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Disursed at Inquiry  
29/7/99  
(Card's)

**ROYAL BOROUGH OF KENSINGTON &**  
**CHELSEA**

**CAMPDEN HILL RESERVOIRS**

**STATEMENT OF COMMON GROUNDS AGREED BY**  
**APPELLANTS AND ROYAL BOROUGH OF KENSINGTON &**  
**CHELSEA**

This statement is prepared in advance of the Public Inquiry scheduled to commence on July 20<sup>th</sup> 1999 in respect of the above site.

This document comprises a list of brief statements, primarily factual, that can be taken as common ground between the appellants, St. James's Homes, and the Royal Borough of Kensington & Chelsea. They should not be taken as common ground accepted by any other parties.

**The following statements are agreed.**

**Site Area**

1. The site covers an area of 1.541 hectares, of which 1.008 ha (10081 sq.m) is proposed as the residential development area, with 0.533 ha (5329 sq.m) as tennis court area.

**Archaeology**

2. The site does not have archaeological potential and there is no further need to consider archaeology on the site.

**Nature Conservation**

3. The site does not have any nature conservation importance.

**Existing Site**

4. The site, as a matter of fact, is a developed site that contains large built structures occupying 78.5% of the site area.
5. The reservoirs have a roof area of 0.87 ha, a cubic capacity of 66,728 m<sup>3</sup>, and an internal floor to ceiling height of 7.84m.
6. All indications are that the site should be considered redundant as far as use to provide water reservoir facilities is concerned, with such use unlikely to recur.
7. (a) The existing level in Aubrey Walk averages 38.84 AOD (Above Ordnance Datum)  
(b) The existing level in the grounds of Aubrey House average 37.7m AOD

- (c) The average level within Holland Park School at the boundary of the site is 37.2m
- (d) The average level of land within Kensington Heights is approximately 40.7m AOD, made up with land with undercroft parking below
- (e) The average height on Campden Hill Road adjoining the site is 37.4M AOD
- (f) The spot level on the roof of the reservoirs is 42.5m

**Listed buildings**

8. The issue of impact upon the setting of the following Listed buildings is a relevant consideration in determining these applications:

Aubrey House, Aubrey Walk  
 St. George's Church, 2-6 and 15-19 Aubrey Walk  
 Thorpe Lodge  
 West House, 118 Campden Hill Road

**Open and Recreational Space**

9. Plan 7650/304 is agreed as a true depiction of the distribution of types of open and recreational space upon the site.
10. Approximately 30% of this amount would be lost under the appeal proposals, if the definition of open space described in paragraph 4.25 of the Committee Report is followed (excluding private gardens).

**Sports facilities**

11. The proposal does not involve any reduction in the range, of the sports (tennis) facilities offered on this site.
12. The proposals do not conflict with Unitary Development Plan Policies LR1 and LR7

**Housing**

13. The surrounding area is primarily residential in character and function.
14. The principle of using the site to provide housing, sports facilities in the form of a tennis club, and open space, are not disputed. Government guidance and Policies in the Unitary Development Plan support the retention and provision of these uses.
15. The proposals, if approved, would result in a net addition of 52 residential units on this site.
16. The size of the site, and number of units proposed, is sufficient to trigger a requirement for the provision of affordable housing. Government guidance (in particular Circular 6/98) and the Policies of the Royal Borough encourage the

provision of affordable housing as part of the proposed development of this site.

17. If affordable housing is not provided as part of the proposed development, such a failure could justify the refusal of planning permission (as advised in Circular 6/98).
18. The seventeen units of housing proposed for the Aubrey Walk block, earmarked for affordable housing, would constitute 33% of the net addition to the dwelling stock proposed for the site.
19. The percentage amount of all housing proposed for the site as being affordable is considered acceptable.
20. In the event that, for any reason, affordable housing provision could not be achieved on this site, then 22 off-site units would be likely to be acceptable (subject to quality, location etc)
21. The provision of seventeen units of affordable housing on this site will not call the viability of the redevelopment proposal as a whole into question.
22. The residential density figure, for the residential development site, is agreed as being 342 h.r.h (calculated upon an area of 11041.67 sq.m and 378 habitable rooms)
23. The proposals do not conflict with Policies STRAT 2, STRAT 14, or H2.
24. The mix of unit sizes proposed for the site (Policy H19) is acceptable.

#### **Campden Hill Road block**

25. The redevelopment of the present Water Tower House site is to be encouraged, as long as the result preserves or enhances the character and appearance of this part of the Conservation Area.

#### **Traffic generation**

26. The existing flats generate a maximum of 5 vehicle movements in both the morning and evening peaks.
27. Using information from surveys carried out in May 1999, it has been agreed that the existing tennis club generates an average 10 vehicle movements per hour, up to a maximum of 35 movements in the busiest hour at weekends. On weekdays the flows range from an average of 7 up to a maximum of 25.
28. The existing reservoir and ancillary facilities can be expected to generate up to 19 additional trips in peak hours.
29. Based on worst case trip generation rates, the proposed houses and flats could generate a maximum of 23 vehicular movements in the morning peak hour and 29 in the evening peak hour.

30. At weekends the proposed tennis club could be expected to generate up to an average of 5 and a maximum of 18 trips per hour in "poor" weather. On weekdays an average an average of up to 4 and maximum of up to 13 trips per hour could be generated.
31. The maximum vehicular activity associated with the proposed tennis courts would be likely to be no higher than the present peak
32. Following consideration of the submitted Traffic Impact Analysis (TIA) and negotiations relating to detailed points contained therein, the Council raise no technical traffic objection in relation to these proposals.

**Parking**

33. The 88 car parking spaces currently proposed (as shown on drawing 100A) satisfy the parking requirements laid down in the Unitary Development Plan.
34. The appellants have also produced drawing 100B for consideration at the Public Inquiry, showing 93 spaces which provide a ratio of 1:1 spaces for the affordable housing units. The Council has no objection to this revised drawing being considered at the Inquiry. It is agreed that this slightly increased provision is also acceptable under UDP Policies, although it is noted that this provision exceeds the UDP requirement of 0.66 spaces per unit of affordable housing.

**Privacy**

35. The appeal proposals would not result in a loss of privacy to any nearby residential property that would be of a sufficient degree to justify a refusal of planning permission. As such, there is no conflict with Policy CD30.

**Trees**

36. The submitted Tree Protection Method Statement, (Revision A dated 2/2/99) is in accordance with BS:5837.

**Unitary Development Plan Policies**

37. The Policies identified in the Reasons For Refusal recommended by the Council, namely STRAT 1, STRAT 5, STRAT6, STRAT35, CD21, CD25, CD48, CD51, CD52, CD53, CD61, H11, and H22 and draft alterations to H22, are agreed as relevant Policies in consideration of the appeal proposals.
38. Other relevant Policies are STRAT2, STRAT 14, STRAT 15, CD24, CD28, CD29, CD30, CD32, CD34, CD35, CD43, H19, H28, LR7, TR39.
39. The relevant drawings depicting the development forming the subject of this Public Inquiry are P099, P100A, P101A, P102A, P103A, P104A, P105A, P106A, P107A, P108A, P109A, P110A, P111A, P112A, P113B, 8809/3, 8809/4, 8809/5, 9029/3, 9029/4, 9132/1, 9132/2, 9132/4, 9132/5, 9132/6. Although the drawing 100A is formally before the Inquiry, no objection is raised to consideration of drawing 100B.

+ 098  
Red Line  
Plan

## CONDITIONS

The following Conditions (no.s 1-15) have been proposed by the Council, and are not objected to by the appellants, for application to any Planning Permission or Conservation Area Consent in the event of the subject appeals being allowed. The Council and the appellants reserve the right to recommend that this list is added to, or amended, or items deleted, in response to issues discussed at the public inquiry

1. **The development hereby permitted shall be begun before the expiration of five years from the date of this permission.** ✓

*Reason* As required by Section 91 of the Town and Country Planning Act 1990, to avoid the accumulation of unexercised Planning Permissions.

2. **Full particulars of the following shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted commences and the development shall not be carried out otherwise than in accordance with the details so approved:** ✓

- (a) the materials to be used on the external faces of the building(s)
- (b) the slate(s) to be used as the external roofing materials for all buildings other than the Campden Hill Road block
- (c) the use and treatment of the open land within the site including hard and soft landscaping the tennis court surfacing
- (d) any proposed walls, fences, or railings
- (e) details of windows and window frames
- (f) the provision of access for people with disabilities
- (g) the extent and position of accommodation for the loading and unloading of vehicles
- (h) the provision to be made for the storage and disposal of refuse
- (i) Extent and provision of cycle parking
- (j) Ramp gradient and access controls to the basement car park
- (k) details of the floodlight positions and fittings, and the cowling to the floodlights

(l) *siting + construction of affordable housing units*

*Reason* - The particulars hereby reserved are considered to be material to the acceptability of the development, and the local planning authority wishes to ensure that the details of the development are satisfactory.

3. Any of the building(s) hereby permitted shall not be occupied until that building is completed in accordance with the approved drawings Number(s) .....

? Insp

*Reason - To ensure that the development is implemented in accordance with the application and does not cause any detriment to the amenity of the area.*

4. All planting, seeding and turfing, forming part of the approved details of landscaping, shall be carried out in the first planting and seeding season following the first occupation of the development or the completion of the development whichever is the sooner and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives its written consent to any variation.

✓

*Reason - To protect the amenity of the area.*

5. Full particulars of the method(s) by which all the existing trees on the site are to be protected during building and other operations on the site shall be submitted to, and approved in writing by, the Local Planning Authority before the development commences, and the protection so approved shall be provided before the commencement of the development and maintained for the duration of building and other operations on site.

✓

*Reason - To ensure that the trees are adequately protected, to safeguard their contribution to the amenity of the area.*

6. No tree within the curtilage of the site shall be lopped, topped, or felled, without the prior written approval of the Local Planning Authority.

? Insp

*Reason - To safeguard the tree, and preserve its contribution to the amenity of the area.*

7. No dwelling shall be occupied until the appropriate car parking space(s) for that dwelling, shown on the drawings hereby approved, has been provided, and the spaces shall be permanently retained for use in connection with the residential use of the dwellings and for no other purpose.

✓

*Reason - To prevent obstruction of the surrounding streets and safeguard the amenity of the area.*

8. At least one car parking space (or garage) shall be provided for each of the dwellings within the development prior to its occupation, with at least 0.66 spaces provided for each unit of affordable housing, and these spaces shall thereafter be permanently retained solely for the residential purposes of the dwellings.

✓

*Reason - To ensure that the use does not add to traffic congestion in the immediate area contrary to the local planning authority's policies for traffic restraint.*

9. Before the dwellings hereby approved are occupied insulation to prevent the transmission of excessive airborne and impact noise shall be installed between each of the adjoining units in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority, and the insulation shall be installed only in accordance with the details so approved and shall be so maintained.

*Reason - To safeguard the amenity of neighbouring premises.*

? Insp.

10. Details of the means of ventilation to the premises shall be submitted to and approved in writing by the Local Planning Authority before the use hereby permitted commences, and the use shall take place only with the ventilation so approved in operation.

*Reason - To safeguard the amenity of neighbouring property.*

? Insp.

11. The buildings hereby approved for the gardens of the West terrace shall only be used to provide ancillary accommodation to the houses of the West terrace, and shall not be used as separate dwellings.

*Reason - These buildings would constitute sub-standard dwellings if separately occupied*

✓

CAC

12. No demolition pursuant to this permission shall commence until a contract for the carrying out of the building operations hereby permitted has been completed.

*Reason - To ensure a satisfactory standard of external appearance, and to safeguard the visual amenity of the area.*

✓? (App grampian may change)

13. The roof slope(s) of the building(s) hereby permitted, with the exception of the Campden Hill Road block, shall be clad in natural slates, and so maintained.

