

Delegated Report		Analysis sheet		Expiry Date:	21/06/2017
		N/A / attached		Consultation Expiry Date:	22/05/2017
Officer			Application Number(s)		
Oluwaseyi Enirayetan			2017/1829/P		
Application Address			Drawing Numbers		
237-239 West End Lane LONDON NW6 1XN			Refer to decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Installation of timber decking with enclosure (Retrospective)					
Recommendation(s):		<ol style="list-style-type: none"> 1. Refuse Planning Permission 2. That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended and to pursue any legal action necessary to secure compliance. Additionally, officers to be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control. 			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	0	No. of responses	0	No. of objections	0
			No. electronic	0		
Summary of consultation responses:	<p>Site notice displayed 03/05/2017, expired 24/05/2017.</p> <p>Newspaper advertisement 04/05/2017, expired 25/05/2017.</p> <p>No responses received</p>					
CAAC/Local groups* comments: <small>*Please Specify</small>	<p>West End CAAC No reply received to date</p> <p>Fortune Green & West Hampstead Neighbourhood Forum comments;</p> <ul style="list-style-type: none"> • Our local plan is very strong on the value and importance of good and better pavements. This application clearly does not help that objective • The West End Green Conservation Area recognises that the Conservation Area (CA) has a special character and seeks to outline the “the key issues and pressures that are affecting the area”. that “... signage is large and disorderly and the street and pavements are overlaid with clutter” • Policy 9, Recommendation H and 05 Delivery plan (all attached) also emphasise the importance of good pavements, especially near transport facilities, and there is a bus stop close to the application. In support of Policy 9 they recommend the removal of clutter and obstructions from pavements and paths in the Area. • The only thing in favour of the timber enclosure is that it will prevent drift of tables and chairs further onto the pavement. I see that there is permission for the tables and chairs in Planning application 2017/1829/P • A particular problem is the pavements between the three stations on West End Lane. At busy times, especially during the rush hour, the pavements become congested and pedestrians regularly spill onto the road. 					

Site Description

The site is located on the north west corner of the junction of West End Lane and Sandwell Crescent. The property is a four-storey building, constructed in the 1960/70s. The building is in mixed use with restaurant at ground floor level and residential accommodation above. The application site relates to the ground floor restaurant. The site is located within the West End Green Conservation Area but not listed.

Relevant History

Site Address:

P9602671R2 - Change of use of the ground floors from part office and part picture framing shop to restaurant, including alterations to the West End Lane and Sandwell Crescent shopfronts and the provision of a ventilation duct at the rear – **Granted 13/12/1996**

PW9702355R2 - Variation for a temporary period of one year of Condition 06 of the planning permission dated 12th December 1996 (Reg.no.P9602671R2), for change of use to restaurant, to extend the permitted opening hours of the restaurant to 8am to 11pm Mondays to Saturdays and 9am to 10.30pm Sundays and Bank Holidays.

EN16/0838 – (On going) - Decking installed on highway

Neighbouring Sites:

283 – 285 West End Lane;

2016/2017/P - Erection of raised timber decking and perimeter timber enclosure on front area (retrospective).- **Refused but allowed on Appeal 31/03/2017.**

Relevant policies

National Planning Policy Framework 2012

The London Plan 2016

Camden LDF Core Strategy 2010

CS5 Managing the impact of growth and development

CS11 Promoting sustainable and efficient travel

CS14 Promoting high quality places and conserving our heritage

Camden Development Policies 2010

DP16 Promoting sustainable and efficient transport

DP21 Development connecting to the highway network

DP24 Securing high quality design

DP25 Conserving Camden's heritage

DP26 Managing the impact of development on occupiers and neighbours

Camden Planning Guidance

CPG1 Design (2015), chapters 2, 3, 4, 5 and 9

CPG6 Amenity (2011), chapter 9

CPG7 Transport (2011), chapter 8

Camden Streetscape Design Manual

TfL Pedestrian Comfort Guidance (PCG) 2010

West End Green Conservation Area Appraisal and Management Strategy, February 2011

