

Delegated Report		Analysis sheet	Expiry Date:	23/08/2021
		N/A / attached	Consultation Expiry Date:	25/07/2021
Officer			Application Number(s)	
Sofie Fieldsend			2021/1735/P	
Application Address			Drawing Numbers	
Unit 2, Sonny Heights East 1-11A Swain's Lane London N6 6QX			See decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Erection of planters and landscaping to the front to create external seating area				
Recommendation:	Refuse planning permission			
Application Type:	Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	02	No. of objections	02
Summary of consultation responses:	<p>A site notice was displayed on the 30/06/2021 and the consultation period expired on the 24/07/2021. A press notice was advertised on 01/07/2021 and expired on 25/07/2021.</p> <p>2 objections were received during public consultation from neighbouring properties. Their objections can be summarised as follows:</p> <ul style="list-style-type: none"> • Concern about narrow pavement caused by barrier as this area is very busy/crowded. Creates a pinch point • Concern pedestrian movement will be made worse with this development when the pedestrian crossing over Swains Lane is installed • Plans do not show street furniture and incorrectly positions the bollards, so pavement width will be less. • The drawing omits the extension to the footpath into Swain's Lane which was carried out to afford pedestrians better views up Highgate West Hill during the construction phase. • The lease drawing enclosed with the application shows 2 new trees are to be planted, is it now proposed to omit these? 					
Community groups/CAAC	<p>Dartmouth Park CAAC made the following comment:</p> <ul style="list-style-type: none"> • Welcome this additional greening at the junction of Swains Lane and Highgate West Hill. • Care must be taken to make sure the planters are within the Commercial Unit 2 Lease Boundary which should be clearly marked on the pavement. • These planters should be securely fixed to the pavement. • The pavement should be wide enough to accommodate all manner of pedestrians particularly adjacent to the Unit 1 wine bar entrance. • The scheduled installation of the pedestrian crossing on Highgate West Hill in the near future should also be taken into account by the responsible Council officers. 					

Site Description

The site is a two storey commercial terrace located on the junction with Swains Lane and Highgate West Hill, within the Swain's Lane Neighbourhood Centre.

The site is located within the Dartmouth Park Conservation Area and the Dartmouth Park Neighbourhood Plan Area. The building/terrace is a relatively new construction and is not listed.

Relevant History

Application site (Unit 2)

2013/6674/P - Erection of a part 2 / part 3 storey (above part basement level) building comprising 5 retail units (Classes A1/A2/A3) and 7 residential units (Class C3) on upper floors; and a 3 storey building comprising 3 retail units (Classes A1/A2/A3) and 5 residential units (Class C3) on upper floors; with associated car parking, landscaping and works to the public realm (following the demolition of existing buildings).- **Granted 26/02/2015**

Unit 1 (adjacent)

2019/3971/P - Proposed external landscape area and shopfront design associated with commercial Unit 1 and new external cold room to the rear of commercial Unit 7 of application 2013/6674/P (as amended by 2018/4187/P). – **Granted 28/11/2019**

Relevant policies

National Planning Policy Framework (2021)

London Plan (2021)

Camden's Local Plan (2017)

G1 Delivery and location of growth

A1 Managing the impact of development

A3 Biodiversity

D1 Design

D2 Heritage

T1 Prioritising walking, cycling and public transport

T4 Promoting the sustainable movement of goods and materials

Dartmouth Park Neighbourhood Plan (2020)

Policy DC1 Enhancing the sense of place

Policy DC2 Heritage assets

Policy CE3 Public realm

Policy ES3 Biodiversity

Policy TS1 Safety and accessibility for pedestrians and cyclists

Supplementary Guidance

CPG Design (2021)

CPG Amenity (2021)

CPG Transport (2021)

The Dartmouth Park conservation area appraisal and management strategy (2009)

TfL's Pedestrian Comfort Guidance for London (2010)

Assessment

1.0 Proposal

- 1.1 Planning permission is sought for the installation of planters and landscaping to the front of unit 2 to create an external seating area outside the existing commercial unit. Three planters and landscaping in the form of flower beds within the pavement will be permanently installed in a curve layout around the unit. The planters will be made of black fibreglass
- 1.2 During the lifetime of this application, revised plans were received showing the correct position of the existing bollards and lampposts on the public highway.

2.0 Assessment

- 2.1 The main considerations in relation to this proposal are:
- Design and Heritage
 - Impact on neighbouring amenity
 - Transport impacts
 - Landscaping

3.0 Design and Heritage

Policy background

3.1 Policy D1 (Design) of Camden's Local Plan outlines that the Council will require all developments to be of the highest standard of design and will expect developments to consider character, setting, context and the form and scale of neighbouring buildings and the character and proportion of the existing building. In addition, it should integrate well with the surrounding streets and contribute positively to the street frontage. Policy D2 (Heritage) states that Council will only permit development within conservation areas that preserves and enhances the character and appearance of the area.

