

5 A Better Lee Green Member's Response to Leegate Plans December 2015

We have previously submitted evidence of widespread thoughtful rejection of the plans, reasonable alternative plans and the multitude ways in which the plans break national and local planning policies.

Four new documents are now being consulted on. They do not address our concerns.

Therefore in this response we repeat our concerns expressed in our April and September responses and in addition consider:

- i. Recent events
- ii. The long term implications of accepting the plans

Recent Events

Air Quality

1. Robert McCracken QC's October 2015 opinion:

'Where a development would make significantly worse an existing breach of Air Quality Directive 2008/50/EC it must be refused'.

'Any action which significantly increases the risk to health of the present generation would not be compatible with the concept (sustainable development)'

http://cleanair.london/wp-content/uploads/CAL-322-Robert-McCracken-QC-opinion-for-CAL_Air-Quality-Directive-and-Planning_Signed-061015.pdf

The application does not correctly measure projected air pollution but clearly the several thousand new trips per day at the Tiger's Head junction and moving the currently sheltered public space to an exposed site next to the road receiving the largest increase in traffic, including idling two way turning vehicles at the entrance and exit to the carpark will significantly increase the risk to public health.

2. May 2015 UK Government V Client Earth: Nitrogen dioxide (NO₂) limit values are an 'absolute obligation to achieve' i.e. irrespective of other factors.

<http://www.airportwatch.org.uk/2015/04/supreme-court-hears-clientearth-case-on-getting-faster-uk-action-to-comply-with-legal-no2-limits/>

Lewisham has higher levels of pollution than the London and UK averages and an obligation to tackle the problem proactively and determinedly.

3. Kings College's 'Understanding Health Impacts of Air Pollution in London' 15 July 2015: Detailed evidence of the levels of danger posed in London by air pollution now exists, meaning that **moving public space from a protected to a polluted space could be shown to reduce the**

quality of life of those using the space, potentially as under the Human Rights Act 'Right to Life'

<http://www.london.gov.uk/priorities/environment/publications/understanding-health-impacts-of-air-pollution-in-london>

Asda's Trading Conditions

1. Asda posted an 8.6% fall in sales in first 6 months of 2015
<http://www.telegraph.co.uk/finance/newsbysector/retailandconsumer/11809538/Asda-hits-nadir-as-sales-tumble-4.7pc-in-second-quarter.html>
2. October 2015 Asda announced that 'although two new superstores have been opened in London this year, with another three planned for next year, the retailer's rate of expansion will slow in the capital after that'
<http://www.telegraph.co.uk/finance/newsbysector/retailandconsumer/11940529/Asda-to-slow-investment-in-London-and-click-and-collect-to-cut-costs.html>

Asda is no longer a reliable partner. There is a good chance it will pull out of the scheme even if given planning permission. Tesco and Sainsburys began reducing their building programmes last year, illustrating how communities can be left back at square one or with partially built sites.

http://www.bexleytimes.co.uk/news/tesco_pulls_out_of_plans_to_develop_in_bexleyheath_1_3909441

Implications of Accepting these Plans

Lewisham's Reputation

Councils must choose how best to respond to difficult developers.

Planning policies are based on expensive evidence and advice from experts in retail, employment, housing, environment, urban design, infrastructure and energy. Adhering to them is the only way to achieve sustainable development and public confidence.

Planning policies are enforceable by councils, planning inspectors, judicial review and the secretary of state.

Full details of the policies these plans contravene are in our April and September submissions.

<http://abetterleegreen.com/slate/wp-content/uploads/2015/05/5-ABLG-members-response-to-Leegate-planning-application-final.pdf>

<http://abetterleegreen.com/slate/wp-content/uploads/2015/05/ABLG-Leegate-submission-26.9.15.pdf>

If Lewisham allows St Modwen to break these policies future difficult developers will take note.

It is both possible and preferable for councils to strongly defend their policies, which they do, see Appendix 1.

