Surbiton Neighbourhood Planning Sub-Committee
Date of Meeting: 18/07/19

A2 Register No: 19/00720/FUL
Address: 15A CLAREMONT ROAD, SURBITON, KT6 4QR

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[Please note that this plan is intended to assist in locating the development it is not the site plan of the proposed development which may have different boundaries. Please refer to the application documents for the proposed site boundaries.]

Ward: St Marks
Description of Proposal: Application under Section 73A of the Town and Country Planning Act 1990 (as amended) to vary Condition 6 (Delivery Hours) of Planning Permission 97/7107 (To extend the store's permitted delivery window enabling three night-time deliveries between 10pm and 7am everyday on a permanent basis in addition to the daytime deliveries already permitted.)

Plan Type: Full Application
Expiry Date: 17/06/2019

National Planning Policy Framework (NPPF) 2019
National Planning Practice Guidance (web based resource)

Development Plan: Mayor for London
London Plan March 2016 (consolidated with alterations since 2011)
LDF Core Strategy Adopted April 2012
Kingston Town Centre AAP 2008

Policies

LONDON PLAN MARCH 2016
LP 7.15 Reducing noise and enhancing soundscapes
LDF CORE STRATEGY CORE POLICIES
CS 07 Managing Vehicle Use
CS 12 Retail and Town Centres
LDF CORE STRATEGY DEVELOPMENT MANAGEMENT
DM09 Managing Vehicle Use for New Development
DM10 Design Requirements for New Developments

Previous Relevant History

18/16236/FUL Application under Section 73A of the Town and Country Planning Act 1990 (as amended) to carry out development without compliance with Condition 6 (Vehicle Deliveries) of planning permission 97/7107/FUL to allow a maximum of 3 vehicle deliveries before 7am and after 10pm on any day.

Permit with conditions 29/06/2018

16/16066/FUL Variation of condition 6 of planning permission

Permit with conditions 14/06/2017
97/7107/FUL - Redevelopment to provide new supermarket together with 2-storey car park accessed off The Crescent, involving junction alterations with The Crescent and Claremont Road and service area accessed off St. James Road

15/16863/FUL  Variation of condition 6 (A maximum of three vehicle deliveries to the supermarket shall take place before 7am and after 10pm on any day) of Planning Permission 97/7107/FUL to 'Redevelopment to provide new supermarket together with 2-storey car park accessed off The Crescent, involving junction alterations with The Crescent and Claremont Road and service area accessed off St. James Road'

Refuse Full Application 18/12/2015

02/07044/FUL  Relaxation of condition 6 (Ref.97/7107/JH) to extend deliveries for half an hour between 6.30am and 7.00am, Monday to Saturday.

Refused 03/04/2002

01/07475/FUL  Removal of condition 6 of planning permission 97/7107 restricting hours of vehicle deliveries to the supermarket, to allow 24 hour deliveries.

Application Withdrawn 15/01/2002

97/7107/FUL  Redevelopment to provide new supermarket together with 2-storey car park accessed off The Crescent, involving junction alterations with The Crescent and Claremont Road and service area accessed off St. James Road

Permit 5 Year Condition and Conditions 05/05/1998

Consultations

1. 313 surrounding owner/occupiers were consulted on the proposals. 6 responses have been received, all of which were objections. The grounds on which objections were made can be summarised as follows:

   ● noise and disturbance;
   ● fumes;
   ● incompatible use; and,
Highways and Transportation

2. No objection.

Environmental Health Officer

3. No objection.

Site and Surroundings

4. The application site is located on the western side of Claremont Road and comprises an existing retail superstore occupied by Waitrose. It falls within a mixed use area characterised by commercial units at ground floor level and both ancillary commercial floorspace and residential units on upper floors.

5. The buildings on the site are not listed or locally listed. There are no Tree Preservation Orders (TPOs) on site or in the immediate vicinity. However, the site is located within Surbiton Town Centre Conservation Area, the Surbiton District Centre and falls within a Fluvial Flood Risk Zone 1 (Low Probability).

Proposal

6. The proposal relates to an application under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary Condition 6 (Delivery Hours) of Planning Permission 97/7107/FUL (To extend the store’s permitted delivery window enabling three night-time deliveries between 10pm and 7am everyday on a permanent basis in addition to the daytime deliveries already permitted.)

