

# The Planning Inspectorate

Further information about us and the planning appeal system is available on our website [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

For official use only  
Date received

## LISTED BUILDING CONSENT OR CONSERVATION AREA CONSENT APPEAL FORM

If you need this document in large print, on audio tape, in Braille or in another language, please contact our helpline on 0117 372 8939.

Please use a separate form for each appeal

Your appeal and essential supporting documents must reach the Inspectorate within 6 months of the date of receipt of the Local Planning Authority's decision notice (or, for 'failure' appeals, within 6 months of the date by which they should have decided the application).

Before completing this form, please read our booklet 'Making your planning appeal' which was sent to you with this form.

**WARNING:** If any of the 'Essential supporting documents' listed in Section K are not received by us within the 6 month period, the appeal will not be accepted.

### A. APPELLANT DETAILS

The name of the person(s) making the appeal must be the same as on the planning application form.

Name MR D. JACKSON  
Address 8 PENZANCE PLACE  
LONDON  
Postcode W11 4PA  
Daytime phone no \_\_\_\_\_  
Fax no \_\_\_\_\_  
E-mail address \_\_\_\_\_

Received 23 JUL 2001 R.B.K&C

Planning: Allocation \_\_\_\_\_

### B. AGENT DETAILS (if any)

Name C.R. BISS  
Address BB PARTNERSHIP  
17. REMINGTON STREET  
ISLINGTON, LONDON  
Postcode N10 0DH  
Your reference CEH  
Daytime phone no 0207-336-8555  
Fax no 0207-336-8777  
E-mail address architect@bbpartnership.co.uk

### C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the LPA ROYAL BOROUGH OF KENSINGTON AND CHELSEA LPA's application reference no PP/00/02797  
Date of the LBC/CAC application 29/11/00 Date of LPA's decision notice (if issued) 25/01/01

#### D. APPEAL SITE ADDRESS

Address 8 PENZANCE PLACE  
LONDON

Postcode W11 4PA

If the whole site can be seen from a road or other public land and there is no need for the Inspector to enter the site e.g. to take measurements or to enter a building, please tick the box.

#### E. SUPPORTING INFORMATION

Please tick **one** box only ✓

- |   | Grade I                             | Grade II*                           | Grade II                 |
|---|-------------------------------------|-------------------------------------|--------------------------|
| 1. If the building is listed, please indicate the grade of the building                                   | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |
|   | Yes                                 | No                                  |                          |
| 2. Has a grant been made under sections 3A or 4 of the Historic Buildings and Ancient Monuments Act 1953? | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |                          |
| 3. Does the appeal relate to an application for conservation area consent?                                | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |                          |

#### F. DESCRIPTION OF THE DEVELOPMENT

(This must be the same as on the application sent to the LPA, unless minor amendments were agreed with the LPA)

EXTENSION TO ROOF TO PROVIDE STUDIO SPACE

#### G. REASON FOR THE APPEAL

This appeal is against the decision of the LPA to:

(\*Delete as appropriate)

Please tick **one** box only ✓

1. refuse \*listed building consent/conservation area consent for the development described in Section F.
  2. grant \*listed building consent/conservation area consent for the development subject to conditions to which you object.
  3. refuse to vary a condition(s) in a previous grant of \*listed building consent/conservation area consent.
  4. refuse to remove a condition(s) in a previous grant of \*listed building consent/conservation area consent.
- or
5. The failure of the LPA to give notice of its decision within the appropriate period (usually 8 weeks) on an application for \*listed building consent/conservation area consent.

## H. CHOICE OF PROCEDURE

### CHOOSE ONE PROCEDURE ONLY

Appeals dealt with by written representations are usually decided more quickly than by the hearing or inquiry methods. It is important that you read our booklet 'Making your planning appeal' about the various procedures used to determine planning appeals. Those procedures are the same as the ones used to decide listed building/conservation area consent appeals.

Please note that when we decide how the appeal will proceed, we take into account the LPA's views

Please tick **one** box only ✓

#### 1. WRITTEN REPRESENTATIONS \_\_\_\_\_

The written procedure involves an exchange of written statements followed by a site visit by the Inspector. The grounds of appeal should make up your full case.

#### 2. HEARING \_\_\_\_\_

A hearing is a discussion of the appeal proposals. The Inspector leads the discussion. Hearings give everyone concerned the chance to give their views in a more relaxed and informal atmosphere than at a public inquiry. Hearings have many advantages, but they are not suitable for appeals that:

- are complicated or controversial;
- have caused a lot of local interest;
- involve cross-examination (questioning) of witnesses.

Although you may prefer a hearing, the Inspectorate must consider your appeal suitable for this procedure. Hearings are open to the public.

#### 3. INQUIRY \_\_\_\_\_

This is the most formal of the procedures, because it usually involves larger or more complicated appeals. These are often cases where expert evidence is presented, and witnesses are cross-examined. An inquiry may last for several days, or even weeks. It is not a court of law, but the proceedings will often seem to be quite similar and the appellant and LPA usually have legal representatives. Inquiries are open to members of the public.

An inquiry is held if you or the LPA decide that you cannot rely on the written procedure and a site visit, and we have decided that a hearing is unsuitable. Sometimes we decide that an inquiry is necessary. If we do, you will be given reasons for our decision.

## I. GROUNDS OF APPEAL

If you have requested the written procedure, your **FULL** grounds of appeal must be made, otherwise we will return the appeal form. You should give a clear explanation of why you disagree with each of the LPA's reasons for not granting listed building consent or conservation area consent, if appropriate.

If you have requested a hearing or an inquiry, please provide a brief outline of your grounds.

Refer to our booklet 'Making your planning appeal' for help.

Please continue on a separate sheet if necessary.

SEE ATTACHED STATEMENT.

**I. GROUNDS OF APPEAL (continued)**

[Empty space for writing grounds of appeal]

## J. APPEAL SITE OWNERSHIP DETAILS

We need to know who owns the appeal site. If you do not own the appeal site or if you own only a part of it, we need to know the name(s) of the owner(s) or part owner(s). We also need to be sure that any other owner knows that you have made an appeal. **YOU MUST TICK WHICH OF THE CERTIFICATES APPLIES.** Please read the enclosed *Guidance Notes* if in doubt.

If you are the sole owner of the whole appeal site, Certificate A will apply:

Please tick **one** box only

### CERTIFICATE A



I certify that, on the day 21 days before the date of this appeal, nobody, except the appellant, was the owner (see Note (i) of the *Guidance Notes* for a definition) of any part of the land to which the appeal relates;

OR

### ~~CERTIFICATE B~~



~~I certify that the appellant (or the agent) has given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner (see Note (i) of the *Guidance Notes* for a definition) of the building to which the appeal relates, as listed below:~~

~~Owner's name~~

~~Address at which the notice was served~~

~~Date the notice was served~~

~~\_\_\_\_\_~~

~~\_\_\_\_\_~~

### CERTIFICATES C and D



If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D enclosed with the accompanying *Guidance Notes* and attach it to the appeal form.



**L. PLEASE SIGN BELOW**

**(Signed forms together with all supporting documents must be received by us within the 6 month time limit)**

1. I confirm that I have sent a copy of this appeal form and relevant documents to the LPA (*if you do not, your appeal will not normally be accepted*).
2. I confirm that all sections have been fully completed and that the details of the ownership (section J) are correct to the best of my knowledge.

Signature Charles R Biss (on behalf of) D. JACKSON

Name (in capitals) C. R. BISS Date 20/7/01

The Planning Inspectorate is registered under the Data Protection Act to hold personal data supplied by you.

**NOW SEND:**

● **1 COPY to us at:**

The Planning Inspectorate  
Customer Support Section  
Temple Quay House  
2 The Square  
Temple Quay  
BRISTOL  
BS1 6PN

We do not currently accept  
appeals by e-mail or fax.

● **1 COPY to the LPA**

Send a copy of the appeal form to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA). There is no need to send them all the documents again, send them any supporting documents not previously sent as part of the application. If you do not send them a copy of this form and documents, we may not accept your appeal.

● **1 COPY for you to keep**

When we receive your appeal form, we will:

- 1) Tell you if it is valid and who is dealing with it.
- 2) Tell you and the LPA the procedure for your appeal.
- 3) Tell you the timetable for us receiving further information or representations.

**If information or representations are received late we may disregard them. They will not be seen by the Inspector but will be sent back to you.  
YOU MUST KEEP TO THE TIMETABLE**

- 4) Tell you about the arrangements for the site visit, hearing or inquiry.

At the end of the appeal process, the Inspector will give the decision, and the reasons for it, in writing.

This document is printed on recycled (UK) paper containing 100% post-consumer waste.

© Crown Copyright 1998. Copyright in the printed material and designs is held by the Crown. You can use extracts of this publication in non-commercial in-house material, as long as you show that they came from this document. You should apply in writing if you need to make copies of this document (or any part of it) to:

The Copyright Unit  
Her Majesty's Stationery Office  
St Clements House  
2-16 Colegate  
Norwich NR3 1BQ





# The Planning Inspectorate

*FZ #R SW DT*

Room 1111(1)  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ  
<http://www.planning-inspectorate.gov.uk>

Direct Line 0117-9878269  
Switchboard 0117-9878000  
Fax No 0117-9878782  
GTN 1374-8269

Ms H Divett (Dept Of Planning & Conservation)  
Kensington And Chelsea R B C  
3rd Floor  
The Town Hall  
Hornton Street  
London  
W8 7NX

Your Ref: E/99/0207/N  
Our Ref: APP/K5600/C/00/1048081  
APP/K5600/A/00/1047936  
Date: 3 January 2001

Dear Madam

**TOWN & COUNTRY PLANNING ACT 1990  
APPEALS BY MR J A RAWLE  
SITE AT 7 PENZANCE PLACE, KENSINGTON, LONDON, W11 4PE**

I enclose a copy of our Inspector's decision on the above appeals.

The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

If you have any queries relating to the decision please send them to:

The Complaints Officer  
The Planning Inspectorate  
Room 14/04  
Tollgate House  
Houlton Street  
Bristol  
BS2 9DJ

Phone No. 0117 987 8927

Fax No. 0117 987 6219

Yours faithfully

*P. D. Combs*

*pl* Mr K Carpenter

COVERDL1

RECEIVED BY PLANNING SER						
REC	HDC	N	C	SW	SE	ENF
- 5 JAN 2001						
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES

*(12)*



# Appeal Decision

Hearing held on 21 November 2000

by **Maureen C Taylor** BSc DipTP MRTPI FRGS

an Inspector appointed by the Secretary of State for the  
Environment, Transport and the Regions

The Planning Inspectorate  
Room 1404  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ  
☎ 0117 987 8927

Date

3 JAN 2001

Appeal Ref: APP/K5600/C/00/1048081  
7 Penzance Place, London W11

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr J A Rawle against the decision of the Royal Borough of Kensington & Chelsea Council to issue enforcement notice.
- The Council's reference is DPS/DCN/E/00207/IW.
- The notice was issued on 14 July 2000.
- The breach of planning control as alleged in the notice is the erection of a conservatory at roof level to enclose the stairwell.
- The requirements of the notice are to remove the conservatory and make good the flat roof terrace.
- The period for compliance with the requirements is three months.

The appeal is proceeding on the grounds set out in section 174(2)(a), & [b] of the 1990 Act.

**Summary of Decision: The appeal is dismissed and the notice upheld with variations to the requirement and period for compliance.**

Appeal Ref: APP/K5600/A/00/1047936  
7 Penzance Place, London W11

- 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 Mr J A Rawle against the decision of the Royal Borough of Kensington & Chelsea Council.
- The application (ref:PP/00/00202/CHSE/O4/79), dated 17 January 2000, was refused by notice dated 12 June 2000.
- The development proposed is the retention of conservatory to enclose stairwell to roof terrace.

