



The Planning Inspectorate

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TEAM 2

DEPARTMENT OF THE ENVIRONMENT BOROUGH COUNCIL	
Berwin Leighton Solicitors Adelaide House LONDON BRIDGE London EC4R 9HA	<p>Your Ref: T/HE/T34/6851 Our Ref: T/APP/A1910/A/92/213843/P7</p> <p>19 AUG 1993</p> <p>Date: 18 AUG 1993</p>

Dear Messrs Berwin Leighton

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY TESCO STORES LTD
APPLICATION NO: 4/1082/920L

1. I have been appointed by the Secretary of State for the Environment to determine your clients' appeal. This is against the failure of Dacorum Borough Council to give within the prescribed period notice of their decision in respect of an application for the erection of a retail food-store, petrol filling station, car parking and associated works on land at Stag Lane, Berkhamsted. I held a local inquiry into the appeal on 25 to 28 May; 2 and 3 June; 22 and 23 June 1993. I made accompanied inspections of the site and its surroundings on 2 and 24 June, and several unaccompanied inspections before and during the course of the inquiry. At the inquiry, an application was made by the Council for an award of costs against the appellants. This is the subject of a separate letter.

The Issues

2. In the light of the representations, evidence and my inspections I have concluded that the main issues fall under 3 heads:

- i) the employment effects, including the extent to which the development might frustrate more desirable uses for the site;
- ii) the site's intrinsic suitability, including consideration of the development's landscaping, access, traffic generation and neighbourliness particularly as regards noise and intrusion;
- iii) the development's likely effect on the viability and vitality of Berkhamsted's town centre as a whole.



The Site and Surroundings

3. Berkhamsted is a town with a population of about 18,000. It currently straddles the heavily trafficked A41 route, running east-west, but this road will be 'de-trunked' on opening of the town's bypass which is nearing completion. The defined appeal site extends to about 2.11 ha including adjoining roads; the development site itself is just under 2 ha. It sits on the north-western corner of High Street (existing A41) and a cul-de-sac side turning Stag Lane. Shortly to the west, High Street becomes Gossom's End beyond a residential side street, Queens Road, on the southern side.

4. The greater part of the site is fenced, cleared derelict land, formerly part of the joinery factory of East & Son Ltd. Apart from adjoining highways, the remainder is a broadly L shaped area to the north and west within the factory site. On its northern side this land includes 2 unused sizeable buildings, one modern, one long standing, separated by operational plant. The land backs onto the Grand Union Canal to its north. Overall the locality falls northwards towards the foot of an embankment rising to the canal towpath.

5. On the eastern side of Stag Lane is a modern warehouse, on the corner with High Street, with a service yard to its rear. Beyond this yard are modern flats and houses off Stag Lane. Shortly east of the warehouse is a laundry works. West of the site's High Street frontage is a public house, a group of cottages and a short length of local shops and businesses. West of the main body of the site are modern factory buildings in use by East & Son Ltd. The southern side of this part of High Street and Gossom's End is fronted by a petrol filling station, car sales business, a meeting hall and houses. How the site should be viewed in relation to the town centre is a matter of dispute, but broadly speaking the centre lies to the east.

6. It includes a Waitrose store of some 11,560 ft² (1,074 m²) net floor area, a Tesco store of some 7,000 ft² (650 m²) (with some 7,200 ft² (669 m²) 'Home 'n' Wear' above), a Lo-Cost store of some 3,500 ft² (325 m²), and small convenience shops totally some 13,800 ft² (1,282 m²). Comparison shops total some 73,617 ft² (6,839 m²).

The Proposal

7. The application sought outline planning permission; it is agreed that the supporting drawings are illustrative only. As submitted the application proposed a store of 45,000 ft² (4,181 m²) gross internal floor area. In support of the appeal the size has been reduced to 43,000 ft² (3,995 m²), say 25,800 ft² (2,397 m²) net. This is the scheme before me. The 2 buildings within the site would be demolished and the plant relocated to the remaining joinery factory.

8. As illustrated, access to the store and petrol station would be off Stag Lane, via a proposed mini-roundabout on its High Street junction. This access would also serve the joinery factory, which would lose its access off the end of Stag Lane. The foodstore building would be towards the site's north-western corner, behind a service yard on the new boundary with the factory. The petrol filling station would be close to the High Street frontage; the balance of the site would provide 330 parking spaces, a recycling centre and trolley bays. Landscaping would include planting within and around much of the site, and also on the canal embankment where it would be governed by a licence agreement with British Waterways. Steps and a ramp would provide pedestrian access to and from the towpath.