*Reason - To preserve the character or appearance of the Conservation Area / To protect the character and appearance of the building which is statutorily Listed.*

14. No additional plumbing or pipes other than rainwater pipes shall be fixed on the external faces of the building without the prior written approval of the Local Planning Authority.

*Reason - To ensure a satisfactory standard of external appearance.*

✓

15. Notwithstanding their inclusion upon drawing no.s P101A, and P102A otherwise approved, entrance gates to the development shall not be erected, and access to the public areas of the residential development area shall not otherwise be restricted.

*Reason - To ensure that the residential development hereby approved provides a contribution to the local residential community, and maintains the existing character of the surrounding residential area.*

✓



The following three Conditions are proposed by the Royal Borough of Kensington & Chelsea, but at the time of writing have not been agreed by the Campden Hill Lawn Tennis Club.

*blue line plan*

16. <sup>*courts*</sup> The tennis ~~club~~ premises hereby permitted shall not operate between the hours of 23.00 and 06.30 the following day, and members or their guests must not be on the premises other than between 06.30 and 23.00 each day. Unless otherwise approved in advance, in writing, by the Executive Director, Planning & Conservation, there shall be no more than 10 exceptional days in any one calendar year upon which members or their guests may remain on the premises until 24.00 midnight.

*Reason - To protect the residential amenity of the area*

17. The floodlights to the tennis courts hereby approved shall not operate before the hour of 07.00, or after the hour of 22.00, on any day.

*Reason - To protect the residential amenity of the area*

18. A maximum of <sup>*170*</sup> ~~150~~ persons shall be on the tennis club premises at any one time, apart from Annual General Meetings or Exceptional General Meetings ~~when up to 250 persons may be present~~ <sup>*of the club's members*</sup>

*Reason - To limit the vehicular and pedestrian activity that might be associated with the premises and to safeguard the residential amenity of the area*

*of which at least seven days prior written notice shall have been given to the l.p. authority*

19. "Crampian" style condition

*(necessary to reflect current levels of usage)*

*re-type*

**ROYAL BOROUGH OF KENSINGTON & CHELSEA**

**SUGGESTED RE-DRAFT OF Conditions 16, 17, and 18**

Note - times or figures given in brackets and italics are the preference of Campden Hill Lawn Tennis Club

16. (i) The tennis courts hereby permitted shall not be used between the hours of 22.30 and 06.30 the following day, and persons other than staff shall not be present on the premises shown edged in blue on the plan annexed thereto ("the premises") between 23.00(23.30) and 06.30 the following day
- (ii) Unless otherwise agreed in advance in writing by the local planning authority, there shall be no more than 3(5) days in any one calendar year when members and their guests may remain on the premises until midnight and no more than 3(5) additional days when they may remain on the premises until 00.30 (01.00)
- (iii) Staff must leave the premises within 30 minutes after the times stipulated above when other persons are obliged to leave the premises
17. The floodlights to the tennis courts hereby approved shall not operate before the hour of 07.00, or after the hour of 22.00, on any day
18. A maximum of 170 persons shall be on the tennis club premises at any one time, apart from Annual General Meetings or Exceptional General Meetings of the club's members, of which at least seven days prior written notice shall have been given to the local planning authority

16. (i) The tennis courts hereby permitted shall not be used between the hours of 22.30 and 06.30 the following day.

~~(ii) Members and their guests~~

Subject to (ii) below,  
(ii) Persons other than staff shall not be present on the premises ~~not~~ shown edged in blue on the plan annexed hereto <sup>("the premises")</sup> between 23.00 / 23.30 and 06.30;

(iii) Unless otherwise approved in advance in writing by the local planning authority, there shall ~~be~~ <sup>no</sup> more than 3/5 days in any one calendar year when members and their guests may remain upon the premises until midnight and no more than 3/5 additional days when they may remain on the premises until 12.30 / 01.00 hours;

(iv) Staff ~~may~~ must leave the premises within 30 minutes <sup>after</sup> ~~from~~ the times <sup>stipulated above</sup> when other persons are obliged to leave the premises.

**ROYAL BOROUGH OF KENSINGTON & CHELSEA**

**CAMPDEN HILL RESERVOIR APPEAL SITE**  
**PUBLIC TRANSPORT ACCESSIBILITY**

**Bus Routes**

<b><u>ROUTE NO.</u></b>	<b><u>FROM</u></b>	<b><u>TO</u></b>	<b><u>FREQUENCY OF SERVICE</u></b>	
			08.00-09.00	17.00-18.00
94	Acton	Piccadilly	5 mins	10 mins
	Piccadilly	Acton	8-9 mins	10 mins
70	Acton	Sth. Kens.	8-9 mins	8-9 mins
	Sth. Kens.	Acton	10 mins.	10 mins.
27	Camden T.	Turnham Grn.	10 mins	10 mins
	Turnham Grn.	Camden T.	10 mins.	10 mins
31	Camden T.	Notting Hill	10-12 mins	10-12 mins
	Notting Hill	Camden T.	10-12mins	10-12mins
28	Wandsworth	Harrow Rd.	10-12 mins	10-12 mins
	Harrow Rd.	Wandsworth	10-12 mins	10-12 mins
12	Notting Hill	Dulwich	7-12 mins	7-12 mins
	Dulwich	Notting Hill	7-12 mins	7-12 mins
52	Victoria	Willesden	6 mins	6 mins
	Willesden	Victoria	6 mins	6 mins
328	Chelsea	Golders Grn.	6-8 mins	6-8 mins
	Golders Grn.	Chelsea	6-8 mins	6-8 mins

**Trains**

Holland Park Underground - 510 metres distant

Notting Hill Gate Underground Station - 500 metres distant

Central Line 2 ½ mins.

Circle Line 8 mins.

District Line 5 mins.

**ROYAL BOROUGH OF KENSINGTON & CHELSEA**

**FURTHER OPEN SPACE CALCULATIONS**

Calculations of areas of open space on basis that the six open courts (post development) and the retained parts of the northern and western embankments are excluded.....

**Existing** - Broadway Malyan Plan 304

Informal Open Space	195 sq.m
Informal Accessible Open Space	225 sq.m
Informal Non-Accessible Open Space	2893 sq.m
Road & Service Access	1684 sq.m
Tennis Courts	<u>8763</u> sq.m
	13,760 sq.m
less the retained open tennis courts	4033 sq.m
less the retained informal non-accessible open space	1110 sq.m

**Net Area** ..... **8617 sq.m**

**Proposed** - Broadway Malyan Plan 302

Informal Accessible Open Space	378 sq.m
Informal Open Space	1283 sq.m
Road & Service Access	<u>2042</u> sq.m
	3703 sq.m

**Net Change**..... **4914 sq.m**

**= loss of 57.3% of open space**

DRAFT

Mr Thompson  
Planning Inspector  
The Planning Inspectorate  
Tollgate House  
Houlton Street  
Bristol  
BS2 9DJ

Dear Sir,

**LAND AT FORMER THAMES RESERVOIRS AND WATER TOWER  
HOUSE  
CAMPDEN HILL ROAD W8  
APP/K5600/A/99/1022704  
APP/K5600/E/99/1016054**

I write to you with regard to certain valuations relating to the above mentioned appeal site as follows:-

**Aubrey Walk Block**

Sale value as market housing	£8.100 million
NHHT offer for 17 on site units	£1.750 million
Difference	----- £6.350 million
deduct payment for off site/payment in lieu	£1.045 million
	-----
Extra benefit accruing to developer where affordable housing off site	<b>£5.305 million</b>
	-----

Saving in service charge cap p.a.  
 $17 \times (4000 - 3750) = £63,750$  p.a

**Market Housing**

Recent valuations suggest on site affordable housing could depress values by up to 25% of market value.

Yours faithfully etc

**SITE OF FORMER THAMES WATER RESERVOIR  
AND WATER TOWER HOUSE,**

**CAMPDEN HILL ROAD, KENSINGTON, LONDON, W8**

**APPEALS BY ST JAMES HOMES LTD**

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**PROOF OF EVIDENCE OF  
CHARLES SCOTT**

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Planning Inspectorate References:-  
APP/K5600/E/99/1016054  
APP/K5600/A/99/1022704

1. **Introduction**

1.1 My name is Charles Scott and I live at 36 Kensington Heights, Campden Hill Road, W8 72D with my wife and two young children. I have lived at this address for approximately 12 years. I am an active member of Campden Hill Tennis Club, and have been for approximately 20 years.

1.2 I am Chairman of Cordiant Communications Group Ltd.

2. **Applications for redevelopment submitted by St James Homes Limited**

2.1 This statement relates to the proposed development of the former Thames Water Reservoir & Water Tower House pursuant to a planning application submitted to the Royal Borough of Kensington and Chelsea ("RBKC") on 22<sup>nd</sup> March 1999.

2.2 My flat is on the west side of Kensington Heights on the third floor. It directly overlooks the development site from the study and all three bedrooms and would, I conclude from the plans for the proposed development, be opposite the end flank wall of the South Terrace of houses. The site can also be seen from my living room and kitchen. From the balcony on the west side of my flat one can see most of the site with the exception of Water Tower House.

3. **Objection to redevelopment proposals**

3.1 I have read the Report of the Planning Officer of the Royal Borough of Kensington & Chelsea to the Planning Services Committee which, on 8<sup>th</sup> June 1999, refused planning permission for an application identical to the one which is the subject of this appeal. As such, I consider the Report to be highly relevant to this appeal and endorse the Officer's stated reasons for recommending that planning permission be refused.

3.2 My Proof of Evidence will address the following grounds of objection to the redevelopment proposals:-

1. Loss of Privacy.
2. Loss of Daylight.



4. **Loss of Privacy**

- 4.1 When I bought my flat in 1987, I was particularly influenced by the fact that it was not directly overlooked and that I could therefore expect privacy and quiet. I am currently not overlooked at all from the west and from the balcony on the south side of my flat the first buildings I can see in the distance are Thorpe Lodge and Holland Park School.
- 4.2 I understand that under the proposed development scheme, the houses of the East Terrace would be positioned just 20 metres from the windows of the Kensington Heights flats directly opposite and the southern flank of the Campden Hill Road block would be only 12.5 metres from the nearest part of the north side of Kensington Heights. This would represent a dramatic reduction in privacy for the residents of those flats.
- 4.3 My flat would be most affected by the South Terrace which would be directly opposite and, I am advised, just 20.3 metres away. Although I understand that there are to be no windows in the end flank wall of the South Terrace directly looking into my flat, the proximity of this Terrace and the other Terraces is objectionable, not least because they will destroy my current outlook which is composed primarily of green tennis courts, trees and sky. I am advised that loss of outlook is not a planning consideration; nevertheless it is one of the adverse consequences of implementation of the proposals which concerns local residents.
- 4.4 The privacy of residents of Aubrey Walk would be even more adversely affected than those of Kensington Heights in terms of the distance between their rooms and the new rooms which are proposed to be built directly opposite. There would be a distance of 16 metres between the Aubrey Walk Block and the front windows of numbers 2 to 6 Aubrey Walk and a distance of just 12 metres between the closest part of the Western Terrace and the front windows of numbers 18 and 20 Aubrey Walk. I note that these distances are well below the 18 metres which the Unitary Development Plan (paragraph 3.19, page 47) recommends as reducing inter-visibility to a degree acceptable to most people.
- 4.5 At paragraphs 4.141 and 4.143 of his report, RBKC's Planning Officer concluded that the proposed planting associated with the redevelopment proposals would serve to

mitigate any reduction in privacy. Given the height, position and size of the proposed buildings, it is my view that the loss of privacy that would be caused is very unlikely to be affected to any significant degree by the proposed planting.

