

# LONDON BOROUGH OF ENFIELD

## PLANNING COMMITTEE

**Date:** 30<sup>th</sup> June 2015

**Report of**  
Assistant Director, Planning &  
Environmental Protection

**Contact Officer:**  
Andy Higham Tel: 020 8379 3848  
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3841  
Mr R. Singleton Tel: 020 8379 3837

**Ward:** Town

**Application Number :** 15/00765/VAR

**Category:** Other Development

**LOCATION:** 20, CRESCENT WEST, ENFIELD, EN4 0EJ

**PROPOSAL:** Removal of condition 3 of ref: TP/80/1295 (that the premises shall be used solely as a dry cleaners or as a retail shop)

**Applicant Name & Address:**

Mr Mustafa Kaya  
Safeline Services Ltd  
70 Sutherland Avenue  
Petts Wood  
Kent  
BR5 1RB

**Agent Name & Address:**

N/A

**RECOMMENDATION:**

That planning permission be deemed to be **GRANTED** and condition 03 of ref: TP/80/1295 be removed.

**Note for Members:**

This case would normally be dealt with under delegated authority, but has been put before Planning Committee at the request of Councillor Charalambous due to local objection.

Ref: 15/00765/VAR LOCATION: 20 Crescent West, Enfield North, Barnet, EN4 0EJ



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Scale 1:1250

North



## **1. Site and Surroundings**

- 1.1 The site comprises a ground floor Dry Cleaners (Class A1) located to the north side of Crescent West. The unit forms part of a larger parade of shops forming the Hadley Wood Local Centre. The surrounding area is otherwise predominately residential in character.

## **2. Proposal**

- 2.1 The application seeks to remove condition 03 of consent conferred under ref: TP/80/1295. This condition stated:

*That the premises shall be used solely as a dry cleaners or as a retail shop within Use Class I as defined in the Town and Country Planning (Use Classes) Order 1972, and shall not be used for any other purpose without the prior permission in writing of the Local Planning Authority.*

*Reason: To ensure that the use of the premises does not detract from the viability of this group of retail shops, which provide a useful local service.*

- 2.2 The condition removes all permitted changes of use. In the removal of the condition, permitted changes of use would be reinstated in accordance with the Town and Country Planning (General Permitted Development) Order 2015.

## **3. Relevant Planning Decisions**

- 3.1 TP/80/1295 – Change of use of existing premises from retail shop to dry cleaners involving the installation of 2 extraction flues and a new shopfront – Approved subject to conditions (26/09/80).
- 3.2 At the time of determination of this planning application, a Dry Cleaners use was categorised as falling outside of Class I (now interpreted as 'A' use class) by virtue of the Town and Country Planning (Use Classes) Order 1972. Condition 03 of the consent was therefore imposed on the basis that while the Local Planning Authority accepted the principle of a change of use to a Dry Cleaners, given the distinction within the use classes, it was considered that the limitation at that time would ensure a continuance of a compatible use to the Local Centre.
- 3.3 However, changes to the Use Classes Order since this application was determined have seen the amalgamation of a range of uses not previously considered to be within a principal retail function and therefore today a dry cleaners is considered to be an A1 use and therefore such a condition would be unnecessary.

## **4. Consultations**

- 4.1 Statutory and non-statutory consultees
- 4.1.1 Environmental Health – No objection

## 4.2 Public

4.2.1 Consultation letters were sent to 11 neighbouring properties. Twenty objection letters were received plus a petition with 433 signatories objecting to the proposal on the following grounds:

- Loss of dry cleaners
- Loss of local amenity provision
- Servicing to the front of the premises will undermine the safety and free flow of traffic on the adjoining highway

## 5. **Relevant Policy**

### 5.1 London Plan

Policy 4.8 Supporting a successful and diverse retail sector  
Policy 4.9 Small shops

### 5.2 Local Plan – Core Strategy

CP18: Delivering shopping provision across Enfield  
CP30: Maintaining and improving the quality of the built and open environment

### 5.3 Submission Version DMD

DMD17: Protection of community services  
DMD25: Locations for New Retail, Leisure and Office Development  
DMD28: Large Local Centres, Small Local Centres and Local Parades  
DMD 37: Achieving high quality and design led development

### 5.4 Other Material Considerations

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Town and Country Planning (General Permitted Development) Order 2015

## 6. **Analysis**

6.1 The principle issue for consideration is whether it is appropriate and reasonable to maintain a condition restricting permitted development, in light of relevant changes to legislation and Development Plan Policy and consequently the whether the reinstatement of permitted changes of use to the unit would have an unacceptable impact on the vitality and viability of a designated Hadley Wood Local Centre.