Site's Existing Planning Permissions

9. In 1988 planning permission was granted for a 35,000 ft² (3,252m²) (gross) non-food DIY retail warehouse on the fenced part of the site and also for the residential development now to the east of Stag Lane. The warehouse has not been built, but the parties agree that its planning permission has been safeguarded by implementation of the residential component of the permission. In 1990 planning permission was granted for some 85,000 ft² (7,897 m²) of offices, again on the fenced part of the site. This remains extant in accordance with the normal duration of a planning permission.

The Kingsgate Site

10. The Kingsgate site is about 1.98 ha. There is no dispute that it lies within the town centre, immediately behind shops and other business premises on the northern side of High Street. It includes a household waste transfer site and a number of other uses, but is predominantly currently used for car parking. The Council have recently granted outline planning permission to a development company, Highland Developments Ltd, for a 36,000 ft² (3,344 m²) (gross) foodstore on this site, subject to an agreement under Section 106 of the Act. The Council have before them an outline application from the same Company for a foodstore of about 43,000 ft² (3,995 m²).

11. During the inquiry it was made public, following recent marketing, that J Sainsbury plc are the intended operator. They submitted several letters to the inquiry. I take these as unequivocal confirmation that they are the intended Kingsgate operator; also that they do not wish to influence my decision and therefore ask me to discount their earlier suggestion that planning permission for the appeal development would lead directly to their withdrawal.

12. That I shall do. It follows that I shall not attach weight to the written, essentially hearsay, evidence by Highland Developments Ltd to the effect that they have been advised that Sainsbury's would withdraw as a consequence of my allowing this appeal. However, I do not accept your submission to the effect that Sainsbury's likely future decisions regarding the Kingsgate site will necessarily be uninfluenced by my decision: this, it seems to me, is a matter for judgement in the light of the evidence.

Planning Policy Framework

13. The development plan comprises the Hertfordshire County Structure Plan Review Incorporating Approved Alterations 1991, and the Dacorum District Plan 1984. Emerging policies are in the Dacorum Borough Local Plan.

14. The Structure Plan Review was approved in 1988, its Alterations in June 1992 when the Secretary of State modified policies relevant to this appeal. As then approved the Structure Plan is both statutory and recent: I accord it considerable weight.

15. As both parties acknowledge, the 1984 Plan is dated in relation to this appeal. In my view it has limited application, having been overtaken by the Structure Plan Review, Structure Plan Alterations, the site's current planning permissions, and also national guidance including that in Planning Policy Guidance Note 6.

16. The Borough Local Plan is more recent but even so it was based on the Structure Plan Review, approved in 1988. Unresolved objections to the Local Plan (Deposit Draft and suggested Modifications to the Deposit Draft) were heard at an inquiry which was in progress when the Secretary of State announced his approval of the modified Structure Plan Alterations. In his report (January 1993) the Local Plan inquiry Inspector sets out his approach to the relationship between the 2 Plans (paragraphs 1.7 to 1.14). He goes on to recommend a number of changes to policies material to this appeal, in part in response to the Structure Plan Alterations as approved. The Council intend to incorporate the Inspector's recommendations into further Modifications to the Plan expected this Autumn.

17. The Local Plan is, therefore, close formal adoption, subject to the Pre-Inquiry Modifications which were accepted by the Inspector and subject also to the Inspector's additional recommendations. On this basis, I accord the Plan considerable weight.

Berkhamsted Bypass Demonstration Project

18. Berkhamsted has been selected for one of 6 national Bypass Demonstration Projects, aimed at securing and retaining local benefits arising from a town's new bypass. Details have yet to be completed, but it is agreed that the strategy will be to minimise use of the town by through traffic which could use the bypass, and to tilt residual traffic from residential side roads to local traffic routes which will include the existing A41 for east-west movement.

19. Your clients undertake to contribute £200,000 to the Project if the appeal scheme proceeds. You view this as overcoming the County Highway Authority's objection rather than as objectively necessary; the Highway Authority consider that the sum is necessary, but sufficient, to implement additional measures to safeguard the Project's aims taking into account traffic to and from the store.

The Development's Employment Effects

20. There is a large amount of vacant property within the Council's district as well as unimplemented planning permissions. There can be little doubt too that there are also currently under-used premises and unidentified properties not on the market.

