.6 The above contribution has been achieved following substantial negotiation with the applicant and it is considered to represent a good contribution that will allow for a range of town centre improvements to maximise linked trips to the High Street. In addition to the above contribution the s106 agreement provides funding for the monitoring of the agreement and the Travel Plan required by Kent Highways Services.

18.0 Human Rights

18.1 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

18.2 This application is reported to Committee due to the local significance of the development.

19.0 Summary

19.1 The proposed development seeks planning permission for the erection of a 5573 square metre retail superstore, together with associated engineering operations, car parking, delivery yard and vehicular access.

19.2 The proposed development is located at the former Smiths Industries site on Military Road which has a mixed unrestricted B1 (office/light industrial/research and development) B8 (storage and distribution) use that has been established for over 30 years. The application site is not afforded protection as Employment Land by the Shepway District Local Plan Review, nor other Development Plan policy.

19.3 The site is classified as an "edge of centre site" under the criteria of Planning Policy Statement 6 (PPS6), which sets out a number of tests which must be met in order for the proposed development to be considered acceptable. The application is supported by a Retail Impact Assessment and has been independently reviewed on behalf of Shepway District Council by a Retail Planning Consultant, Roger Tym and Partners (RTP).

19.4 The independent review of the Retail Impact Assessment concludes that whilst the RIA has some omissions these do not materially affect the ability to make an independent judgement on the retail policy case put forward by the applicant. On the evidence submitted RTP conclude that the application successfully meets the requirements of PPS6 and policy S2 of the Local Plan. These conclusions are based upon the comparison floorspace and the services offered by the store being controlled by condition. On balance RTP advise that should the Council decide to approve the application, planning conditions are imposed that control the net floorspace of the store, the proportion of floorspace devoted to comparison goods, the extent of retail services offered and the range of comparison goods sold from

the store. The Council may also wish to consider securing funding from the applicant, via a s106 agreement public realm improvements to provide the Council with further confidence that linked trip spending between the new store and existing businesses will take place. It is your officer's opinion that the Independent review of the Retail Impact Assessment submitted in support of the application is robust and therefore compliance with PPS6 and policy S2 of the Shepway District Local Plan Review has been demonstrated by the applicant.

- 19.5 The s106 legal agreement is currently under negotiation with the applicant. Hythe Town Council, who support the application have made a number of suggestions for items that could form part of the legal agreement. Having considered these suggestions against the requirements of circular 05/05 a contribution of £200,000 has been agreed with the applicant to provide the funding of events within Hythe High Street to attract additional visitors and trade to the town centre and public realm improvements to the High Street area to enhance the environment. It is considered that the contribution, together with other conditions will encourage linked trips to the town centre and help maintain its vitality and viability.
- 19.6 The application site is adjacent to the listed properties of Hay House and Military Terrace. Further, directly opposite the application site is the Hythe Town Centre Conservation Area and Scheduled Ancient Monument, the Royal Military Canal. English Heritage have objected to the proposal due to the impact of the development upon the setting of the Royal Military Canal and listed properties. It is your officer's view that, on balance, and considering the considerable amendments to the scheme, including setting back the car park to allow for the retention of existing trees, the importance of seeing the active store frontage on approach from the west (rather than the service yard) and the reduction in height and removal of the 'online area' the proposed layout is not of detriment to the character and setting of the adjacent listed buildings, Conservation Area and Scheduled Ancient Monument.
- 19.7 The proposed development exhibits a contemporary, linear design, predominantly single storey in form. Whilst not of special architectural merit it is considered that the design approach seeks to provide an unassuming structure that minimises impact on the surrounding area and exhibits a range of materials appropriate to the locality, the precise appearance of which can be controlled by condition. Considering its use the building can be considered to have a limited bulk and mass. The site consists of an historic landslip, with levels to the rear of the site set by a large retaining wall. The applicant has demonstrated to the satisfaction of Officers that the excavation of the site could lead to a reduction of slope stability to the north, and therefore the proposal seeks to increase the ground level across the site, with a retaining wall formed to the frontage with Military Road. Following significant negotiation with Officers amendments to the scheme have been made so as to retain a significant number of existing trees along the Military Road frontage, set the car park further into the site behind a graded grass slope, amend the plinth material to a Kentish ragstone wall, remove the 'online' area to the east, set the store further back into the site to allow for a verge of 5 metres for much of the building and reduce the height of the building by 1.2 metres. It is considered that following these amendments the proposed development is of a design, bulk, mass and scale that is appropriate to the locality and would not be of detriment to

the setting or character of the Conservation Area, adjacent listed buildings or the Royal Military Canal.

19.8 Access to the proposed development is provided directly from Military Road, with service and delivery access from Sir John Moore Avenue. Kent Highways raise no objection to the proposal, which allows for access from a variety of modes of public and private transport. The existing use of the site has no restrictions in place regarding operation and deliveries. Following negotiation with the applicant opening and service/delivery hours have been agreed which will ensure that the proposal will not result in a loss of residential amenity by reason of noise and disturbance, such details to be controlled via condition.