When councils bow to developer pressure they can regret it. Woolwich's car park with a supermarket and a handful of small retailers and housing on top was later regretted by the head of Greenwich's planning board, 'politicians are still likely to fall for any glitzy promise of "regeneration" that developers offer up', 'Regenerating places isn't achieved just by big supermarkets. Making a place somewhere you want to live, work or hang out in is down to lots of little things – thoughtful public spaces, new pubs and restaurants, and affordable space for small businesses, not just the part-time, poorly paid jobs that Tesco brings'

<http://alexgrant.me/2014/06/25/and-who-is-to-blame-for-this-carbuncle-er-me-actually/>

Local Democracy

1. Council Public Consultations

Lewisham consults local communities about many plans for their areas. If the results of consultations are ignored or dismissed communities can become disengaged, cynical or angry.

2. Council Local Assemblies

Lewisham's excellent Local Assemblies, designed to enable communities to help shape their areas, will be weakened if their views are ignored.

3. Council

Summary of Council Consultation feedback:

Individuals for the plans: 13%

Individuals against the plans: 77%

Groups in favour of plans: None

Groups against the plans: Lee Green Assembly, Blackheath Society, Lee Manor Society, Hither Green Community Association, A Better Lee Green

Petition: 906 local people

If planners or councillors recommend accepting the plans despite the reasonably expressed, majority views of local people, justified in planning policies, in petitions, letters and council consultations, it will be despite their electorate.

It would be perverse for councillors to allow a development that so increases air pollution in this Air Quality Management Area and moves public space from a protected area to an area exposed to high levels of air pollution given that councillors recently passed a motion opposing the Silvertown Tunnel on air pollution grounds.

<http://leegreen.london/lewisham-council-opposes-new-river-crossing-cllr-simon-hooks-explains-why/>

Disadvantage

The community are disadvantaged in responding to this, as previous consultations because the information they have asked for in previous submission has again not been provided.

In most cases the information has also not been provided to the council, we presume also leaving planning officers insufficiently informed to make recommendation to the strategic committee.

1. Unredacted Viability Study

This was requested by the community in July but refused despite tribunal findings that ‘Those who engage with public authorities know that the legislature has enacted terms in relation to freedom of information on which that engagement takes place’, ‘We find it particularly hard to accept that the pricing and other assumptions embedded in a viability appraisal are none of the public’s business. They are central facts determining the difference between viability and non viability. Public understanding of the issues fails at the starting line if such information is concealed’, ‘it was said that rivals might be able to undercut a developer if more information were freely available. It is by no means clear to us why such market forces are contrary to the public interest’, ‘the objective of the EIR is to allow the public and in this case the affected community to have relevant factual information in time for them to participate effectively in environmental decision making’.

<http://www.informationtribunal.gov.uk/DBFiles/Decision/i1478/Royal%20Borough%20of%20Greenwich%20EA.2014.0122%20%2830.01.15%29.pdf>

2. Updating of Retail Capacity Study (RCS)

The current RCS is relied on heavily in the application’s retail and transport reports. It states however that ‘beyond 2014 capacity figures should be treated ‘with a high degree of caution’ due to changes such as increases in internet shopping’ (RCS 5.52), ‘It is essential that the need/capacity for retail floor space is assessed at regular intervals and at least once every five years’ (RCS 5.52), ie end of 2014.

Planning officers met with the Lee Green Assembly Leegate Working Group two months ago and said that an update had been commissioned. Where is it?

3. Revised future Predicted Traffic figures

Correct future predicted traffic figures must

- Reinstated committed developments, both those St Modwen has listed in its application and the ones it has omitted.
- Not assume future decline in existing traffic on Lee High Road and Burnt Ash Road.
- Not assume that because Lee Green is an established residential area committed developments will not generate new traffic.
- Not double count the effects of improvements to the Tigers Head junction and cycle and pedestrian routes.
- Not reduce the development’s % new trips from what St Modwen calls its ‘robust’ 70% figure.

4. Revised Projected Air Pollution figures

Correct projected figures must show Air Quality figures must

- Be measured at around 2 metres high.
- Not double count the benefits of pedestrian and cycle routes.
- Account for increased people exposed to pollution above legal limits by moving the public space next to Burnt Ash Road.

