

PLANNING APPLICATIONS COMMITTEE
21st JANUARY 2016

Item No:

UPRN	APPLICATION NO.	DATE VALID
0093/103	15/P2776	31/07//2015

Address/Site Waitrose, Alexandra Road, Wimbledon SW19 7JY

(Ward) Hillside

Proposal: Variation of Condition 3 of Planning Permission 09/P2385 the sale of food and convenience goods and alterations and extension to the existing building and external curtilage – variation to remove the restriction preventing use of part of the premises for A3 cafe/restaurant purposes.

Drawing No.s Site location plan, Firstplan letter dated 19th October 2015, Firstplan letter dated 14th July 2015, Proposed layout plan 314-SDEV-GRA-REDLINE2

Contact Officer: Susan Wright (020 8545 3981)

RECOMMENDATION

GRANT Variation of Condition 3 of 09/P2385 subject to restriction on size of seating area/maximum number of seats

1. INTRODUCTION

The application comes before Members because of the number of representations received and also at the request of Councillor David Williams.

2. SITE AND SURROUNDINGS

2.1 The application site comprises the Waitrose supermarket building and its curtilage. Waitrose have operated as a food supermarket from the site since summer 2011. It was previously occupied by B&Q as a DIY/home improvement retail warehouse from the completion of the building in the 'eighties to its vacation in early 2009. It is situated on the south-eastern side of Alexandra Road, between the road and the

overground railway tracks serving Wimbledon station. It is a long thin rectangular site, over 260m in length and 35-40m wide.

- 2.2 Alexandra Road contains a mix of uses, but is predominantly residential. The north-west side of Alexandra Road and the roads leading from it are characterised by Victorian semi-detached properties. Wimbledon town centre and the junction with Wimbledon Hill Road lie to the south-west. Along Alexandra Road, separating the edge of the core shopping area from the boundary of the site, are a row of 21 houses, a Network Rail depot and the Magistrates' Court. The application site shares a vehicular access, served off a roundabout, with the car park for the Magistrates' Court.
- 2.3 To the north-east of the site boundary are residential flats, then the junction with Gap Road and Leopold Road. The shops either side of Leopold Road form a designated Neighbourhood Parade as defined within the Adopted Merton Sites and Policies Plan (July 2014). The parade contains a wide range of local shops including a butcher, florist and cafes. There are few vacancies. The parade also forms Leopold Road Conservation Area.
- 2.4 The vehicular access road runs past the service yard and between the supermarket and the railway, to the main customer car park beyond. The customer entrance is sited on the north-eastern elevation facing the car park and there is also a pedestrian entrance accessed directly from the footway on Alexandra Road, with stairs and a lift taking pedestrians from the level of the top of the embankment down to store level. Approximately halfway down the car park are a set of steps leading up the embankment to the footway on Alexandra Road.
- 2.7 The site is designated as Safeguarded Land 05TN within the Adopted Merton Sites and Policies Plan and Policies Maps (July 2014) which relates to Crossrail 2.

3. CURRENT PROPOSAL

- 3.1 The planning application proposes a variation of condition 3 attached to planning permission 09/P2385, granted on 26th November 2010. This planning permission allowed the use of the former DIY retail warehouse to be expanded from bulky goods to permit the sale of food and convenience goods subject to restrictions in the range of goods designed to protect both Wimbledon town centre and the local neighbourhood parade at Leopold Road.
- 3.2 Condition 3 states:

Any food store/convenience goods use shall not use any more than 20% of the retail sales area for the sale of comparison goods and no part of the premises shall be used for the purposes of a post office or

dry cleaners, for the preparation of wreaths, bouquets or other formal flower arrangements or the use for A3 café/restaurant purposes.