**Summary of Decision: The appeal is dismissed.**

## Procedural Matters

1. At the hearing, the appellant confirmed that ground [b] had been withdrawn. Through correspondence between the parties grounds [c], [f] and [g] had been added. One adjoining dwelling to the rear, No 113 Portland Road was inspected on 21 November and No 109 Portland Road was visited by the inspector on 24 November. The parties agreed at the hearing that this visit could be unaccompanied.

## SITE DESCRIPTION & PLANNING HISTORY

2. The site comprises a three storey, mid terrace property with basement situated on the south-east side of Penzance Place. It is subdivided into two flats and the appeal relates to the top flat. It falls within the Norland Conservation Area. Planning permission for the erection of

staircase housing on the roof was granted in 1972. Permission for the retention of a conservatory structure on the roof was refused in June 2000 and forms the subject of the S78 appeal.

#### APPEAL ON GROUND [c]

3. The appellant contends that the conservatory replaces an earlier structure. The small alterations to the external dimensions are not material and therefore planning permission is not required. Moreover, it does not fall within any of the definitions of building development in the Act and falls within the provisions of Clause 2 [a] [ii] as the works involve a replacement of part of the building that required repair and do not materially affect the external appearance of the building.
4. I find that a letter from District Surveyor, dated 19 March 1973, and photographs submitted by the appellant indicate that the 1972 staircase housing was implemented. The creation of the staircase housing was accompanied by the raising of the chimney-breast on the party wall with No 5. The rear parapet wall was raised in part and a roof terrace was created. At some later date a timber and glass lean-to structure was added. There are no plans of this structure but the appellant's photographs show its extent. The appellant said the structure was there when he acquired the property in 1996 and the Council accepted that this earlier structure was immune from enforcement action.
5. The conservatory structure, the subject of the appeals, covers the stairwell and part of the roof terrace. It is a Victorian style design with hardwood frame incorporating reinforced glass. It accommodates the stairwell and a desk and chair. At the site visit, measurements were taken of the current structure and approximate measurements of the extent of the previous structure. The parties agreed that the conservatory structure is about 0.4m higher than the previous structure. Its depth, the dimension measured from the chimney-breast, is some 0.6m longer and it is about 0.4m wider. The level to eaves is 0.2m lower.
6. To my mind the cumulative increases in size amount to a much larger structure which could not be said to be immaterial. I have had regard to the judgement in the case *Burroughs Day v Bristol City Council* 1996 Estates Gazette. In my view this case is different, as the conservatory is visible from a number of windows in the rear walls and the rear gardens of about eight properties in Portland Road. It is also visible from properties in Pottery Lane and from the upper floors of properties on the north side of Penzance Place. I consider that the works materially affect the external appearance of the property.
7. I appreciate that the previous structure was replaced due to a rotten frame and leakage. Nevertheless, I am unable to accept that the demolition of the staircase housing, and the lean to structure and their replacement with a Victorian style conservatory of a greater height and larger external dimensions could be regarded as an operation for the maintenance, improvement or alteration of any building. These works amount to a building operation within the meaning of section 55 of the Act. I conclude that, as a matter of fact and degree, the erection of the conservatory amounts to development under section 55 of the Act for which planning permission is required. The appeal on ground [c] therefore fails.

#### APPEAL ON GROUND [a] & THE S78 APPEAL

##### Main Issues

8. I consider the main issues in this case are as follows:

[i] whether the development would preserve or enhance the character or the appearance of the Norland Conservation Area

[ii] whether it would have an unduly detrimental impact on the visual amenity of nearby residents.

### Planning Policy

9. The Borough Unitary Development Plan [UDP] comprises the statutory development plan. Strategic policy STRAT 1 gives priority to the protection and enhancement of the residential character and amenity of the borough. STRAT 7 aims to promote high environmental and architectural design standards in new development and alterations to existing buildings. Policy CD25 seeks to ensure that all development is to a high standard of design and is sensitive to and compatible with the scale, height, bulk and character of the surroundings. CD38 aims to restrict additional storeys and roof level alterations on complete terraces or groups of buildings that are unimpaired by extensions. CD39 states additional storeys and roof level alterations will normally be permitted where the alterations are architecturally sympathetic to the age and character of the building and would not harm its appearance. Policy CD42 states that proposals for conservatories at roof level would normally be resisted. Policy CD52 aims to ensure that any development in Conservation Areas preserves or enhances the character or appearance of the area. CD53 aims to achieve a high standard of design in all development and that it is compatible with inter alia the roof scape of surrounding development.
10. Alterations to the UDP have reached an advanced stage following two periods of deposit for public consultation. Adoption is anticipated early in 2001. Relevant policies CD25 and 39 have minor changes in wording. An additional policy CD44a states that unsympathetic small-scale developments will normally be resisted which in themselves cause harm and where the cumulative effect of a number of similar proposals would be detrimental to the character of the area.

### Reasons

11. Norland Conservation Area was designated in 1969 and was extended eastwards to include Princedale Road, Pottery Lane and Portland Road in 1979. The original Norland estate was of grand design, but the extended Conservation Area included smaller properties, and mews. The part of Norland Conservation Area, in which the site lies, is characterised by relatively modest properties, dating mainly from the early nineteenth century. It represents a very close knit urban area, comprised of more formal 19th century terraced streets such as Portland Road and the winding nature of Pottery Lane comprising mews development of lesser scale. It is predominately residential in character, and many properties are subdivided into flats. Dwellings are situated close to the footways with narrow front gardens or basement areas. The rear gardens are characteristically small and confined. Most properties have front parapets with integral valley gutters behind.
12. The conservatory extension cannot be seen at street level from surrounding streets. UDP Policy CD38 aims to resist additional storeys and roof level alterations and the appellant concedes that the structure does not meet any of the exceptions listed in policy CD39. Although the conservatory has relatively modest dimensions, in this position at roof level, it appears over dominant and an incongruous feature. It introduces unnecessary clutter on the skyline. Although the appellant argues that its intrinsic design is preferable to that of the

previous structure, to my mind, a Victorian conservatory style structure is inappropriate at roof level and runs counter to policy CD42. Such a structure is not architecturally sympathetic to the age and character of the building contrary to policy CD39. It is incompatible with the characteristic roof scape in this part of the Conservation Area contrary to policy CD53.

13. There is no precedent for a roof extension in the terrace Nos. 1-11 Penzance Place. Nos. 5 and 3 benefit from roof terraces but no external structures have been built. No 9 displays a small, wooden staircase housing. The majority of dwellings both in Portland Road and Pottery Lane have retained their valley gutters. Very few properties have benefited from any kind of roof extensions but external railings are evident on some properties indicating that a roof terrace has been created. One or two properties have very small additions incorporating water tanks or staircase housing. One other extension, the glass addition at roof level at No 111 Portland Road, is very prominent and the Council officers said that this is new and apparently unauthorised.
14. I share the Council's concern about the cumulative impact of many small extensions. In certain cases, the Council has approved staircase housing to permit access onto the roof and water tanks. Those few that exist are modest in scale and relatively discrete. The Council has followed a firm policy of restraint on other extensions and as a result the roof scape is little altered. The characteristic roof-scape does not include conservatory structures.
15. Although the appellant contends that the circumstances in this case are unique, it is my view that if the conservatory were to be approved, it could set an unfortunate precedent. It would then be difficult for the Council to resist other extensions resulting in further erosion of the traditional roofscape. I conclude that the conservatory fails to preserve or enhance the overall character or the appearance of the Norland Conservation Area so the development runs counter to UDP policies, STRAT 7 and CD52.
16. Concerning the second issue, I visited two properties to the rear Nos. 109 and 113 Portland Road. The conservatory is clearly visible from the rear gardens and rear rooms of about five or six dwellings in Portland Road and would be partly visible from another two or three. The rear walls of the Penzance Place properties are in very close proximity to the rear walls in Portland Road due to the acute angle of Penzance Place. No. 7 is only about 10-12m away from No. 109. Notwithstanding the lack of objection from any of neighbouring occupants, to my mind the conservatory intrudes upon the skyline and increases the degree of enclosure experienced in rear first and second floor rooms of the closest properties in Portland Road. Moreover, I consider that the occupants of several dwellings would perceive an increased sense of overlooking from persons using the conservatory.
17. The previous lean-to structure was relatively discrete and was not so prominent on the skyline. The increased height and bulk produce a larger structure that reduces the amount of sky visible from rooms in the rear of about five or six dwellings to the rear. It does not have the same profile as the lawful structure. The partly raised rear parapet wall does not screen the structure but planting on the terrace does help to soften its impact. I consider that the development detracts unduly from the level of visual amenity previously enjoyed by the occupants of some dwellings in Portland Road.
18. To conclude, the development fails to preserve or enhance the residential character and amenity of the royal borough contrary to UDP policy STRAT 1. It is not sensitive to and compatible with the scale, height and character of its surroundings contrary to the aims of

CD25.

19. I have had regard to the conditions suggested by the Council in the context of Circular 1/97. The first condition requiring the use of certain materials and painting the conservatory grey would not satisfactorily overcome the identified harm to public amenity. The second condition concerning the provision of blinds would not meet the tests of Circular 11/95, as it would be difficult to monitor and enforce.

### Conclusions

20. I conclude that the development detracts from the distinctive character and quality of the Norland Conservation Area. It has an adverse impact on the amenity of residential properties in Portland Road. Consequently, planning permission will not be granted on the deemed application and the section 78 appeal will be dismissed. The appeal on ground [a] therefore fails.

### APPEAL ON GROUND [f]

21. The appellant claims that it would be unreasonable to secure the removal of the structure. Lesser steps would be appropriate. The Council conceded at the hearing that the requirement was too onerous now that the submitted evidence shows the size of the previous unauthorised structure. Nevertheless, it is necessary to reduce the size of the conservatory to remedy the identified harm. I concur with this approach and consider that it would be reasonable to permit a replacement structure of a similar size to the one demolished. I shall vary the notice to specify that the external dimensions of the structure should not exceed those of the previous structure. The appeal on ground [f] succeeds to this extent.

### APPEAL ON GROUND [g]

22. The appellant conceded at the hearing that three months would be a reasonable period for compliance if the structure could be modified rather than removed in its entirety. Nevertheless, in my view a longer period of six months would be required in order to obtain the necessary consents and arrange for building contracts. I shall therefore vary the notice accordingly. Hence the appeal on ground [g] succeeds.

### OTHER MATTERS

23. I have considered all other matters raised in the representations, including reference to *South Lakeland DC v Secretary of State for the Environment* 1992. 2 WLR 204 and light disturbance, but none are of sufficient weight to override those considerations that have led to my conclusion

### Formal decision

24. For the reasons given above and in exercise of the powers transferred to me, I determine these appeals as follows:

#### **Appeal A. Ref: APP/K5600/C/00/1048081**

I direct that the notice be varied as follows:

1. Paragraph 5.

Delete requirement [i] and substitute the following words: -

“Reduce the size of the conservatory so that the external dimensions do not exceed 2.3m to the ridge, 2.3m to the eaves, 2.7m in depth measured from the party wall and 3.3m in width.

2. Paragraph 5. The Time for compliance. Delete the words “3 calendar Months” and substitute the words “ Six calendar months.”

Subject thereto, I uphold the notice as so varied. I refuse to grant permission on the deemed application.

**Appeal B. Ref:APP/K5600/A/00/1047936**

The appeal is dismissed.

### **RIGHTS OF APPEAL**

25. This letter is issued as a determination of the appeal before me. Particulars of the rights of appeal against my decision to the High Court are enclosed for those concerned.