21. However, allocated land for new development is restricted, particularly modest sized sites with services and ready access which amounts to no more than some 5.4 ha. Industrial and warehouse premises have a much lower vacancy rate than offices, and their total supply has shrunk over recent years. Local Plan employment policies are underpinned by an analysis of the local workforce which takes into account such factors as falling job densities and the run-down in defence based industries.

22. Employment land is likely to remain limited, in an area enclosed by the Metropolitan Green Belt and Chilterns Area of Outstanding Natural Beauty. I believe that the Council are prudent generally to husband such land, to meet possible future employment needs in a way which existing properties and permitted development sites may not. I do not, therefore, accept your broad criticisms of their Local Plan employment land policies.

23. More specifically, however, the Local Plan includes the appeal site within a designated 'mixed use' General Employment Area (GEA), subject to employment policy 29. Deposit Draft policy 29 was favourable to development and redevelopment for business, industry, storage and distribution uses (ie Classes B1 to B8). In partial response to an objection by East and Son Ltd, and in recognition of the permission for a retail warehouse on part of the appeal site, the Council's suggested Modifications in advance of the Local Plan inquiry widened policy 29 to include non-food retail uses within this GEA, with a consequential change to shopping policy 41. The Local Plan Inspector accepted these modifications. Commenting on this and other suggested amendments affecting GEA's, he concluded that they would make the effect of policy 29 'less prescriptive and recognise the acceptability of other employment uses, notably retailing, within some GEA's'.

24. In view of the amount of vacant office floorspace in the district, I accept your submission that the most probable consequence of refusing planning permission for the appeal development would be eventual implementation of the permitted non-food retail warehouse. The Council acknowledge, too, that they would find it difficult to resist a non-food retail development occupying the whole of the appeal site. I can see little or no material difference in the employment effects, other than that the appeal development would provide more jobs sooner. In the particular circumstances of this site, I do not believe that the appeal development would have harmful consequences as regards employment, rather the reverse.

25. There would also be consequences for East and Son Ltd. They are long established in Berkhamsted, today concentrating on the specialist manufacture and installation of windows in response to individual orders. The company used the proceeds from their disposal in 1988 of the cleared part of the appeal site to erect and equip modern premises on their current remaining land. But they have since suffered the effects of the recession, and the labour force has reduced from 94 in 1987 to 45. Their principal competition is foreign. They view the sale of the balance of the appeal site as an opportunity, after the cost of relocating their plant, to inject working capital and reduce bank borrowings. They are confident that their premises would remain adequate to meet any foreseeable upturn in demand and increased labour requirement; they are pessimistic regarding their future without the current sale.

26. As the Council say, there are uncertainties in business; use of the proceeds would in the event be a matter for the company, or their closely associated land-holding company, to decide in all the circumstances as they then saw them. On a reasonable balance of probabilities, I believe that the outcome would be to strengthen the business at Berkhamsted, helping to secure and provide skilled employment, and I view this as a material favourable consideration. But it would be an indirect and less than certain consequence of the appeal development, which in my view should not be determinative unless other matters are finely balanced.

The Site's Intrinsic Suitability

27. The only objection pursued by the Council directly regarding the development itself concerns landscaping on the canal side; there are other local objections which were also addressed at the inquiry.

Canalside

28. Local Plan policy 106 states that development adjoining the Grand Union Canal will be expected to make a positive contribution to the canalside environment.

29. At present the appeal site is substantially screened from the towpath by a mature hedgerow. However, the rears of the utilitarian joinery factory buildings are apparent to some degree, and there is a view over the derelict, fenced part of the site. These features would evidently be much more apparent during winter months.

30. There is no reason to believe that the store building would be other than attractively designed, nor that its car park tree planting would be less successful than has been achieved at other Tesco developments to which you refer. The existing hedgerow appears to be flourishing north of the factory buildings, and I am confident that it could be retained and added to north of the proposed building: this would in part be higher than the existing ones but it would be further away, and in my assessment a broadly similar level of sunlight would remain.

31. The licence with British Waterways would bring about improvements to the towpath, increased accessibility for pedestrians and additional canalside tree planting. Its terms include reserve powers enabling these measures to be removed, but the exercise of those powers seems to me unlikely bearing in mind that British Waterways actively sought the improvements. Whether a part of the culverted River Bulbourne should be exposed as part of the landscaping is not, in my view, a determinative matter at this outline stage.