19.9 Given the assessment discussed in all sections of this report it is considered the development meets with established development plan policy and is recommended for the granting of planning permission.

20.0 BACKGROUND DOCUMENTS

20.1 The consultation responses set out at Section 1.0 and any representations at Section 3.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION –Y08/1212/SH - That the Head of Planning Services be given delegated authority to grant planning permission, subject to the completion of a legal agreement to secure improvements and funding to encourage linked trips to the High Street. The permission to be subject to the conditions set out at the end of the report including any revisions or additions the Head of Planning Services may consider appropriate.

1. Standard 3 year condition.
2. Prior to the commencement of development details at a scale of 1:20 of all eaves treatments, the entrance canopy, windows, doors, external vents (including venting to roofs), ballustrading, railings, the plinth detail and other external fittings to the building shall be submitted to and approved in writing by the Local Planning Authority and no further alterations shall be made without subsequent prior approval.
3. All external Materials (including the submission of sample panels and a construction methodology for the Kentish ragstone wall)
4. BREEAM "very good" standard.
5. 10% on site energy generation from zero/low carbon sources.
6. No part of the foodstore hereby permitted shall be brought into first use unless and until a detailed Waste Management Plan (WMP) has been submitted to and approved by the Local Planning Authority. The detailed WMP shall cover the

entire operation of the store and will include how the following matters are addressed:

- i. Separation of waste
- ii. Recycling of waste packaging
- iii. Recycling of waste food stuffs

The approved details shall be implemented at the store hereby permitted and shall thereafter be maintained, unless otherwise agreed by the Local Planning Authority.

7. The foodstore hereby permitted shall not be open for trading outside the hours 0800 to 2200 Monday to Saturday and 1000 -1600 on Sundays unless otherwise agreed by the Local Planning Authority.
8. No deliveries shall take place to the store between 2230 and 0730 Monday to Saturday and 0930 -1700 on Sundays and Bank Holidays and there shall be no unloading activity within the service/delivery yard between 2300 -0700 Monday to Saturday and after 1800 on Sundays and Bank Holidays unless otherwise agreed by the Local Planning Authority in writing.
9. Prior to the commencement of development 1:50 drawings of any external trolley storage areas and shelters shall be submitted to and approved in writing by the LPA. All trolleys shall be stored within the approved locations which shall not be varied without the prior approval of the LPA.
10. Prior to the commencement of development details of all external lighting to the foodstore building and car park shall be submitted to and approved in writing by the LPA, such scheme as approved to be implemented at the time of development and no additional lighting shall be installed at any time without the prior approval of the LPA.
11. Prior to the commencement of development a management plan for the operation of the car park to allow for its reasonable, uncharged short term use by the general public, for a minimum of 2 hours shall be submitted to and approved by the LPA, such measures as approved to be implemented at the time of the first opening of the premises to the general public and permanently retained thereafter.
12. Prior to the commencement of development, details of proposals for the provision of in-store information to members of the public regarding shopping opportunities in the High street shall be submitted to and approved in writing by the LPA, such measures as approved to be implemented at the time of the first opening of the premises to the general public and permanently retained thereafter.
13. Prior to the commencement of development, details of noise attenuation measures and management arrangements for the service yard, delivery vehicles and external plant and equipment shall be submitted to and approved in writing by the LPA, such measures as approved to be implemented prior to the first use and retained thereafter.
14. The net retail sales area of the foodstore hereby approved shall not exceed 3508 sq/m without the prior approval of the local planning authority.

15. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking or re-enacting that Order) the foodstore hereby permitted shall be used primarily for the sale of convenience goods and at no time shall more than 20% of the net retail sales area hereby approved be used for the sale of comparison goods without the prior written approval of the LPA.
16. No part of the store hereby permitted shall be used as a café, coffee shop, restaurant, pharmacy or offer dry cleaning services, key cutting services, shoe repair, photographic services, opticians, or post office counter services without the prior written approval of the Local Planning Authority
17. Prior to the commencement of development details of secure, covered cycle parking facilities for staff and customers shall be submitted to and approved by the Local Planning Authority in writing. The development shall thereafter be carried out in accordance with the approved details and the facilities provided shall be retained for cycle storage thereafter.
18. Prior to the commencement of development full details of acoustic enclosures for the air conditioning and condensing units shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first use of the retail unit and retained and maintained at all times.
19. No additional openings
20. Notwithstanding the provisions of the Town and Country Planning Control of Advertisement Regulations 1992 Schedule 3 part 1 Class J no advertisements shall be placed within 1 metres of any of the ground floor level windows to the foodstore contained within the south facing and south west facing "feature glazed corner" of the approved building and all glazing to such windows shall only be installed as clear glazing which shall thereafter be retained in perpetuity and shall not be obstructed at any time, unless otherwise agreed in writing by the LPA
21. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority including an implementation programme and maintenance schedule. The details submitted shall include indications of all existing trees on the land and details of any to be retained together with measures for their protection in the course of development. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule.
22. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation and maintenance programme.