*James C Taylor*

APPEARANCES

FOR THE APPELLANT:

Mr M Burroughs  
Mr J Rawle

Michael Burroughs Associates  
Appellant

Mrs N Rawle

7 Penzance Place, London W11

FOR THE LOCAL PLANNING AUTHORITY:

Mr I William's BA MSc

Senior Enforcement Officer with Kensington & Chelsea  
Council

Ms H Bell BSc [Arch] RIBA

Senior Planning Officer [Historic Buildings] with the  
Council

DOCUMENTS

- Document 1 List of persons present at the Hearing.
- Document 2 Notice of hearing
- Document 3 List of suggested conditions recommended by the Council
- Document 4 Appendices to Mr Burrough's statement
- Document 5 Appendices to Mr William's statement
- Document 6 Letter from Mr Walker Arnott, dated 19 October 2000, submitted by Mr Burroughs

PLANS

- Plan A Plan attached to enforcement notice
- Plan B Plans submitted with planning application



# The Planning Inspectorate

An Executive Agency in the Department of the Environment, Transport and the Regions, and the Welsh Office

## RIGHT TO CHALLENGE THE APPEAL DECISION

The attached appeal decision is final unless it is successfully challenged in the Courts on a point of law. If a challenge is successful the case will be returned to the Secretary of State by the Court for re-determination. However, if it is re-determined, it does not necessarily follow that the original decision on the appeal will be reversed.

Depending on the circumstances, an appeal may be made to the High Court under either or both sections 288 and 289 of the Town & Country Planning Act 1990. There are differences between the two sections, including different time limits, which may affect your choice of which to use. These are outlined below.

You may wish to consider taking legal advice before embarking on a challenge. The following notes are provided for guidance only.

## CHALLENGES UNDER SECTION 289

Section 289(1) relates to decisions on enforcement appeals. The appellant, the local planning authority or any person having an interest<sup>1</sup> in the land to which the enforcement notice relates may appeal to the High Court against the decision on a point of law.

An appeal under section 289 may only proceed with the leave (permission) of the Court. An application for leave to appeal must be made to the Court within 28 days of the date of the appeal decision, unless the period is extended by the Court.

If you are not the appellant, the local planning authority or a person with an interest in the land but you want to challenge an enforcement appeal decision on grounds (b) to (g), or the decision to quash the notice, you may make an application for judicial review. You should seek legal advice promptly if you wish to use this non-statutory procedure.

## CHALLENGES UNDER SECTION 288 OF THE 1990 ACT

Decisions on appeals under section 78 (planning) or section 195 (Lawful Development Certificate) may be challenged under this section. Section 288 also relates to enforcement appeals, but only to decisions granting planning permission or discharging conditions. Success under section 288 alone would not alter any other aspect of an enforcement appeal decision. The enforcement notice would remain quashed unless successfully challenged under section 289 or by judicial review.

Section 288 provides that a person who is aggrieved by the decision to grant planning permission or discharge conditions (on an enforcement appeal) or by any decision on an associated appeal under s78 or s195 of the Act, may question the validity of that decision by an application to the High Court on the grounds that:-

- i) the decision is not within the powers of the Act; or
- ii) any of the 'relevant requirements' have not been complied with ('relevant requirements' means any requirements of the 1990 Act or of the Tribunals and Inquiries Act 1992, or of any order, regulation or rule made under either Act).

These two grounds mean in effect that a decision cannot be challenged merely because someone does not agree with an Inspector's judgement. Those challenging a decision have to be able to show that a serious

---

<sup>1</sup> To have an interest in the land means essentially to own, part own, lease and in some cases, occupy the site.

mistake was made by that Inspector when reaching his or her decision; or, for instance, that the inquiry, hearing or site visit was not handled correctly, or that the appeal procedures were not carried out properly. If a mistake has been made the Court may decide not to quash the decision if the interests of the person making the challenge have not been prejudiced.

Please note that under section 288 an application to the High Court must be lodged with the Crown Office within 6 weeks of the date of the accompanying decision letter. This time limit cannot be extended. Leave of the High Court is not required for this type of challenge.

## ADVICE

If you require further advice on making a High Court challenge you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL. Telephone: 020 794 76000.

## INSPECTION OF DOCUMENTS

In an inquiry case, any person who is entitled to be notified of the decision has a statutory right to view the listed documents, photographs and plans within 6 weeks of the date of the decision letter. Other requests to see appeal documents are not normally refused but please note that our appeal files are usually destroyed one year after the decision is issued. Please make your request to Room 11/00, Tollgate House, Houlton Street, Bristol, BS2 9DJ, quoting the Inspectorate's appeal reference and stating the day and time you wish to visit. Give at least 3 days' notice and include a daytime telephone number, if possible.

## COMPLAINTS TO THE INSPECTORATE

You can make a written complaint about the decision letter, or about the way in which the Inspector has conducted the case, or any procedural aspect of the appeal to the Complaints Officer in Room 14/04, Tollgate House, Houlton Street, Bristol, BS2 9DJ quoting the Inspectorate's appeal reference. We aim to send you a full reply within 15 days of receipt of your letter. Please note that once the decision has been issued, we cannot reconsider any appeal or the decision. This can be done only following a successful High Court challenge as explained in this leaflet.

## PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION (THE OMBUDSMAN)

If you consider that you have been unfairly treated through maladministration on the part of the Inspectorate or the Inspector you can ask the Ombudsman to investigate. The Ombudsman cannot be approached directly; only an MP can pass on your request. In most cases, your local MP may be the easiest to contact (their name and address is listed at the local library) although you may approach another MP if you prefer. Although the Ombudsman can recommend various forms of redress he cannot alter the appeal decision in any way.

## COUNCIL ON TRIBUNALS

If you feel there was something wrong with the basic procedure used for the appeal, you can make a complaint to the 'Council on Tribunals', 22 Kingsway, London, WC2B 6LE. The Council will take the matter up if they think it comes within their scope. They are not concerned with the merits of the appeal and cannot change the outcome of the appeal decision.

PLANNING APPEAL BY  
Mr D P JACKSON  
IN RESPECT OF  
8, PENZANCE PLACE, NOTTING HILL, LONDON W11.

Local Authority Reference: PP\00\02797\CHSE  
ROYAL BOROUGH OF KENSINGTON AND CHELSEA (RBKC)

Our Reference: CEH  
JUNE 2001

BB PARTNERSHIP  
ARCHITECTS

17 REMINGTON STREET  
ISLINGTON  
LONDON N1 8DH

Tel: 0207.336.8555  
Fax: 0207.336.8777  
[architect@bbpartnership.co.uk](mailto:architect@bbpartnership.co.uk)

Received 23 JUL 2001 R.B.K&C

Planning: Allocation \_\_\_\_\_

**CONTENTS**

- 01.00 INTRODUCTION
- 02.00 THE APPROVALS AND PROPOSALS
- 03.00 THE SITE AND SURROUNDING AREA
- 04.00 THE ISSUES
- 05.00 PLANNING POLICIES AND SUBMISSIONS
- 06.00 REPORTS TO COMMITTEE
- 07.00 CONCLUSIONS

APPENDIX ONE	SITE PLAN
APPENDIX TWO	APPROVAL DRAWINGS AND PHOTOGRAPHS
APPENDIX THREE	PROPOSAL DRAWINGS AND PHOTOGRAPHS
APPENDIX FOUR	APPROVAL DOCUMENTS
APPENDIX FIVE	PROPOSAL DOCUMENTS
APPENDIX SIX	BBP AND RBKC CORRESPONDANCE
APPENDIX SEVEN	EXTRACTS FROM THE PPG
APPENDIX EIGHT	EXTRACTS FROM RBKC UDP PUBLICATION

1.00

INTRODUCTION

## 1.00 INTRODUCTION

- 1.01 This statement is prepared by BB Partnership and is presented on behalf of Mr. D. P. Jackson, of No. 8, Penzance Place, London W11.
- 1.02 This statement is submitted in support of the appeal lodged by BB Partnership on behalf of Mr. D. P. Jackson of 8, Penzance Place, London W11. It follows the decision by The Royal Borough of Kensington and Chelsea to refuse planning permission for alterations and extensions to an existing roof structure.
- 1.03 The application for planning permission is dated 29<sup>th</sup> November 2000, ref: PP\00\02797. In this document, this application is referred to as 'the proposed'. See Appendix Five.
- 1.04 'The proposed' follows the RBKC grant of planning permissions (ref: TP\98\0932\A, dated 18<sup>th</sup> May 1998 and ref: TP\94\0373\A dated 22<sup>nd</sup> February 1994) for works to the house, which included a new rear extension, a roof terrace and alterations to the rear wall, all of which works are complete. In this document these approvals are referred to as 'the approved'. See Appendix Four.
- 1.05 The decision to refuse planning permission was taken by the Head of Planning and Conservation and the decision notice was issued on 25<sup>th</sup> January 2001. The decision notice sets out as the reason for refusal:

***'The proposed roof addition is considered by virtue of its size, bulk, design and location to be detrimental to the character and appearance of the property, the terrace it is located within and the Conservation Area, and therefore is contrary to the Council's Policies which seek to maintain and enhance the character and appearance of the Borough and its Conservation Areas, as stated in the Council's Unitary Development Plan, in particular Policies CD38, CD39, CD52 and CD53.'***

2.00

SITE AND SURROUNDING AREA

## 02.00 THE SITE AND SURROUNDING AREA.

- 02.01 Penzance Place forms part of the Norland Conservation Area and consists mainly of terraced Victorian houses.
- 02.02 In general the properties are well maintained and, with the mix of adjacent offices, restaurants and shops, there is a pleasing and unique 'village' atmosphere to the street. This is further enhanced by an irregular layout of the roads, a sensible traffic and parking policy and a pedestrian link between Penzance Place and Clarendon Cross. (See photographs in appendices 2 and 3).
- 02.03 To the rear, Pottery Lane is a narrow lane bordered by a high wall and giving access to the gardens of the houses, a church and offices. Most of the rear walls of the houses in Penzance Place are hidden from view - with the exception of No's 6, 8 and 10. At roof level the main rear wall parapets are consistent, although most have been altered in recent times. It is possible to see at least two modern structures and balustrades from the road, which allow access on to roof terraces on top of the houses. It is not possible however, to see the existing roof access structure belonging to the appeal site from the road.
- 02.04 To the front, immediately opposite is a restaurant, with open space to one side and houses the other. Again it is not possible to see the existing roof access structure belonging to the appeal site from the road.
- 02.05 The existing and consented structure on the roof of No.8 Penzance Place cannot be seen from the road or any other public place.
- 02.06 Most of the houses are in their original form although some have lost their original London roof 'butterfly' rear shape. The rear walls of both No's 8 and 10 have been entirely rebuilt in recent years and in particular No 10 is nothing like what the original rear wall format would have been. No.8 is not a listed building.
- 02.07 It is submitted that the proposals contained in this application would not harm the Conservation Area in any way. The existing roof structure which has been granted consent is not perceived by RBKC to cause harm and the proposed addition, given that it is of identical height and mass and will be constructed of similar materials, will similarly cause no harm. In practice, despite it being invisible from the road, the proposal will enhance the Conservation Area in that the proposal is to extend the existing consented roof structure to the full width of the plot, making it read more sensibly between the party walls of the parent building below.
- 02.08 There is no dramatic change of circumstance between one half of the site and the other, such that a rear roof structure is allowable towards No 6, but not towards No 10. Any full width proposed roof structure which obeys the criteria which are set by the existing consented structure will equally be invisible from the street. The circumstances for extending the roof structure to full width have been created as a consequence of allowing the rear main wall of the house to be raised by 525mm.