32. The existing setting of this part of the canal is not strikingly unsightly, but I have no doubt that it would be enhanced by a development along the lines of the illustrative appeal scheme, which would bring about the site's regeneration and renewal. I see no objection to the development relating to the canalside environment.

Road Traffic

33. I accept your evidence that the store would generate little wholly new traffic, but largely have the effect of reassigning trips currently made elsewhere. As I consider below with regard to retail impact, Berkhamsted is losing local customers to competing centres. Other things remaining the same, this will increase as major new foodstores open and become established. For similar reasons, and again as considered below, I accept that most customers at the appeal store would be residents of Berkhamsted or its immediate surroundings. This being so, the overall effect of the appeal store would be desirably to reduce road traffic by shortening journeys. The site is also served by public transport, which could be enhanced by your clients' own bus services.

34. I broadly accept your traffic assignments. These demonstrate that most of the appeal store's traffic would use the existing A41, where even on 'worse case' assumptions it would be a small fraction of that predicted to be diverted from this road to the bypass. The store's traffic using side roads, such as Bridgewater Road and Shrublands Road/Charles Street leading to Queens Road, would be limited.

35. This traffic would result mainly from people living in or just beyond these areas, who will travel to shop somewhere in any event. It would generally not be through 'rat-run' traffic in the normal sense. The developments subject to the site's extant permissions would themselves generate road traffic, which in the case of the office scheme would be largely new trips occurring during each weekday peak period.

36. I am confident that the proposed roundabout at Stag Lane would be adequate, as would the access off Stag Lane into the site. Residents driving to or from their homes off Stag Lane would have priority over people leaving the store; I see no reason why they should suffer delays.

37. Your peak hour traffic assignment is based on vehicle trip generation rates from the TRICS database for foodstores plus 5% to allow for vehicles stopping only at the petrol filling station. The total is likely to be a slight overestimate since the base data includes stores with petrol sales. Comparing a range of stores in the TRICS database with and without petrol sales gives support to a figure of about 5% more traffic during peak periods resulting from people stopping only for petrol, rather less over the full day. Other surveys examined at the inquiry found rates of up to 25% and more. However, it seems to me that these generally resulted from locations on main traffic routes away from competing petrol outlets.

38. That would not be so at the appeal site; there are numerous petrol outlets in and around Berkhamsted. Higher than expected 'petrol-only' sales at the appeal site would result only from successful competition, overcoming the site's commercial disadvantage of an indirect access to its sales' forecourt. The outcome would be harmful to the public interest only if additional traffic were attracted from further afield to a degree which undermined the aims of the Demonstration Project. This seems to me unlikely given the number of existing outlets and their probable response to new competition. Spacing criteria for roadside services, set out in Planning Policy Guidance Note 13, have little bearing in this case: these are directed primarily at facilities on long distance traffic routes, not services within towns.

39. I understand local concerns regarding traffic matters, particularly in the light of conditions in Berkhamsted while its bypass is awaited. But in all I conclude that the appeal development's effects on road traffic would not be harmful or incompatible with the Demonstration Project.

Neighbourliness

40. Any development on the appeal site would be likely to have some impact on residents living locally. In my opinion, the illustrative appeal scheme would have less than most. Access off High Street and on into the site would not be directly outside any dwelling; the service yard's only external boundary would be to the joinery factory; relocating the plant would enable noise to be reduced; factory lorries would no longer pass people's homes at the lower end of Stag Lane; the petrol station would be somewhat lower than High Street and not directly faced by a dwelling. There would be ample parking on the site, well above the Council's standards, and no likelihood of customers parking in nearby streets. Again I understand local concerns, but, subject to appropriate conditions, I consider that the development need not have any impact on residential amenity such as to warrant withholding planning permission.

41. In summary, and prior to my considerations regarding retail impact, I believe that there is nothing directly relating to the site itself which makes it unsuitable for the proposed development.

Impact on Berkhamsted Town Centre

42. Structure Plan policy 67 states that within town centres retail and other specified uses will normally be acceptable subject to other policies of the Plan. Policy 68 states that new retail developments will be encouraged to locate within and adjacent to existing centres where this is consistent with the character and role of the centre. In this regard Berkhamsted is identified as a 'historic centre'; development is to be permitted only where this is consistent with the maintenance and enhancement of the historic core.