7. Condition 6 of planning permission 97/7107/FUL states: “Vehicle deliveries to the supermarket hereby permitted shall not take place before 7.00am and after 10.00pm on any day.”

8. The applicant proposes the following amended wording to the above condition: “Vehicle deliveries to the supermarket are only permitted between the hours of 7am and 10pm on any day. In addition, a maximum of three vehicle deliveries are permitted to the supermarket before 7am and after 10pm on any day. Deliveries between 10pm and 7am will be undertaken in compliance with the Delivery Management Plan dated 13 March 2018.”

Assessment

9. The main considerations material to the determination of this application are:

   ● Principle of Proposed Development
   ● Impact on Neighbour’s Residential Amenity
   ● Highways and Transportation
   ● Legal Agreement

Principle of Development
10. The principle of extending the delivery hours and number of vehicle deliveries to a supermarket within a designated town centre is acceptable subject to compliance with Development Plan policies.

Impact on Neighbours' Residential Amenity

11. Paragraph 180 of the National Planning Policy Framework (NPPF), 2019 states that planning policies and decisions should:

   ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

   a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

   b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

   c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

12. Paragraph 005 (Reference ID: 30-005-20140306) of the National Planning Practice Guidance (NPPG) expands on what a significant adverse impact comprises, stating "The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area."

13. In the above circumstances it is recommended that this be avoided (and by inference, the development refused).

14. Paragraph 005 also identifies the difference between a significant adverse impact, and an observed adverse impact. An observed adverse impact occurs when: "Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life."

15. In the above circumstances it is recommended that this be mitigated and reduced to a minimum (usually via planning conditions).

that development secures a good standard of amenity for all existing and future users (of land and buildings).

17. More specifically, Policy DM10 of the LDF Core Strategy, 2012 seeks to safeguard residential amenity with regards to privacy, outlook, sunlight/daylight, avoidance of visual intrusion and noise and disturbance.

18. Following the temporary extension of overnight vehicle deliveries as part of planning permission on 18/16236/FUL approved on 29/06/2018 and 16/16066/FUL approved on 14/06/2017, the applicant has sought permission to permanently allow a maximum of 3 vehicle deliveries before 7am and after 10pm on any day. The additional delivery vehicles (HGVs) would enter the site from St. James' road as existing.

19. Officers note that during the temporary extensions to overnight vehicle deliveries detailed above, the Council’s Environmental Health Team have not received any formal complaints or evidence regarding noise and disturbance from neighbouring properties. As such, Officers consider that subject to compliance with the Quiet Delivery Procedures-Delivery Management Plan the proposal would safeguard neighbouring residential amenity and thereby achieve compliance with Paragraph 127 and 180 of the NPPF 2019, Policy 7.15 of the London Plan 2016 and Policy DM10 of the LDF Core Strategy 2012.

Highways and Transportation

20. Policies DM9 and DM10 of the LDF Core Strategy seek to ensure that new development has regard to local traffic conditions and does not contribute to congestion or compromise highway safety.

21. Officers consider that as the proposed permanent extension to delivery hours would be overnight, there would be no adverse impact on local traffic conditions, congestion or highway safety. In pure highways terms alone, the Council’s Engineers consider that overnight deliveries are often preferable as they are at low-traffic times.

22. As such, the proposal is considered to comply policies DM9 and DM10 of the LDF Core Strategy and the Sustainable Transport SPD, 2013 are achieved.

Legal Agreement

23. The applicant would be required to enter into a Deed of Variation regarding the original legal agreement in order that that the original provisions continue to be captured

Conclusion/Planning Balance

24. Under the provisions of s.73A of the Town and Country Planning Act 1990 (as amended), the proposed permanent extension to delivery hours and number of vehicle deliveries would not result in an unacceptable detrimental impact upon residential amenity. The amendments therefore accord with Paragraphs 127 and 180 of the NPPF, Paragraph 005 of the NPPG, Policy 7.15 of the London Plan, 2016 (consolidated with amendments since 2011) and Policies CS8 and DM10 of the Royal Borough of Kingston upon Thames LDF Core Strategy, April 2012.
Recommendation:

Approve subject to legal agreement and the following conditions:

1. Prior to commencement of the additional deliveries the measures set out in the Quiet Delivery Procedures - Delivery Management Plan dated 13 March 2018 shall be implemented and retained in perpetuity.