3.00

PROPOSAL AND APPROVALS

### 03.00 APPROVALS AND PROPOSALS.

03.01 There are a number of recent planning decisions relating to this property - three of which are relevant to this appeal.

03.02 (Ref:TP\94\0373\A) Consent granted in 1994 to refurbish the property, to build a two-storey (later amended to become three-storey) rear extension, construct a roof terrace and to construct a roof access hatch.

This consent has been implemented in full. In particular the principle of a roof terrace with access is approved. It is accepted by RBKC that the entire flat roof area is for the use and enjoyment of the residents of this property.

It follows therefore that in this appeal there are no issues in respect of overlooking and privacy into adjoining properties. This point is confirmed in the planning officers report to committee item 4.10 dated 25<sup>th</sup> January 2001, where it is confirmed that the proposal **'is not considered to harm the amenity of neighbouring occupiers'**.

03.03 (Ref:TP\98\9032\A) Consent granted to retain the as-built structure. This was achieved by adding 5 brick courses (approx 525mm) to the main rear walls of both No's 6 and 8 Penzance Place, to line it through with the rear wall of the rest of the terrace and to render the as-built roof structure invisible from Pottery Lane.

This consent has been implemented in full and the existing structure is no longer visible from Pottery Lane or anywhere else.

It follows therefore that a roof structure such as the existing structure is acceptable to RBKC, with the defining criteria being that it should not be visible from the pavement of Pottery Lane below. In the report to committee, the planning officer states that **'it is considered that the roof stair housing that has been erected will not have a detrimental effect upon the character or appearance of the property or the terrace, if the rear parapet walls of both No'6 and 8 are raised in height, thus creating a uniformed rear parapet profile at the rear of the terrace. The raised parapet level will also serve to mask the initial impact of the pitched roof of the structure, which diminishes as it angles away from the rear parapet wall. The proposal is therefore considered to be consistent with the Council's policies.'**

03.04 (Ref:PP\00\02797) Refusal of permission to extend the existing consented structure to be full width to the property. It is this refusal of permission to which this appeal relates.

4.00

ISSUES

4.00 THE ISSUES.

- 4.01 The reason for refusal states that: *'The proposed roof addition is considered by virtue of its size, bulk, design and location to be detrimental to the character and appearance of the property, the terrace it is located within and the Conservation Area, and therefore is contrary to the Council's Policies which seek to maintain and enhance the character and appearance of the Borough and its Conservation Areas, as stated in the Council's Unitary Development Plan, in particular Policies CD38, CD39, CD52 and CD53.'*
- 4.02 Having regard to the reason for refusal, Development Plan Policy and other material considerations, we consider the issues in this case to be:
- a) The impact and appearance of the proposed development in a Conservation Area.
  - b) The size, bulk, location and design of the proposed.
- 4.03 It is submitted that the key issue in this case is whether or not 'the proposal' has a materially adverse effect upon features of acknowledged importance, in comparison with 'the approved'.

5.00

PLANNING POLICIES AND SUBMISSIONS

## 05.00 PLANNING POLICIES AND SUBMISSIONS.

### 05.01 *PPG15 – 'Planning and the Historic Environment.'*

This guidance note was issued in September 1994 and explains the role played by the planning system in the protection of the historic environment.

- 05.02 It states that: *'...Conservation and sustainable growth are complementary objectives and should not generally be seen in opposition to each other. Most historic buildings can still be put to good economic use in, for example, commercial or residential occupation.'* (para.1.4)

Also: *'...Economic prosperity can secure the continued vitality of Conservation Areas, and the continued use and maintenance of Historic Buildings, provided there is a sufficiently realistic and imaginative approach to their alteration and change of use, to reflect the needs of a rapidly changing world.'* (para.1.4)

It is submitted that 'the proposal' is a good example of enabling growth within a Conservation Area. The street scene is maintained whilst the house itself is allowed to be developed in a contemporary style. In this case, conservation and sustainable growth can be seen as *'complementary objectives'*.

- 05.03 In assessing the setting of the Listed Building, it states that: *'The setting is often an essential part of the Listed Buildings character, especially if a garden or grounds have been laid out to complement its design or function.'* (para.2.16)

And: *'The setting of individual Listed Buildings very often owes its character to the harmony produced by a particular grouping of buildings (not necessarily all of great individual merit) and to the quality of spaces between them.'* (para.2.16)

It is submitted that, whilst this is not a Listed Building, the setting within a Conservation Area, is of great importance. The proposal cannot be seen from any public space and does not therefore affect the setting of this terrace or the Conservation Area in any way. The principle that a roof structure can satisfactorily be located on the roof of this building, in this setting, is established by the granting of consent for the existing roof structure.

- 05.04 In assessing alterations and extensions, it states that: *'In judging the effect of any alteration or extension it is essential to have assessed the elements that make up the special interest of the building in question.'* (para.3.12)

And: *'Many Listed Buildings can sustain some degree of sensitive alteration or extension to accommodate continuing or new uses. Indeed cumulative changes reflecting the history of use and ownership are themselves an aspect of the special interest of some buildings, and the merit of some new alterations or additions, especially where they are generated within a secure and committed long term ownership, should not be discounted.'* (para.3.13)

And: *'Achieving a proper balance between the specialist interest of a Listed Building and proposals for alterations or extensions is demanding and should always be based on specialist expertise; but it is rarely impossible, if reasonable flexibility and imagination are shown by the parties involved.'* (para.3.15)

And: *'...Or if an Architect can reflect the structural limitations of a building and abandon conventional design solutions in favour of a more imaginative approach.'* (para.3.15)

It is submitted that RBKC have already assessed the elements which they consider to make up the special interests of this specific area with particular reference to the concept of a structure on the roof of No 8 Penzance Place. They have granted consent accordingly.

The criteria set were that such a structure could not be seen from the street and that it should not in any way harm the Conservation Area. Indeed, it is accepted that to raise the rear wall to

a level that lined through with the rest of the terrace has in fact both improved the setting and enhanced the Conservation Area, yet still enabled **'sustainable growth'**.

The raising of the parapet wall was full width of both No's 6 and 8 Penzance Place and it follows that what becomes concealed behind could also become full width.

- 05.05 PPG15, annexe C states: **'Subsequent additions to Historic Buildings, including minor accretions....do not necessarily detract from the quality of a building. They are often of interest in their own right as part of the buildings organic history.'** (para.C5)

And: **'Modern extensions should not dominate the existing building in either scale, material or situation ...successful extensions require the application of an intimate knowledge of the building type that is being extended, together with a sensitive handling of scale and detail.'** (para.C7)

- 05.06 In their publication 'London Terrace Houses 1660 – 1860', English Heritage state that: **'Extensions should never dominate the parent building in bulk, scale materials or design. The most appropriate solution will normally be to use a traditional design employing the existing architectural vocabulary of the parent building to ensure that the new work is integrated harmoniously with the character of the building as a whole. However, there may be some occasions where a more modern design approach may be acceptable.'**

It is submitted that the proposed, constructed from the same materials, being of the same mass, height and design criteria as the approved, will not dominate the parent building. Certainly, the proposed will not detract from the quality of the existing building or terrace.

- 05.07 The reasons for the refusal of planning permission state that: **'The proposed roof addition is considered by virtue of its size, bulk, design and location to be detrimental to the character and appearance of the property, the terrace it is located within and the Conservation Area, and therefore is contrary to the Council's Policies which seek to maintain and enhance the character and appearance of the Borough and it's Conservation Areas, as stated in the Council's Unitary Development Plan, in particular Policies CD38, CD39, CD52 and CD53.'**

Para. 4.2 of the UDP states that, since **'additional storeys and roof level alterations will very often have an adverse effect on the character and appearance of buildings, on the skyline ... such proposals will be judged in relation to:**

- a) **Their effect on the character of the street or terrace, the skyline as seen from neighbouring houses and streets and day lighting and sun lighting to neighbouring houses and gardens; and**
- b) **The design relationship of any additional storey to the building.**

It is submitted that:

- a) This proposal will have no effect whatsoever on **'the character of the street or terrace, the skyline as seen from neighbouring houses and streets'**. With the rear wall now raised in line with the approved, it is not possible to see the existing, consented half width structure from the street. It will not be possible to see the proposed extension.
- b) The design relationship of the proposed to the adjoining houses and the terrace as a whole is an improvement to the existing structure. The structure will become full width from party wall to party wall. A full width structure on top of the house has more clarity and is aesthetically more acceptable than a half width structure. It follows, using identical criteria to that which enabled RBKC to grant consent, that the roof structure could easily be full width. Historically this is a more appropriate design.
- c) The buildings to the rear - in the mews opposite - are offices. There is no question of a loss of visual amenity to adjoining residential property.
- d) In allowing a full width structure, the possibility of overlooking from the roof terrace into adjoining rear gardens is removed.

**CD38 'Normally to resist additional storeys and roof level alterations on:**

- a) **Complete terraces or groups of buildings where the existing roof line is unimpaired by extensions, even when a proposal involves adding to the whole terrace or group as a co-ordinated design;**
- b) **Buildings or terraces which already have an additional storey or mansard;**
- c) **Buildings that include a roof structure or form of historic or architectural interest;**
- d) **Buildings which are higher than surrounding neighbours;**
- e) **Buildings or terraces where the roof line or party walls are exposed to long views from public spaces, and where they would have an intrusive impact space beyond;**
- f) **Buildings which, by the nature of the roof construction and architectural style are unsuitable for roof additions, e.g. pitched roofs with eaves;**
- g) **Mansion blocks of flats where an additional storey would add significantly to the bulk or unbalance the architectural composition;**
- h) **Terraces which are already broken only by isolated roof additions.**

It is submitted that:

- a) There are examples of additions to roofs along the rear of this particular terrace. Some can be seen from the street, all are different and there is no cohesive pattern. Irrespective of those structures which are visible from Pottery Lane, the approved additional height to the rear wall of this property ensures that in this appeal, the proposed roof structure would not be seen from Pottery Lane or any other public place.
- c) This building is part of a Conservation Area but it is not a Listed Building. It is established that the proposal will have no detrimental impact on the Conservation Area.
- d) The proposed is to be the same height, mass and construction as the existing, consented roof structure.
- e) There are no long or side views from which the proposed can be seen.
- f) The proposed is a simple continuation of an existing and approved structure acting as an infill for the remaining width of the plot, the design of which follows the same criteria as set with the approved. The concept is appropriate by virtue of the existing consent.
- g) Not applicable.
- h) Not applicable.

**CD39 'Normally to permit additional storeys and roof level alterations in the following circumstances:**

- a) **Where the character of a terrace or group of properties has been severely compromised by a variety of roof extensions and where infilling between them would help to reunite the group; and**
- b) **The alterations are architecturally sympathetic to the age and character of the building.**

It is submitted that:

- a) This terrace is already broken by existing, unsightly roof additions and balustrades. The original character of a single parapet line is clearly lost. It should also be noted that, because of the dominant nature of the Church, only a small part of the rear of this terrace is visible from Pottery Lane. Furthermore, the most dominant feature of the rear of this terrace, which is the rear wall itself, has been severely compromised already by the reconstruction and reconfiguration of the adjoining property at No 10 Penzance Place. This is no longer a good example of a restored and retained rear elevation to a Victorian Terrace of houses.
- b) The concept of a concealed mansard to the full width of the rear of a terraced Victorian house in London is well established. Being well set back and totally invisible, a mansard is the best, most sympathetic and simplest way to enable additional space to be created without harming the rhythm and mass of the rear elevations. There are many examples in London of additional floors built on top of existing Victorian structures such as the proposed being allowed. In this situation, a full width extension to the roof is a more correct and logical solution than the existing half width structure. In this case, 'infilling' will help to 'reunite the group'

**CD52. 'To ensure that any development in a Conservation Area preserves or enhances the character or appearance of the area.'**

It is submitted that:



- a) In granting consent for the existing roof structure and the raising of the rear wall, RBKC have ensured that the character and appearance of this part of the Conservation Area is both preserved (by concealing the roof structure) and enhanced (by raising the rear walls of No's 6, and 8, Penzance Place) as far as is possible. This again is a good example of achieving the goals set out by PPG15, which aims to integrate an effective conservation policy alongside sustainable growth.
- b) RBKC acknowledge that the presence of a roof structure behind the raised rear wall is acceptable. The proposal seeks to work within the criteria set by RBKC in granting the approval, in that it is a simple infill of the existing mass to make it full width on the plot.
- c) The ridge height remains the same and none of the structure will be visible at street level from Pottery Lane or any other public place. In essence the proposal is no different from that which has already been granted consent and most certainly it does not cause any further harm to the Conservation Area.