23. No development shall take place until full details of a biodiversity enhancement scheme have been submitted to and approved in writing by the Local Planning Authority including an implementation programme and maintenance schedule. The details submitted shall incorporate features which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The enhancement scheme shall be carried out in accordance with the approved details. The enhancement scheme shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
24. No development shall take place until the applicant, or their agents or successors in title, has secured the implantation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.
25. No development shall take place until measures to prevent debris and spoil being deposited on the public highway have been submitted to and approved by the Local Planning Authority in writing and installed and maintained in a functioning condition in accordance with these approved measures during the construction works. Any spoil or debris deposited on the public highway shall be cleared by the applicants or contractors as soon as is reasonably practicable.
26. Details of acoustic fence and solid gates to be provided to service yard to be submitted to the LPA for approval prior to the commencement of development
27. Prior to works commencing full details of the demolition and construction works environmental management plan shall be submitted to the local planning authority for approval.
28. Prior to the first opening to the public of the superstore hereby approved the plaque commemorating the former musket school shall be relocated in a position of public prominence, the location of which shall first be submitted to and approved by the LPA in writing.
29. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority.
 1. A preliminary risk assessment which has identified:
 - All previous uses
 - Potential contaminants associated with those uses
 - A conceptual model of the site indicating sources, pathways and receptors
 - Potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant images, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved

30. Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.
31. If, during development, Contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
32. Root protection measures for trees to be retained on site
33. Foundation details of proposed retaining wall to military road frontage
34. no external storage outside of designated service yard
35. Details of any trolley lock or similar system to prevent trolleys being taken outside of the car park to be submitted and approved and implemented prior to first use.
36. Full details of the proposed surface water drainage and sewage disposal arrangements shall be submitted to and approved by the Local Planning Authority before the development commences. The approved scheme shall be carried out prior to the occupation of the buildings and maintained in a functional condition.
37. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

38. The development hereby permitted shall be carried out in complete accordance with the details shown on the submitted plans, numbers:

- 7495-000 – Site location plan
- 7495-002 'c' – Proposed site plan
- 7495-003 'a' – Proposed store plan
- 7495-004 'c' – Proposed elevations
- 7495-005 'a' – Site sections
- 7495-006 'a' – Proposed roof plan
- 7495-008 – Topographical survey
- 7495-009 'a' – Stair, plinth and planter details

39. Visibility splays to be agreed with KHS.

40. Details of a surface water attenuation scheme shall be submitted to and approved by the local authority prior to the commencement of any development works.

41. Before the new accesses are made available for use a scheme for the permanent closure of the existing accesses shall be submitted to and approved by the Local Planning Authority and the approved scheme shall be implemented before the new access is made available for use

42. Prior to the commencement of any work, including site clearance works, details of a method of construction, including times of working, siting of compounds, site personnel parking and lorry routing shall be submitted to and approved by the Local Planning Authority and the construction of the development shall not be carried out otherwise than in strict accordance with the approved details.

43. Prior to the first opening of the retail store hereby permitted, the provision of a pelican crossing across Military Road, located as shown on the approved plans shall be constructed and retained for use at all times. The details for the pelican crossing, including further traffic modelling shall be submitted to the Local Planning Authority for approval prior to the commencement of development, with all works carried out in accordance with the approved details.

44. Before any part of the development hereby permitted is occupied and/or first brought into use a Travel Plan indicating how it is intended to encourage and implement proposals at the site which will result in a reduction in the need for employees and customers to travel to and from the site by means of a private motor car shall have been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide for the monitoring and periodic review of the measures being implemented and the scheme shall be carried out and implemented in accordance with the approved details immediately upon first occupation/use of the development hereby approved and shall be retained thereafter incorporating the details as may be amended upon review with the agreement in writing of the Local Planning Authority.

In the view of the District Planning Authority, and having taken into account all material planning considerations; there is insufficient demonstrable harm or conflict with policy arising from the proposal to warrant withholding planning permission.

In coming to this decision, regard has been had to the following policies:

The following policies of the Shepway District Local Plan Review –

SD1, S2, BE1, BE2, BE4, BE5, U2, U4, U10a, U15, TR5, TR6, TR11, TR12, TR13.,

The following policies of the South East Plan –

SP3, CC1, CC2, CC4, CC6, T4, NRM1, NRM4, NRM11, BE1, BE4, BE6,

The following Supplementary Planning Documents and Government Guidance apply:

PPS1 – Creating Sustainable Communities, PPS1 Supplement – Planning for Climate Change, PPS6 – Planning for Town Centres, PPS9 – Biodiversity and Geological Conservation, PPG13 – Transport, PPG15 – Planning and the Historic Environment, PPS22 – Renewable Energy, PPG24 – Planning and Noise , Planning for Town Centres – Good Practice Guide on Need, Impact and the Sequential Approach (living draft), Draft PPS4 - Planning for Prosperous Economies

Decision of Committee

Y09/0627/SH
Smith Industries,
Military Road,
Hythe.