### 6.2 Principle for Change of Use

6.2.1 The subject property is currently in use as a dry cleaners within use class A1 (retail). Policy DMD28 of the Development Management Document states that proposals involving a change of use from 'A' class, leisure or community uses within local centres will be refused unless the proposed use provides a service that is compatible with and appropriate to the local centre.

6.2.2 A change of use from retail (A1) to non-retail on the ground floor will only be permitted if all of the following criteria are met:

- a. The role and function of the centre remains predominantly retail. The proportion of A1 shop units must be no less than 50% of the total number of commercial units within defined centres and there must be no less than 50% of A1 uses within any one parade;
- b. The use would not result in an adverse impact on the amenities of nearby occupiers, including through littering or fumes;
- c. The proposal would not have an adverse impact on safety and traffic flows or unacceptably add to traffic and parking problems in the area;
- d. Where applicable, the change of use would not result in a significant break in the continuity of the retail frontage of the shopping parade; and
- e. The frontage is retained/ protected and the design of the frontage would be compatible with the use of the premises and the surrounding area and achieves an active frontage at ground floor level.

6.2.3 On 15<sup>th</sup> April 2015, the Town and Country Planning (General Permitted Development) Order 2015 came into effect. The Order established a range of permitted changes of use for A1 retail units and is summarised as follows:

| From  | To  |
|---|---|
| A1 (retail)   | A2, or up to 150m <sup>2</sup> A3 subject to Prior Approval, or up to 200m <sup>2</sup> D2 (assembly and leisure) subject to Prior Approval and only if the premises was in A1 use on 5 <sup>th</sup> December 2013. A <b>mixed use</b> comprising an A1 or A2 use and up to 2 flats may also be permitted subject to meeting certain conditions. C3 (residential) if the cumulative floorspace of the building is under 150m <sup>2</sup> and subject to Prior Approval. |
| A2 (professional and financial services) when premises have a display window at ground level, but excluding betting offices or pay day loan shops | A1, or up to 150m <sup>2</sup> A3 subject to Prior Approval, or up to 200m <sup>2</sup> D2 subject to Prior Approval and only if the premises was in A2 use on 5 <sup>th</sup> December 2013. A <b>mixed use</b> comprising an A1 or A2 use and up to 2 flats may also be permitted subject to meeting certain conditions. C3 if the cumulative floorspace of the building is under 150m <sup>2</sup> and subject to Prior Approval.                                      |
| A3 (restaurants and cafes)  | A1 or A2  |
| A4 (drinking establishments)  | A1 or A2 or A3 except buildings that may be defined as "community assets".  |
| A5 (hot food takeaways)   | A1 or A2 or A3  |

6.2.4 In relation to changes of use within the 'A' Classes, it is clear that a greater degree of flexibility has been installed to enable changes of use that traditionally would have required consent. Such changes have been guided by a wider economic imperative that seeks to reignite and rejuvenate retail centres that have experienced a sustained period of decline, to install flexibility in use that is supported by a simplified and liberalised planning system.

6.2.5 While Policies contained within the adopted Development Management Document are noted and the general presumption for the retention of A1 uses

within Local Centres is acknowledged, relevant changes to the Town and Country Planning (General Permitted Development) Order 2015 must be afforded significant weight in the determination of the subject application, not least where units across the remainder of the parade would benefit from unfettered permitted changes that cannot be controlled by the Local Planning Authority.