**CD53. 'To ensure that all development in Conservation Areas is of a high standard of design and is compatible with:**

- a) **Character, style and pattern.**
- b) **Bulk and height.**
- c) **Proportion and rhythm.**
- d) **Materials.**
- e) **Landscaping and boundary treatment.**

It is submitted that:

- a) The '**character, style and pattern**' of the rear elevations of Penzance Place are all maintained by the proposal. The proposed materials are as existing and which have been granted consent, the design is a continuation of the existing and the pattern is more appropriate to be full width to the plot rather than half width.
- b) The '**height**' is as existing and as such the proposed will not be visible from the street. The '**bulk**' will be such that it now reflects the plot rather than an arbitrary line down the middle of the house. The approved roof structure sets out the basic materials and proportions of the proposed structure.
- c) The '**proportion and rhythm**' are an improvement to the approved and existing, in that it will reflect the full plot width. This point applies only in the small number of instances from which the structure can be seen, which is not at street level or from a public place.
- d) The '**materials**' will be as existing.
- e) The '**boundary treatment**' as approved has now rendered the proposed invisible from the street.

**CD25 'To seek that all development in any part of the Borough is to a high standard of design and is sensitive to and compatible with the scale, height, bulk and character of the surroundings.'**

It is submitted that:

- a) To the rear, the proposed is of a design that is already accepted by RBKC.

**CD26 'To require infill development to:**

- a) **Conform to the existing building lines and overall scale and character of the area.**
- b) **Have respect to the form and materials of adjoining buildings; and**
- c) **Have regard to open spaces, which are important to the proposed development and the surrounding area.'**

It is submitted that:

- a) The proposed does conform to existing building lines, in that it is a simple extension to that which exists. The most important building line (sight lines from Pottery Lane and all other public places) is strictly adhered to and is proven by the consented structure.
- b) The proposed materials are as existing and as approved.
- c) The proposed is not visible from any local public or open spaces.

6.00

REPORTS TO COMMITTEE

## 06.00 THE REPORTS TO COMMITTEE

- 06.01 In the officers report to committee in 1994, item 4.6, recommending approval, it is stated that **'at the rear of the roof it is proposed to erect a three meter long stair housing which will join the rear parapet wall at an angle of 90 degrees. The stair housing will not therefore be visible.'**

On the consent certificate dated 1994 it is stated that the conditions are set to **'ensure that the external appearance of the building is satisfactory'**.

It follows that the external appearance of the building is satisfactory as long as no roof structure is visible from the street. Equally, (as evidenced in the 1997 correspondence which resulted in an application for raising the rear parapet wall being approved), as soon as any roof structure becomes visible from Pottery Lane or any other public place, the external appearance of the building becomes unsatisfactory. The proposed design does not envisage any part of the extended roof structure being visible from Pottery Lane or any other public place.

- 06.02 In the officers report to committee dated 6<sup>th</sup> July 1999, it was stated in item 4.9 that **'the roof stair housing structure that has been erected will not have a detrimental effect upon the character and appearance of the property or the terrace, if the rear parapet walls of both No's 6 and 8 Penzance Place are raised in height, thus creating a uniformed rear parapet profile at the rear of the terrace. The raised parapet structure will also serve to mask the initial impact of the pitched roof of the structure, which diminishes as it angles away from the rear parapet wall. The proposal is therefore considered to be consistent with the Council's policies.'**

On the consent certificate dated August 2000, condition 3 states that this is in order to **'ensure a satisfactory standard of external appearance.'**

Again, the structure becomes acceptable when it is not visible from the street and when it is not perceived to be of harm to the Conservation Area.

- 06.03 It is stated in the officers report to committee dated December 2000 item 4.7 that **'the proposed roof addition is considered to be located within a terrace that is broken only by an isolated roof addition'**. In reality, there are two other structures which are clearly visible at street level from Pottery Lane and there are others which are not. This in the very limited stretch of the terrace which is visible from the road (it is only possible to see four houses from Pottery Lane). Furthermore, the entire rear wall and sky line of No. 10, Penzance Place has been rebuilt in a manner (including balustrades front and rear) which does not resemble the original pattern.

- 06.04 It is stated in the officers report to committee dated December 2000 item 4.8, the officer states that **'the proposed roof addition will be visible from the upper floors of the properties to the rear of Pottery Lane and to the front in Penzance Place and Portland Road.'**

The report makes no mention of the proposal being unacceptable as a consequence of it being visible from Pottery Lane and appears to accept that the proposed structure will not be visible from the road. Rather, the report argues that the structure can be seen from the upper floors of adjoining buildings. However, the existing structure can equally be seen from the upper floors of adjoining properties and this principle is acceptable by virtue of the consent in 1998.

It is further argued that a full width rear mansard roof - from party wall to party wall - is more aesthetically pleasing than the existing half structure.

A full width structure will prevent overlooking from the consented roof terrace down into the rear gardens and Church yard in Pottery Lane. In item 4.10 the officer confirms that the **'proposal is not considered to harm the amenity of neighbouring occupiers'**.

The buildings to the rear of No. 8, Penzance Place are offices and the building immediately opposite in Penzance Place is a restaurant on all floors. The building which dominates Pottery Lane is a Church and has no windows which overlook the rear walls.

- 06.05 It is stated in the officers report to committee, item 4.8, that ***'the proposal is considered by virtue of its size, location, bulk and design to be detrimental to the character and appearance of the building, the terrace and the Conservation Area'***.

It is established that the proposal will not be visible from Pottery Lane or any other public place and as such, it is difficult to accept that ***'by virtue of its size, location, bulk and design'*** it will be ***'detrimental to the character and appearance of the building, the terrace and the Conservation Area'***. Indeed it is argued that the only places where it will be seen are privately owned spaces (not residential) which are at least one storey above ground level. Those who can see the proposal will no doubt also see a more pleasing structure which is full width to the property rather than one which is arbitrarily truncated down the middle.

7.00

CONCLUSIONS

## 07.00 CONCLUSIONS

07.01 The test of whether or not a roof structure to this property is harmful to the Conservation Area has been whether or not it can be seen from the street level. The proposed will not at any point be visible from a public place (as demonstrated by the existing roof structure).

07.02 The proposed development would have no impact on the Conservation Area. It causes no harm to either it or any of the surrounding buildings. The proposal has no materially adverse effect upon features of acknowledged importance within the Conservation Area.

Indeed, the rear walls which are visible from Pottery Lane have been severely altered over the years and they are no longer in their original form. It is possible to see at least two additional roof structures from Pottery Lane and the rear to No 10 is no longer recognisable as Victorian terrace house. The features of acknowledged importance have, in part, already been lost.

07.03 A full width roof structure is aesthetically and historically more appropriate than a half width roof structure.

07.04 The size, bulk, location, design, construction and use of materials will be as existing and are all established by the existing consented roof structure.

07.05 There is no loss of amenity to any of the adjoining properties. The proposed will prevent any overlooking from the consented roof terrace into the other private rear gardens of the terrace and it is argued that the proposed may well improve the amenity of the neighbours to the rear.

07.06 The concept of a slate clad rear mansard roof structure is a widely accepted and appropriate form of adding to Victorian houses in London. Indeed the building on the corner of Penzance Place and Pottery Lane has such a mansard roof which is clearly visible from the road (see photographs).

07.07 There are no planning policies within the RBKC Unitary Development Plan or Government guidance which specifically state that proposals such as this are not acceptable.

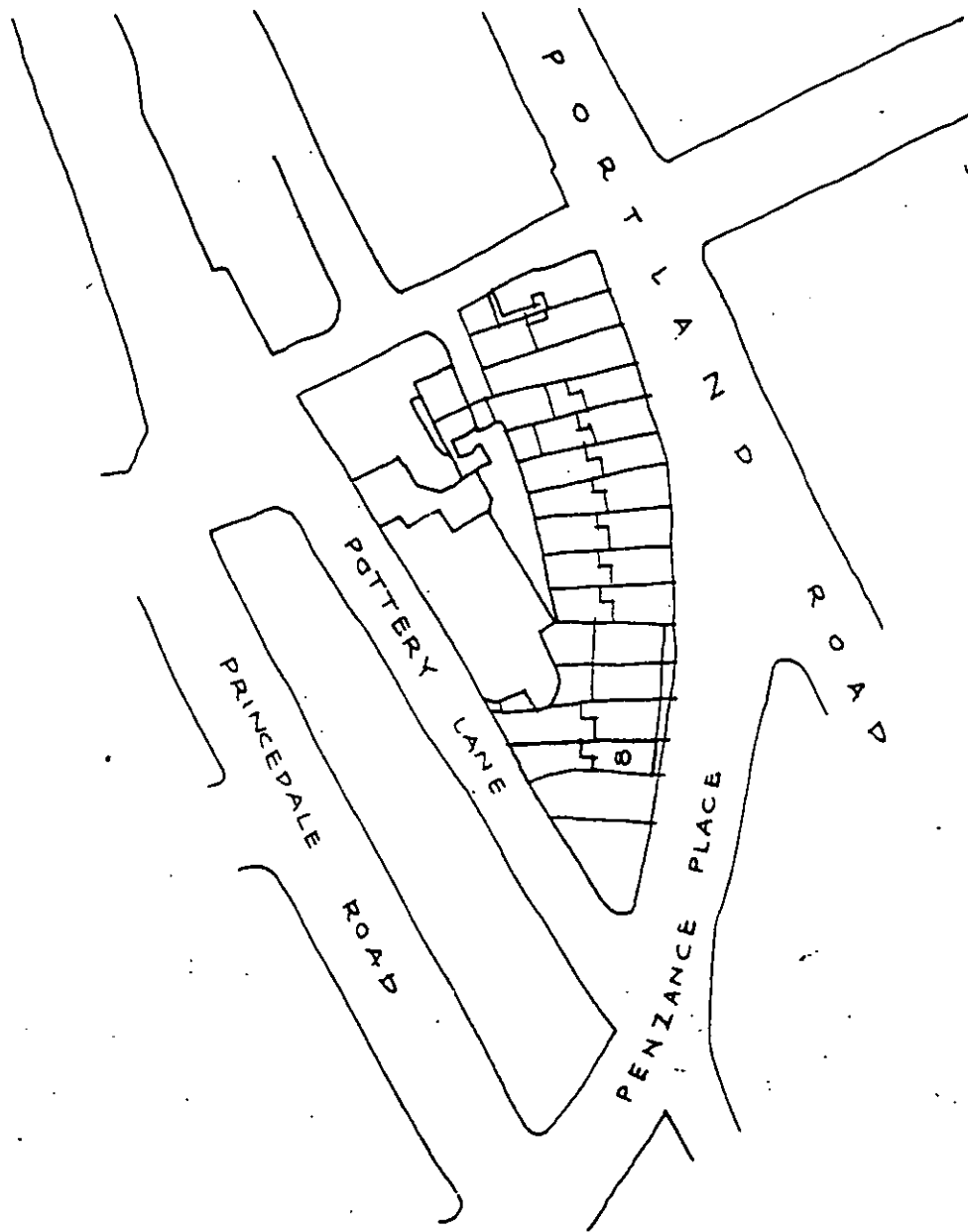
07.08 There is no dramatic change of circumstance from one side of the property to the other, such that a rear roof structure is allowable towards No 6 Penzance Place but not towards No 10 Penzance Place.

