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# Appeal Decision

Site visit made on 21 November 2017

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 December 2017

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**Appeal Ref: APP/X5210/W/17/3181873**  
**237-239 West End Lane, London NW6 1XN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Banana Tree against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/1829/P, dated 20 March 2017, was refused by notice dated 15 June 2017.
  - The development proposed is the installation of timber decking and timber enclosure (with seating) to shop forecourt.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The Council confirm that the Camden Local Plan (Local Plan) was adopted in July 2017. The Local Plan has replaced two Local Development Framework documents: the Camden Development Policies 2010-2025 and the Camden Core Strategy 2010-2025. As a result, policies within these two documents no longer form part of the Council's development plan. As such, they are no longer relevant. Instead, policies within the Local Plan now carry full weight. While the appellant company has referred to the adopted Local Plan Policies A1, C6 and T1 in their Submission Draft 2016 form, they did have the opportunity to respond to the Council's letter<sup>1</sup> in their final comments. I have considered the appeal on the basis of the current local and national policies.
3. I could see from my site visit that the appeal scheme had been erected. I have therefore determined the appeal on this basis.

## Main Issue

4. The main issue is the effect of the proposed development on the safety of pedestrian traffic using West End Lane.

## Reasons

5. The appeal premises is a ground floor restaurant on the corner of West End Lane and Sandwell Crescent. The property forms part of a vibrant local centre in The West End Green Conservation Area (WECA). The appeal site is to the north of the West Hampstead public transport interchange which consists of three train stations that offer London Underground, Overground and

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<sup>1</sup> Council Letter, 2 November 2017

Thameslink services. The stations are a short walk away on West End Lane. Footways and a cycle lane extend along both sides of this busy road. A bus stop is to the north.

6. During my morning site visit, which is only a snapshot in time, I observed a steady flow of vehicular and pedestrian traffic. Pedestrians used the footways on both sides of the road. During my visit, I did not see anyone stray into the road as a result of passing pedestrians using the footway in front of the appeal property. However, my visit was outside of rush hour periods when the Council suggest the pavements become congested and pedestrians regularly spill into the road. The appellant company does not dispute the Council's evidence about the level of activity during rush hour periods. Inspector Fort also observed a considerable amount of pedestrians using the footway on the other side of the road from the appeal premises when they considered the proposal at 283-285 West End Lane<sup>2</sup>. Thus, it is reasonable to conclude that a considerable number of pedestrians use the footway during certain times of the day.
7. The proposed seating area extends across the full width of the appeal premises at a depth of 1.84 meters to the left of the central entrance door, and 1.86 meters to the right of the door. Although the pavement in front of the appeal premises may well be public highway, it has a variable width and height due to the alignment of the road. The width shown on the plans varies between 3.562 meters and 3.288 meters. However, the footway at the front of the appeal property is not free from street furniture. This consists of a Sheffield bicycle stand and two street lighting columns. Each is inset from the kerb by roughly 0.5 metres. There was also at the time of my visit a refuse bin. While this may move, my findings need to relate to the circumstances as I find them. None of the street furniture is shown on the plans.
8. The Camden Streetscape Design Manual (CSDM) explains that a clear footway is not the distance from kerb to boundary wall, but the unobstructed pathway width within the footway. Although the appeal premises is behind 243 West End Lane, the clear footway width at the front of the appeal property is already reduced below the minimum width of 3 meters for a busy pedestrian street. This is due to the street furniture. The proposal reduces this further forming a pinch point next to the uncontrolled crossing point across Sandwell Crescent. The resultant clear footway width is below the minimum technical standard in Transport for London's Pedestrian Comfort Guidance (PCG) and the CSDM.
9. The proposal does keep the tables and chairs within a designated area and it does enable wheelchair access into the appeal premises. However, I cannot be certain that the clear section of footway would be consistently wide enough at the front of the appeal premises for two people using wheelchairs or prams to pass each other in accordance with The Camden Planning Guidance Transport 7 (CPG 7). Hence, the appeal scheme does not provide the maximum space to pedestrians due to its projection away from the front building line. It therefore interrupts the footway for pedestrian movement, meaning that the remaining space would not allow a crowd of people to pass the site during busy periods without people straying into the road, especially during peak hours and if there are people using wheelchairs and or prams.
10. A key objective for the adopted Fortune Green and West Hampstead Neighborhood Plan (Neighborhood Plan) is movement around the area. It is

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<sup>2</sup> Appeal Decision Ref: APP/X5210/W/16/3165786

important that people can move through streets and places easily and safely. Given the use of West End Lane by different transport modes, I consider that the proposal would put pedestrian safety at risk as it hinders the easy passage of pedestrians along the road in a local centre and near to a transport interchange. Thus, the proposal would not benefit highway safety.

11. During my site visit I saw the raised timber decking and enclosure in front of No 283-285. This area is, however, not as deep as the appeal scheme and the pavement in front of this property is considerably wider and free from street furniture. Hence, pedestrians can move easily and safely here. In terms of the example on Wimbledon Park Road, this decision relates to a site in south London. I cannot therefore be certain that this site's circumstances directly compare to the appeal scheme. The decision was also made having regard to different development plan policies<sup>3</sup>. I give the examples cited little weight.
12. I conclude that the proposed development would significantly harm the safety of pedestrian traffic using West End Lane. Hence, the appeal scheme would not accord with Local Plan Policies C6, A1 and T1, Neighbourhood Plan Policy 9, the CSDM, CPG 7, London Plan Policy 7.5, the PCG and paragraphs 56, 61 and 64 of the National Planning Policy Framework. Together, these seek, among other things, to maintain uncluttered spaces and high quality footpaths that are wide enough for the number of people expected to use them so that they give the maximum possible space to pedestrians who can use them safely and easily.

#### *Other matters*

13. The appeal building is of considerable scale. Given the appeal scheme's modest scale, the proposal does not diminish the building's presence in the street scene. The appeal scheme is, in terms of its character and appearance well designed and constructed from appropriate materials. Hence, the proposal does not undermine the architectural character of the appeal building or harm its positive contribution to the character, appearance or significance of the WECA. I also share the Council's view that residents living conditions would not, subject to planning conditions controlling noise and the hours of operation, be harmed. This otherwise unacceptable development, could not, however, even with the use of such conditions be made acceptable given my findings on the main issue.
14. I note the appellant company's application to place tables and chairs on the public highway<sup>4</sup> and the Council's decision in this regard. However, this matter does not alter or outweigh my findings on the proposal before me, which I have considered on its planning merits.

#### **Conclusion**

15. For the reasons set out above, I conclude that the appeal should be dismissed.

*Andrew McGlone*

INSPECTOR

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<sup>3</sup> Policy DMT1, Wandsworth Local Development Framework Development Management Policies Document 2012

<sup>4</sup> Council Ref: 2016/4014/TC