- 4.6 The raised bank of trees and other vegetation at the eastern end of Aubrey Walk is to be lost, together with the screening effect this might otherwise have provided. In its place it is said there will be (Broadway Malyan Landscape Design Statement, page 5, paragraph 7.04):

*“...new shrub planting...and a small public seating area well furnished with shrubs and street tree planting”* (emphasis added).

Shrubs and a reduced number of trees confined to what is described as a small area – all at street level – will do very little to obscure views above ground floor level.

- 4.7 It should be noted that all of the tree species to be planted are deciduous (Broadway Malyan Landscape Statement, Appendix D) and so will provide little or no cover for much of the year.

## 5. Loss of Daylight

- 5.1 I am concerned that the construction of the proposed development, in particular the South and East Terraces and the Campden Hill block, will lead to an unnecessary and unacceptable loss of daylight for those living in Kensington Heights. Without the assistance of an independent expert I am obliged to refer to the Planning Officer's Report for guidance.

- 5.2 In relation to Kensington Heights, the Planning Officer comments at Paragraph 4.150 that:-

*“Notwithstanding the revisions, Kensington Heights would still be affected in terms of daylight, mainly at first floor level on its northern side, facing the proposed Campden Hill block. It has been calculated that ten windows in this part of Kensington Heights would have their vertical sky component reduced to less than 80% of their former value. Two west facing windows would also receive such a loss.”*

- 5.3 I accept that a balance must be drawn between the impact on daylight of any built development on the site, and the townscape contribution such buildings would make.

It is my view, however, that the height, bulk and positioning of these proposed buildings are such that they do not represent an acceptable resolution of that problem.

**6. Conclusion**

- 6.1 If the proposed development is allowed to proceed it would make a fundamental difference both in terms of the character and the living conditions in my flat and other flats in Kensington Heights. It would, for that reason amongst others, represent an unacceptable over-development of this important and sensitive site. I therefore urge the Inspector not to allow this appeal.

BroadwayMalyan

**Campden Hill for St James**

Response to Appeal Decision Conditions  
(T/APP/K5600/A/99/1022704/P2)

Description of Revised Planning  
Information

January 2000

Project No: 8130

**Campden Hill for St James Homes  
Job No. 8130**

**Response to Appeal Decision Conditions  
(Appeal No. T/APP/K5600/A/99/1022704/P2) and Description of Revised Planning  
Information**

This document makes reference to the Planning Inspectorate Appeal Decision of 14<sup>th</sup> October 1999 and subsequent meeting with the Royal Borough of Kensington & Chelsea, Derek Taylor and Steve Davies on 10<sup>th</sup> November 1999.

**Conditions:** (These are dealt with in the order listed by the Inspector)

- 1 It is agreed that the development permitted shall be begun before the expiration of 5 years from the date of the decision.
- 2A The siting layout and construction standards of the 17 affordable units will be subject to RSL agreement at a later date and confirmed to the Royal Borough of Kensington & Chelsea.
- 2B The materials used on the external faces of the buildings are illustrated on the enclosed sample board and are cross-referenced to the revised annotated drawings. The external materials are primarily a quality yellow/buff facing brick combined with natural limestone to both the Aubrey Walk Houses, Aubrey Walk Flats and Campden Hill Flats, with natural slate and traditional lead/bonded sheet roofs to the Aubrey Walk Houses. A coloured illustration of a typical Western terrace town house is enclosed.
- 2C Natural slate will be used in accordance with submitted sample panel for the roofs of the Aubrey Walk Houses and Aubrey Walk Flats. Following the introduction of comfort cooling to the houses, floor to ceiling heights have changed slightly and although the overall ridge height remains the same the uppermost roof pitch is slightly flatter. As a consequence lead/bonded sheet is now proposed rather than slate on top of the roof, as indicated on the revised planning drawings. There are no pitched roofs on the Campden Hill Flats.
- 2D Area and treatment of Open Land and Tennis Courts: As indicated on drawing no. 10337/125.
- 2E Walls, Fences and Railings: Full details of walls, fences and railings are submitted as described in drawing nos. 10337/125, 10337/155 and 10337/156.

- 2F** Windows and Window Frames: Windows to be timber double-glazed units of traditional design for the Aubrey Walk Flats and Aubrey Walk Houses and metal framed double glazed units of a contemporary design for the Campden Hill Flats, as enclosed indicative 1:5 details (drawing nos. 8130/SK26, 8130/SK28, 8130/SK29, 8130/SK37, 8130/SK103 and 8130/SK104).
- 2G** Access for the Disabled: Campden Hill Flats access is provided via the Aubrey Walk access at ground floor and also at basement level. These access points give directly onto the lift lobby and 8-person lifts (minimum 900 x 1250mm) which give access to all floors of the Campden Hill Flats. Access standards within individual flats will be in accordance with Part M of the Building Regulations.
- The Aubrey Walk Flats main access is opposite the ramp to the lower ground floor car park. This will be a flush threshold access which gives onto the main entrance doors of the ground floor flats. First and second floor flats will be accessed via a mobility standard staircase with maximum riser of 170mm.
- Disabled access to the Aubrey Walk Houses (Western, Southern and Eastern terraces) is provided via a flush threshold at lower ground floor level, together with wheelchair access to a habitable room and a w.c. at this level. Ambulant and disabled access is provided in addition at podium level with maximum 150mm steps adjacent to the main entrance. This strategy has been agreed in principle with the Royal Borough of Kensington & Chelsea Building Control Department on 26<sup>th</sup> July 1999.
- Access to the Western Terrace Flats is provided by a ramp and flush threshold to the one-bedroom dwelling adjacent to Aubrey Walk and via ambulant disabled access at podium level from within the scheme for the rear one-bedroom apartment at ground floor level.
- Front entrance doors will be minimum 775mm clear opening, with internal doors for disabled access minimum 750mm opening with minimum unobstructed corridor of 900mm. Mobility access w.c. will be provided with outward opening door on a principal storey of all accommodation.
- Switch and socket outlet height to be agreed with Royal Borough of Kensington & Chelsea Building Control.
- 2H** Loading and Unloading of Vehicles: Loading and unloading of vehicles will take place within the site within new podium level shared surface access, in accordance with TPK Engineers detail design. Access is indicated on ground level site plan drawing no. 8130/P101 Rev. B. Indicative vehicle turning areas are enclosed.
- 2I** Storage and disposal of refuse to be in accordance with enclosed Method Statement submitted to the Royal Borough of Kensington & Chelsea on 6<sup>th</sup> January 2000, and as described in ground level site plan drawing 8130/P101B and basement level site plan car park/courts drawing 8130/P100B.
- 2J** Proposed cycle parking locations are indicated on Basement Level Site Plan car park/courts drawing no. 8130/P100B.

- 2K Ramp access and controls are indicated on Landscape plan 10337/125. Security gates are located at the base of the ramp at the access points to the parking for the Aubrey Walk Houses and the parking for the Aubrey Walk Flats and Campden Hill Flats. These will be controlled by residents and monitored by onsite security/management office located adjacent to the main site entrance within the Campden Hill Flats. CCTV at both podium and lower ground levels will also be monitored from this management office.
- 2L Tennis Court floodlight positions are indicated on Landscape drawing no. 10337/125. Height of mast, type of lamp and design of cowls to be as on drawing and enclosed manufacturer's information, including low glare low spread details.
- 3 The proposed landscaping scheme, including all existing trees and hedgerows and details of retention is described in the Broadway Malyan Landscape drawing nos. 10337/170, 10337/101A, 10337/101B.
- 4 It is agreed that all planting, seeding or turfing comprised in the approved details of landscaping should be carried out in the first planting or seeding seasons following the occupation of the buildings or completion of the development whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 5 Tree Protection is to be in accordance with enclosed Method Statement compiled by Broadway Malyan Landscape. Such measures shall be put in place before development commences and shall be maintained for the duration of the building operations in accordance with the Section 106 agreement.
- 6 The proposed car parking for the development is located at lower ground floor level within a naturally ventilated area, with access via a ramp adjacent to the Aubrey Walk apartment building. Proposed parking locations are indicated on basement level site plan car park/courts drawing no. 8130/P100B.
- 7 Insulation measures to prevent the transmission of excessive airborne or impact noise have been designed in consultation with Enviros Aspinwall Acoustic Consultants and are illustrated in enclosed typical detail drawing nos. 8130 SK09A and 8130/105. Insulation standards shall comply or exceed those stated within the Building Regulations, Part E.
- 8 It is proposed that the lower ground floor car park is naturally ventilated as indicated on ground level site plan drawing no. 8130/P101B (ventilation and lightwells indicated with prefix LW). These ventilation apertures together with raised planter apertures are indicated on site section CC and DD as indicated on drawing no. 7650/P107B. The lightwell and ventilation provision adjacent to the houses has been increased from the Appeal Application drawings in order to improve both the lower ground floor, parking environment and habitable rooms adjacent to these spaces. The areas described above together with the additional ventilation provided by the ramp area will give in excess of 2.5% natural ventilation.

- 9 It is agreed that the buildings permitted within the gardens of the West Terrace shall be used only to provide ancillary accommodation to the houses of the West Terrace and shall not be used as separate dwellings.
- 10 No additional plumbing or pipes other than rainwater pipes shall be fixed onto the external faces of the buildings permitted without prior written approval of the Local Planning Authority. With respect to the Campden Hill Flats, proposed locations for boiler flue terminals and internal room ventilation apertures are indicated on Campden Hill Flats elevations drawing 7650/112A.
- 11 It is agreed that no entrance gates to the development shall be erected and that access to the open shed areas of the proposed residential development shall not otherwise be restricted. Gate piers remain of a reduced size as indicated on Landscape drawing no. 10337/155 to provide a suitable termination for the boundary railings.
- 12 It is agreed that not more than 29 of the residential units permitted (other than the 17 affordable housing units) shall be occupied unless and until the 17 affordable housing units have been substantially completed and transferred to a social landlord registered under the Housing Act 1996, Part 1 (subject to such transfer meeting the Appeal Decision requirements 12A-12D). The detail design of the affordable housing units is subject to RSL agreement.
- 13, 14, 15 & 16 Tennis Club access occupation restrictions and floodlighting to be confirmed by Campden Hill Lawn Tennis Club.
- 17 & 18 Conservation Area Consent for the partial demolition of reservoir and total demolition of all other buildings on the site: It is agreed that the works permitted shall be begun before the expiration of 5 years from the date of the decision and the works for demolition authorised shall not be carried out before a contract has been made for the carrying out of works for redevelopment or proof of intent to carry out the works for redevelopment of the site and planning permission has been granted for the redevelopment for which the contract provides. Contract or proof of intent to be provided by St James Homes. It is understood that a copy of the St James Homes/CHLTC agreement binding St James Homes to provide the new Tennis Club in two years is acceptable proof.



PK

**BroadwayMalyan**

Architects & Designers

*JG 23/8*

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OFFICE PLEASE  
OFFICE PLEASE

Royal Borough of Kensington and Chelsea  
Planning and Conservation  
Town Hall  
Hornton Street  
London W8 7NX

**FAO: Mr P Kelsey**

Ref: IA/COH/8130/0100

21<sup>st</sup> August 2001

Received 23 AUG 2001 R.B.K&G  
Planning Allocation *CA*

Dear Mr Kelsey

**Campden Hill Reservoir site for St James Homes – Discharge of Planning Conditions**

We wish to clarify our position with regards to remaining conditional matters pursuant to the appeal inspector's decision at the above site.

We have written to yourselves on the 15<sup>th</sup> August and 14<sup>th</sup> September (copies enclosed) in order to address these issues and thus far have received no response.

Discharge of Condition 2(A), this is being handled directly by the client, however we wish to address outstanding conditions 6,7, and 8 (Provision of parking, noise transmissions and car park ventilation respectively)

Although we have previously provided information to yourselves to enable actioning of these items, issues of sound transmission and ventilation are of a technical nature and subject to Building regulations approval. Since our last correspondence and this has been gained (copies enclosed).