The circumstances for extending the roof structure to full width have been created by the consent which was granted to raise the back wall of the house by the full width of the house. Since the proposed roof structure obeys the criteria which are set by the existing consented structure, it will not only be equally invisible from the street but also will be equally of no harm to the Conservation Area.

07.09 Accordingly we request that this appeal be allowed.

APPENDIX ONE

SITE PLAN



**B B PARTNERSHIP**

ARCHITECTS

THE TRAFALGAR • 17 REMINGTON STREET • LONDON N1 8DH  
 TEL • 0171 336 8555 FAX • 0171 336 8777

project	No 8 PENZANCE PL. ROOF ACCESS MATCH		date	NOV. '00	scale	1:1250	drawn by	
drawing	LOCATION PLAN		drg. no.	CBH/R/01		rev.		

do not scale • check all dimensions on site ©

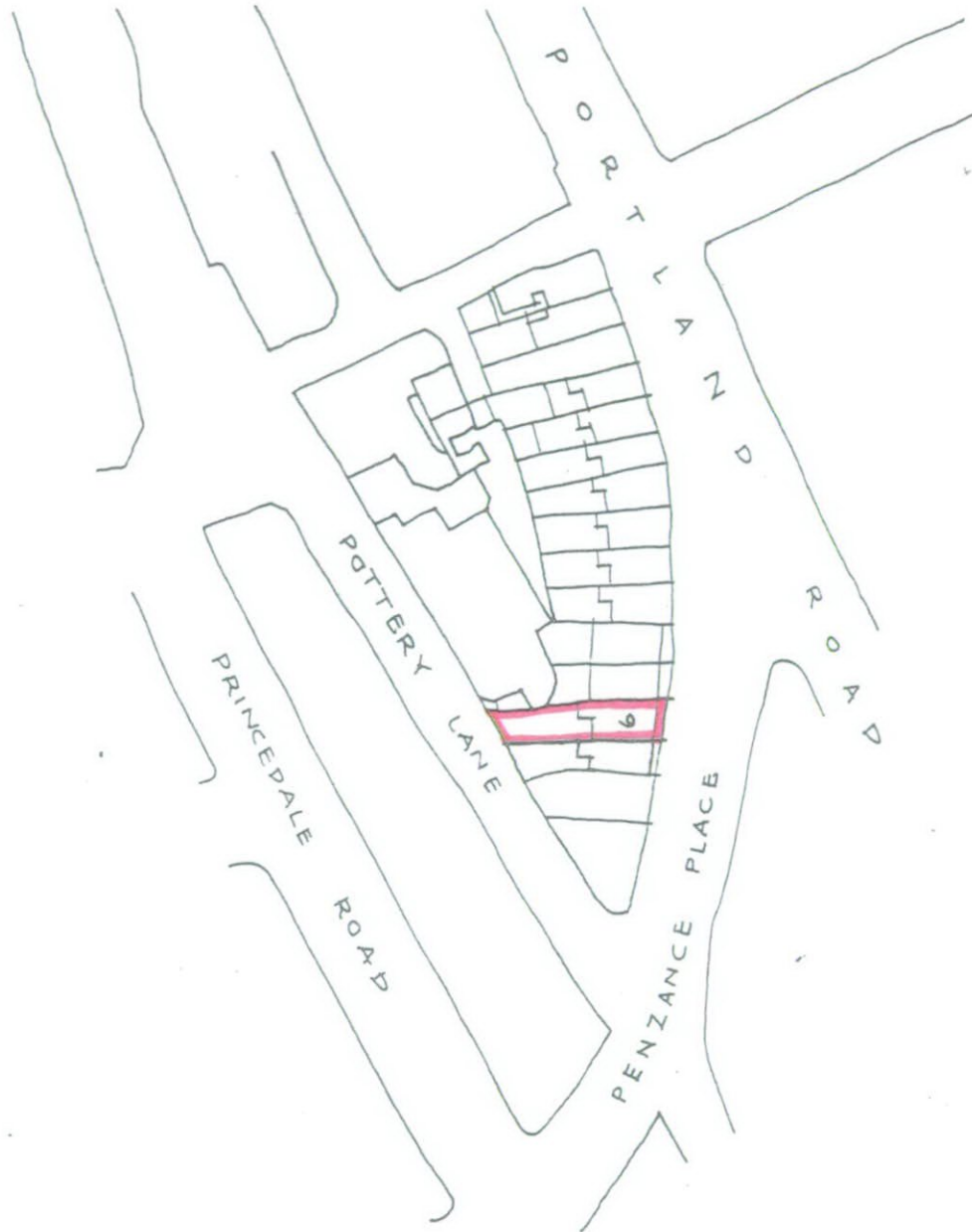




**Black & White**

**AO Page**

1-2



**B B PARTNERSHIP**

ARCHITECTS

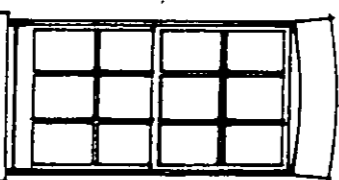
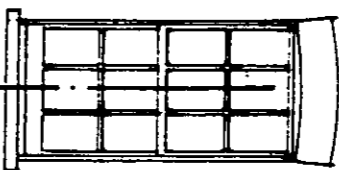
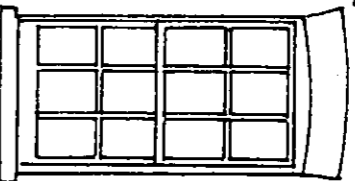
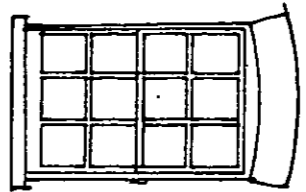
THE TRAFALGAR • 17 REMINGTON STREET • LONDON N1 6E •  
 TEL • 0171 336 8555 FAX • 0171 336 8777

project	No 8 PENZANCE PL. ROOF ACCESS HATCH		date	scale	drawn by
drawing	LOCATION PLAN		MAY '98	1:1250	
	drg. no.	rev.			
	CEH/2/01				

do not scale • check all dimensions on site ©

No 6

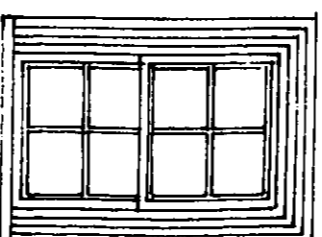
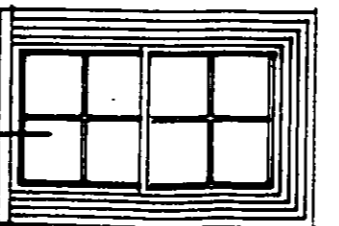
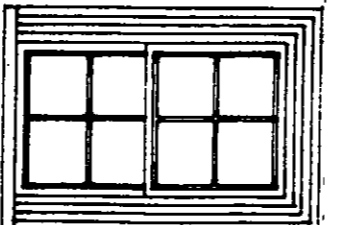
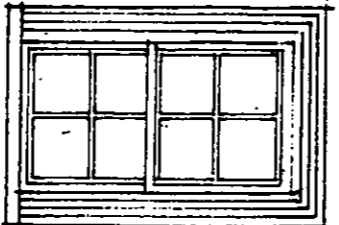
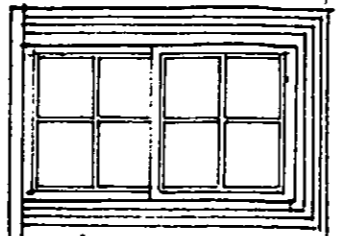
No 6



PART (REAR) ELEVATION

A Δ

Δ A



PART (FRONT) ELEVATION

No 6

Δ A

Roof

No 6 Renouée Place.  
Approved.

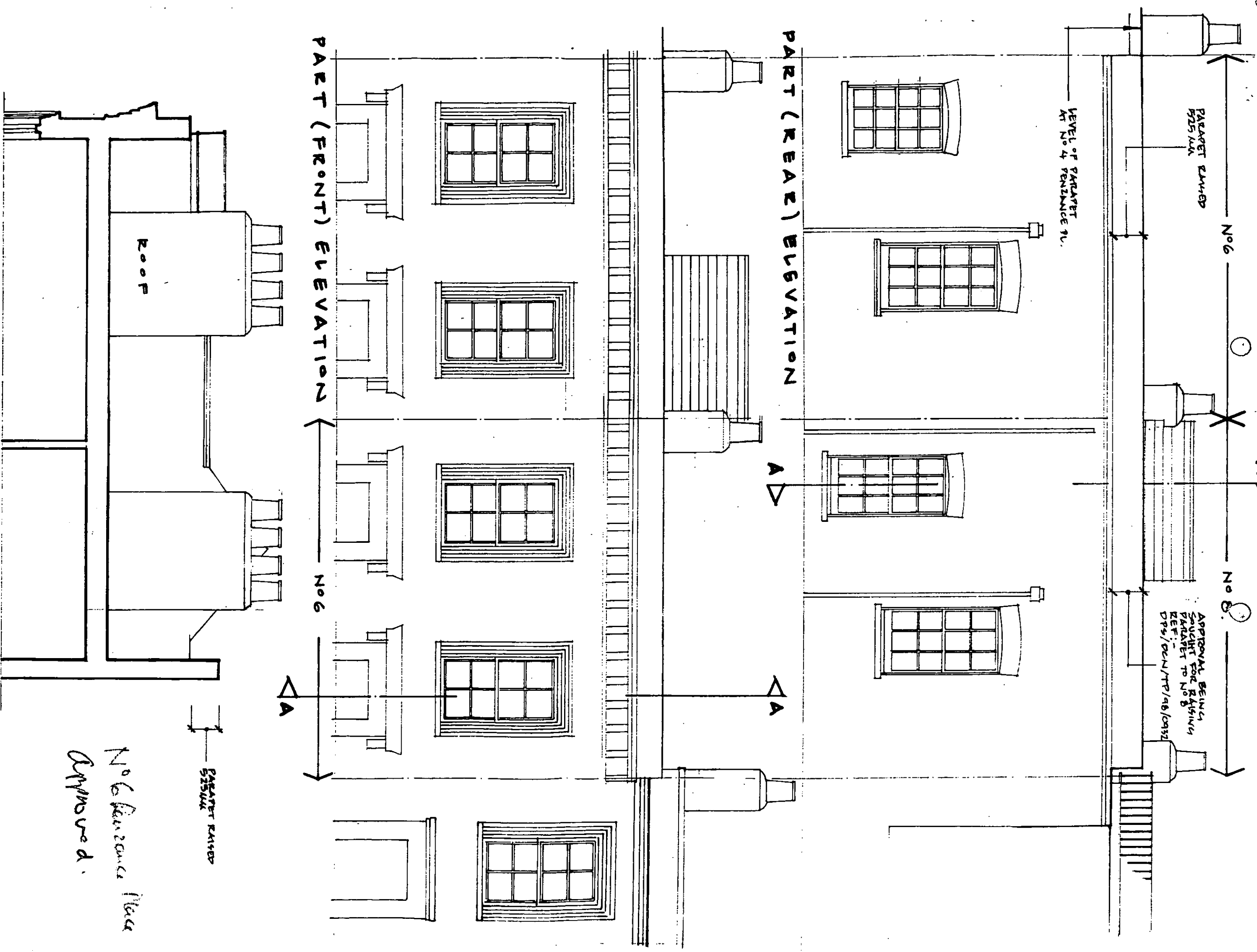
SECTION AA

BB PARTNERSHIP

ARCHITECTS

THE TRIANGLE  
17 REMINGTON STREET - LONDON N1 6JH  
TEL - 0171 326 8888 FAX - 0171 326 8777

Project No 6 RENOUÉE PL.	date	scale	drawn by
PROPOSED RAISED REAR PARAPET	FEB '99	1:50	
Drawing EXISTING & SECTION	DRG. NO.		
	CBH/2/02		
	REV.		