Fortune Green and West Hampstead Neighbourhood Plan, September 2015

Policies 2, 3 and 9

Draft Camden Local Plan 2016

D1 Design

A1 Managing the impact of development

C6 Access for all

G1 Delivery and location of growth

T1 Prioritising walking, cycling and public transport

The Inspector's report on the Local Plan was published on 15 May 2017 and concludes that the plan is 'sound' subject to modifications being made to the Plan. While the determination of planning applications should continue to be made in accordance with the existing development plan until formal adoption, substantial weight may now be attached to the relevant policies of the emerging plan as a material consideration following publication of the Inspector's report, subject to any relevant recommended modifications in the Inspector's report

Assessment

1. Proposal

- 1.1 The applicant seeks retrospective permission for raised timber decking with an enclosure stretching the entire width of the premises, fronting West End Lane, with a break in the middle for entry into the premises.
- 1.2 The drawings submitted indicate that the perimeter timber enclosure is approximately 9metres wide, and it projects 1.86m from the building line. This leaves a maximum of 3.5m of public highway for pedestrians.
- 1.3 The raised timber decking and enclosure is located on the ground floor forecourt at the front of this four storey property, which is in use as a restaurant.
- 1.4 It is noted at this stage that the proposal is the subject of an enforcement case reference: EN16/0838 opened as a result of the structure having been erected without planning permission.

2. Assessment

2.1 The principal considerations material to determining this application are as follows:

- Design
- Amenity of residents
- Impact on pedestrians

3. Design

- 3.1 Policy CS14 aims to ensure the highest design standards for developments. Policy DP24 states that the Council will require all developments to be of the highest standard of design and respect character, setting, form and scale of neighbouring properties and character and proportions of the existing building.
- 3.2 No. 237-239 West End Lane is a semi-detached building which occupies a prominent corner location with the frontage well-proportioned and highly visible from the public realm. The timber decking and enclosure are modest in size, not appearing bulky in design. It protrudes 1.86m beyond the front elevation and the decking is concealed from view by its surrounding perimeter timber enclosures. The latter form a solid boundary which, therefore in terms of scale and materials, they are considered to be subordinate to the host property and streetscene and is

sympathetic to the general character of the Conservation Area.

3.3 Camden Planning Guidance 1 stipulates that materials should form an integral part of the design process and should relate to the character and appearance of the area, in particular in conservation areas. The raised decking and perimeter enclosures are constructed from basic timber sections, which complement the elevations of the shopfront and regard to the setting and context of the Conservation Area.

4. Amenity

4.1 Policy CS5 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. Similarly, DP12 states that the Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours.

4.2 The opening hours of the restaurant, as approved under planning permission reference P9602671R2 have been conditioned as follows. *The use hereby permitted shall not be carried out outside the times of 8.00am to 11.00pm Mondays to Saturdays. It shall not be carried out at any time on Sundays or Bank Holidays. Reasons for additional conditions: To safeguard the amenities of the adjoining premises and the area generally.*

4.3 It is expected that the activity within the street would be fairly limited during the evening and night time hours, and noise would be generated by customers using the decking during the evening would likely give rise to noise nuisance to neighbouring residents. Whilst the Council acknowledges there would be an intensification of use, the front area is on a main road in a busy town centre location and nearer 3 train stations, hence residents cannot reasonably expect a quieter aural environment. If the proposal had otherwise been acceptable the Council would have sought to apply controls on the hours of operation and noise in order to manage potential harm.

5. Highways

5.1 Core Strategy policy CS11 states that the Council will ensure that growth and development has regard to Camden's road hierarchy and does not cause harm to the management of the road network.

5.2 Policy DP21 sets out the Council's expectations for development linking directly to the highway network. It states that the Council will expect works affecting highways to:

- avoid disruption to the highway network and its function,
- address the needs of wheelchair users and other people with mobility difficulties, people with sight impairments, children, elderly people and other vulnerable users;
- avoid causing harm to highway safety or hinder pedestrian movement and avoid unnecessary street clutter;
- contribute to the creation of high quality streets and public spaces.