5. Existing vs Proposed Public Space measurements

These have been requested by us, Lee Manor Society and Lee Green Assembly Leegate Working Group previously.

6. Revised Noise Pollution assessment

The existing one excludes effects on properties close to the development.

Appendix 1

Below are examples of councils, including Lewisham and planning inspectors who have upheld planning policies in difficult circumstances.

We recognise that no two situations are the same.

1. St Modwen proposed doubling Southwark's housing density in Elephant and Castle, as it is in Leigate, and **left the site in delays and disrepair**. Southwark threatened a compulsory purchase and St Modwen sold the site to another developer.
<http://www.london-se1.co.uk/news/view/6808>
2. St Modwen left Catford shopping centre in **disrepair and difficulties for years**. Lewisham bought it.
3. CABE's 'Local Leadership For Better Public Places' praises Lewisham for the 'determination and vision of council staff and members'.
<http://webarchive.nationalarchives.gov.uk/20110118095356/http://www.cabe.org.uk/files/local-leadership-for-better-public-places.pdf>
4. An application for a superstore where there is already another superstore was refused by the council, the supermarket appealed and the planning inspector found **two supermarkets detrimental to town centre viability**.
http://www.lancashiretelegraph.co.uk/news/10023335.Barnoldswick_Tesco_plan_appeal_is_thrown_out/
5. A Superstore applied to extend its store in an AQMA in Sheffield. Councillors **refused on air pollution and traffic grounds**, Sainsbury's appeal to planning inspector lost.
<http://www.planningresource.co.uk/article/1089653/focus---air-quality-fears-block-supermarket-extension>
6. Costa coffee wanted to put tables and chairs outside in an AQMA. Council **refused partially on pollution exposure grounds**.
<http://www.southandvale.gov.uk/ccm/support/Main.jsp?MODULE=ApplicationDetails&REF=P13/S2888/FUL>
7. Council rejected a superstore in a district town centre saying it would **go against policies aimed at protecting district shopping centres** and that there was "no overriding need for the store in this location".
<http://www.burnleyexpress.net/news/local/tesco-protestors-win-david-v-goliath-battle-1-386390>
8. Council refused and Planning Appeals Commission dismissed developer's appeal, accepting that 'retail investment in the town had been discouraged until the outcome of the application was known and the developer had approached the consideration of alternatives in "a negative manner".
<http://www.bbc.co.uk/news/uk-northern-ireland-26450236>
See Appendix 2 for alternative plans that were sent to St Modwen's architects and Lewisham council in 2014 and early 2015.
9. Planning inspector dismissed Tesco appeal saying "... **the fact that the junction is already operating above its capacity is not an adequate reason for adding more traffic to it, even a relatively small amount, when it is not at all clear how or when an appropriate solution will come forward**".
<http://www.examiner.co.uk/news/west-yorkshire-news/planning-inspector-dismisses-tescos-bid-5923267>
10. Council refused an appeal dismissed for supermarket with housing on top. Planning Inspector took into account "**exceptional level**" of opposition, that 'many local residents

feel that there is no need for another store' and the '**damage of two superstores in one town centre**' and plans were '**contrary to local policy**'

<http://www.getsurrey.co.uk/news/surrey-news/planning-inspector-dismisses-tesco-camberley-7505453>

11. Council twice refused an application before accepting the third application with a **much smaller store** and a less disruptive delivery lorry plan.

<http://www.thestar.co.uk/news/local/time-to-decide-on-tesco-scheme-in-sheffield-1-7160235>

12. Planning officers recommended accepting plans but planning committee refused it citing the "**height, scale and mass is not keeping**'

<http://birchington.blogspot.co.uk/2013/04/a-battle-won.html>

13. Developer wanted to build near an AQMA. The **council refused on air pollution grounds**, developer appealed and planning inspector upheld decision.

<http://www.airqualitynews.com/2015/07/03/plan-for-97-sussex-homes-rejected-on-air-quality-grounds/>

Appendix 2

We are not qualified to recommend alternative plans, but we sent these suggestions, reviewed by an architect, to Lewisham and St Modwen's architects in late 2014 and early 2015 as reasonable starting points, partly based on what Asda has done elsewhere and can therefore do here.