43. Policies 80 and 81 state that, subject to criteria, retail developments will be permitted outside town centres and adjacent areas if, in essence and apart from local shops, the town centre cannot satisfactorily accommodate the development. Policy 80 normally opposes developments which could seriously affect the vitality and viability of a nearby town centre as a whole.

44. Local Plan policy 34 distinguishes between town centres (including Berkhamsted) and local centres; policy 35 sets criteria regarding development within them. These are subject to one detailed recommended change by the Local Plan inquiry Inspector. Policy 36 aims to strengthen the hierarchy of shopping centres; supporting text sub-divides the 'town centres' and refers to Berkhamsted as a 'district centre' (immediately above the 'local centres') serving the 'town's needs for groceries and convenience goods as well as providing a broad range of non-food shops.' Policy 37 concerns the retail assessment of shopping proposals: in response to objections by your clients and others the inquiry Inspector recommends that the criteria be amended by adding that schemes 'should not seriously affect the vitality and viability of nearby town centres as a whole'.

45. Policy 38 broadly encourages shopping developments in town and local centres, and lists major schemes. These include site S2 - the Kingsgate site - where the policy proposes a 'town centre shopping scheme, with about 7,000 m² of floor space including a large supermarket', and the scheme's planning requirements are set out. Policy 39 defines the town centres, distinguishing between their main and mixed shopping frontages. Berkhamsted's main shopping frontage, so defined, is on the north side of High Street either side of and extending into Lower King's Road. The defined centre as a whole extends westwards on the north side of High Street to the laundry which forms the eastern limit of the Stag Lane GEA. On the southern side it stops a little before then.

46. The Local Plan inquiry Inspector, whilst accepting the Council's modification to include non-food retailing within the Stag Lane GEA, did not recommend the inclusion of food retailing. He considered: 'an indication that the area might be appropriate for this form of development might unnecessarily deflect interest away from the nearby town centre which relies heavily on food retailing in performing its retail function. More particularly to allow food retailing at Stag Lane might put at risk the Council's proposals for a major shopping redevelopment scheme at Berkhamsted town centre (Site S2).'

47. It is common ground that Berkhamsted's town centre has declined over recent years, and that it is losing convenience shopping by its local population to larger centres such as Hemel Hempstead which is just 5 miles distant. It is also agreed, although not in degree, that the outflow of business will increase to major stores recently opened and in train at Apsley and Jarman Fields (Hemel Hempstead) and at Aylesbury. It is also agreed by the parties, and is my view also, that additional modern convenience shopping is needed at Berkhamsted if the town is to counter the outflow of trade and maintain its vitality.

48. You argue that this would be directly achieved by the store at Stag Lane which, in your view, would be adjacent to and interact with the town centre as a whole. You consider that allowing the appeal development would not in practice inhibit a major foodstore also on the Kingsgate site; but that if it did have that effect the outcome would be beneficial, because this would release some or all of that site for durable, comparison shopping development.

49. The appeal store's illustrative pedestrian entrance would be about 150m from the nearest extremity of the centre as defined by the Local Plan, the store itself about a further 120m. The centre is strongly linear; as defined it extends in all for a little over 1 km. Its retail frontage becomes very fragmented and secondary some way before Stag Lane, with long lengths of non-retail premises. Conversely the defined main shopping frontage is compact with a strong retail character. It includes the Waitrose and existing Tesco stores with the Lo-Cost close by.

50. Most people, in my estimation, would not feel themselves to have fully entered Berkhamsted's town centre, walking from Stag Lane, until say the main shopping frontage, nor that they had reached the heart of the town until the vicinity of Lower Kings Road. From the appeal development's pedestrian entrance these locations would be roughly 600m and 780m respectively. I have had regard to decisions elsewhere, but taking account of Berkhamsted's modest size, its character and layout, I consider that the appeal development should not be viewed as 'adjacent' to the town centre.

51. Having walked the relevant route several times, I have come to the view that the degree of interaction between the appeal store and town centre as a whole would be slight. Existing shops in the vicinity of Stag Lane are too few, or too specialised, and I believe that few people would walk the round distance needed to make a combined single trip to Stag Lane and core of the town. I consider that on balance the Stag Lane store would compete with the town centre rather than complement it.

52. You criticise the current Kingsgate schemes and argue that they do not meet the aims for the site in the Local Plan. These are matters for the Council, although they acknowledge that the site has constraints: in particular that the parking provision is intended to be less than at Stag Lane, and controlled, and that the accesses would be less direct and likely to require substantial works.