- 6.2.6 The surrounding parade is defined by a variety of viable alternative uses some of which fall outside of the A1 use class and contribute to the vitality of the parade, with 40% remaining in A1 use. Whilst it is acknowledged that this falls below the 50% stated by virtue of DMD28, in considering the weight attributed to the changes to the GPDO, the Council must adopt a pragmatic approach to the assessment of vitality and viability to reflect this change in direction and consistent with the supporting text, it is considered that a reasonable approach to these centres and parades is that the *primary retail role* should be retained, whilst a proportion of other non-retail uses falling within the 'A' use classes and community uses that provide a complementary role will also be supported.
- 6.2.7 In relation to the subject centre, the parade is fully occupied and retains a predominance of A1 uses. The Council recognises that local shops remain essential to many people and serve an important community function and that local shops have a key role to play in delivering sustainable economic growth and development, providing access to day-to-day necessities within a reasonable walking distance from home, albeit where greater weight would typically be given food retailers, newsagents, and post offices. Policy DMD28 gives greater control to protect *local food shopping* and applies where a change of use is sought from retail to non-retail and the existing or last use of the shop was selling day-to-day necessities.
- 6.2.8 With specific reference to the concern of objectors relating to the loss of the dry cleaners, the Local Plan does not afford any specialist protection or dispensation to this form of retail use adopting a more specific presumption to retain viable food retail uses within a Local Centre. Notwithstanding the permitted changes of use afforded by the GPDO, the unit is currently at liberty to change its function away from dry cleaning to a range of other uses within the A1 classification including (but not limited to) shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, funeral directors and internet cafes within the parameters of the condition and without the need for additional consent. Thus to resist a removal of the condition on the basis of the loss of a dry cleaners could not be justified on Policy grounds and to the contrary, it is clear that the existing parade currently functions with a variety of uses that actively contribute to its vitality.
- 6.2.9 Further it is unreasonable to assume that alternative uses of the site would be unacceptable in planning terms. It is noted that objectors have expressed further concern in relation to potential alternative uses for the site, particularly a residential C3 use. It is acknowledged that the removal of the condition would expose the unit to permitted changes of use outside of the traditional retail model, namely A2 (professional and financial services), A3 (restaurant), C3 (residential) and D2 (assembly and leisure). However, only a change to A2 would be permitted without a submission for prior approval. Again, the GPDO must be attributed significant weight in deliberations. While an A2 use would not require any additional consent, the shift in national legislation to

include this use class within tolerances deemed acceptable to allow changes without undermining vitality and viability of the centre (the relevant test of Policy) clearly must impact upon the interpretation of DMD28. Consequently, an A2 use must be regarded as equivalent in Policy terms to a traditional A1 use in the determination of what constitutes a vital and viable centre.

6.2.10 In relation to A3, C3 and D2 uses which are not afforded the same weighting, the GPDO introduces a prior approval process whereby the Local Planning Authority are permitted to exercise control over the stated change of use. Whilst not a full planning application, legislation requires developers to apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to:

| Permitted Change | Requirements  |
|------------------|---|
| A3               | <ul style="list-style-type: none"> <li>a. noise impacts of the development,</li> <li>b. odour impacts of the development,</li> <li>c. impacts of storage and handling of waste in relation to the development,</li> <li>d. impacts of the hours of opening of the development,</li> <li>e. transport and highways impacts of the development,</li> <li>f. whether it is <b>undesirable</b> for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use:               <ul style="list-style-type: none"> <li>i. <b>on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or</b></li> <li>ii. <b>where the building is located in a key shopping area, on the sustainability of that shopping area, and</b></li> </ul> </li> <li>g. the siting, design or external appearance of the facilities to be provided under Class C(b),</li> </ul> <p>and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.</p> |
| C3               | <ul style="list-style-type: none"> <li>a. transport and highways impacts of the development,</li> <li>b. contamination risks in relation to the building,</li> <li>c. flooding risks in relation to the building,</li> <li>d. whether it is <b>undesirable</b> for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use:               <ul style="list-style-type: none"> <li>i. <b>on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or</b></li> <li>ii. <b>where the building is located in a key shopping area, on the sustainability of that shopping area, and</b></li> </ul> </li> </ul>   |



