

Delegated Report	Analysis sheet	Expiry Date:	04/03/2020
	N/A	Consultation Expiry Date:	14/02/2020
Officer		Application Number(s)	
Josh Lawlor		2019/5871/P	
Application Address		Drawing Numbers	
3 Highfields Grove London N6 6HN		See decision Notice	
Proposal(s)			
Excavation of front garden and laying of hardstanding to create 2 - 3 off-street parking spaces (retrospective application)			
Recommendation(s):	Refuse Planning Permission with Enforcement Action to be Taken		
Application Type:	Full Planning Permission		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	2	No. of objections	1
Summary of consultation responses:	<p>A site notice was displayed near to the site from on 21/01/2020 and expired on 14/02/2020</p> <p>The application was publicised in the local press on 16/01/2020 and expired on 09/02/2020</p> <p>One objection was received from a neighbouring owner/occupier, the objection related to:</p> <ol style="list-style-type: none">1. There is no road gully at the bottom edge of the new front driveway similar to other driveways on the estate2. The hedges between the two properties have now been removed without an Party Wall agreement and now cannot be replaced as they have built a retaining wall on the boundary line3. Please consider the height between the two properties and whether it is correctly shown in the application4. Despite the Highfields Grove Covenant rules that are in place. They operate independently to the Camden Council planning and building regulations and all residents are obliged to apply separately to the Council for works carried out to their property5. Works to back garden – creation of larger patio area, and new supporting wall which has changed from a partial laid patio and original grass laid garden					
	<p>Officer response to the above objection (points 1-5):</p> <ol style="list-style-type: none">1. Please see section 4 of this report2. The removal of the hedges without a party wall agreement would be a party wall matter associated with 'Party Wall Act' 1996. <i>This is not consideration in the determination of this application.</i>3. <i>The applicant has provided an existing and proposed section to show the level of excavation. The ground floor was been reduced by approximately 0.5m</i>4. The application will be assessed against the local plan and other material planning considerations. The Highfields Grove Covenant rules are not a material consideration for this application.5. A site inspection confirmed that the works to the rear garden are de-					

	<p>minimis and not considered to constitute development</p> <p>One comment was received from a resident, the comment related to:</p> <ol style="list-style-type: none"> 1. Can the owner developer please liaise with Camden and their gardening contractors to review any possible recycling and reuse of plants and shrubs impacted by this change. In this way plants which help to reduce pollution and improve the general environment will not be destroyed but can be recycled and reused at little or no cost on other Camden properties, Estates or parks. Areas such as south end Close estate will benefit from this in their efforts to reduce high levels of pollution generated by the areas in which they are located. <p>Officer response:</p> <ol style="list-style-type: none"> 1. The application is retrospective and therefore this is not possible. Regardless such a control is outside the remit of planning control.
<p>Highgate Conservation Advisory Committee (CAAC)</p>	<p>Highgate Conservation Area Advisory Committee comments as follows:</p> <ol style="list-style-type: none"> 1. External paving should be permeable and incorporate sustainable urban drainage system (SUDS) <p>Officer response:</p> <ol style="list-style-type: none"> 1. Please see section 4 of this report.

Site Description

The site is located at no. 3 Highfields Grove, which is a private cul-de-sac located off Fitzroy Park to the west of Highgate Village. The site contains a large detached dwelling house, which is a part of a 1980s built residential estate. The site is located within the Highgate Village Conservation Area. The site is also located within the Highgate Neighbourhood Plan area.

The site slopes steeply up from west to east. The site access on Highfields Grove is at lower ground floor level. The pre-existing site ground level steps up to ground floor level.