3.2 Policy CE3 (Public realm) of the Dartmouth Park Neighbourhood Plan states that it will:

'Support and promote the protection and improvement of the public realm in and around our Neighbourhood Centres, by ensuring that any development in or in the immediate vicinity of a Neighbourhood Centre:

(a) preserves the existing public realm (including both hard and soft landscaping and the size of the area dedicated to public use), and

(b) contributes to improvements to the public realm where appropriate to the size, location and nature of the development.'

Assessment

3.3 Three planters and landscaping in the form of flower beds within the pavement is proposed to the front of the commercial unit. Policy CE3 of the Dartmouth Park Neighbourhood Plan seeks to preserve the size of the public realm dedicated to public use. The proposal would introduce soft landscaping, however, this would be at the cost of the amount of usable public space. In general, the Council supports the inclusion of green infrastructure that enhances the public realm and as such, there is no objection on design and heritage grounds as the development would be in keeping with the planting found at unit 1. However, there are transport amenity concerns raised in the transport section below.

4.0 Amenity

4.1 Local Plan Policy A1 seeks to ensure that the amenity of neighbours is protected including visual privacy, outlook, sunlight, daylight and overshadowing.

4.2 The forecourt is intended for outdoor seating for the existing bakery. It is noted that outside of the premises is already being used for tables and chairs. While officers cannot find a record of a tables and chairs licence, this would be required and is dealt with outside of planning legislation. The applicant is advised to apply for one if they haven't already done so. The principle is considered acceptable in planning terms, and is a similar arrangement to many of the establishments in the surrounding area

4.3 Given the siting and scale of the proposal and the significant separation distance to neighbouring properties, it is considered that the proposal would not lead to a detrimental impact upon neighbouring properties by virtue of loss of light, outlook and privacy.

5.0 Transport impacts

5.1 Policy D8 (Public Realm) of the London Plan states that 'Applications which seek to introduce unnecessary street furniture should normally be refused'.

5.2 Policy A1 (Managing the impact of development) of the Camden Local Plan states that the Council will seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities, and that the Council will resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network. Paragraph 6.10 states that the Council will expect works affecting the highway network to consider highway safety, with a focus on vulnerable road users, including the provision of adequate sightlines for vehicles, and that development should address the needs of vulnerable or disabled users. Furthermore, Policy T1 (Prioritising walking, cycling and public transport) point e) states that the Council will seek to ensure that developments provide high quality footpaths and pavements that are wide enough for the number of people expected to use them, including features to assist vulnerable road users where appropriate. Similarly, paragraph 9.10 of CPG Transport highlights that footways should be wide enough for two people using wheelchairs, or prams, to pass each other.

5.3 Camden's Streetscape Design manual – section 3.01 footway width states: "Clear footway' is not the distance from kerb to boundary wall, but the unobstructed pathway width within the footway.. Keeping the footway width visually free of street furniture is also important, allowing clear sightlines along the street'.

5.4 All development affecting footways in Camden is also expected to comply with Appendix B of Transport for London's (TfL's) Pedestrian Comfort Guidance, which notes that active flow locations must provide between a minimum of 2.2m (if there is no street furniture) and 4.2m (with street furniture) of 'clear footway width' (respectively) for the safe and comfortable movement of pedestrians.

5.6 Policy T1 of the Camden Local Plan states that the Council will promote sustainable transport choices by prioritising walking, cycling and public transport use and that development should ensure that sustainable transport will be the primary means of travel to and from the site. Policy T1 subsections a) and b) state that in order to promote walking in the borough and improve the pedestrian environment, the Council will seek to ensure that developments improve the pedestrian environment by supporting high quality improvement works, and make improvements to the pedestrian environment including the provision of high quality safe road crossings where needed, seating, signage and landscaping.

5.7 Policy T1 also states that where appropriate, development will be required to provide for interchanging between different modes of transport including facilities to make interchange easy

and convenient for all users and maintain passenger comfort.

5.8 Paragraph 9.7 of CPG Transport seeks improvements to streets and spaces to ensure good quality access and circulation arrangements for all. Ensuring the following:

- Safety of vulnerable road users, including children, elderly people and people with mobility difficulties, sight impairments and other disabilities;
- Maximising pedestrian accessibility and minimising journey times;
- Providing stretches of continuous public footways without public highway crossings;
- Linking to, maintaining, extending and improving the network pedestrian pathways;
- Providing a high quality environment in terms of appearance, design and construction, paying attention to Conservation Areas;
- Use of paving surfaces which enhance ease of movement for vulnerable road users; and,
- Avoiding street clutter and minimising the risk of pedestrian routes being obstructed or narrowed e.g. by pavement parking or by street furniture.