5.3 Paragraph 8.9 of CPG7 states 'Footways should be wide enough for two people using wheelchairs or prams, to pass each other. We seek to maximise the width of footways wherever possible.

5.4 Camden's Streetscape Design Manual– section 3.01 footway width states the following

- "Clear footway" is not the distance from kerb to boundary wall, but the unobstructed pathway

width within the footway.

- 1.8 metres - minimum width needed for two adults passing
- 3 metres - minimum width for busy pedestrian street though greater widths are usually required.
- Keeping the footway width visually free of street furniture is also important, allowing clear sightlines along the street.'

5.5 The site is located in a town centre where pedestrian footfall is significant. The pavement outside is quite narrow with street furniture and the forecourt in front of the restaurant is not private but public highway according to Land Registry plans. The proposed decking structure takes up the entire forecourt area and encroaches 1.86m onto currently Council maintained public highway. This leaves 3.5m down to 3.2metres of pavement space outside number 237-239 West End Lane. The proposal blocks an established right of way, which in turn hinders pedestrian movement and prevents sustainable travel. The loss of public highway will diminish the pedestrian route and would exacerbate the busy pedestrian high street.

5.6 It should be noted that Tables and Chairs application under ref:2016/4014/TC was refused due to the unauthorised decking on the public highway and considered will add further obstruction on the pavement.

5.7 It is important to note that this section of footway experiences high pedestrian flow, particularly during peak times given its location in between a number of train stations. The section of pavement outside the site is wide, but with the erection of the decking and timber enclosure, and the existence of some street furniture including two lamp posts and a cycle parking stand, it has created a pinch point thereby reducing the amount of available public footway. This would reduce amenity for pedestrians thus having a detrimental impact on the promotion of walking and contrary to TfL's recommended Pedestrian Comfort Guidance of 5.3m for high flow areas. It is therefore judged to be contrary to development policy DP21.

5.8 In order for the decking to be located on the public highway, the Applicant requires permission of the Council's highways team in the form of a Stopping Up Order. The Stopping Up of the Public Highway in such a location is very rare and would normally only be approved where it would be demonstrated that there would be a measureable benefit to the community, such as to make way for additional space for a medical institute or a community building offering services to the community. In this instance, the use is a private restaurant therefore the Council does not consider that this development would provide this and therefore would not be willing to support this planning application or a subsequent application for a Stopping Up Order.

5.9 It must be noted that a scheme at 283-285 West End Lane was allowed at appeal for raised timber decking and enclosure on the public highway in March 2017 (LBC reference 2016/2017/P and appeal ref APP/X5210/W/16/3165786). The application site however differs from that proposal as the application site is closer to the West Hampstead stations with a potential greater footfall than 283-285 West End Lane and street furniture (lampposts and a cycle parking stand) outside the site, which creates a pinch point for pedestrians and cause harm to pedestrian safety.

6. Conclusions

6.1 It is considered that the proposed development by reason of its location would create an unacceptably obtrusive form of development, result in a loss of both public highway and an established right of way, endangering pedestrians and vulnerable road users.

7. Recommendations

- Refuse Planning Permission
- Issue an Enforcement Notice

Authorise Enforcement Action

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended for the raised timber decking to the front elevation, and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The Notice shall allege the following breach of planning control:

The unauthorised installation of timber decking and perimeter timber enclosures to the front of the restaurant.

What you are required to do:

Completely remove the raised timber decking and perimeter timber enclosures to the restaurant and make good any damage to the public highway.

Period of Compliance: 3 months

Reasons for issuing the notice:

The timber decking and perimeter timber enclosures, by virtue of their location on the public highway, reduce the width and function of the pavement resulting in harm to the safety and amenity of pedestrians and other road users, contrary to policy 9 of the Fortune Green and West Hampstead Neighbourhood Plan, policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP17 (Walking, cycling and public transport) and DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies and policies A1, C6 and T1 of the Camden Local Plan Submission Draft 2016.