We would therefore request that these conditions (7 and 8) together with condition 6 (provision of parking, for which the plan is enclosed) now be formally discharged.

Yours faithfully

*Ian Apsley*

**Ian Apsley**

Enc.

**Other Offices:**  
London, Manchester, Reading  
Southampton, Lisbon, Madrid  
& Johannesburg

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Registered Office: Woburn Hill, Addlestone  
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A list of Directors and Senior Staff is available from any office.

[www.BroadwayMalyan.com](http://www.BroadwayMalyan.com)

24

19 Dec

Frank PK.



# ST JAMES

## GROUP LTD

Our Ref: MS/mj/french16092003

17<sup>th</sup> December 2003

M.J. French Esq.  
Royal Borough of Kensington & Chelsea  
The Town Hall  
Horton Street  
London  
W8 7NX

EX DIR	HDC	TP	CAC	AD	CLU	AO AK
R.B. K.C.	18 DEC 2003			PLANNING		
N	C	SW	SE	APP	TO	REC
			ARB	FPL	DES	FEES

Appeal Decision Ref:  
APP/K5600/A/01/1062761 and APP/K5600/A/99/1022704  
RBK & C Ref: -PP/01/00349 and DPS/DCC/TP/99/0733

Dear Mr French,

**Re: Campden Hill Reservoir Site, Aubrey Walk W8 and Finborough House, Finborough Road, SW10**

I refer to the above-mentioned developments and in particular to the Deed of Undertaking dated 17<sup>th</sup> August 2001 relating to the provision of affordable housing units for Campden Hill to be provided off site at Marloes Road, W8 and Finborough Road, SW10.

I am pleased to advise that Practical Completion of the 24 dwellings at Finborough Road took place on 9<sup>th</sup> December 2003 and the units were handed over to Notting Hill Housing Association.

This now completes our obligations to provide 34 units for Affordable housing at the above-mentioned developments.

I would be grateful if you could acknowledge receipt of this letter and confirm that we have cleared condition No xii of the Campden Hill planning permission.

Yours sincerely,

**Martin Simms**  
Deputy Group Managing Director

*e-mailed Stan L on 23/12/03.  
Stan - happy with this  
PK 5/1/04.*

cc. S. Callaghan  
P. Prichard  
E. Pinchin

ST. JAMES GROUP LTD.

WELLINGTON HOUSE, 209 - 217 HIGH STREET, HAMPTON HILL, MIDDLESEX TW12 1NP  
TELEPHONE: 020 8783 2500 FACSIMILE: 020 8783 2666 WWW.STJAMESHOMES.CO.UK

s:\martin simms\letters\december 03\mj french (campden hill) 17 dec 03.doc

REGISTERED OFFICE: 19 PORTSMOUTH ROAD, COBHAM, SURREY, KT11 1JG REGISTERED IN ENGLAND NUMBER 3190056

26

Former. Thomas water Reservoir & water  
Tower House. PP/99/0733.

22/08/03

(PM)

Basement is for use of owner's (Mrs Pahlson-Moller) daughter. There is no physical barrier or door to and from physical access is through the original stairs.

Do not consider there development has taken place as the address is still a single family dwelling house with 1

DT Add KO JS JPB CM  
→ file

TO: SEE DISTRIBUTION LIST FROM: EXECUTIVE DIRECTOR OF  
PLANNING & CONSERVATION

MY REF: PA HD YOUR REF: SEE DISTRIBUTION LIST

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DATE: 18.10.99

TOWN AND COUNTRY PLANNING ACT, 1990

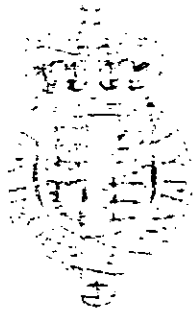
APPEAL ON Former Thames Water Reservoir + Water Tower site, Campden Hill Rd. W8

I attach for your information a copy of the decision for the appeal on the above-mentioned premises.

EXECUTIVE DIRECTOR OF PLANNING AND CONSERVATION.

**DISTRIBUTION LIST:**

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- ENQUIRY OFFICE
- DISTRICT PLAN ..... G. FOSTER
- DESIGN ..... D. MCDONALD
- STATUTORY REGISTER
- FILE
- SYSTEMS ..... C. PEACH



# Appeal Decision

inquiry opened on Tuesday 20 July 1999

by **Colin A Thompson** DiplArch DipTP RIBA MRTPI  
RegArch  
an Inspector appointed by the Secretary of State for the  
Environment, Transport and the Regions

The Planning Inspectorate  
Folgate House  
Houlton Street  
Bristol BS2 9DU  
☎ 0117 967 6927

14 OCT 1999

## Appeal (A): T/APP/K5600/A/99/1022704/P2

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a failure to determine within the prescribed period an application for planning permission.
- The appeal is brought by St James' Homes Ltd against The Royal Borough of Kensington and Chelsea Council.
- The site is located at the former Thames Water Reservoir and Water Tower House, Campden Hill Road.
- The application (ref: DPS/DCC/TP/99/0733), is dated 19 March 1999.
- The development proposed is redevelopment to provide 19 houses and 43 apartments plus 12 tennis courts (6 in lower level and 6 open courts), a practice court, basement car parking, new access points for pedestrians and vehicles and landscaping.

**Decision:** The appeal is allowed and planning permission granted subject to conditions set out in the attached schedule.

## Appeal (B): T APP/K5600/E/99 1016054/P2

- The appeal is made under Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to determine within the prescribed period an application for conservation area consent.
- The appeal is brought by St James' Homes Ltd against the Royal Borough of Kensington and Chelsea Council.
- The site is located at the former Thames Water Reservoir and Water Tower House, Campden Hill Road.
- The application (ref: DPS/DCC/TP/98/2129) is dated 4 November 1998.
- The works proposed are the partial demolition of reservoir and total demolition of all other buildings on the site.

**Decision:** The appeal is allowed and conservation area consent is granted in the terms set out in the attached schedule.

## Procedural Matters

1. Following the pre-inquiry meeting on 14 June 1999, the inquiry sitting days are as follows: 20-23 August 1999; 27-30 August 1999, and; 4 September 1999.
2. The description of development for appeal (A) is amended from that on the original planning application forms. For the avoidance of doubt the scheme before me for determination is redevelopment to provide 19 houses and 48 apartments plus 12 tennis courts (6 in lower level and 6 open courts), a practice court, basement car parking, new access points for pedestrians and vehicles and landscaping.
3. The Council confirms that it has no objection to the consideration of drawing 100B (appeals plan E). However, in the light of what is also recorded in paragraph 39 of the Statement of

## APPEAL DECISION

Common Grounds agreed by the appellants and the Council. I have treated this plan as being for illustrative purposes

4. Because the planning application for appeal (A) is lodged after 14 March 1999 Directive 85/337/EEC, as amended by Directive 97/11/EC, applies. The Council finds that no noise or pollution generating uses are proposed for the site, and in view of the extensive study carried out by the appellants into traffic generation, it takes the view that an Environmental Impact Assessment (EIA) is not necessary.
5. The appeals site lies within the Kensington Conservation Area. It is also close to a number of listed buildings. I therefore have some duties under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLB&CA Act). In particular I must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area and have special regard to the desirability of preserving the setting of any affected listed building.

### The Main Issues

6. With the above in mind and from what I have also seen, read and heard, I have formed the opinion that there are two main issues in these cases. The first is the impact of the schemes on the character and appearance of the Kensington Conservation Area and whether the setting of the affected listed buildings would be preserved. The second is the effect of the proposals on the provision of housing in the royal borough, particularly affordable housing. Both main issues apply to appeal (A). Only the conservation area element of the first main issue applies to appeal (B).

### The Development Plan and Relevant Other Policy Considerations

7. The 1995 *Royal Borough of Kensington and Chelsea: Unitary Development Plan* (UDP) is the statutory document to which section 54A of the Town and Country Planning Act 1990 (the Act) applies. The 1995 *Kensington Conservation Area Proposals Statement* (CAPS), produced under section 71 of the PLB&CA Act, offers supplementary planning guidance and its policies are a material consideration for these appeals. I must also take account of Government policy.
8. Draft *UDP Alterations* are in the process of preparation. Reference is also made to the draft version of Planning Policy Guidance 3: *Housing*. Such drafts are only indicative of an intention to update or amend policy. Consequently they carry very little weight in the determination of these appeals.

## APPEAL (A)

### Inspector's Reasons

#### Main Issue One

#### The Site and its Surroundings

9. The site is not precisely aligned to the points of the compass. For convenience in this letter, I shall refer to: the Aubrey Walk boundary as the northern one; the Campden Hill Road and Kensington Heights boundaries as the eastern ones; the Holland Park School boundary as the southern one, and; the Aubrey House boundary as the western one.

10. The reservoirs are located on the top of a low hill. They are set within a mainly residential area. The land is substantially developed (just under 80% of a total area of about 1.5 hectares). There are 2 large, covered, brick built reservoirs (disused and declared redundant) which have a roof area of some 0.87 hectares. The reservoirs have an overall internal floor to ceiling height of about 7.8m. But the structures are partly sunken so that on average only about half of their height projects above the ground (an average of just under 4m).
11. All that can be seen of the reservoirs, viewed from above, are soil and vegetation covered banks and low serpentine brick walls topped with a flat roof. There are presently 12 outdoor tennis courts and a practice court on this roof. These are surfaced in green synthetic turf.
12. There are other structures on the appeal lands. These include: roads and parking areas; a small modern residential block; Water Tower House (a larger "slab" block of offices and flats) and; the somewhat truncated remains of a pump house (partly demolished to build Water Tower House).
13. Because of the unresolved dispute in regard to what are the essential characteristics of the conservation area, in particular the "village" character assigned to Aubrey Walk by many of the objectors, it is necessary to record in some detail what I saw on my site visits. I shall set out this record moving around the appeal lands, from their north-western corner, in a clockwise direction.
14. Aubrey Walk has an enclosed northern side. This is composed mainly of terraces of houses, of which a significant number were formerly mews buildings (to the grand, generally 5 1/2 storey houses, which front the southern end of Campden Hill Square). Many of the mews dwellings have been altered and some replaced. Building heights are generally 3-4 storey with few exceptions. The central group, which includes most of the taller buildings, has frontages close to the edge of the street. Nos 2-16, and some of the houses at the western end of Aubrey Walk, have the most pronounced front gardens.
15. St George's Church is located towards the eastern end of the street and is an exception to the predominantly residential uses on this side of the road. It is a grade II listed building (1864 by Bassett Keeling). The frontage includes, entrance gates, a colonnaded porch, gabled end and prominent tower. The church is faced in ragstone with ashlar dressings and pinkstone bands. The design is described in the listing description as "muscular Gothic".
16. In addition to the church, Nos 2-6 (even) are also listed buildings. A short terrace of 3 storey, early 19<sup>th</sup> century houses, built in yellow brick with stucco to the ground floor. Finally, on this side of the road, 25 Campden Hill Gardens faces onto Aubrey Walk and has a stucco main façade 4 1/2 storeys high.
17. The southern side of Aubrey Walk is enclosed only along part of its length. The western end, which does have buildings and walls fronting the street, has two blocks of 3 storey, and one block of 2 storey buildings (including the tennis club). The styles (respectively) are neo-Georgian, modern and Victorian. Nos 15-19 (odd) are listed (a 1950's Raymond Erith block built in stock brick).
18. Progressing eastwards, there are 2 gaps in the road frontage either side of a modern 4 storey block of flats. Further east still there is a tree and shrub covered bank (for a length of about 40m) in front of the remains of a Victorian pump house. The street frontage then opens out



into a sunken parking area behind Water Tower House and is finally visually closed by the full height end of this 4½ storey building