HOW CAN WE ENSURE THE COMMUNITY ARE HEARD?

COMMUNITY & COUNCIL PUSH FOR MUCH BETTER BY INSISTING ON TOTAL PLANNING POLICY COMPLIANCE

Most of the issues concerning the community are caused by the size of the superstore, which squeezes everything else out. There are many alternatives that would better satisfy the Community and Planning policies whilst being profitable. Here we illustrate three of them

ILLUSTRATION A: ASDA MAINTAIN ITS CURRENT LARGE SIZE BUT STORE ON TWO LEVELS and RECONFIGURED

- A. Move public space from Burnt Ash Road to centre of site, expanding Asda East-West and reducing it North-South
- B Delivery and Storage in Basement or 1st floor with revolving lorry turntable to reduce turning space like Asda Southgate Circus, freeing up a large ground floor area for Public Space and Small Retailers away from traffic
- C. Asda Cafe, Storage or Sales Areas on a Mezzanine Floor like many other Asda Stores in the country (previously discounted by Asda) (Reconfigure car parks depending on how A-C implemented, preferably with Supermarket Car Park in Basement, away from Residents homes and gardens - is profitable in flood-prone Kidbrooke Village so can be profitable in Leigate)

ILLUSTRATION B: ST MODWEN FIND ALTERNATIVE FINANCE PARTNER AND SO SMALLER ANCHOR RETAILER

Asda can dictate current negotiations and refuse to either be smaller or reduce its footprint since they are financing the development: St Modwen find Alternative Finance resulting in:

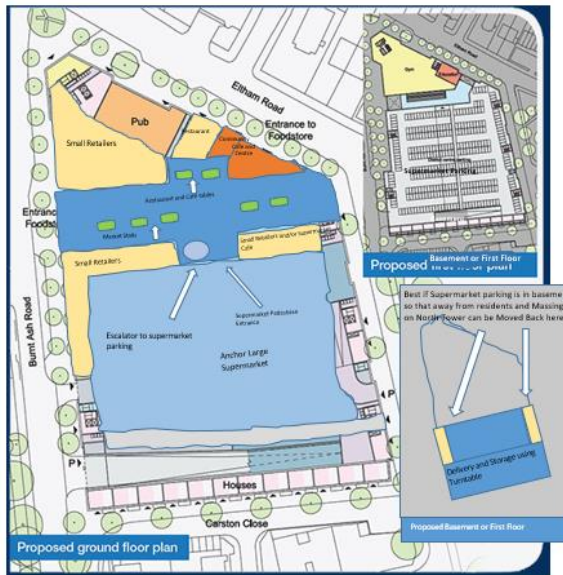
- A. Asda deciding to reduce in size
- B A new, smaller supermarket/non supermarket anchor store deciding to come to Leigate (eg Iceland or Wilkinson who have shown interest in being in Leigate but who haven't yet been approached by St Modwen, or Aldi)

ILLUSTRATION C: ALTERNATIVE LEEGATE DEVELOPER

St Modwen sell Leigate to another developer who will develop more appropriately

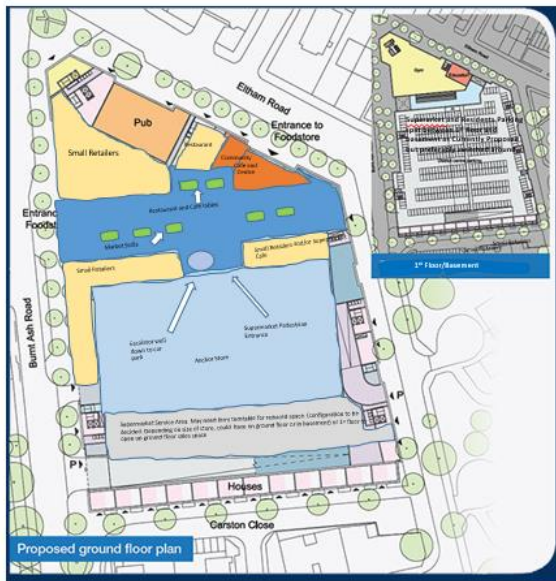
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WHAT ILLUSTRATION A COULD LOOK LIKE: LARGE SUPERMARKET, SMALLER FOOTPRINT