   Reason: The relevant works would take place prior to commencement and to safeguard the amenities of the occupiers of the neighbouring properties in accordance with Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

   Site Location Plan 18/03/2019
   Cover Letter 18/03/2019
   Planning Statement 18/03/2019
   Quiet Delivery Procedures-Delivery Management Plan 18/03/2019
   Noise Impact Assessment 18/03/2019
   Noise Solutions Ltd Methodology Statement Assessment 18/03/2019
   Delivery Noise Impact Assessment 18/03/2019
   318/155 Rev D 31/08/2001
   Camera Specs 13/09/1999
   5097/SG-001A 14/07/1999
   A1/104 Rev W 16/03/1999
   A1/115 Rev G 16/03/1999
   A1/158/Rev B 16/03/1999
   341/08A 14/01/1999
   341/03C 01/01/1999
3 The form of the proposed works to the public highway and entrance into the car park shall be those specified on the application form and approved drawings relating to planning permission 98/7168/REM and 00/07337/REM.

Reason: In the interests of residential amenity, the free flow of traffic, in accordance with Policy DM8 (Sustainable Transport for New Developments), DM9 (Managing Vehicle Use for New Development) and DM10 (Design requirements for New Developments (including House Extensions)) of the LDF Core Strategy Adopted April 2012.

4 The car parking, cycle parking, servicing and manoeuvring areas shown on the approved drawings shall be provided with a hard, bound, dust free surface, adequately drained before the development is occupied for the purpose hereby permitted. The respective areas shall be kept free from obstruction at all times, and shall not thereafter be used for any purpose other than those shown on the approved drawing.

Reason: To ensure the provision of satisfactory cycle storage facilities and in the interests of the free flow of traffic and highway safety in accordance with Policy DM8 (Sustainable Transport for New Developments) and DM9 (Managing Vehicle Use for New Development) of the LDF Core Strategy Adopted April 2012.
5 The car park shall only be operated as a public short stay car park for customers of the supermarket and visitors to the District Centre.

Reason: To ensure that parking space is available for use by customers and or visitors at all times in accordance with Policy DM9 (Managing Vehicle Use for New Development) and Policy DM10 (Design Requirements for New Developments including House Extensions) of the LDF Core Strategy Adopted April 2012.

6 Existing visibility splays at all junctions within the site and existing visibility splays at all junctions within the existing road network shall be permanently retained free from obstruction to visibility higher than 1.0m above the surface of the adjoining highway.

Reason: To maintain pedestrian/vehicular intervisibility in the interest of highway safety in accordance with Policy DM9 (Managing Vehicle Use for New Development) Policy DM10 (Design Requirements for New Developments including House extensions) of the LDF Core Strategy Adopted April 2012.

7 Vehicle deliveries to the supermarket are only permitted between the hours of 7am and 10pm on any day. In addition, a maximum of three vehicle deliveries are permitted to the supermarket before 7am and after 10pm on any day. Deliveries between 10pm and 7am will be undertaken in compliance with the Delivery Management Plan dated 13 March 2018.

Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties in accordance with Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

8 The supermarket hereby permitted shall not be open to customers before 7.00am and after 10.00pm on any day.

Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties in accordance with Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

9 Notwithstanding the details shown on the approved drawings re. planning permission 97/7107 the final form of the canopy and associated treatment of the west facing rear elevation shall be those specified on the application form and approved drawings relating to planning permission 98/7217/REM.

Reason: In order to ensure a satisfactory appearance on completion of the development in accordance with Policy DM10 (Design Requirements for New Developments including House Extensions) of the LDF Core Strategy Adopted April 2012.
The entrance off Claremont Road, shown on the approved drawings re. planning permission 97/7107, shall be provided prior to the first occupation of the building and thereafter be permanently retained as a customer entrance into the store, in accordance with details of overall design, width and form in accordance with planning permission 98/7217/REM.

Reason: In order to ensure and retain appropriate pedestrian access and egress to the site and the retention of active shopping frontages in accordance with Policy DM10 (Design Requirements for New Developments including House Extensions) of the LDF Core Strategy Adopted April, 2012.

A customer exit shall be provided prior to the first occupation of the building and thereafter permanently retained within the main frontage of the store (facing the car park) in the position of the fire exit shown on approved drawing No. A1/03 re. planning permission 97/7107.