19. Along the Campden Hill Road frontages there are generally buildings of a larger size and more modern designs. On the western side of the street is the main "slab" façade of Water Tower House. Next is Kensington Heights, a mainly 7 storey, flat roofed residential block, partly set behind an entrance piazza and a, 3 storey, wing.
20. On the eastern side, on the corner with Kensington Place, is Melbourne House. This is a modern mainly 7 storey block. Moving south, 118 Campden Hill Road is a 4 storey listed "Arts and Crafts" house (1876 by Norman Shaw). This is set between two, 2 storey, buildings (a modern flat roofed block and a pitched roof public house).
21. Passing down Airlie Gardens (the access from Campden Hill Road which leads to Holland Park School) there are the 3 and 7 storey ends of Kensington Heights on the northern side. To the south is a large terrace of predominantly 19<sup>th</sup> century, generally 6½ storey, apartments.
22. The school is located at the end of Airlie Gardens. Here the site boundary is marked by a grassy bank with some mature trees and topped by a wall. Thorpe Lodge is an early 19<sup>th</sup> century, 2 storey, listed villa with a pitched roof. It is located next to the school gates some 16m from the appeal site's southern boundary. The villa's main façade faces north.
23. Aubrey House lies to the extreme west, between the reservoirs and Holland Park. The house is from the middle of the 18<sup>th</sup> century and is listed grade II\*. There is a dense belt of trees along the tennis courts' western boundary embankment with this dwelling.
24. More generally it should be noted that the tops of the reservoirs are not visible from ground level outside the appeal site. It is only from higher, mostly private, vantage points such as some upper floors to the rear of Kensington Heights and some houses along Aubrey Walk where wider open views across the roofs of the reservoirs can be appreciated.
25. To my mind therefore the defining characteristic of this part of the conservation area, with the exception of Holland Park, is an intensively built-up and urban one. Indeed the land surrounding the site, particularly in the sector from the north-west to the south, has streets which are lined with buildings on both their sides. With a developed site coverage of just under 80% such an intensively built-up urban area must, as a matter of fact, include the appeal site itself.

#### Planning Policy

26. The development plan has policies to protect the character and appearance of the conservation area and the settings of listed buildings. It also requires developments to have a high quality of design (UDP Policies STRAT6, CD25, CD32, CD48, CD52, CD53 and CD61.)
27. The CAPS analyses under *Area 6 Campden Hill* and *Area 10 The Northern Corridor* show Water Tower House as a "detracting building" and describe it as "the area's least appealing building". The reservoirs are shown as "neutral" areas.
28. The CAPS makes specific recommendations for building, curtilage and environmental, improvements. B3 states that the redevelopment of Water Tower House, with premises

more responsive to the prominence of the site and better related to the character of the area. would be welcomed.

29. CAPS C7 notes that changes in level associated with the appeal site reservoirs have created some small areas never properly considered in design terms. Improvements, with the aim of enhancing the sense of enclosure throughout Aubrey Walk, would be welcome. E3 and E4 refer to the frontages of Water Board land where there are substantial changes in level. Consideration should be given to the design, appearance and maintenance, of these prominent frontages.
30. Relevant Government policy is encapsulated by PPG15: *Planning and the Historic Environment*. Regarding conservation areas, it is stated that while conservation (whether by preservation or enhancement) of their character or appearance must be a major consideration, this cannot realistically take the form of preventing all new development. Instead, the emphasis will generally be on controlled and positive management of change.
31. Referring to the setting of individual listed buildings, PPG15 acknowledges that such structures very often owe their character to the harmony produced by a particular grouping of buildings (not necessarily all of great merit) and the quality of the spaces created between them.

#### My Assessment

##### *The impact on the conservation area*

32. Government policy makes it clear that conservation areas should not be protected from all change. In this regard it is relevant that the remaining reservoirs are remnants of a more intensive concentration of such structures which once occupied higher land hereabouts. Some have already been redeveloped, mainly for housing, within the pattern of existing streets.
33. Rather than having been part of any conscious urban design, the reservoirs and the other water utilities paraphernalia are an accident of history and local topography. Whatever worth the appeal site's 19<sup>th</sup> century buildings might have once had, as attractive visual reminders of a former technology, recent works have seriously damaged the character and appearance of this part of the conservation area. I refer specifically to the harm caused by the demolition of the Italianate water tower, and part demolition of the former Victorian pump house, as well as the construction of the most unattractive 1970s Water Tower House with its sunken parking area.
34. The relevant policies of the development plan generally require value judgements as to whether developments are in compliance. In particular whether the scheme would be to a high quality design compatible with the special characteristics of the conservation area. The CAPS, on the other hand, specifies desirable improvements. These cover a better sense of enclosure to Aubrey Walk and the redevelopment of Water Tower House.
35. From what I saw, the essential character of this part of the Kensington Conservation area is its continuously built-up urban streets with a strong sense of enclosure and a predominantly domestic scale. In this context the term "domestic scale" should not be misunderstood. It encompasses many larger buildings, which are up to 7 storeys high, with a not-insubstantial bulk. Such "domestic scale" is an attribute of the detailed designs, particularly the elevational shape and size of windows and doorways, and to a lesser extent individual storey heights.

36. In forming this opinion it has been necessary to take a wider perspective than Aubrey Walk. This street has developed in a rather lop sided fashion. This is not typical of the conservation area and to my mind is not a feature worthy of preservation in its own right.
37. The development scheme has 3 elements. Firstly, there is a block of apartments fronting Campden Hill Road (the Campden Hill Block). Secondly, there is a block of affordable flats fronting Aubrey Walk (the Aubrey Walk Block). Thirdly, there are the 19 terraced houses and 2 apartments surrounding a landscaped square (the Square).
38. Regarding the Campden Hill Block, the replacement building has been designed to front, and provide visual enclosure to, 2 streets. The proposed 6 storey southern end relates well with the height and mass of the main 7 storey portion of Kensington Heights. This order of building height is necessary if the new block is to have a suitable relationship with the other larger buildings hereabouts. The closeness of the proposed block to Kensington Heights would increase the sense of visual enclosure to the Campden Hill Road frontage; a further advantageous urban design feature.
39. The canted plan form and the variation in the heights of the proposed building's facades (3 storeys on part of the road frontage onto Aubrey Walk rising to 5 storeys on the same side further back, with setbacks to the roof) helps the block successfully to turn the corner: making an acceptable transition between the taller buildings along Campden Hill Road and the smaller ones along Aubrey Walk.
40. The Campden Hill Block would be a larger building than Water Tower House but any increase would to my mind be justifiable bearing in mind the large size of Kensington Heights and some of its other neighbours. Despite a not-insubstantial bulk, the proposal has a suitably domestic scale achieved through the heavy modelling of the proposed facades and the human proportions of the subdivided fenestration. The late 20<sup>th</sup> century design is entirely appropriate bearing in mind the modernity of Kensington Heights and Melbourne House.
41. Turning to the Aubrey Walk Block, the truncated remains of the former pump house and a shrub and tree covered bank would be replaced by a 3 storey block of flats fronting the street. The present vegetation is attractive but it has not been there long. The self sown planting gives good visual enclosure to the street in the spring and summer months but the mostly deciduous trees are much less effective as a screen in winter.
42. The proposed new buildings would give all year round visual enclosure to the street. Their domestic scale and well modelled façade would make them look like a short terrace of houses rather than a block of flats. The 3 storey height and the traditional appearance would fit in with the listed houses on the opposite side of the road. The retention of the highway trees and the proposed new planting to front gardens, behind walls and railings, would over time compensate for the loss of the present vegetation covered bank. In this regard the computer generated photo-montage of the scheme does not do justice to what is a high quality design.
43. The new buildings would provide an attractive visual stop to views looking south up Hillsleigh Road and Campden Hill Gardens, improving the character and appearance of both streets.
44. Turning to the Square, consideration of this part of the scheme has to be made in the context of my conclusions on what constitutes the essential character and appearance of the

conservation area and the opportunities for visual improvement. My conclusions are not shared by the local residents, who have made objections to the appeal scheme, but they are necessary value judgements central to the outcome of this appeal

45. Not only is there a lack of visual enclosure to the south side of Aubrey Walk but also the present gaps in the built street frontage (with the exception of the tree and vegetation bank opposite St George's Church and Nos 2-6) are not attractive
46. The Square's western terrace end would complement and strengthen the improved visual enclosure that the Campden Hill and Aubrey Walk Blocks would already bring to southern side of Aubrey Walk. At the same time a new dimension would be added to the street picture through the introduction of an enclosed vista, within the improved frontage, at a point where currently there is just an unattractive parking area, bland residential block and bank topped by a wooden fence.
47. The traditional design of the proposed houses does not attempt to replicate any particular historic style but retains an obvious urban domesticity without too much fussiness. The above ground level height of the dwellings, mainly 4 storeys, would not be inappropriate being in an area where 3 storeys already predominate, 4 storeys are not unusual and there are 7 storeys nearby
48. The objectors take the view that the Square as proposed is too small and that it is not comparable with others in the area, such as Campden Hill Square. But to my mind the success of this feature is not simply the result of size but how it would look. In this latter regard it seems to me to be an appropriate and attractive piece of urban design
49. In conclusion, on the conservation aspects of the first main issue, the appeal proposals would enhance the character and appearance of the conservation area by being in harmony with, and improving the relationships with, the grouping of surrounding buildings and the spaces created between them. This would satisfy the relevant policies of the UDP, the specific requirements of the CAPS and conform with Government policy. The scheme's principal materials, which are generally yellow brickwork with some stone surrounds and slate roofs, would be in keeping with traditional materials already in use in the area.

*The impact on the setting of listed buildings*

50. The relevant listed buildings are identified above. I shall consider each affected building, or group of buildings, in turn.
51. Firstly, there are 2-6 Aubrey Walk and St George's Church. The listed houses would face the Aubrey Walk Block, a proposed building of similar scale and proportions to the Georgian terrace. The proposed frontage development would be softened by retained highway trees and new planting. This would be an entirely appropriate setting for urban listed buildings normally seen in the context of streets built-up on both sides.
52. The church is a tall landmark building of very robust design. Any negative impact of the proposed new vehicular access, opposite the church tower, would be more than compensated for visually by the removal of the most unattractive Water Tower House and its sunken parking area and their replacement with the more sympathetic Campden Hill Block.
53. Secondly, 118 Campden Hill Road is a large 4 storey house. This is also to a robust design. It is opposite the 7 storey northern end of Kensington Heights and close to the 7 storey part

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of Melbourne House. In the context of these existing large buildings, the replacement of the slightly smaller but inappropriate Water Tower House with a much more attractive structure can only have a beneficial impact on the setting of N<sup>o</sup> 118

54. Thirdly, there is Thorpe Lodge. This is a low, fairly rambling, former residence. One of the last remaining of a number of lodges built in this part of the royal borough, it is now in educational use. To my mind the northern limit of the setting of this listed building is that principally defined by the bank and wall of the school site boundary with its associated trees. Despite the possibility that the creation of gardens to the south of the Square's proposed southern terrace might result in pressure for some tree felling, the proposed houses are far enough back not to impinge on the setting of this listed building to any significant degree.
55. Lastly, there is Aubrey House which is set in substantial grounds. An embankment with extensive tree covering, which would be retained, separates the listed house from the redevelopment site. The present open tennis courts nearest to Aubrey House would also be retained, with any new enclosed courts hidden below them. Although the net result would be little change, the use of modern more efficient floodlights should result in less light spillage than at present. The hours when the retained open courts are floodlit could be controlled where presently there are no restrictions. These limited alterations should be of some benefit to the setting of this listed building.
56. In conclusion on this second aspect of main issue one, the setting of all of the affected listed buildings would be preserved in accord with the UDP and Government policy.
57. In forming the opinion that there would be no material harm caused to the conservation area or the listed buildings I have taken into account the alternative method of developing the site described by Mr McCoy when giving his evidence on behalf of the Council at the inquiry. But I have determined this appeal on its own merits as I am required to do.