Relevant Planning History:

2016/6386/P Erection of a single storey rear extension to a dwellinghouse (C3). **Granted 23/03/2017**

2017/0458/P Erection of infill first floor rear extension **Granted 22/03/2017**

Relevant Tree Works

FRONT GARDEN: 1 x Birch (T1): Fell

SIDE GARDEN: 1 x Sycamore (T2): Reduce to boundary

REAR GARDEN: 1 x Sycamore (T3): Fell

No Objection 28/09/2018

Relevant Enforcement history:

EN19/0786: Excavation works taking place at front of property without consent. Investigation ongoing

Relevant policies

The National Planning Policy Framework 2019

**Guidance on the permeable surfacing of front gardens
(Ministry of Housing, Communities & Local Government 2009)**

London Plan 2019 Intend to publish version

Camden Local Plan 2017

- A1 Managing the Impact of Development
- D1 Design
- D2 Heritage
- CC2 Adapting to climate change
- CC3 Water and flooding
- A3 Biodiversity
- T1 Prioritising walking, cycling and public transport
- T2 Parking and car free development

Highgate Neighbourhood Development Plan (2017) (HNP)

- Policy DH2: Development Proposals in Highgate's Conservation Areas
- Policy TR4: Reducing the Negative Impact of Parking in Highgate

Camden Planning Guidance (CPG)

- [Design CPG - March 2019](#)
- [Transport CPG - March 2019](#)
- [Design CPG - March 2019](#)
- [Biodiversity CPG - March 2018](#)
- [Amenity CPG - March 2018](#)
- [Water and flooding CPG - March 2019](#)

Highgate Conservation Area Appraisal and Management Strategy (2007)

1. The proposal

1.1. Retrospective planning permission is sought for the excavation of front garden and laying of hardstanding to cover the entire forecourt and provide for 2 - 3 off-street parking spaces. The development involves the removal of the soft landscaping, lowering of the ground level and laying of brick hardstanding. The existing driveway plan shows that 65sqm of soft landscaping has been removed, with the proposed hardstanding covering 60sqm. The level of the front garden has been lowered by approximately 500mm and a low rise retaining wall has been built along the boundary with no.2 Highfields Grove.

2. Assessment

2.1. The General Permitted Development Order no longer allows the creation of more than 5 square metres of impermeable surfaces at the front of a dwelling house that would allow uncontrolled runoff of rainwater from front gardens onto roads without first obtaining planning permission.

2.2. The principal considerations material to the determination of this application are as follows:

- The design impacts on the building and Highgate Village Conservation Area (Design and Heritage)
- Impacts on water-runoff and flood risk
- Compliance with policy T2 (Car-free development)
- The impacts caused upon the amenities of the neighbouring properties.

3. Design and Heritage

3.1. Local Plan Policy D1 seeks to secure high quality design in development which respects local context and character. Policy D2 of the local plan and policy DH2 of the Highgate NP states that the Council will preserve and enhance Camden's heritage assets and their settings. The Council will not permit development that results in harm that is less than substantial to the significance of the heritage asset unless the public benefits of the proposal significantly outweigh that harm. CPG Design recommends that alterations take into account the character and design of the property and surroundings.

3.2. Policy TR4 of the HNP states that development should not create, or add to, an area of car parking that would have an adverse impact on local character or a building's setting or is visually detrimental to the conservation areas. The policy states that any new off-street parking should have regard for its impact on the character of the local area, and could be required to preserve or re-provide features of a forecourt or garden. The policy states that proposals for off-street parking should provide adequate soft landscaping, permeable surfaces, boundary treatment and other treatments to offset adverse visual impacts and increases in surface water run-off.

3.3. CPG Altering and extending your home para 5.4 states that the design of front gardens and forecourt parking areas make a large impact to the character and attractiveness of an area and is particularly important to the streetscene. Paragraph 5.5 states that a front garden and other similar forecourt spaces should consider a balance between hard and soft landscaping. Where changes take place, no more than 50% of the frontage area should become hard standing. Where parking areas form part of the forecourt, enough of the front boundary enclosure should be retained to allow for a visual definition of the forecourt from the street and to provide screening; and vegetation which contribute to the character of the site and surrounding area; integrate

planting into front garden structures where possible. If new materials are to be introduced they should be complementary to the setting.

- 3.4. The Highgate Conservation area management appraisal states that the appearance of front gardens and historic boundaries are an important part of the character of the Highgate Conservation Area. A number of areas within the Conservation Area are under particular pressure for off street parking. This has led to the hard surfacing of front gardens either to create new forecourt parking areas or to recover established driveways. The use of inappropriate materials, out of keeping with the Conservation Area, such as concrete brick pavements and tarmac detracts from the character and appearance of the Highgate Conservation Area. The loss of historic boundaries, planting and soft landscaping associated with the introduction of hard standing will be resisted.
- 3.5. The low rise wall built along the boundary with no. 2 Highfields Grove is not considered to be harmful to the character and appearance of the building and is therefore an acceptable alteration.