PART (REAR) ELEVATION

PART (FRONT) ELEVATION

APPROVAL BEING SOUGHT FOR RAISING PARAPET TO No 8 REF: DRS/02N/TP/08/0032

LEVEL OF PARAPET AT No 4 PENZANCE PL.

PARAPET RAISED 525MM

No 6 Penzance Place  
Approved.

SECTION A A

Roof

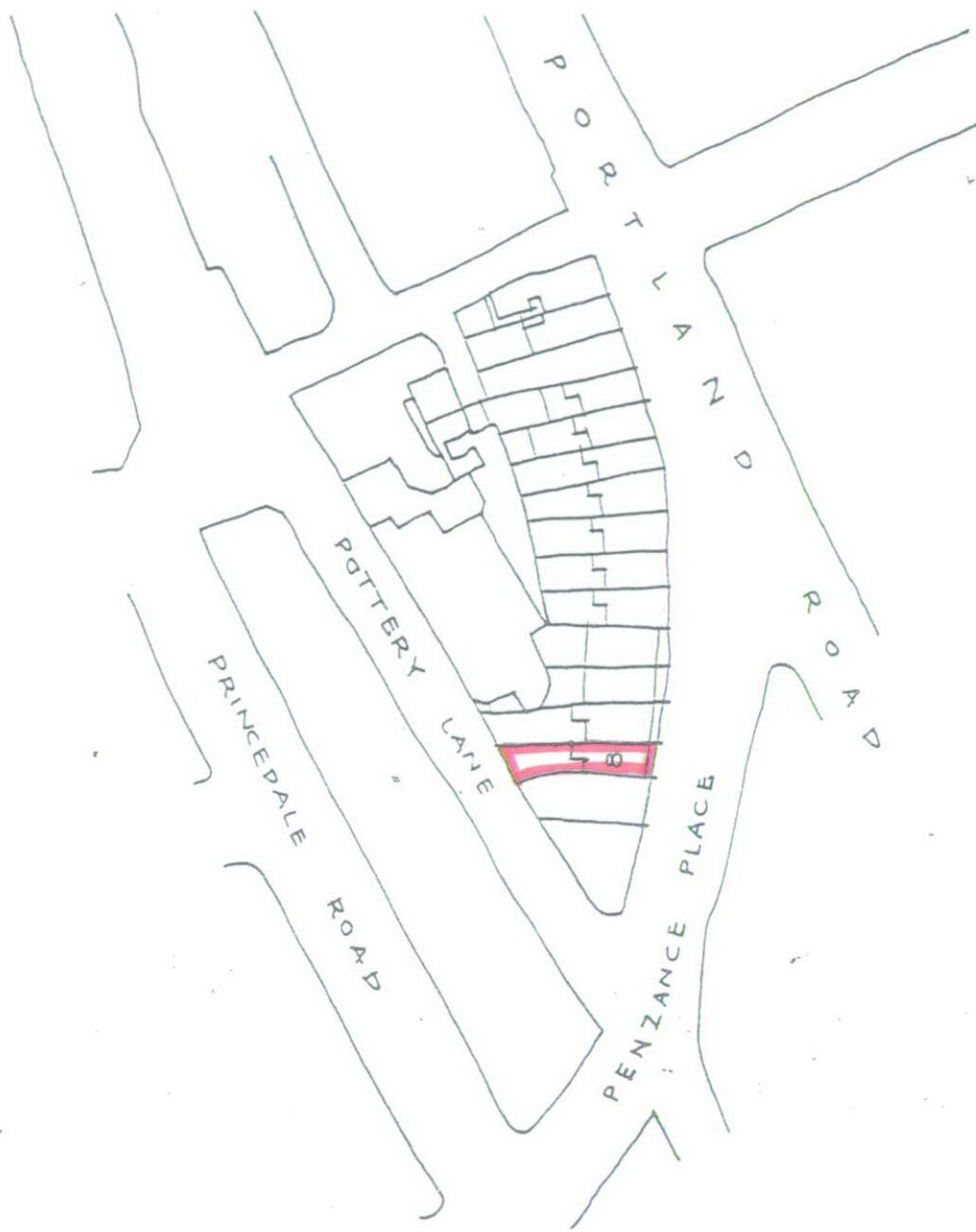
BB PARTNERSHIP

ARCHITECTS

THE TRAFALGAR - 17 REMINGTON STREET - LONDON W1G 9DU  
TEL 0171 336 8555 FAX 0171 336 8777

Project	No 6 PENZANCE PL.	date	FEB 99	scale	1:50	drawn by	
Proposed	RAISED REAR PARAPET	drg. no.	CEH/2/03	rev.			
Drawing	PROPOSED ELEVATIONS AND SECTIONS						

do not scale - check all dimensions on site

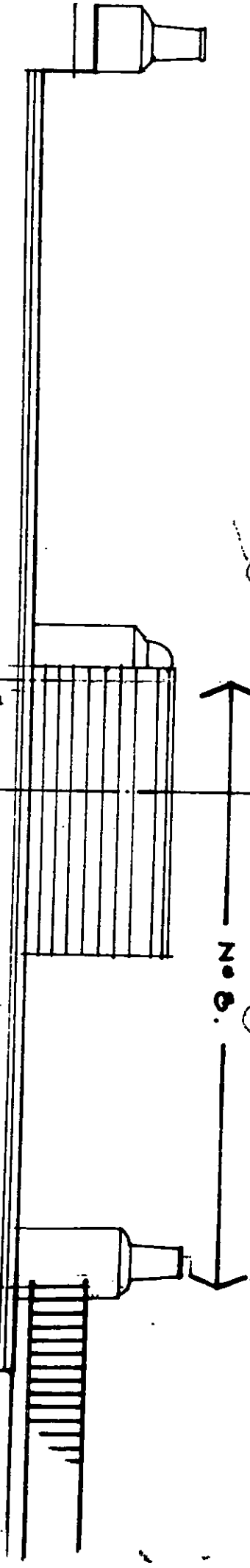


PLANNING

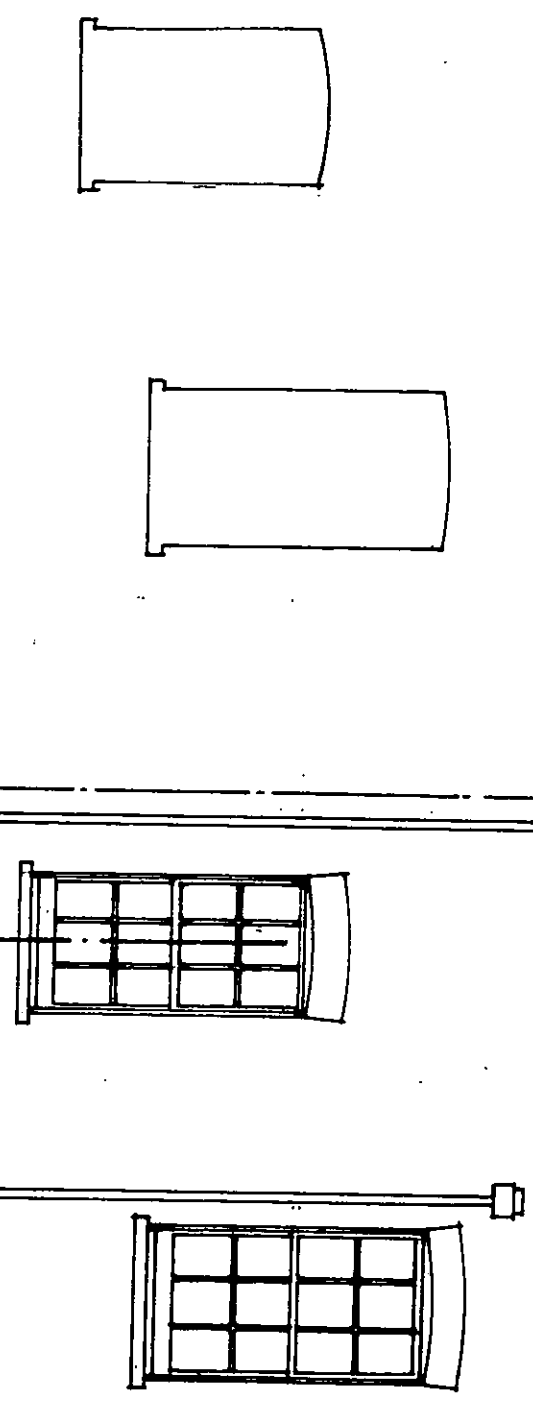
**B-B PARTNERSHIP**  
**ARCHITECTS**  
 THE TRAFALGAR • 17 REMINGTON STREET • LONDON N1 6DH  
 TEL • 0171 336 8555 FAX • 0171 336 8777

project	Nº 8 PENZANCE PL. ROOF ACCESS HATCH	date	NOV.'00	scale	1:1250	drawn by	
drawing	LOCATION PLAN	drg. no.	CBH/R/01	rev.			