### Main Issue Two

#### Planning Policy

58. The UDP seeks to enhance and/or preserve the residential character of the royal borough. It also aims to increase residential provision, maximise residential capacity, and places an emphasis on encouraging an adequate and continuing supply of land for new housing (UDP Policies STRAT1, STRAT2, STRAT5, STRAT14 and STRAT15).
59. Within a recognition that most of the royal borough is already developed to very high residential densities there are development plan policies placing restrictions, but not prohibitions, on such densities for new housing. An appropriate mix of housing is sought including the provision of affordable housing (UDP Policies H11, H12, H19 and H22).
60. Looking at UDP Chapter 5 Housing, in more detail, advice is given on residential densities. Paragraph 3.13 defines "higher" densities as 250-350 habitable rooms per hectare (hrha) and "very high" densities as those above 350 hrha.
61. Relevant Government policy includes the 1996 version of Regional Planning Guidance 3: *Strategic Guidance for London Planning Authorities* (RPG3) which post dates the UDP. RPG3 draws attention to the limited supply of land in London leading to an imbalance between housing supply and demand. This is set against Office of Population, Censuses

and Surveys', projections indicating the potential for a significant increase in London's population by 2011

62. Because "windfall" sites will continue to make some contribution, RPG3 urges boroughs to consider allocations for housing on currently vacant or under-used sites. A more effective use of housing land will make a significant contribution to achieving sustainable development.
63. RPG3 also urges that a more sensitive approach be adopted to policies and standards, particularly avoiding inappropriate restrictions on the amount of development; for example by the imposition of, amongst other matters, inappropriate densities which do not have regard to their context. In view of the importance of making the fullest use of urban land and to avoid urban sprawl and unsustainable patterns of living, it is important that residential areas strike a balance between the provision of adequate housing and the preservation and enhancement of the environment. Although the Secretary of State does not consider that it would be helpful to set a London-wide guideline in formal guidance, boroughs should reassess the density assumptions they are using with a view to encouraging higher densities where appropriate.
64. PPG 13: *Transport* states that development plans should aim to reduce the need to travel, especially by car. They should do this, amongst other methods, by promoting development within urban areas particularly those highly accessible by means other than the private car.
65. Department of the Environment, Transport and the Regions Circular 6/98: *Planning and Affordable Housing* (dated April 1998) provides up-to-date advice on this topic. Local planning authorities should encourage the development of mixed and balanced communities in order to avoid areas of social exclusion. The royal borough is defined by Circular 6/98 as being part of Inner London where residential sites of more than 0.5 hectares, or developments of 15 or more dwellings, might be appropriate instances where affordable housing might be sought. Where a requirement for an element of affordable housing is appropriate it should be provided as part of the proposed development.

#### My Assessment

66. As noted above the appeals site is located within a mainly residential area. It is a "windfall" site, in that it is not allocated for housing in the UDP, and is under used. The Council records that it has no objection to the principle of residential development amongst other, sports (tennis) and open space, uses.
67. Various proposed housing density calculations, unchallenged by others at the inquiry, are agreed by the two principal parties. If it is accepted that these calculations should discount the areas of the site proposed to remain in tennis club use, these densities are all in the "higher" or "very high" categories. Only part of the scheme would be for an allowable exception to UDP Policy H11 (the Aubrey Walk Block of affordable housing) and only one other part could be considered to be necessary for townscape reasons under UDP Policy H12 (the Campden Hill Block). Under the strict terms of the development plan's density policies therefore the schemes should be resisted unless other UDP policies, or material considerations, indicate otherwise.
68. Regarding the former, there is no dispute that there is a severe shortage of affordable housing in the royal borough. The Development Director of the Notting Hill Housing

Trust's evidence for the Council, which is not challenged, states that the royal borough's shortage for all types of social housing will rise between now and 2001.

69. Because of factors like very high land values and a limited supply of developable land there are few sites which are likely to come forward for affordable housing in the future. The main parties have agreed that Circular 6 98 provides the most relevant up-to-date advice on this matter and that 17 units (33% of the 54 net additional dwellings proposed for the site) is the appropriate level of on-site affordable housing. Such provision is one of the "other UDP policy objectives" which should be set against the plan's density restrictions.
70. Both the UDP, and Government policy set out in RPG3, draw attention to the need to make the best use of London's limited supply of land. This is necessary to satisfy demand and to make a significant contribution to sustainable development.
71. What might happen to housing density policies, in the review of the development plan currently under way, is a matter of conjecture at this early stage in its statutory process. But the RPG3 requirement that London boroughs reassess their density assumptions, with a view to using higher densities where appropriate, is a material consideration which I must take into account now.
72. In conclusion on this main issue, the development plan's aspirations for increased residential use, particularly the on site provision of social housing, would be satisfied by these proposals. Bearing in mind my conclusions on the first main issue, the Secretary of State's requirement for the best use of the Capital's limited supply of developable land, within environmental constraints, would also be achieved. These seem to me to be compelling reasons other material considerations sufficient to override the UDP's density policies in this instance.

#### Other Matters Raised

##### *Open space*

73. In forming the opinion that planning permission should be granted I have considered the evidence regarding the impact of the scheme on present levels of open space. From the upper floors of some of the surrounding buildings there is a perception of openness. But from ground level, in the surrounding streets, this openness is not so apparent. The royal borough is particularly deficient in open space provision. The protection of open spaces is achieved by separate policies (UDP Policies STRAT 35 and CD21).
74. The appeal site is not an undeveloped one. Some 80% is built upon with about 0.87 hectares being reservoirs. Although the latter are partly buried they protrude some 4m above the level of the surrounding streets. These structures would not seem to me to satisfy the definition of "open space" in the glossary to the UDP, which starts with the phrase "all open land". To my mind it would not accord with common sense for such "open land" to include the footprint of what are in effect 2 large, single storey, buildings. Consequently I find that the part of the site covered by the reservoirs is not open space as defined by the UDP.
75. The reference made to the 1992 Open Space Survey in the UDP (which includes the appeals site) does not change my view on this matter. This survey seems to be desk based, not the subject of any public consultation exercise, and not formally included as part of the statutory plan. The Inspector at the UDP public inquiry recommended reference to the survey in the UDP to add weight to the royal borough's extreme deficiency in public open

space. In so doing she formed the opinion that there would be no benefit in recording existing open spaces on the UDP Proposals Map.

76. The appeal decision for another Thames Water reservoir, at Honor Oak Road, London SE23 (reference N° T/APP/C5690/A/98.300053/P4), does not change my opinion either. This refers to a site with acknowledged nature conservation interests (identified as an Area of Nature Conservation Importance on Lewisham's UDP Proposals Map). Although some local residents have referred to the appeal site's attraction as a habitat for wild fauna and flora it has no such special designation. The circumstances of this case are therefore materially different.
77. Using the UDP glossary definition of open space and excluding the reservoirs the appeal site is left with some informal, non-accessible amenity space, with an area of about 3,100 square metres. It is a matter of agreement between the main parties that the appeal proposals would provide some 2,400 square metres of open space. Just over half of this latter area would be the landscaped parts of the Square, which could be made accessible to the public. Increased public accessibility, where presently there is none, would offset any small loss of open space the appeal proposals would entail. The policies of the UDP would not be breached to any significant extent.

*Future of the tennis club*

78. The tennis club occupies the roofs of redundant unused reservoirs. The terms of the club's lease means that its use could be terminated for any reason with 6 months notice. The tennis courts are in need of repair. The club's estimate that expenditure in excess of £100,000 is required for such repair work, is not challenged.
79. UDP Policy LR1 seeks to resist the loss of sports and recreational provision but there is no planning or other power which could prevent Thames Water from terminating the club's lease if it so wished. UDP Policy LR7 is not applicable in view of my finding that the reservoirs are not open space.
80. The club's present occupancy terms do not appear to me to be tenable in the long term. Not only is there such uncertainty that the club is unlikely to commit itself to expensive court repairs but also the structure of reservoirs themselves are likely to continue to deteriorate, eventually to the point where they may become unsafe. I form this opinion in the absence of any estimates of the costs for the long term maintenance of the reservoirs; the large size of these structures indicates to me that such costs would not be inconsiderable.
81. Any requirement to balance economic and efficiency considerations, against those of the environment and public amenity (Water Industries Act 1991), have to be weighed against the shortage of developable land in central London and Government policy on the need to make the best use of this limited resource. The appeal proposals, on the other hand, would provide a secure future for a significant local recreational and sports asset. The same number of courts, built to high standards and with 6 of them under cover, would result. A long-term lease, at prices affordable to the club, would replace the present uncertainty. These are substantial benefits conforming with the relevant thrust of the development plan.

*Noise*

82. It has been asserted that the proposed changes to the tennis courts would result in additional levels of use causing unacceptable extra noise. The main changes to the tennis club would



be the enclosure of 6. of its 12, courts and the repositioning of the practice court. Other facilities would remain substantially as they are.

83. There is some potential for extra use of the enclosed courts over open courts (such as at night time and during inclement weather) because there are presently no controls on such uses. But the club accepts that planning conditions might be needed, to restrict opening hours and limit the maximum numbers of people on the premises at any one time, should these proposals go ahead. Such conditions would prevent any significant additional use and consequently there would be no additional harm to the living conditions of neighbours through extra noise.

#### *Residential privacy*

84. Some but not many of the proposed windows to principal rooms would face other such windows at, or closer than, the UDP minimum standard of 18m. But this is not an absolute standard. Indeed, the distances between the main facing windows of dwellings in many of the surrounding residential streets are less than 18m. In densely built-up urban areas such situations are to be expected and would not be so harmful to the living conditions of residents as to require the withholding of planning permission. As such there would be no conflict with UDP Policy CD30.

#### *Views*

85. Some of the surrounding buildings, including flats in parts of the west facing rear of Kensington Heights and some south facing houses along Aubrey Walk, look out across the roofs of the reservoirs. These views are attractive. The proposed development of the appeals site would greatly curtail the present open vistas and is a matter to be regretted. However, the protection of views is not normally a significant land use planning consideration. In this instance the openness of the site is perceived from mainly private vantage points and is not a significant part of the character or appearance of the surrounding conservation area.
86. In forming the opinion that any resulting loss of view is not sufficient to withhold planning permission I have given little weight to the terms of the leases of the occupiers of Kensington Heights. Any covenants enjoyed by adjoining land owners is a private matter.

#### *Daylight and sunlight*

87. UDP Policy CD28 seeks to resist development which significantly reduces the daylight enjoyed by existing adjoining buildings and amenity spaces. The BRE publication *Site Layout Planning for Daylight and Sunlight a Guide to Good Practice* (the Guide) gives advice on how checks can be made. This advice should be interpreted flexibly because natural lighting is only one of the many factors affecting site layout design.
88. Using the approach suggested in the Guide, the experts for the appellants and the Council agree that only 1 living room (on the north side of Kensington Heights) would have its daylight reduced to any significant degree. Bearing this in mind together with the urban context of the scheme, where a balance has to be struck between less than ideal standards of daylighting and the locational and cultural advantages of living in central London, there are cogent reasons to override any strict interpretation of development plan policies in this regard.

89. However, having decided to check by calculation the impact of the Aubrey Walk Block on the interior rooms of 2-6 Aubrey Walk, it is to be regretted that Mr Ney did not seek to gain access to these properties. This is necessary, according to the Guide, in order to ascertain the impact on affected rooms' "areas of working" planes. However, the failure requiring such calculations (the continuous obstruction would subtend an angle of 24.8° instead of 25°) is by a small margin. I have been into the front rooms of 2 Aubrey Walk and have no information to suggest that other parts of the terrace have materially different internal layouts. The proposed development may make ground floor front rooms gloomier, particularly in winter (there is presently a belt of deciduous trees on the opposite side of the road which already obstructs daylight in summer), but not in my opinion to any significant degree. The resulting pattern of buildings would not be much different from that to be found in surrounding urban streets.
90. The evidence of the appellant's specialist, showing an absence of damage to present levels of sunlight, was not challenged to any significant degree. Of the main windows affected (those facing within 90° of due south) only 2 positions on Kensington Heights would fall significantly below the Guide's requirements. Both positions are heavily shadowed by the rest of Kensington Heights and do not achieve the Guide's minima as presently existing.