5.9 Policy TS1 Safety and accessibility for pedestrians and cyclists of the Dartmouth Neighbourhood Plan (2020) states that they support design of the public realm that 'enhances permeability for pedestrians and cyclists'. This policy also aims to be make Dartmouth Park safer and more accessible for pedestrians and cyclists by:

'Supporting developments that widen pavements and pedestrian areas and help to eliminate or reduce pedestrian congestion points, including those in the list below. Developers are encouraged to take account of street signs and other clutter in pavement designs to provide a minimum 2m of effective free width.'

5.11 The revised plan submitted indicates the footway width to be between 5-7m- 8.3m (from the edge of the building to the kerb). The original plan did not correctly show the existing bollards and lampposts along the edge of the footway which narrows the footway width further (See image 1 below). The bollards and lampposts are set 0.3m away from the kerb edge.

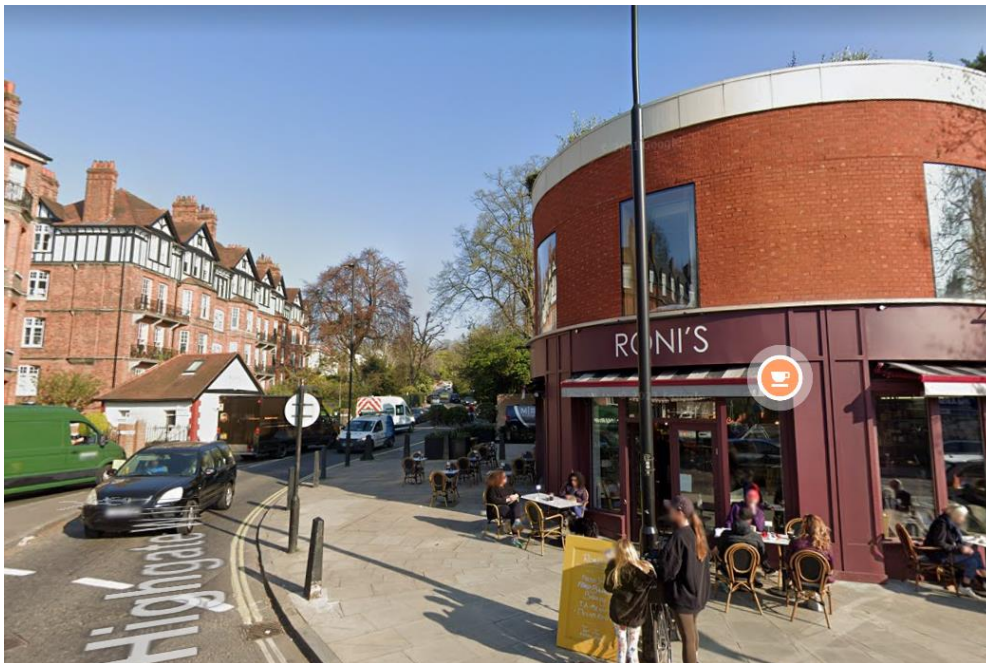


Image 1: Junction between Swains Lane and Highgate West Hill showing existing street furniture.

5.12 With the development and the existing bollards/lampposts, the effective footway width between the development and the kerb would be 1.6m on the corner (1.6m-2.7m width range), creating a narrow pinch point. This will leave an effective footway that is significantly less than 2.2m minimum (set out in

TFL's guidance) which does not comply with pedestrian comfort guidance. It would also be less than the 2m outlined in Policy TS1 (Safety and accessibility for pedestrians and cyclists) of the Dartmouth Park Neighbourhood Plan.

5.13 Although the proposed planters and seating area is within a private forecourt, the development is unacceptable at this location as the shop frontage area has been enjoyed by the public as a right of way for over 20 years. Under section 31 of the Highways Act 1980, the Council's highway team would consider this forecourt as being dedicated highway, although as highway not maintainable at the public expense.

5.14 Highways Act 1980 Section 31 – Dedication of way as highway presumed after public use for 20 years.

'Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.'

5.15 It is also noted that the Council's Highways team have recently approved junction changes at Swains Lane, Highgate West Hill and Highgate Road, which is exactly adjacent to the site on the 15/10/21. One of the proposed measures is to have a new pedestrian crossing with tactile paving on Highgate West Hill. If the planters were permanent they could not be easily be removed in order for these highway works to take place. The proposal would result in a narrow footway especially with the bollards on the kerbside. The proposal would also be in the desire line of pedestrians using the proposed crossing (see approved plan below- Image 2).