- 3.3 The restriction on the % of sales area to be used for sale of comparison goods was imposed in order to protect the vitality and viability of Wimbledon town centre, whereas the exclusion of certain uses altogether arose from concerns about the impact on the local neighbourhood parade in Leopold Road and was agreed with Waitrose as part of the negotiation process on the application.
- 3.4 The Waitrose store commenced trading in summer 2011 and has therefore been operating for just over 4 years. They now wish to introduce a small café area in the form of a small seating area adjoining the bakery which Waitrose describe as a 'grazing area' rather than a traditional café, where customers can purchase hot drinks and bakery items and consume them on the premises. The proposed area of this new facility would be 13.67 sq m and would provide a maximum of 6 tables providing 12 seats for the customers. They advise that it would be self-service and have a limited offer of drinks and items from the bakery with the addition of savoury items such as toast and porridge.
- 3.5 Officers advised that they considered that provision of the A3 'grazing area' would be in breach of Condition 3 of 09/P2385 and the current application has therefore been made to vary the condition. The agent advises, in the covering letter dated 14th July 2015, that Waitrose would like to vary the condition to remove the restriction against A3 use completely but if concerns remained about the impact of a traditional café in the store, are willing to control the café use and restrict it to a maximum of 12 seats and not more than 13.67 sq m to allow the new concept to be introduced into the store.

4. PLANNING HISTORY

MER 405/81(O) (Outline Planning Permission) : GRANTED. An outline consent was granted on 31st July 1981 with the following description – outline application to erect two buildings, one (Unit 1) for use as a Class X warehouse, the other (Unit 2) for use as a non-food cash and carry retail outlet, together with the construction of a new access road from Alexandra Road and formation of car parking areas. All matters were reserved, and a condition was attached restricting the range of goods to be sold to the 'retail sale on a cash and carry basis of bulky furniture and/or other durable goods only'. The reason for the restriction was that the location 'is only considered appropriate for retail use if such use is of the type which requires ample car parking facilities in close proximity to the building because of the bulky nature of the goods which are sold to, and transported away by the general public.'

Following the grant of outline, two planning applications were submitted concurrently – a reserved matters submission under the outline and a full application with a different description.

MER 405/81D (Reserved Matters) : GRANTED. The reserved matters submission pursuant to the outline was granted at Committee on 18/03/82 with the following description, 'Approval of details in respect of outline application MER 405/81 for the erection of one Class X warehouse unit and one cash and carry retail (non-food) unit, together with associated parking.

MER 25/82 (Full Planning Permission) : GRANTED. Submitted on the same day as the reserved matters application and granted planning permission at the same Committee on 18/03/82. The description is as follows - 'Erection of a Single Cash and Carry Retail Outlet for Bulk Merchandise (non-food) together with associated car parking'.

A condition was imposed restricting the range of goods to be sold as follows: The building hereby approved shall only be used as a DIY/home improvement centre and for no other cash and carry retail outlet or discount warehouse use without prior approval of the local planning authority. Reason: To enable the local planning authority to control the development in detail in the interests of minimizing any effects on local retail trade.

MER 930/82 : GRANTED. Planning permission was granted in February 1983 for an outdoor garden centre in the south west corner of the site described as 'formation of an outdoor garden centre on land adjoining south side of new DIY building including erection of 3m high weldmesh enclosure fence with cranked posts'.

03/P1891 Certificate of Lawful Use or Development : GRANTED. An application was submitted in 2003 in order to establish whether the retail warehouse had been constructed under the outline or the full planning permission, as set out above. Various anomalies in relation to the physical appearance and layout were referenced. The officer's report notes neither the reserved matters details nor the full application exactly match what exists on site and that therefore it was difficult to conclude that the application implemented was not the outline and reserved matters applications. A Certificate was therefore granted on 10th November 2003, concluding that the outline permission had been implemented and that the premises as constructed were lawful and use in accordance with Condition 12, restricting the range of goods (as para. 4.1 above) would also be lawful at the date of the application. The plan attached to the Certificate encompassed the entire building.