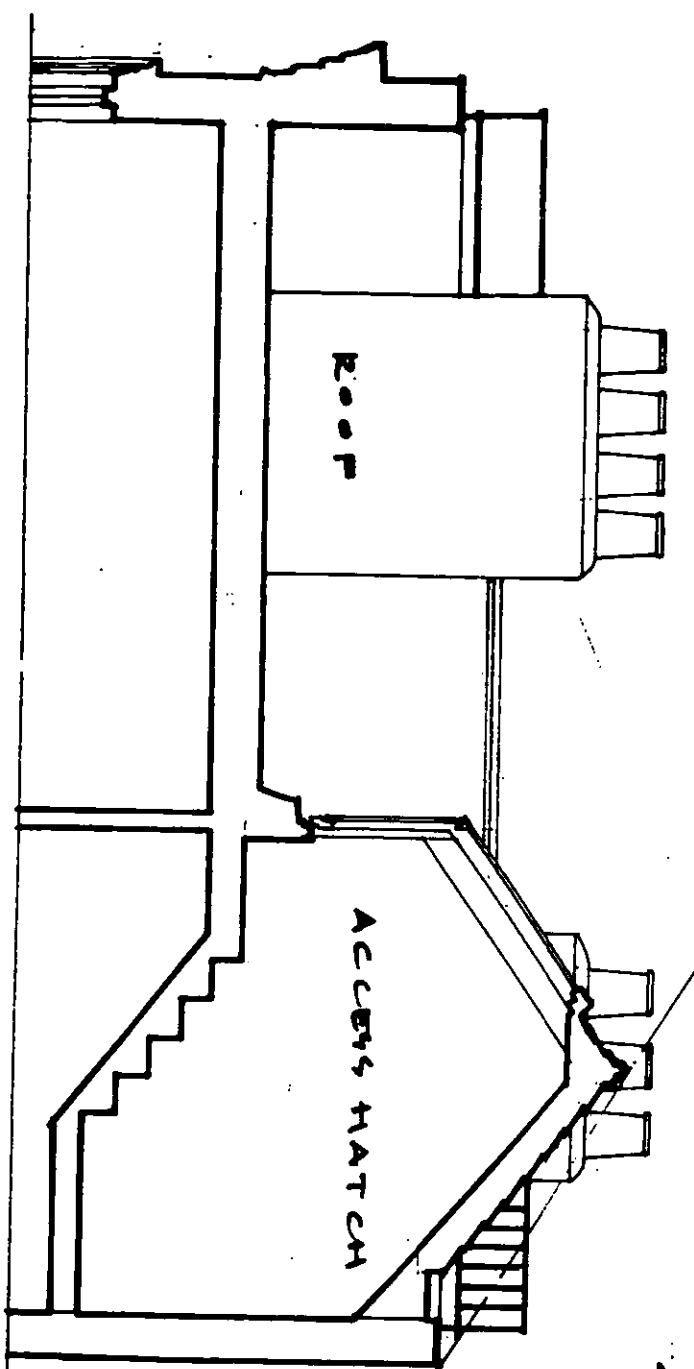
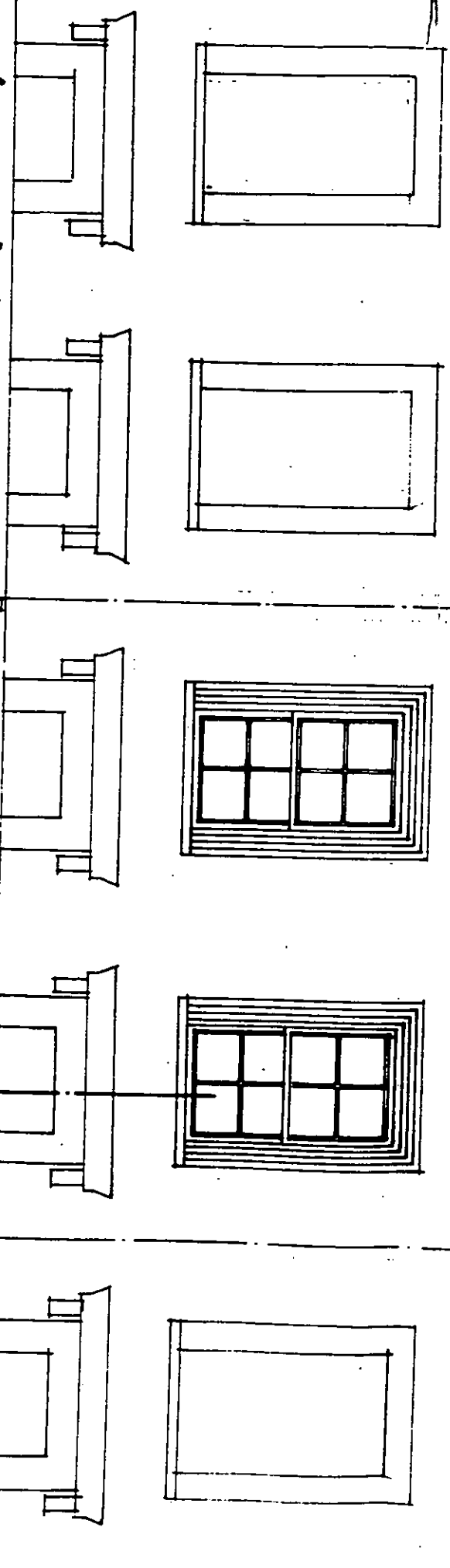
do not scale • check all dimensions on site ©



PART (REAR) ELEVATION



PART (FRONT) ELEVATION



SECTION A A

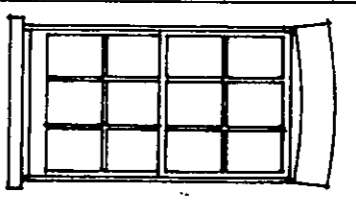
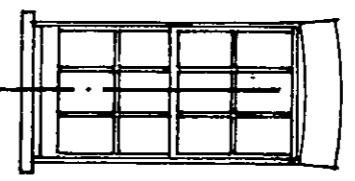
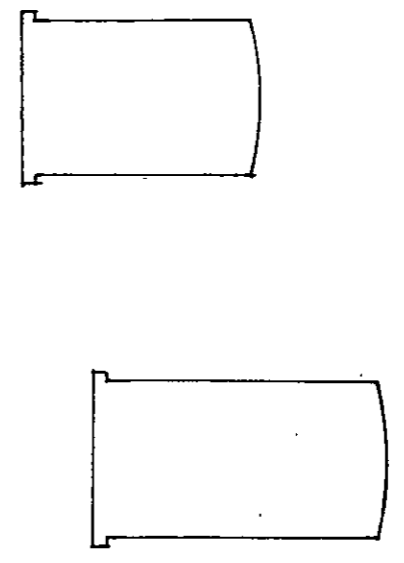
No 8 (see above) floor  
Approved

**B B PARTNERSHIP**  
**A R C H I T E C T S**  
 THE TRAFALGAR - 17 REMINGTON STREET - LONDON W1K 6BH  
 TEL - 0171 239 8888 FAX - 0171 239 8777

Project No 8 TRAFALGAR PL. Roof Access Hatch	date MAY 90	scale 1:50	drawn by
drawing EXISTENCE ELEVATIONS AND SECTIONS	diag. no. CBM/K/01	rev.	

PARAPET RAMPED  
525 MM

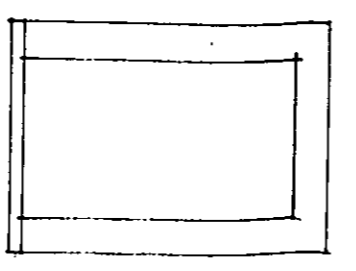
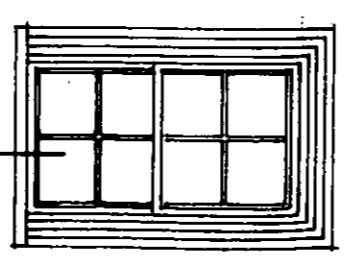
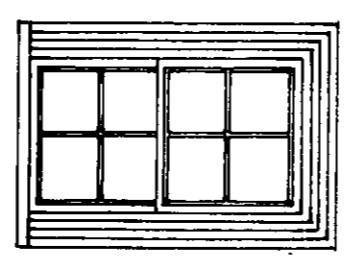
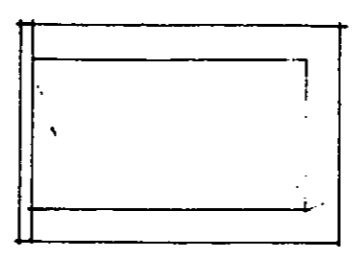
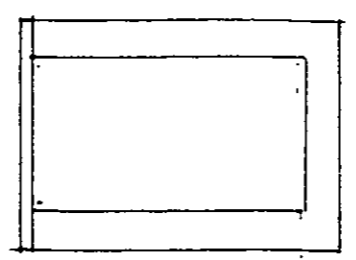
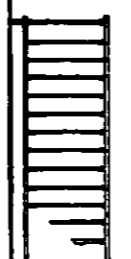
No 8



PART (REAR) ELEVATION

A >

< A



PART (FRONT) ELEVATION

No 8

< A

PARAPET RAMPED  
525 MM

Roof

ACCESS HATCH

No 8 Penzance Plaza  
Approved

SECTION AA

BB PARTNERSHIP

ARCHITECTS

THE TRAFALGAR • 17 RENNINGTON STREET • LONDON W1 8DH  
TEL • 0171 336 8555 FAX • 0171 336 8777

Project	No 8 PENZANCE PL.	date	MAY 98	scale	1:50	drawn by
drawing	PROPOSED ROOF ACCESS HATCH ELEVATIONS AND SECTIONS	DRG. NO.	CEH/X/02	REV.		

do not scale - check all dimensions on site

©

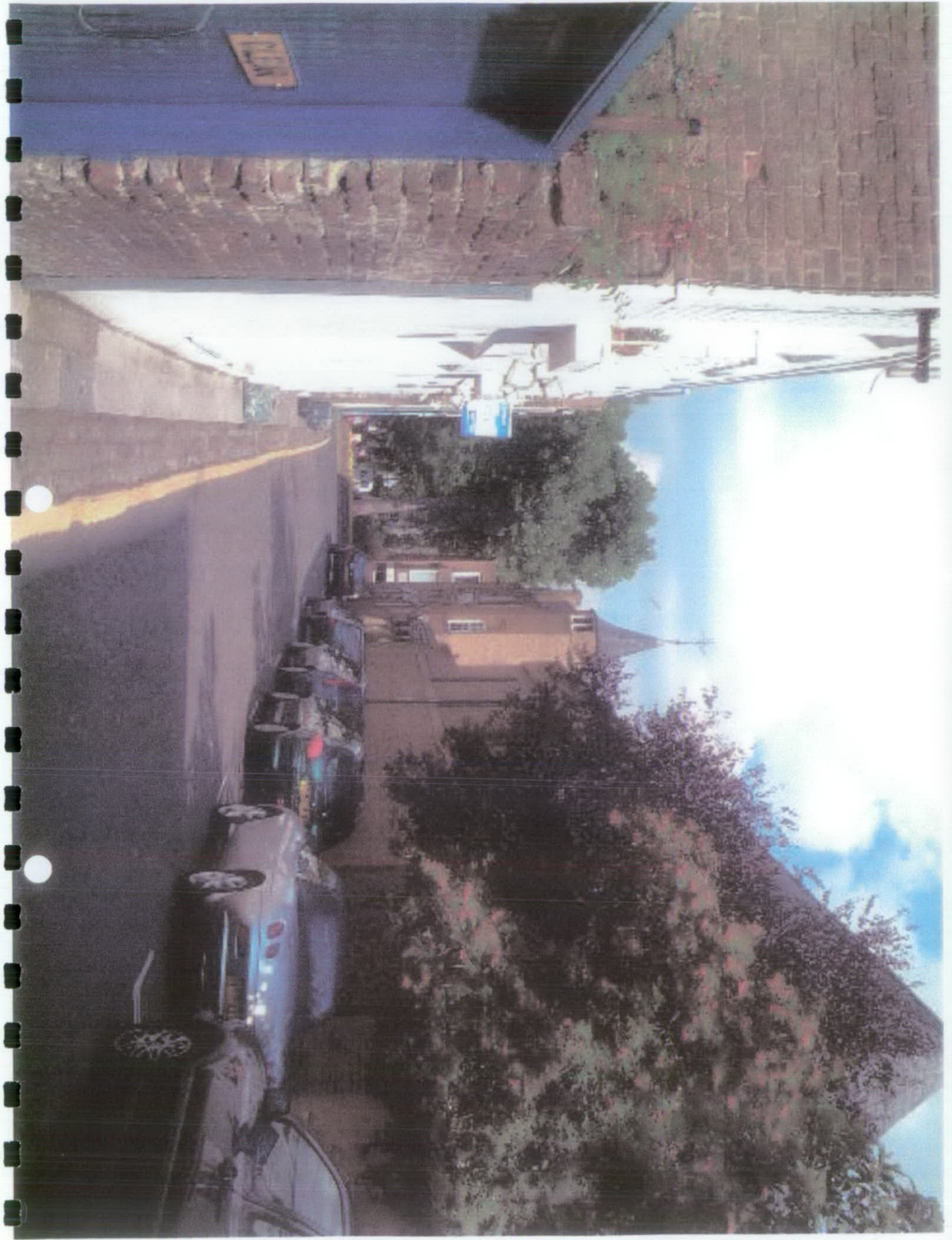




Front elevation of 6, 8, 10 Penzance Place.



Rear elevation of Nos 6, 8, 10 Penzance Place. Existing structure not visible from road after addition of 525mm to height of rear wall.



Lottery Lane. Mostly dominated by Church.



Pottery Lane. Offices opposite