53. Broadly, I believe that the Plan's aim to see that site developed for major new shopping is to be supported. It lies close to the core of the town, mainly within the conservation area, where major new shopping could complement existing durable and specialist food shops. The land has been assembled over some years. As it stands, its appearance and mix of uses detract from the appearance and character of the conservation area.

54. Redevelopment for retailing would offer the scope to enhance the area, both directly and by assisting the wellbeing of nearby shops and businesses. As the Council say, the town centre's retailing quality and historic, built quality are inextricably mixed. I see the future of the Kingsgate site as pivotal to the future of the centre's viability and vitality as a whole.

55. You present evidence that a number of non-food retailers are interested in locating at Berkhamsted, but there is nothing to suggest that they or other similar operators would contemplate the considerable investment clearly required to redevelop the Kingsgate site. Berkhamsted's comparison shopping is overshadowed by sub-regional centres such as Hemel Hempstead and Watford, which are respectively over 6 times and 17 times larger in this type of floor space. Berkhamsted is too small, in my view, to seek to rely on major new comparison shopping: as the Council say it lacks the 'critical mass' of the larger centres. The driving force for its continuing viability and vitality, I have little doubt, must be investment in food shopping; the range and quality of durable provision will be dependent upon the extent to which that is achieved.

56. For quantitative assessment, both parties take 1992 as the base year, 1996 as the principal year for assessment, and express all monetary figures at 1990 prices. Your assessment is backed by a postal household survey; the Council's by a survey of people in the town centre. Drive time isochrone bands and their populations are broadly agreed.

57. It is agreed that base year expenditure on convenience goods in the town totalled about £23.2m. I accept your forecast that small changes in population and per capita expenditure will lead to some £1.5m additional turnover by 1996. However, I am sceptical that the new stores at Hemel Hempstead and Aylesbury would, other things remaining the same, by then be diverting away as little as some £4.1m. You base this figure essentially on professional judgement applied to the household survey.

58. These stores will be modern, total some 180,000 ft² (16,722 m²) (gross), and each will be readily accessible from Berkhamsted. The Council estimate a potential diversion of some £6m to Apsley and Jarman Fields alone, using a mathematical proportioning of existing trade penetration rates. I do not prefer either approach to the other in principle, but I believe that the Council's outcome is the more probable, and prudent, figure. I therefore consider that residual expenditure at Berkhamsted, without a new foodstore there, would be at most roughly £18.5m rather than your estimate of some £20.6m. To my mind the greater outflow reinforces the quantitative need for investment at Berkhamsted, but also further weakens the ability of the town centre to face competition at Stag Lane.

59. You estimate that without competition from the Kingsgate site, the Stag Lane store would have a turnover of about £17.6m. You derive these amounts by considering likely visitation rates, taking account of the postal survey, from within the 0 to 5 minute and 5 to 10 minute isochrone bands, plus an assumed 10% from further afield. This appears reasonable to me: the outcome would be a little above the company average, which is to be expected at a site which, as I conclude above, has good intrinsic qualities. You estimate that some £11.7m would be 'recovered' from stores away from Berkhamsted; but even so the town centre would suffer a further loss of some £5.8m in trade.

60. The existing Tesco foodstore would close; you say that it has a limited life in any event. I accept that the Stag Lane store would attract most of the existing one's 'main shop' custom together with some diversion from Waitrose and a little from Lo-Cost, all broadly as you estimate, and that these other stores would pick up most of the residue of the existing Tesco store's trade. The overall effect, as you estimate it, would be to leave Waitrose with a turnover of about £9.8m. This would be a little high if I am right that the new stores at Hemel Hempstead and Aylesbury will attract rather more custom from Berkhamsted than you assume, but even so the store would be left, as you say, with a healthy turnover.

61. You estimate that a major foodstore on the Kingsgate site would have a turnover of about £15.3m without competition from Stag Lane, falling to about £13.6m with that competition. However, your initial analysis assumed that Waitrose would be the Kingsgate operator, and that some £9.2m of the £15.3m would simply transfer from their existing store. On your estimate, only a further £3.7m or thereabouts would be recovered from stores away from Berkhamsted. You argue that another major retailer, such as Sainsbury's, would cause Waitrose to close so that the effect would be much the same. As you put it: 'the practical consequence ... would be that the 'released' turnover of Waitrose would become available in supporting a new operator in the Kingsgate scheme.'