09/P0248 Certificate of Lawfulness for the Existing Use of the Premises for Unrestricted Retail Sales. REFUSED. An application was submitted in February 2009, shortly after the building had been vacated, which sought to 'confirm that the totality of the premises can be used for unrestricted retail sales (Use Class A1) without compliance with Condition 12 of Planning Consent MER/405/81(O) (which is the outline planning permission). The supporting statement submitted by the

applicants advised that their evidence related to two separate breaches of planning control; (i) the class X warehouse granted under the outline consent as Unit 1 has been in continuous Class A1 (retail) use for in excess of 10 years and (ii) since their occupation of the unit in 1982, B&Q have sold goods on a non-cash and carry basis; and sold a range of non-durable and semi-durable goods contrary to Condition 12 of MER/405/81(O).

The Council refused the Certificate on two grounds: 1) the lawfulness of the use in accordance with Condition 12 of MER/405/81(O) was conclusively presumed, as stated in the 1990 Act, when the 2003 CLOPUD was issued. 2) Notwithstanding the 2003 CLOPUD, the council does not accept that there has been a breach of Condition 12 restricting the use to retail sale on a cash and carry basis of bulky furniture and/ or other durable goods only or that Unit 1 has been used for retail sales of anything other than DIY/home improvement goods. The delegated report relating to the Certificate can be found under planning reference 09/P0248 on Planning Explorer at the Planning page on the Council's website.

09/P2385 GRANTED SUBJECT TO S.106 Members resolved to grant planning permission at Planning Applications Committee in July 2010 for a variation of condition 12 of Planning Permission MER405/81 to allow the sale of food and convenience goods subject to restrictions on sub-division, retail sales floorspace, restrictions on amount of comparison floorspace and uses for certain purposes and subject to a legal agreement requiring contributions to Wimbledon town centre management initiatives, environmental enhancements to Leopold Road, and highways, parking and sustainable transport requirements.

5. CONSULTATION

5.1 The applications were advertised by the dispatch of 146 individual letters to neighbouring residents.

5.2 35 objections have been received, raising the following concerns:

- Local residents are very supportive of Leopold Road shopping parade, which has already been damaged by Waitrose, with the previously existing newsagents and pet shop having gone out of business partly due to inability to compete and newsagents unit has been vacant for 2 years, which shows how difficult it is to replace traders and will get harder if cafes are lost. Newsagents who were already struggling found trading too difficult when Waitrose ran a promotion giving away free newspapers and went out of business
- Waitrose agreed to the original restrictions, nothing has changed that would warrant a change to the restrictions, this agreement was reached after consultation with the local community including Leopold Road traders and was meant to safeguard their livelihoods and promote the local economy. Waitrose are breaking their

promise. The application was only considered acceptable on the basis that a restriction prevented café use and that a significant sum was spent on public realm

- Application does not even refer to Aromatica, the café-deli at 9 Leopold Road as well as the recently opened Café Rosi at 8 Leopold Road. These traders have invested knowing that a condition would prevent a café use at Waitrose.
- Other Leopold Road traders may suffer as Waitrose gains a greater local presence, encouraging shoppers to linger for all their needs which may include flowers, newspapers, meat as well as coffee and cakes, which are all available in Leopold Road.
- Leopold Road struggles against strong competition and should be protected from a retailer trading from a large unit with extensive car parking and money for promotions
- Leopold Road offers unique local facility
- Adverse impact on the parade will have adverse impact on the Conservation area, Leopold Road local shops have been there for generations and are an asset
- Café not necessary – Waitrose claim they need it for viability but the store is trading well without one, they already offer free coffee, the assertion that this facility is needed to maintain viability is not believable
- Cafes can currently distinguish from free coffee offer at Waitrose by offering seating, which Waitrose does not currently have – if they are allowed a ‘grazing area’ it will add to their advantages of extensive parking, wider offer and free coffee
- Cafes should not be located outside the town centre, fails the sequential test and should therefore be refused
- Will have an impact on cafes, will deter any new café venture, which will have a further knock on effect on other Leopold Road businesses and could reach a point where the parade slips into decline – others rely on passing trade from those who frequent the cafes, will be a waste of the money already spent on environmental improvements from the s.106.
- There are 2 small cafes in Leopold Road that add to the character and variety and their survival will be threatened if the restriction is lifted.
- Should spend money on maintaining their gardens first – current free coffee offer is leading to littering of the local area
- Misleadingly called B and Q not Waitrose on the Council website
- Area of Surface Interest for Crossrail 2 – enhanced Waitrose store will have implications for the taxpayer.
- People lingering over coffees will impact on car parking availability with the potential for queuing traffic
- There are enough chain retailers, Council should help independent shops by rejecting this application.