Photo of front garden area pre-works (from Design & Access statement)

- 3.6. The pre-existing green front garden contributed to the character and setting of the host building and provided an attractive visual interest to the street scene. The vegetation which gently rose from street level to the front building line provided a soft and natural setting to the architecture behind. The pre-existing front garden is considered to contribute to the verdant character of the estate and there is a strong presumption in favour of retaining this character.
- 3.7. The new hardstanding covers more than 50% of the frontage area, and provides poor visual definition between the forecourt and street, with no screening provided. The hardstanding creates a harsh and barren appearance which is considered harmful to the appearance of the building and street scene. Furthermore it is noted that the colour tone of the 'charcon europa buff paviers'

is incongruous to the setting as it does not match the building and wider estate.

3.8. Para 196 of the NPPF (2019) states that *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'*. The proposal would result in 'less than substantial harm' to the character, appearance and historic interest of the conservation area as well as to the host property. There is no demonstrable public benefit that would outweigh this harm.

3.9. Considerable importance and weight has been attached to the harm and special attention has been paid to the desirability of preserving or enhancing the character or appearance conservation area, under s. 72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

4. Flood risk and water runoff

4.1. Camden has relatively few permeable surfaces and a very high population density. As a result it is deemed to have a high risk of surface water flooding, which is likely to be increased by further growth and intensification of the built environment as well as the increasing risk of heavy rainfall due to climate change. Surface water flooding is caused when the existing water infrastructure (drains and sewers) cannot cope with heavy rainfall.

4.2. The majority of the borough, as with London as a whole, is primarily underlain by clay soils, with the exception of higher ground on the north of the borough on Hampstead Heath. This means the soil beneath paving permits moderate infiltration. The site is recorded as having a number of hydrological constraints including:

- Underground development constraints - the Bagshot Beds and subterranean groundwater flow
- Surface water flow and flooding
- Slope stability

4.3. Policy CC2 states that the Council will seek to ensure that development does not increase flood risk and reduces the risk of flooding where possible. Policy CC2 states that the Council will require development to be resilient to climate change. Policy CC3 states development should adopt appropriate climate change adaptation measures. The policy states developments should not increase, and wherever possible reduce, surface water run-off through increasing permeable surfaces and use of Sustainable Drainage Systems.

4.4. Permitted development rights exist for creating areas of hard standing in front of dwellings, however they stipulate that where *'(b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres,; either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse'*.

4.5. Policy CC3 states development should consider the impact of development in areas at risk of flooding (including drainage) and should utilise Sustainable Drainage Systems (SuDS) in line with the drainage hierarchy to achieve a green field run-off rate where feasible.

4.6. CPG Altering and extending your homes para 5.2 states that front and rear gardens have become particularly prone to development pressure where loss of vegetation has resulted in the erosion of local character and amenity, biodiversity and their function as a sustainable drainage system to reduce local storm water run-off. The cumulative contribution of gardens with landscaping and trees towards Camden's green infrastructure has become even more significant over the last few

decades because of their contribution to mitigating the effects of climate change which includes overheating. Additionally, gardens create green corridors for wildlife, aid the improvement of air quality and provide natural drainage for rainfall.