*Traffic and parking*

91. Some sections of Aubrey Walk are restricted in width to a single carriageway. This is mainly caused by on-street parking bays. When I visited the site, times which included peak hours, the schools had closed for the summer holidays and Aubrey Road was closed near its junction with Holland Park Avenue so traffic was less than normal. I did, however, see some vehicles turning off Holland Park Avenue into Campden Hill Square to avoid queuing traffic at the Campden Hill Road junction traffic lights but little traffic used Aubrey Walk. The appeals site is reasonably close to a choice of public transport modes, both buses and underground trains.
92. UDP Policy TR39 seeks to avoid significant increases in congestion and significant decreases in safety. PPG13: *Transport* sets out relevant Government policy. Development plans should aim to reduce the need to travel, especially by car. This can be achieved by measures, which include, promoting development within urban areas and limiting parking provision to discourage reliance on the car for work and other journeys. Parking requirements should be kept to the operational minimum.
93. Despite the likely percentage increase in traffic and the recommendations set out in the *Guidelines for the Environmental Assessment of Road Traffic* tabled at the inquiry by Mr Phillpott, as already noted, the Council concludes that an EIA is not necessary. This decision explicitly takes account of likely increased traffic. The only technical traffic and parking analysis is that undertaken by the appellants and there is no history of unusually high numbers of accidents hereabouts. It is significant that the Council, as Highway Authority, raises no objection to the traffic and road safety aspects of the schemes.
94. Regarding the levels of extra traffic generation, the appeal site presently retains offices, flats and a depot. Despite the concerns expressed at the inquiry about the appellants' limited level of "fall-back" rights these existing facilities have the potential for some reuse. Because of their central London location it is inconceivable to me that they would remain vacant for any extended period. Indeed Thames Water confirms that in the event of the failure of this appeal they would continue to use the facilities at least in the short term.

95. The tennis club has been in operation for more than 100 years without any parking provision. It will continue to have the same number of courts and no significant changes are proposed other than the conversion of half its open playing courts into covered ones. I found the evidence of the tennis club's chairman, that any increased winter use would be likely to be balanced by a commensurate decrease in summer use (most club members prefer to play in the open air), compelling. With the imposition of suitable planning conditions, for the reasons already noted, there is not likely to be any significant increase in traffic generation or resulting extra disturbance to residents caused by this altered use.
96. This leaves the additional traffic generated by the proposed new housing. Estimates based on the TRICS database, updated to take account of the 5 additional apartments now proposed, give totals of 22 vehicles per hour (vph) for the morning peak (08:00hrs-09:00hrs) and 29vph for the evening peak (17:00hrs-18:00hrs). Estimates based on surveys for similar housing development at St Mary's Gate, Marloes Road (which I visited) produces much lower figures of 9vph for the morning peak and 8vph for the evening peak.
97. The traffic survey in the streets surrounding the appeal site carried out in March of this year indicates that existing 2-way peak traffic flows in Aubrey Walk are 170vph (for the morning peak (08:30hrs-09:30hrs) and some 150vph (survey figure 149) for the afternoon peak (17:30hrs-18:30hrs); a worst case average of some 2.8 vehicles per minute. Again taking the most extreme case, and making no allowance for the potential for increased use of the site's present facilities or the present traffic generated by the existing housing which would be replaced, the appeal proposals would (using TRICS data for the morning peak) result in a total of about 192vph, or some 3.2 vehicles per minute. Using the St Mary's Gate survey, which because of its central London location and similar housing development type would probably give a more accurate estimate than TRICS, the increase would be less up to about 180vph (actual figure 179), or a total of just under 3 vehicles per minute. These are small increases in traffic and it does not seem to me that any breach of UDP Policy TR39 would be likely. The slight difference between the TRICS peak hours and those noted for the traffic surveys make no difference to my conclusions on this point.
98. In forming this opinion I have taken into account other traffic matters raised. The impact of some 1500 pupils leaving Holland Park school in the afternoons (most walking north up Campden Hill Road) and a lesser number at lunch time, spilling out onto the Campden Hill Road carriageway, are likely to interrupt vehicular traffic flows. Parents in cars dropping off and picking up their children from Fox Primary School already cause some congestion at the Kensington Place junction with Campden Hill Road. However, the relatively small amount of additional traffic generated by the appeal proposals would have little impact on the problems already caused by such events.
99. The proposed main vehicular access to the scheme would have a new junction opposite the pedestrian entrance to St George's Church. But bearing in mind the relatively low levels of extra traffic likely to be caused in Aubrey Walk there would be a minimal impact on existing levels of road safety. There should be no significant damage to the church's plans to increase congregation numbers and use.
100. I have also taken account of the possible future development of the Kings College site and the cumulative impact such schemes might have on congestion and road safety. These proposals should be determined on their own merits if and when any planning applications are made. None of these matters change my conclusions in regard to traffic considerations.

101. Turning to vehicle parking, the developer is providing on-site spaces in line with the requirements of the development plan. The surrounding on-street spaces, most of which are subject to special controls which I saw being enforced, are well used sometimes to capacity. But, bearing in mind my conclusions on this scheme's limited extra traffic generation, it does not seem to me that any undue extra shortage would result from the implementation of the appeals proposals. Even if there were to be some extra shortage the resulting rationing of parking space would not conflict with Government policy which seeks to reduce reliance on the private motor car.

#### Conditions and Agreements

102. An important advantage of these proposals, from a policy perspective, is the on-site provision of 17 units of affordable housing. This is best achieved through a negative condition placing restrictions on the completions of other dwellings until the affordable housing has been built and transferred to a social landlord. The negative condition also needs to specify other matters such as the length of lease, costs, service charges and occupancy. Failure to provide such affordable housing would be sufficient reason to withhold planning permission. The wording of this condition is agreed by the 2 main parties.

103. It is necessary to specify the submission of a wide range of details and materials to ensure that the scheme fits in with its pleasant surroundings. Landscaping and measures for the protection of existing trees during development are required for similar reasons. The provision and maintenance of suitable levels of off-street parking is needed to prevent too much extra parking on the public highway. Control of sound insulation between flats, and ventilation of the underground car park, are necessary to safeguard the living conditions and safety of residents. The buildings in the gardens of the Square's western terrace should only be used as accommodation ancillary to the associated house to prevent the formation of separate dwellings which could be damaging to surrounding living conditions. There should be no gates to the entrances to the scheme to allow unfettered public access to the site's shared open areas and protect the character of the area. Some control over the use of the tennis club is needed to protect the living conditions of neighbouring residents from too much extra noise.

104. It is not reasonable to require the scheme to be completed in accordance with the approved drawings. Any material variation to the permitted scheme could be the subject of enforcement action. Apart from measures to protect existing trees during construction, it is not necessary to have a specific condition to prevent the felling or other works to trees not included in the tree preservation order currently in force. The site is within a conservation area so trees already have sufficient protection under Section 211 of the Act.

105. The completed Section 106 Unilateral Obligation provides for the protection of highway trees and public access on foot to some communal footpaths, footways and other areas. This negates the need for further such controls.

#### APPEAL (B)

##### Procedural Matters

106. There are presently no listed buildings on this appeal site and the appellants have obtained a certificate of immunity from listing in regard to the reservoirs and the pumping station.

## Inspector's Reasons

### The Site and its Surroundings

107 The descriptions set out in paragraphs 10-12 and 18 of this decision letter remain relevant and are not repeated here. Accompanied site inspections include the interiors of the brick vaulted reservoirs.

### Planning Policy

108. The development plan resists the demolition of buildings in conservation areas unless, amongst other matters, they make no positive contribution to the character or appearance of the area and a satisfactory scheme has been approved (UDP Policy CD51). This is generally in line with the main thrust of Government policy. English Heritage's publication *Conservation Area Practice* lists some questions which should be asked in assessing whether unlisted buildings make a worthwhile contribution to a conservation area's character.

### Mv Assessment

109. Water Tower House and its associated structures are most unattractive modern buildings. The character and appearance of the conservation area would be greatly improved by their sympathetic replacement. The other existing small modern residential block, fronting Aubrey Walk, is also not very attractive and its replacement, too, would represent a visual improvement.

110 The reservoirs although impressive when viewed from the inside are not rare, either as a building type or because of the constructional techniques materials employed. Because they are partly buried and surrounded by earth banks they have a limited visual impact on their surroundings. The pump house was once a quite attractive 19<sup>th</sup> century structure. But as previously noted its crude truncation, when the Italianate water tower was removed and Water Tower House built, has left ugly scars.

111. The 19<sup>th</sup> century buildings are clearly remnants of former functional uses, and are part of the history of development of this part of the royal borough. But the remains are so insignificant visually, or have become so debased, as to make no positive contribution to the special character of the area. Indeed, one of the most prominent facades of the site's 19<sup>th</sup> century remains is the pump house's scarred eastern façade. Set against the rest of Aubrey Walk, including the church and Nos 2-6, this ugly façade debases both the street picture and the setting of the nearby listed buildings.

112. The proposed demolitions can be prevented until any proposals, I might approve under appeal (A), are implemented. This is a matter which can be controlled with a condition attached to any conservation area consent which might be granted. Such a condition would prevent premature clearing of the site causing a possible long term visual eyesore. With this safeguard, demolition of the present buildings on the site would not damage the character or appearance of the conservation area and would be allowable under the development plan and Government policy.

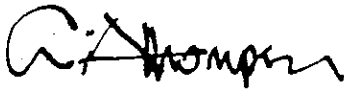
## OVERALL CONCLUSIONS

113. I have taken into account all the other matters raised. These include the disapproving views expressed by English Heritage officers in regard to the design of some of the new buildings

and their likely impact on Thorpe Lodge as well as the possibility that some existing residents presently occupying dwellings on the site might be displaced by these proposals. But none are compelling enough to override my conclusions on the material considerations leading to my decisions.

114. For the reasons given above I decide that both appeals should succeed and I shall exercise the powers transferred to me accordingly, granting both planning permission and conservation area consent.

115. This letter does not convey any approvals or consents which may be required under any enactment, bye-law or regulation, other than Section 57 of the Act and Section 74 of the PLB&CA Act. It should be noted that because the appeals site is located in a conservation area the trees are protected by Section 211 of the Act. This places a prohibition on the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the local planning authority.




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## Schedule:

Appeal (A): T/APP/K5600/A/99/1022704/P2

116. The appeal is allowed and planning permission granted for redevelopment to provide 19 houses and 48 apartments plus 12 tennis courts (5 in lower level and 6 open courts), a practice court, basement car parking, new access points for pedestrians and vehicles and landscaping in accordance with the terms of the application N<sup>o</sup>. DPS/DCC/TP/99/0733 dated 19 March 1999, the plans submitted therewith and paragraphs 2 and 3 of this letter, subject to the following conditions:

- (i) the development hereby permitted shall be begun before the expiration of five years from the date of this decision;
- (ii) no development hereby permitted shall take place until full particulars of the following have been submitted to and approved in writing by the local planning authority and development shall be carried out in accordance with the approved details: (a) the siting layout and construction standards of the 17 affordable units; (b) the materials to be used on the external faces of the buildings; (c) the slates to be used as the external roofing materials for all buildings other than the Campden Hill Road Block; (d) ~~the use and treatment of the open land within the site including the tennis court surfacing;~~ (e) ~~all walls, fences and railings;~~ (f) all windows and window frames; (g) ~~the provision of access for disabled people;~~ (h) accommodation for the loading and unloading of vehicles; (i) ~~the provision to be made for the storage and disposal of refuse;~~ (j) cycle parking; (k) ramp and access controls to the basement car park; (l) floodlight positions and fittings (including heights of masts, the types of lamps and the design of the cowlings to the floodlights);
- (iii) ~~no development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and the details of any to be retained;~~ PL
- (iv) all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of

similar size and species, unless the local planning authority gives written consent to any variation.