5.3 Wimbledon Society

The Wimbledon Society considers that the reasons for imposing Condition 3 in 2009 are undiminished, particularly as regards the viability of the shops in Leopold Road and therefore urges the Council to

a) refuse the application or

b) if the application were to be granted, to impose a new restriction to control the café use and restrict it to a maximum of 12 seats and not to take up more than 13.67 square metres of floorspace, as suggested in the agent's letter

The Council should review the parking arrangements in Leopold Road so as to maximum the number of short stay spaces to lessen the difficulty of car borne shoppers.

- 5.4 Councillor David Williams – directly contradicts all the assurances given by Waitrose when granted their original permission and should be rejected.

6. POLICY CONTEXT

6.1 National Planning Policy Framework – March 2012

6.2 Section 8 – Promoting Healthy Communities

Paras 69 and 70. Advises that the planning system can play an important role in facilitating social interaction and creating , healthy, inclusive communities, and that planning policies and decisions should aim to achieve places which promote ‘ opportunities for meeting between members of the community who might otherwise not come into contact with each other, including ‘ strong neighbourhood centres and active street frontages which bring together those who work, live and play in the vicinity.’

- 6.3 Para 70 advises that planning decisions should ‘ guard against the loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs.’

6.4 Section 12 – Conserving and Enhancing the Historic Environment

Para 131 advises that in determining planning applications, local planning authorities should take account of –
the desirability of sustaining and enhancing the significance of heritage assets and putting them to a viable use consistent with their conservation and
the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality

6.5 The London Plan – March 2015

6.6 Policy 4.8 Supporting a successful and diverse retail sector and related facilities and services

LDF’s should support convenience retail particularly in District, Neighbourhood and more local centres, to secure a sustainable pattern of provision and strong, lifetime neighbourhoods and also provide a policy framework for maintaining, managing and enhancing local and

neighbourhood shopping and facilities which provides local goods and services

- 6.7 Policy 4.9 Local shops
The policy states that in considering proposals for large retail developments (typically over 2,500 sq m), Boroughs should consider imposing conditions or seeking contributions to provide or support affordable shop units suitable for small or independent retailers, and that a lower threshold may be appropriate in relation to district and local centres.
- 6.8 Adopted Merton Sites and Policies Plan and Policies Map (July 2014)
Leopold Road is a designated Neighbourhood Parade in table 1.1 'Shopping areas and important shopping frontages' within the adopted Sites and Policies Plan and comprises 1-27 Leopold Road and 2a-32 Leopold Road.
- 6.9 Policy DM R1- Location and scale of development in Merton's Town Centres and Neighbourhood Parades, aims to protect viability and character of Merton's town centres and neighbourhood parades, resisting large increases in commercial floorspace in neighbourhood parades. The justification advises at 1.14 that the neighbourhood parades have been designated to ensure local access to a range of important local shops, easily accessible to people without a car or of restricted mobility.
- 6.10 Policy DM R2 – Development of town centre type uses outside town centres, aims to focus town centre type uses into the most sustainable locations whilst facilitating development of new small convenience local shops within walking distance of all residents to meet everyday needs. Part d) of the Policy relates to impact on vitality and viability of existing town centres and the use of conditions to prevent adverse impact, including control of the type of goods sold or type of activity.
- 6.11 Policy DM R4 Protection of shopping facilities within designated shopping frontages. Part of the policy aim is to provide consumer choice and opportunities for social interaction. It seeks to retain a minimum of 30% a1 retail uses in neighbourhood parades.
- 6.12 DM D4 Managing Heritage Assets
Leopold Road neighbourhood parade forms the designated Leopold Road Conservation area and is therefore a designated heritage asset. The policy seeks to preserve and protect them and it is noted at 6.44 that this policy helps to create a sense of place, encouraging belonging and a sense of pride in the borough.
- 6.13 Leopold Road Conservation Area Character Assessment March 2005
The Leopold Road Conservation Area covers only the shopping parades making up the neighbourhood centre and dates from between 1892 and 1908.