1. Does not ask much of St Modwen
2. Does not reduce Number of Vehicles Visiting Leigate
3. Does not address sustainability concerns surrounding developing around a large superstore when the future of superstores is seriously in doubt
4. Larger Semi-Sheltered Public Space
(moved to the centre of development! Café and Restaurant tables and Street Market safely away from traffic and pollution)
5. Traffic Spread out and moved away from Residents Gardens and Homes – Less Concentrated Pollution
(supermarket car park can be moved to the underground level and restricted hours deliveries off Leyland Road like Sainsburys has off Taunton Road)
6. More Small Retail Shops
(more independent shops & market stalls...)
7. Better Connectivity and Permeability
(greater public space creates ease of movement through the development)
8. Increased Size Community Centre
(Greater Choice of Social & Cultural Activities)
9. Value retail and footfall but not at the expense of public space, exposure to pollution and smaller retailers

WHAT ILLUSTRATION B COULD LOOK LIKE: SMALLER ANCHOR RETAILER



(supermarket or non supermarket anchor retailer)

1. **Larger Semi-Sheltered Public Space**
(moved to the centre of development! Café and Restaurant tables and Street Market safely away from traffic and pollution)
2. **Less Traffic and Pollution: Less non-local Traffic will travel to a smaller store: Also, locals carry smaller shops home but more will drive large shops home**
2. **Suggest move supermarket carpark (with its current 'hole' into residents gardens) underground, away from residents gardens and homes**
3. **More Small Retail Shops**
(more independent shops & market stalls...)
4. **Better Connectivity and Permeability**
(greater public space creates ease of movement through the development)
5. **Increased Size Community Centre**
6. **Value retail and footfall but not at the expense of public space, exposure to pollution and smaller retailers**

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ADDITIONAL DETAILS OF ILLUSTRATIONS A AND B

1. **Larger, Semi-Sheltered Public Space:** Street Market ,Café and Restaurant safely away from traffic and pollution. Combination of soft & hard landscaping & pedestrian seating introduced to Public Space. Gives the **supermarket more space east-west and reduces its space north-south as 8 metres of public space on Burnt Ash Road is moved to the centre of the development**
2. **Supermarket Carpark:** Supermarket Car-Park moved to the underground level, whilst residents carpark moves to the first floor, losing the large 'window' down to the car park in residents gardens, **conrinal** traffic noise away from homes and **allowing massing on the northern tower to be spread back to the now lower south end of the development.**
3. **More Small Retail Shops:** Current plans halve the number of small retailers in Leigate. Most residents want to see **Market Stalls & More Independent Shops**
4. **Better Connectivity and Permeability:** Greater public space creates ease of movement through the development. Burnt Ash Road joins to residential Leyland Road instead of large Eltham Road, loses 'dog leg' turn and gains space as **escalator can take less prominent** space next to the supermarket – hidden as goes down to basement carpark rather than up to first floor carpark
5. **Increased Size Community Centre:** with **Greater Choice of Social & Cultural Activities** for the the use of local residents. There are already many local groups operating in Leigate centre requiring adequate space to cater for varied cross section of communities activities. Space for large meetings, seminars, parties as well as cultural activities such as art, music & possible video/films projections should not be underestimated

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WHAT ILLUSTRATION C COULD LOOK LIKE WHAT OTHER DEVELOPERS HAVE ACHIEVED ON SIMILAR SITES

IGLOO REGENERATION

Bermondsey Square, Southwark

Comprehensive consultation including outreach workers to reach excluded people led to Reasonable size Supermarket/Hotel/Housing/Cafe-Cinema on site. Profitable despite large public square



Carlton Road, Nottingham

At Public Consultation residents wanted a supermarket, resulting in development with an Asda and Mixed Use. Profitable whilst still leaving generous public space, leisure, housing. Small Massing