|           |   |
|-----------|---|
|           | <p>e. the design or external appearance of the building,</p> <p>and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.</p>  |
| <b>D2</b> | <p>a. noise impacts of the development,</p> <p>b. impacts of the hours of opening of the development,</p> <p>c. transport and highways impacts of the development, and</p> <p>d. whether it is <b>undesirable</b> for the building to change to a use falling within Class D2 (assembly and leisure) of the Schedule to the Use Classes Order because of the impact of the change of use:</p> <p style="padding-left: 40px;">i. <b>on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services)</b> of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or</p> <p style="padding-left: 40px;">ii. <b>where the building is located in a key shopping area, on the sustainability of that shopping area,</b></p> <p>and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.</p> |

6.2.11 The submission of an application to the Local Planning Authority to determine whether prior approval is required before works are commenced is mandated by the GPDO. In this regard, the stated relevant changes outside of A1/A2 does not absolve the applicant from making relevant applications for the determination of the Local Planning Authority. The GPDO retains a clear degree of control empowering LPA's to refuse a stated change where it is determined that the use would have an undesirable impact to the surrounding area including its impact to the vitality and viability of the wider centre in much the same way as adopted Development Plan Policy does now.

6.2.12 The removal of the condition as proposed does not mean that the use of the property will change (this is a matter between landlord and tenant). Even with the removal of the condition, the premises could continue to be used as a dry cleaners or for any other retail use. Whilst the removal of the condition introduces the opportunity to change to other uses, with the exception of an A2 use, which is now recognised through the GPDO as a complimentary use that contributes to the vitality and viability of centre, all other uses would require at first a prior approval process to allow the LPA to consider the impact.

6.2.13 Any and all uses outside of the stated permitted changes within the GDPO 2015 would still require planning permission and would be subject to the full suite of Policies

## **7. Conclusion**

7.1 Overall, it is considered that the proposed removal of condition 03 of consent conferred under ref: TP/80/1295 is reasonable and justified and it is recommended that the application be approved for the following reason:

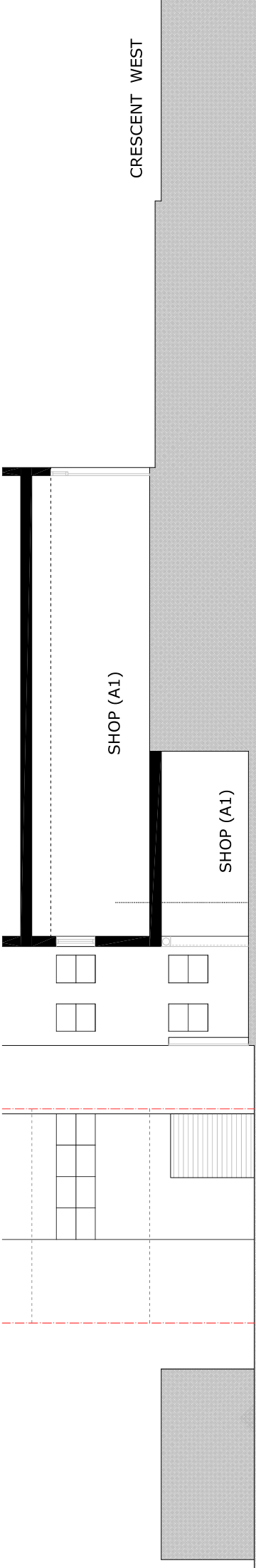
1. Given the controls afforded by the Town and Country Planning (General Permitted Development) Order 2015 with respect to permitted changes of



use, the removal of condition 03 is considered reasonable and justified and would be consistent with a simplified and flexible approach to retail development advocated by central government and would not serve to undermine the vitality or viability of the centre as a whole. This is compliant with the strategic objectives of CP18 of the Core Strategy, DMD28 of the Development Management Document, Policy 4.9 of the London Plan (2015) and the NPPF.