7. PLANNING CONSIDERATIONS

7.1 Impact on Leopold Road Neighbourhood Parade and Conservation Area

The key planning consideration in relation to this application is the potential for the provision of a small café area within the Waitrose supermarket on Alexandra Road to adversely impact upon the vitality and viability of the Leopold Road neighbourhood shopping parade. At the time when the original Waitrose application was considered, many of the shopowners and local residents expressed concern about the impact of the proposed food store on Leopold Road shops. There were independent butchers, grocers, florist, cafes, newsagents, dry cleaners, a pet food shop and a post office within the neighbourhood parade. There was concern that if any of these key uses are lost through impact on trade this will affect overall vitality and viability. London Plan and Merton planning policies seek to protect and enhance local and neighbourhood shopping facilities. The Leopold Road parade is an important local community hub and is a designated Conservation Area. Its continuing success is important in terms of both the maintenance of local facilities, provision of a community focus and physical contribution to the appearance of the area.

7.2 When the Council's retail consultants, NLP, reviewed the proposal for supermarket use in 2010, they considered that the food store would primarily attract main and bulk food shopping trips although some top up trade might be diverted from the parade's local catchment area, but they considered, on balance, that the food store was unlikely to harm this local centre. Waitrose advised that if they occupied the site, they would help to promote the local parade with signage and promotion of the services on offer within their store, as well as providing free 2 hour parking to encourage linked trips. The Council and many of the shopkeepers remained concerned about the potential of the store to reduce trade, and were sceptical about the potential to generate linked trips, given the physical and visual separation between the store and the parade. The financial viability of these small independent shops are usually finely balanced and even a small reduction in trade can have significant effects.

7.4 The applicants finally agreed to assist in mitigating any potential impact on the parade in two ways – restrictions on the range of goods that could be sold from the proposed store and physical improvements to increase the attractiveness of the parade environment by means of the following :

- A restriction on range of goods to prevent use of any part of a food store as a post office, drycleaners, preparation of wreaths, bouquets or other formal flower arrangements or use as an A3 café

- A £250, 000 contribution towards environmental enhancement of the local parade to include new paving, landscaping, street furniture, street audit focused on de-cluttering
- £105, 000 contribution towards façade enhancements including shopfront replacements/alterations/timber window reinstatements as part of the Council's existing Shopfront Improvement Grants Scheme.

It was considered that subject to the provisions set out above, the potential impact on the parade would not be sufficient to warrant refusal.

7.5 Since Waitrose has opened, both the newsagents and the pet food shop within the parade has closed, which many residents and shopowners within the parade believe can at least be partly attributed to loss of trade from being unable to compete with the offers of a large chain supermarket. Currently within Leopold Road parade, there is Aromatica at no. 9, a delicatessen and café, a new café - Café Rosi at no.8 and Temptations at no.26. which provides ancillary hot drinks in addition to its cakes, sweets and tarts. These uses are very important to the neighbourhood centre in many ways – they provide a destination in themselves, encourage linked trips to other traders within the parade, provide an opportunity for greater social interaction and create a sense of vitality and activity within the parade as a whole which is very important for its general attractiveness.