62. I accept that, in those circumstances, closure of the Waitrose store would not of itself significantly harm the town centre as a whole: your evidence suggests that non-food retailers would take over their premises. However, in practice would Sainsbury's, or another similar company, proceed? They could not assume Waitrose would close. This store is long established, in pleasant premises, at the heart of the town. It has the dominant trading share at present, estimated at well over twice that of the existing Tesco store. Many of its costs will be historic, 'sunk' and irretrievable.

63. In contrast, a potential operator at Kingsgate, whether Sainsbury's or another, would be making an investment decision regarding a site which for all its locational 'planning' benefits has intrinsic commercial constraints, sufficient you say to have made it unacceptable to your clients. In the circumstances at Berkhamsted, I consider that permitting the appeal development would significantly jeopardise redevelopment of the Kingsgate site. Both subjectively and on the quantitative evidence, I view the existing town centre as insufficiently robust to withstand cumulative losses of trade, likely to be over £11m, to the new stores away from Berkhamsted and to the store at Stag Lane. I believe that the outcome could too readily be a spiral of decline, seriously harming the future viability and vitality of the town centre as a whole.


Summary

64. I reach several favourable conclusions regarding the appeal development. I also conclude that it would harmfully conflict with shopping policies in the Structure Plan, because it would be away from a town centre with land available for similar development and it could harm the centre as a whole, including its historic conservation area. The proposal clearly conflicts with the site-specific policies of the emerging Local Plan, as

recently supported by the Inspector who considered objections to the Plan. These unfavourable conclusions go to matters central to the future of the town; in my view they substantially outweigh the benefits. Having taken all the other matters raised into account, I have found nothing sufficient to alter that conclusion.

65. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully



Alan Langton CBog DipTP MICE MRTPI MIHT
Inspector

Enc.

APPEARANCES

FOR THE APPELLANT

Mr R Vandermeer QC

- Instructed by Berwin Leighton Solicitors

Assisted by Mr P Petchey of counsel

He called:

Mr J Gildersleeve

- Main Board Director Tesco plc

Mr G A Collens
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- Chairman Derek Lovejoy Partnership

Mr J H Lenanton

- Chairman East & Son Ltd

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- Director Alan Boreham Associates Ltd

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FOR THE LOCAL PLANNING AUTHORITY

Mr R Humphreys of counsel

- Instructed by the Council's
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He called:

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- Principal David Lane Associates

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INTERESTED PERSONS

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- Chairman
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Mrs J Brown	- Resident 21 Queens Road Berkhamsted HP4 3HU
Mr T Standen	- Resident 36 Bridgewater Road Berkhamsted HP4 1HP
Mr W Atkinson	- Berkhamsted Town Hall Trust 196 High Street Berkhamsted HP4 3BA
Mr D N Roberts BA	- Resident 9 Gilpins Ride Berkhamsted HP4 2PD

DOCUMENTS

- Document 1 - Lists of persons present at the inquiry.
- Document 2 - Notice of inquiry and distribution list
- Document 3 - Letters of objection: 51 No
- Document 4 - Letters of support (or not objecting): 17 No
- Document 5 - Documents, including photographs, submitted by local bodies and individuals who appeared at the inquiry
 - 5.1 Berkhamsted Citizens' Association
 - 5.2 Berkhamsted Town Council
 - 5.3 Mr Ford-Smith
 - 5.4 Berkhamsted and District Chamber of Commerce
 - 5.5 Mrs J Brown
 - 5.6 Mr T Standen
 - 5.7 Berkhamsted Town Hall Trust
 - 5.8 Mr D Roberts
- Document 6 - J Sainsbury plc letters
- Document 7 - Highland Developments Ltd letter (23 June 1993) (plus sale particulars for Kingsgate site supplied by the appellants)
- Document 8 - Hertfordshire County Council (highway authority) letter (21 June 1993)
- Document 9 - Other planning decisions
 - 9.1 Appeal decision at Twickenham (APP/F5540/A/90/147110)
 - 9.2 Appeal decision at Slough (APP/V0320/A/85/41053)
 - 9.3 Appeal decision at Jarman Field, Hemel Hempstead (E1/A1910/2/9/08)
 - 9.4 Local Plan Inquiry Report, Tewkesbury (extract with plan)

Document 10 - Kingsgate planning application 4/708/930L (with plans)