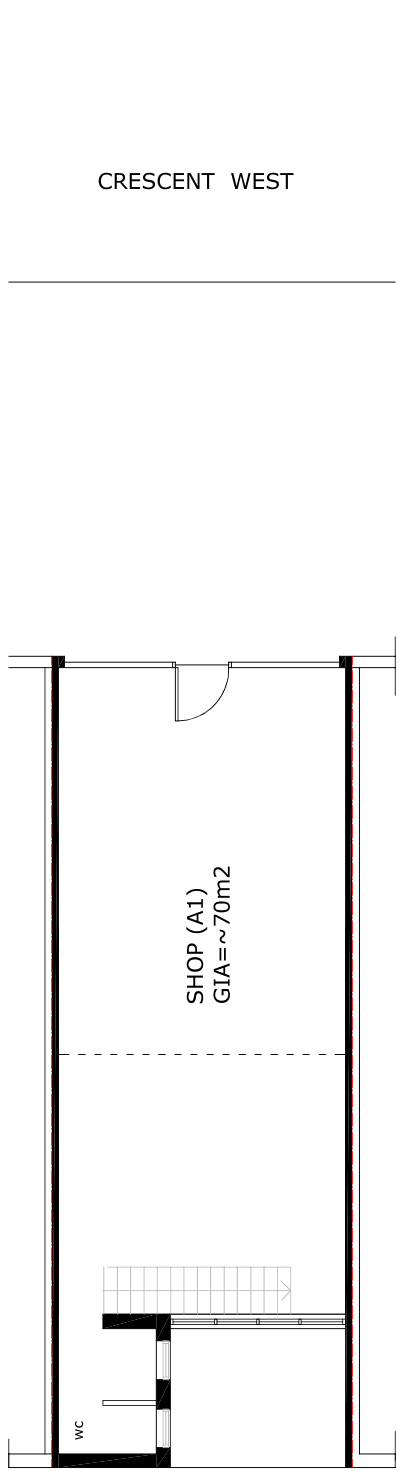
### **Recommendation**

- 8.1 That planning permission be **GRANTED** and condition 03 be removed.

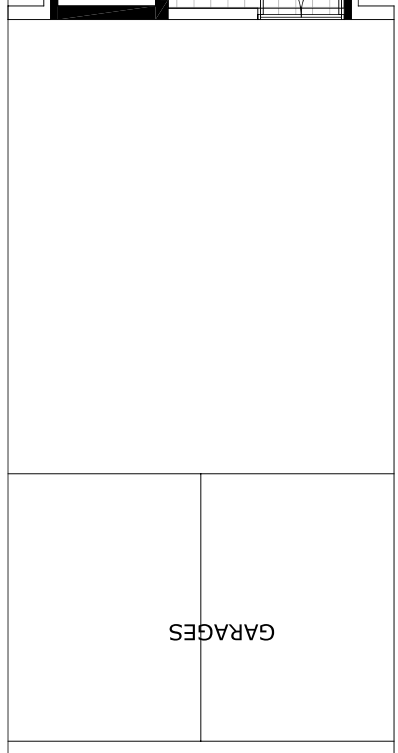


**ELEVATION**  
viewed from carpark

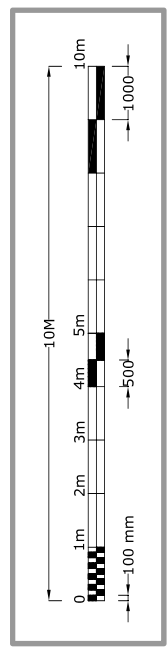
**SECTION A-A**



**GROUND FLOOR PLAN**



**LOWER GROUND FLOOR PLAN**



*drawing in progress*

**Kilich + Co**  
architectural and development consultants  
One Parkgate Crescent Hadley Wood HERTS EN4 0NW

*Project*  
PROPOSED CHANGE OF USE FROM A1 to C3  
20 CRESCENT WEST HADLEY WOOD EN4

*client*  
SAFELINE SERVICES LIMITED

*dwg.title*  
PLANS-SECTION-ELEVATION  
- as existing -

*dwg.by*  
lak

*date*  
Aug 2014

*scale*  
1 : 100 @ A3

*dwg.no.*  
20CW-00