7.6 Waitrose response to objections

Waitrose now wish to vary the condition restricting uses to allow for a 12 seat 'grazing area' providing drinks and snacks. In response to the strong concerns of the local community and the local planning authority about their wish to change a restriction agreed through negotiation to meet real anxieties about the impact on Leopold Road parade, the planning agents have provided a further statement dated 19th October 2015 which is included as an Appendix and which is summarized as follows:

Perception that Waitrose is going back on its word
 They advise that in the 5 years since permission was granted, the nature of retailing has changed substantially, with growth of internet shopping and changes to shopping patterns and it has become increasingly important to innovate and invest in existing stores. Customer hospitality is seen as a key element of Waitrose's offer and they want the store to have the same facilities as their other stores. They stress the modest nature of the proposed café area, which they do not see as a café in the usual sense but as somewhere to grab a quick drink and bite to eat as part of their shopping mission. They advise that they need to continue to enhance the shopping experience to remain competitive with other stores.

Impact on Local facilities

Again they stress the small nature of the offer and define the concept as a 'grazing area', and more of a 'splash and dash'. They point to the fact that they introduced free coffee for myWaitrose members over 3 years ago, and that there still appears to be a wide range of traders in Leopold Road despite concerns about stores closing prior to Waitrose opening. They do not consider that removal of the condition would have any unacceptable harm to interests of acknowledged importance (ie the local parade).

Town Centre Use contrary to sequential test

This does not apply as the proposal cannot be operated separately from the store. They argue that it is only ancillary to the A1 use, and so modest that they consider it arguable whether or not it is 'de minimis'.

7.7 Officer's views

As set out in 7.1 – 7.5, officers consider the vitality and viability of the Leopold Road neighbourhood parade to be of major importance to the local area in terms of not just providing local facilities but maintaining a healthy local community with a sense of character and cohesion and providing opportunities for social interaction. Its healthy functioning is also vital to maintaining its attractiveness as a designated Conservation Area, retaining its original historic purpose. The existing small scale café and mixed café/retail uses within it are a key component in relation to all of the above.

7.8 Officers remain concerned about the effect of the proposed variation of the condition on A3 type uses within the parade and the ability of small scale retailers to withstand even the smallest diversion of trade, given their relatively low levels of turnover. The quick snack and coffee or 'splash and dash' as Waitrose's agents refer to it, is just as likely to be a feature of the trade of the three existing uses with an A3 element as part of a linked shopping trip to the town centre, Waitrose or the neighbourhood parade. In relation to the small size of the use and offer, again, the Leopold Road operators do not have large premises with a large number of chairs and tables and also vary in the range of food and drink offers.

7.9 Officers are disappointed about Waitrose's decision to apply to vary a condition negotiated in good faith at the time of the original approval only 4 and a half years after the store commenced trading. However, given the location of the café at the retail level of the store, requiring use of the staircase or lift to access the A3 area from the Alexandra Road footpath, which would deter passing trade, combined with Waitrose's agents' expressed willingness to accept a restriction to the size of the facility to 13.67 square metres and 12 seats, officers do not consider that a refusal could be substantiated at appeal if those restrictions were imposed.

8.0 CONCLUSION

On balance, given the limited nature of the A3 area in terms of floor area and seating, and its location at below pavement level, embedded within the Waitrose store and therefore unlikely to attract much passing trade, officers do not feel able to substantiate a refusal that could be robustly defended at appeal in relation to adverse impact on the functioning of the neighbourhood parade and consequently the character of the Leopold Road Conservation Area.

9.0 RECOMMENDATION

GRANT PLANNING PERMISSION to vary Condition 3 Planning Permission 09/P2385 as follows;

Any food store/convenience goods use shall not use any more than 20% of the retail sales area for the sale of comparison goods and no part of the premises shall be used for the purposes of a post office or dry cleaners, for the preparation of wreaths, bouquets or other formal flower arrangements or the use for A3 café/restaurant purposes other than an area no greater than 13.67 square metres with no more than 12 customer seats in the location shown on drawing 314-SDEV-GRA-REDLINE2