Document 11 - Documents concerning possible conditions and related matters

- 11.1 Council's letter on draft conditions (18 June 1993)
- 11.2 Appellant's note on draft conditions
- 11.3 Noise report regarding draft conditions
- 11.4 Agreement regarding highways matters
- 11.5 Undertaking regarding use of existing Tesco store
- 11.6 Licence regarding works on British Waterways Board land (including plan and appellant's related note)

Document 12 - Development Plan and other local planning documents

- 12.1 Dacorum District Plan 1984 (Explanatory Memorandum)
- 12.2 Hertfordshire County Structure Plan Review 1991 (Explanatory Memorandum)
- 12.3 Dacorum Borough Local Plan Written Statement 1991 (Deposit Draft)
- 12.4 Borough Local Plan Technical Report - Employment 1992
- 12.5 Borough Local Plan Technical Report - Shopping 1992
- 12.6 Borough Local Plan Inquiry - Council's Statement 1992
- 12.7 Borough Local Plan Inquiry - Inspector's Report 1993
- 12.8 Berkhamsted Town Centre Planning Brief 1987
- 12.9 Berkhamsted Town Centre - The Bourne Centre - Economic Analysis - A study by Healey and Baker 1987
- 12.10 Dacorum Economic Development Profile 1992 (extract)
- 12.11 Employment Land - Position Statement No12 1993
- 12.12 Structure Plan Annual Monitoring Report 1992 (extract)
- 12.13 Structure Plan Annual Statement 1993 (extract)

Document 13 - Appendix A to Mr Gildersleeve's evidence

Document 14 - Appendices GAC-P AND GAC-T with Mr Collen's evidence (photographs)

Document 15 - Appendix 1 to Mr Lenanton's evidence

Document 16 - Documents with the appellant's highways evidence

- 16.1 Appendices MJB1 to MJB6 to Mr Bedwell's evidence
- 16.2 Hertfordshire County Council letter 1 June 1993 withdrawing highway objection to the appeal development
- 16.3 Ove Arup data on foodstores with petrol stations
- 16.4 TRICS data: foodstores with and without petrol stations
- 16.5 Traffic Impact Assessment Report 1992
- 16.6 Traffic Assignment Report 1993 (with plans)

Document 17 - Appendices JRS1 to JRS5 (as amended) to Mr Stephenson's evidence (including plan)

Document 18 - Appendices I to V with Mr Chase's evidence (including plans and photographs)

Document 19 - Documents with the appellant's planning and retail evidence

- 19.1 Appendices A1 to A10 (A7 as supplemented) with Mr Flack's evidence
- 19.2 Milton Keynes Household Survey 1988
- 19.3 Note and data on Sainsbury's stores' turnover

Document 20 - Documents with the Council's planning and employment evidence

- 20.1 Appendices 1 to 7 with Mr Lane's evidence
- 20.2 Appendices 8 to 12 with Mr Lane's evidence
- 20.3 Council's letter to Mr Atkinson setting out details of parking provision off Lower Kings Road (with plans)
- 20.4 Schedule of accommodation at Berkhamsted Hill (with plan and aerial photograph)
- 20.5 Note regarding finances of East and Son Ltd
- 20.6 Employment Tables

Document 21 - Documents with the Council's retail evidence

- 21.1 Maps 1 to 3 & Appendices A to C to Mr Sherman's evidence (as amended)
- 21.2 Waitrose & Kingsgate Alternative External Turnover Assumptions tables
- 21.3 Letter to DPP 8 June 1993

Document 22 - County Council's Highway's Appendices A to K (their evidence not examined)

PLANS

Plan A - Application Site Layout No 862/SK9C 1:500 scale (superseded)

Plan B - GAC-1 Landscape Context Plan No 1883/01D 1:1250 scale

Plan C - GAC-2 Site Appraisal Plan No 1883/02B 1:500 scale

Plan D - GAC-3 Landscape Proposals Plan No 1883/03E 1:500 scale
(replaces Plan A)

Plan E - GAC-4 Landscape Sections No 1883/04C 1:200 scale

Plan F - GAC-5 Landscape Proposals for River Bulbourne No 1883/05 1:50 scale

Plan G - RJF1 Appeal Site and Surrounding Area No 202391/09 1:1250 scale

Plan H - RJF2 Isochrone, Shopping Provision & Household Survey Area Plan
No 202391/08A 1:50,000 scale

Plan I - Application Location Plan DPP1 No 202391/02 1:1250 scale

Plan J - Appeal Location Plan No 202391/03 1:1250 scale