- 4.7. An on-site soakaway using partial, and no, infiltration methods set in permeable pavements is the preferable method by which the laying of hardstanding should be approached. The proposal has not used this approach, charcon europa buff paviers have been used which are not a sustainable SuDS in line with the drainage hierarchy. Para 3.8 of the Design and Access Statement states (3.8) that *‘During the course of the reduced level excavations it was clear that the sub strata was clay based and therefore any attempt to introduce permeable paving would have been unsuccessful and caused problems on the drive by a build-up of trapped rainwater below the blocks to the line of the clay.’* Furthermore *‘consideration was given to the provision of an Aco drain or gully to the front edge of the driveway but this was not acceptable as far as the Residents Association was concerned as it did not match the rest of the estate’*. However no consideration appears to have been given to introducing sub-surface means of water retention, or other measures which would avoid the reliance on using the street as a gulley and the sewer system as the immediate point of water removal, without any on-site attenuation.
- 4.8. Replacement of the soft landscaping without any consequent mitigation of the resulting increase in surface water runoff does not meet the requirements of policy and is therefore a reason for refusal: in the absence of detailed measures to mitigate the loss of permeable green space, the development fails to be resilient to climate change and would contribute to the risk of surface water flooding, contrary to policies CC2 (Adapting to climate change) and CC3 (Water and flooding) of the Local Borough of Camden Local Plan 2017 and policy TR4 (Reducing the Negative Impact of Parking in Highgate) of the Highgate Neighbourhood Development Plan (2017).

5. Transport

- 5.1. Local Plan Policy T2 (Parking and car-free development) states that the Council will limit the availability of parking and require all new developments in the borough to be car-free. The supporting text under para 10.15 states that limiting the opportunities for parking within the borough can reduce car ownership and use and therefore lead to reductions in air pollution and congestion and improve the attractiveness of an area for local walking and cycling.
- 5.2. The policy criterion b states that the Council will:
- i. *limit on-site parking to spaces designated for disabled people where necessary, and/or*
 - ii. *essential operational or servicing needs*
- 5.3. Criterion d states that the Council will resist the development of boundary treatments and gardens to provide vehicle crossovers and on-site parking. The property already benefits from on-site car parking, and the proposal would provide an additional 2-3 parking spaces within the site for car parking. The Design and Access Statement states this is for visitor parking. The Council's Transport Planning Officer has confirmed that such parking is not deemed to be essential and therefore cannot be supported by the policy. The direct provision of further parking on site would therefore promote the use of private motor vehicles over the use of more sustainable and healthy modes of transport, and would contribute to increased air pollution, contrary to policy T2.

6. Residential Amenity

- 6.1. Policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of residents. This includes factors such as privacy, outlook, sense of enclosure and implications to natural light.

6.2. The proposal would not give rise to adverse impacts on residential amenity in terms of loss of light, outlook or increased sense of enclosure.

7. Recommendations

7.1. Refuse planning permission

7.2. Issue a planning enforcement notice to require the removal of the unauthorised hardstanding and reinstatement of pre-existing front garden with soft-landscaping.

That the Director, Culture and Environment instruct the Head of Legal Services to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended, requiring the removal of the hardstanding from the front forecourt area and the reinstatement of the front garden and soft-landscaping to the property, and to pursue any legal action necessary to secure compliance. Additionally, officers to be authorised that 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 breaches of planning control:

1. Excavation of front garden and laying of hardstanding to create 2 - 3 off-street parking spaces

What you are required to do:

1. Completely remove the brick hardstanding and reinstate the original front garden with soft-landscaping to match the pre-existing condition

Period of compliance:

3 Months

Reasons why the Council consider it expedient to issue the notice:

1. The proposed development, by virtue of the loss of soft landscaping and spatial definition between the forecourt and street, would harm the character and appearance of the host property and the wider Highgate Village Conservation Area, contrary to policies A2 (open space), D1 (Design), D2 (Heritage) of Camden Local Plan 2017 and policies DH4 (Development Proposals in Highgate's Conservation Areas) and TR4 (Reducing the Negative Impact of Parking in Highgate) of the Highgate Neighbourhood Development Plan (2017).
2. The proposed development, by reason of promoting private car use, would likely contribute to increased air pollution and would fail to promote or prioritise the use of sustainable transport, contrary to Policies A1 (Managing the impact of development), T1 (Prioritising walking, cycling and public transport) and T2 (Parking and car-free development) of the Local Borough of Camden Local Plan 2017.
3. In the absence of detailed measures to mitigate the loss of permeable green space, the development fails to demonstrate resilience to climate change and would likely contribute to the risk of surface water flooding, contrary to policies CC2 (Adapting to climate change) and CC3 (Water and flooding) of the Local Borough of Camden Local Plan 2017 and policy TR4 (Reducing the Negative Impact of Parking in Highgate) of the Highgate Neighbourhood Development Plan (2017).