- (v) before development hereby permitted commences full particulars of the methods by which all the existing trees on the site are to be protected during building and other operations shall be submitted to and approved in writing by the local planning authority. Such measures shall be put in place before development commences and shall be maintained for the duration of the building operations;
- (vi) no dwelling hereby permitted shall be occupied until the appropriate car parking space or spaces for that dwelling have been provided (to a schedule and amount agreed in writing with the local planning authority) and the spaces shall be retained thereafter for use in connection with the residential parking of vehicles and for no other purpose;
- (vii) no dwelling hereby permitted shall be occupied until insulation measures to prevent the transmission of excessive airborne or impact noise has been installed between each of the adjoining units in accordance with a scheme approved in writing by the local planning authority. The insulation measures shall be installed in accordance with the approved details and be maintained thereafter;
- (viii) ~~the uses hereby permitted shall not be commenced until the means of ventilation to the underground car park have been approved in writing by the local planning authority. The means of ventilation shall be installed in accordance with the approved details and shall be maintained in working condition thereafter.~~
- (ix) the buildings hereby permitted within the gardens of the Square's West terrace shall be used only to provide ancillary accommodation to the houses of the West terrace and shall not be used as separate dwellings;
- (x) no additional plumbing or pipes other than rainwater pipes shall be fixed onto the external faces of the building hereby permitted without the prior written approval of the local planning authority;
- (xi) notwithstanding their inclusion upon drawing N° P101A and P102A (otherwise approved or elsewhere, no entrance gates to the development shall be erected and access to the open shared areas of the proposed residential development shall not otherwise be restricted;
- (xii) not more than 29 of the residential units hereby permitted (other than the 17 affordable housing units) shall be occupied unless and until the 17 affordable housing units have been substantially completed and transferred to a social landlord registered under the Housing Act 1996 Part 1 such transfer being subject to the following requirements: (a) the transfer shall comprise an interest being not less than 125 years leasehold; (b) the consideration shall not exceed 100% of the Total Cost Indicators for affordable housing as defined from time to time by the Housing Corporation in its annual guidance notes or if such indicator ceases to exist such other equivalent indicator as shall be approved in writing by the local planning authority; (c) the service charge per unit shall not exceed £250 per annum subject only to an increase in line with All Items Retail Prices Index published by the Office for National Statistics or if such index ceases to be published such equivalent index as shall be approved in writing by the local planning authority; (d) the units shall be occupied only by tenants of a registered social landlord being tenants in need of affordable housing in the area of the local planning authority and which for the avoidance of doubt shall exclude the right to occupy under the terms of a shared ownership lease provided that this restriction (d) shall not apply to those persons mentioned below in the following circumstances: (i) an occupant of a unit who has exercised a statutory right to acquire under the Housing Act 1996 or otherwise ("the Occupant") or any person (other than a registered social landlord) deriving title under that Occupant; (ii) the mortgagee of the Occupant or any receiver of such mortgagee (or any person deriving title under them) in the event that the mortgagee of the Occupant seeks to dispose of the unit pursuant to its power of sale exercised under the terms of the mortgage or otherwise or any such receiver seeks to make a deposition; (iii) the mortgagee of the registered social landlord or any receiver of such mortgagee or any persons deriving title under them in the event that the mortgagee of the registered social landlord seeks to dispose of the units or any part thereof (as to such part) pursuant to its power of sale exercised under the terms of the mortgage or otherwise or any such receiver seeks to dispose of the units or any part thereof (as to such part only) PROVIDED THAT in the event that a mortgagee of a registered social landlord wishes to exercise its power of sale or such receiver wishes to dispose of the units (or any part thereof)

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such person shall first comply with its obligations under Part 1 Chapter IV of the Housing Act 1996 or any statutory re-enactment or replacement thereof following which mortgagee of the registered social landlord or such receiver shall thenceforth be under no obligation to sell the units to a registered social landlord and shall be entitled to exercise its powers of sale or make dispositions as the case may be free of this condition which shall thereupon determine and be of no further effect:

- (xiii) the tennis courts hereby permitted shall not be used between the hours of 22:30 and 06:30 the following day and persons other than staff shall not be present on the premises of the club between the hours of 23:30 and 06:30 the following day;
- (xiv) unless otherwise agreed in advance in writing by the local planning authority there shall be no more than 5 days in any one calendar year when members and guests of the tennis club may remain on the premises until midnight and no more than 5 additional days when they may remain on the premises until the hour of 01:00; with staff leaving within a further 30 minutes;
- (xv) the floodlights to the tennis courts hereby permitted shall not operate before the hour of 07:00 or after the hour of 22:00 on any day;
- (xvi) a maximum of 170 persons shall be on the tennis club premises at any one time, apart from Annual General Meetings or Exceptional General Meetings of the club's members of which at least 7 days prior written notice shall have been given to the local planning authority.

**Appeal (B): T/APP/K5600/E/99/1016054/P2**

117. The appeal is allowed and conservation area consent is granted for the partial demolition of reservoir and total demolition of all other buildings on the site in accordance with the terms of the application N<sup>o</sup> DPS/DCC/TP/98/2129 dated 4 November 1998 and the plans submitted subject to the following conditions:

- (xvii) the works hereby permitted shall be begun before the expiration of five years from the date of this decision, and;
- (xviii) the works of demolition hereby authorised shall not be carried out before a contract has been made for the carrying out of works of redevelopment of the site and planning permission has been granted for the redevelopment for which the contract provides.



APPEARANCES

FOR THE APPELLANT:

Mr P Clarkson QC

Instructed by Trevor Blaney, Lawrence Graham, Solicitors, 190 Strand, London WC2 1JN.

He called

Mr R M Sellwood BA DipTP MRTPI  
FRICS Planning witness.

Mr P A Crossley BA(Hons) BArch  
RIBA Project architect.

Mr J R G Thomas BA(Hons)Arch  
DipTP FRIBA FRTPI Conservation architect witness.

Mr P T Parry MSc CEng MICE MCIT Highways engineer.

Mr M A Ney BSc FRICS FBEng  
MaPS CompanionCIBSE Daylight and sunlight witness.

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Holgate QC

Instructed by the Council's Director of Legal Services

He called

Mr S Rawlings Development Director of Notting Hill Housing Trust.

Mr P G Hughes BA(Hons) Mphil  
MRTPI Affordable housing policy witness.

Mr D F McCoy DipArch ARIBA FRIAI  
FRTPI Planning and conservation witness.

FOR THE CAMPDEN HILL LAWN TENNIS CLUB:

Mr S M Morgan of Counsel

Instructed by Robin Chapman, Solicitor, 39 St James' Street, London SW1A 1JD.

He called

Mr C Foster Chairman of CHLTC.

FOR THE LOCAL RESIDENTS' GROUP:

Mr H Phillpot of Counsel

Instructed by Vanessa Allen, Herbert Smith, Solicitors, Exchange House, Primrose Street, London EC2A 2HS.

He called

Mr Charles Scott Local resident.

Dr Isidore Margaritis Local resident.

## APPEAL DECISION

Sir Brian Neill

Local resident.

### OTHER INTERESTED GROUPS AND PERSONS:

Mr Land	Representing the Campden Hill Residents' Association, 32 Holland Park Avenue, London W11 3QU.
Cllr C Buckmaster, Borough Councillor	Representing himself and objectors, 32 Kensington Place, London W8 7PT.
Cllr R J Freeman, Borough Councillor	Representing himself and objectors, 12 Pitt Street, London W8 4NY.
Mrs A Lascelles	Representing St George's Church, St George's Church, Abbey Walk, London W8 7H.
Sir Ronald Arculus	Representing The Kensington Society, c/o the Hon Secretary Mrs E Rudd, 15 Kensington Square, London W8 5HH.

### DOCUMENTS

Document	1	List of persons present at the pre-inquiry meeting.
Documents	2A-2H	List of persons at the inquiry.
Document	3A	Letter of notification of the inquiry, and the list of persons notified.
Document	3B	Letters from interested groups and persons.
Document	4A-4F	Statements of common grounds and conditions agreed by the appellants and the Royal Borough of Kensington and Chelsea. (Some conditions also agreed by the Campden Hill Tennis Club).
Document	4G	Agreed distances between existing and proposed buildings.
Documents	5A-5E	Appendices to the appellants' witnesses proofs of evidence (including at 5D(ii) an extract from Mr Parry's proof and at 5D(iii) the schemes's Transport Impact Assessment).
Document	5F	Additional daylight calculations by Mr Ney agreed with the Council's daylight consultant (Sandra Laing).
Document	5G	Extract from RPG3.
Document	5H	The Council's publication <i>The Notting Hill Walk</i> .
Document	5I	Completed version of the unilateral undertaking.
Document	5J	Extract from lease between the Metropolitan Water Board and Campden Hill Developments Ltd, dated 21 June 1973.
Document	6A(i)+ 6A(ii)	Appendices to the Council's witnesses proofs of evidence.
Document	6B	Bundle of letters sent to the Council from interested groups and persons.
Document	6C	Planning application reference TP3769/4 (Water Tower House).
Document	6D	RBKC Tree Preservation Order No 5 of 1998.
Document	6E	Council letter to English Heritage dated 23 April 1999.
Document	6F	Bundle of English Heritage letters.
Document	6G	Letter from Sandra Laing dated 27 July 1999.

## APPEAL DECISION

Documents	6H+6I	Council letters dated 27+28 July 1999.
Document	6J	Council's suggested amendments to the appellant's (original) draft unilateral undertaking.
Document	6K	Suggested Grampian style condition in regard to the provision of affordable housing
Document	6L	<i>Kensington Conservation Area Proposals Statement.</i>
Document	7	Appendix to Mr Foster's proof of evidence.
Document	8A	Mr Philpot's declared list of clients.
Documents	8B-8D	Appendices to the local residents groups' proofs of evidence.
Document	8E	Decision letter, DETR ref T/APP/C5690/A/98/300053/P4
Document	8F	Disposals of other Thames Water buildings.
Document	8G	Extract from <i>Evening Standard</i> Monday 6 December 1993.
Document	8H	Guidance Notes N° 1 <i>Guidelines for the Environmental Assessment of Road Traffic.</i>
Document	8I	[1999] JPL 498-513.
Document	8J	<i>BRE Site Layout planning for daylight and sunlight - A guide to good practice.</i>
Document	9	Appendices to Councillor Buckmaster's proof of evidence.
Document	10	Appendix to Mrs Lascelles's proof of evidence
Document	11	Bundles of additional papers put-in by the Council.
Document	12	[1998] JPL 351-361.

## PLANS

Plans	A1-A26	Appeals plans (as listed at Document 4A, paragraph 39)
Plans	B	Set of reduced appeals plans
Plans	C	Set of coloured illustrative drawings.
Plans	D	Set of photo-montages.
Plan	E	Illustrative alternative layout to basement car park/court (drawing N° P100B).

## PHOTOGRAPHS

Photos	A	Set of 108 photographs of the appeals site and its surroundings.
Photos	B	Set of 13 photographs of the model of the appeals proposals displayed at the inquiry.

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**Campden Hill for St James**

Response to Appeal Decision Conditions  
(T/APP/K5600/A/99/1022704/P2)

Description of Revised Planning  
Information

February 2000

Project No: 8130

Rev. A 21.06.00  
Additional information added in accordance  
with RBK&C requirements