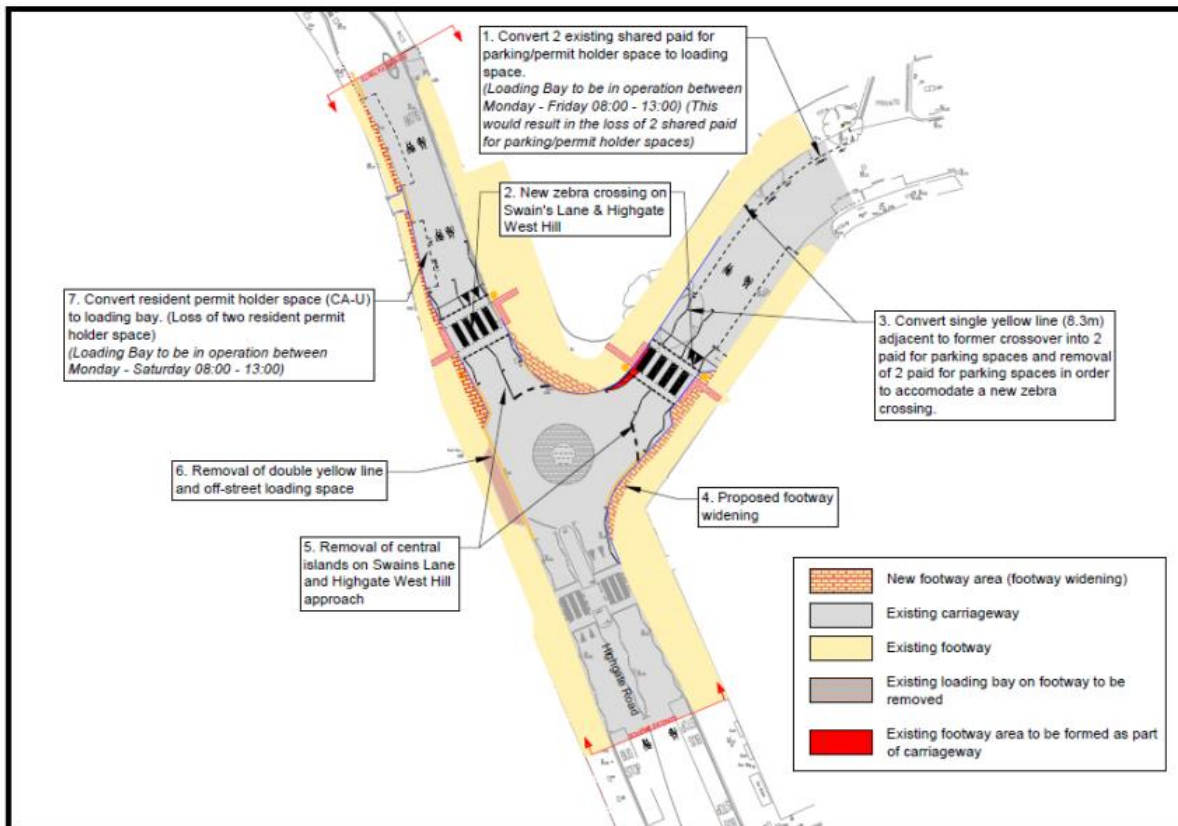


Image 2: Approved plan for junction changes at Swains Lane, Highgate West Hill and Highgate Road

5.16 The proposal of having permanent planters and seating adjacent to the shop would create unnecessary hazards on the public highway and be detrimental to the pedestrian footway. The

proposal would therefore be contrary to Policies A1 and T1 of the Camden Local Plan, Policies CE3 (Public realm) and TS1 (Safety and accessibility for pedestrians and cyclists) of the Dartmouth Park Neighbourhood Plan and the Highways Act 1980. Therefore the proposal is unacceptable on these grounds and would form a reason for refusal.

5.17 If the development was acceptable the Council's Highways Team would require a stopping up order in accordance with section 31 of the Highways Act 1980 as it is currently accessible to the public.

6.0 Landscaping

6.1 The design and access statement sets out that the plants will be kept under 60 cm, except for the tree Fern Dicksonia Antarctica and the Acer tree. It states that a gardener will maintain the flowerbed and planters on a bi-monthly basis

6.2 The Council's Tree Team have reviewed the landscaping details, while green infrastructure is generally welcomed the planting proposed is not native to the area and no details of irrigation have been provided. If the development was acceptable conditions would be attached to secure details of an appropriate planting species and irrigation.

7.0 Conclusion

7.1 The proposed planters/landscaping, by virtue of their location and size, would reduce the amount of useable, unobstructed footway/highway, which would cause harm to highway safety, hinder pedestrian movement and have a detrimental impact on the promotion of walking as a sustainable means of transport, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017 and Policies CE3 (Public realm) and TS1 (Safety and accessibility for pedestrians and cyclists) of the Dartmouth Park Neighbourhood Plan 2020.

8.0 Recommendation

8.1 Refuse planning permission.