Reason: In order to ensure and retain appropriate pedestrian access and egress to the site and the retention of active shopping frontages in accordance with Policy DM10 (Design Requirements for New Developments including House Extensions) of the LDF Core Strategy Adopted April, 2012.

Notwithstanding the details shown on the approved drawings re. planning permission 97/7107, the fin and canopy advertisement (and related structures) fronting Claremont Road shall be constructed in accordance with planning permission 98/7217/REM.

Reason: In order to ensure a satisfactory appearance on completion of the development in accordance with Policy DM10 (Design Requirements for New Developments including House Extensions) of the LDF Core Strategy Adopted April 2012.

Notwithstanding the details of the “serpentine fencing” to the car park shown on the approved drawings re. planning permission 97/7107, the final form and appearance of the fencing to the decked car park, shall be in accordance with planning permission 98/7218/REM. The approved fencing shall be permanently retained.

Reason: In order to ensure a satisfactory appearance on completion of the development in accordance with Policy DM10 (Design Requirements for New Developments including House Extensions) of the LDF Core Strategy Adopted April 2012.

All plant and machinery shall be enclosed and soundproofed in accordance with a scheme which shall have been submitted to and approved in writing by the Local Planning Authority. Such sound insulation shall be provided before the plant and machinery is brought into use and thereafter permanently retained.
Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties in accordance with Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

15 Noise emitted from the buildings hereby permitted shall not exceed NR35 of the International Noise Standards Organisation noise rating curves when measured at any point on the site boundaries.

Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties in accordance with Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

16 The development in terms of:
   a) Materials and all external finishes to the store and car park (including their colour and texture);
   b) Boundary treatment (including walls, fences and gates);
   c) Treatment and layout of all parts of the site not covered by the approved buildings, including hard and soft landscaping; and
   d) The exact levels of all buildings, upper and lower car parks, service area, roads and pathways shall be completed in accordance with planning permission 98/7218/REM.

Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties and in order to achieve a satisfactory appearance upon completion of the development in accordance with Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

17 No external lighting shall be installed without the prior written approval of the Local Planning Authority.

Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties and in the interest of highway safety in accordance with Policy DM9 (Managing Vehicle Use for New Development) and Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

18 The development shall be landscaped in accordance with the landscaping scheme approved as part of planning permission 98/7218/REM and permanently retained for that purpose only.

Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties and to ensure a satisfactory final appearance of the development in accordance with Policy DM10 (Design Requirements
for New Developments including House Extensions) of the LDF Core Strategy Adopted April 2012.

19 No part of the site shall be used for open storage.
Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties in accordance with Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

20 No burning of materials or refuse shall take place on the site.
Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties in accordance with Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

21 The supermarket building (net sales area 1,917sqm) shall be predominantly used for the sale of groceries and for no other purpose (including any other purpose within Class A1 of the Schedule to the Town and Country Planning Use Classes Order 1987 or any other provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order).
Reason: In order that the development continues to provide locally accessible goods of an appropriate scale for the size of the Surbiton District Centre in accordance with Policy DM19 (Protecting Existing Retail Uses) of the LDF Core Strategy Adopted April 2012.

22 As shop window display shall be maintained at all times on the Claremont Road frontage.
Reason: In order to retain active shopping frontages in accordance with Policy DM10 (Design Requirements for New Developments including House Extensions) of the LDF Core Strategy Adopted April, 2012.

23 No broadcasting or amplification equipment audible outside the boundaries of the site shall be installed.
Reason: In order to safeguard the amenities of the occupiers of the neighbouring properties in accordance with Policy DM10 (Design Requirements for New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

24 The development shall be operated in terms of the safety and security measures approved as part of planning permission 99/07235/REM.
Reason: In order to ensure the safety and security of the users of the development in accordance with Policy DM10 (Design Requirements for
New Developments and House Extensions) of the LDF Core Strategy Adopted April 2012.

25 A customer exit shall be permanently retained within the main frontage of the store (facing the car park) in the position of the fire exit and shown on approved drawing A1/103.

Reason: In the interests of pedestrian permeability and the vitality and viability of the Surbiton District Centre in accordance with Core Strategy Policy CS12 (Retail and Town Centres) of the LDF Core Strategy Adopted April 2012.

Informative(s)

1 In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form or our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.