TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED)

STATEMENT IN SUPPORT OF PLANNING APPEAL
(SECTION 78)

By Professor Sir Ronald De Witt

Erection of an additional storey at second floor level

3 OLD MANOR YARD, LONDON SW5 9AB
TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED)

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3 OLD MANOR YARD, LONDON SW5 9AB

Our ref: ym/dewitt/0303/ym
Your ref: APP/K5600/A/03/1113880

MEMBERS OF THE ROYAL TOWN PLANNING INSTITUTE
Registered in England 3714093 at 342 Kilburn High Street, London NW6 2QJ
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5 APPEAL DECISION IN RESPECT OF APPLICATION NO. 89/0642 (1 OLD MANOR ROAD)
1.0 SITE AND SURROUNDINGS

1.1 The appeal premises comprise a mid terrace 2-storey mews property located within a private gated mews of 12 houses of similar architectural appearance accessed from the south-west side of Earls Court Road. The property backs onto railway sheds forming part of Earls Court Road underground station, which rise above the roof level common throughout the mews. The original mews was subject to a comprehensive conversion in the 1960's. Facades although of varying width are of identical height, while flat roofing is concealed behind continuous low parapet walling. Fenestration and other openings serving street level access and integral garaging is of standardised design throughout. The property is not listed and is not located within a conservation area and is not subject to separate UDP designation.

2.0 PLANNING HISTORY

2.1 Planning permission granted in 1959 (implemented) for the conversion of Nos. 1-12 Old Manor Yard from mews garages and flats to 2-storey dwellinghouses with integral garaging.

2.2 Planning Ref 89/0642 Allowed upon Appeal - for the erection of an additional (roof level) storey at No 1 Old Manor Road.

3.0 APPEAL PROPOSAL
3.1 The appeal proposal - Planning Permission Ref: 2002/2510 was submitted by an application dated 1/10/02 and registered on the 16/10/02. The application was for the erection of an additional storey at second floor level. The proposal comprised the provision of an additional habitable room and enclosed outdoor amenity space all to be set behind the existing parapet to the front elevation. The application was refused on the 11th December 2002 for the following reason/s:

"By reason of its height, design and position obtruding upon the substantially unbroken roofline of Old Manor Yard, the proposed additional storey would appear out of keeping with the existing building and mews to the detriment of their character and appearance. Therefore, it would conflict with Council policy as stated in the Unitary Development Plan, in particular Chapter 4 and Policies CD25, CD38 and CD39.

3.2 A copy of the decision notice is produced in Appendix 4 of this statement.

4.0 PLANNING POLICY

NATIONAL POLICY

4.1 PPG 1 - Planning Policy Guidance Note 1 'General Policy and Principles'

4.2 Paragraph 40 of PPG1 states:
“Where an adopted or approved development plan contains relevant policies, section 54A requires that an application for planning permission shall be determined in accordance with the plan, unless material considerations indicate otherwise.”

4.3 **PPG 3 - Planning Policy Guidance Note 3 'Housing'**

4.4 Guidance requires Local Planning Authorities to: provide for more intensive housing development, make more efficient use of land, give priority to maximising the use of previously developed land within urban areas, to create more sustainable patterns of development, and to provide wider housing opportunity and choice and a better mix in the size, type and location of housing.

4.8 **Local Policy**

**The Royal Borough of Kensington and Chelsea Unitary Development Plan Adopted May 25th**

Note: The policies listed below refer to those quoted within the context of the Reasons for Refusal as per the Councils Decision letter of the 11th December 2002 and relate to Policy Nos. contained within the UDP Proposed Modifications to the Alterations Deposit Stage 2002. The equivalent Adopted policies are given in brackets().

**Relevant Policies:**

4.9 Policy CD25(27) states that the Council will:
4.10 'Ensure that all development in any part of the Borough is to a high standard of design and is sensitive to and compatible with the scale, height, bulk, materials and character of the surroundings'.

4.11 Policy CD38(44) states that the Council will:

4.12 'Resist additional storeys and roof level alterations on: a) Complete terraces or groups of buildings where the existing roof line is unimpaired by extensions:

4.13 Policy CD39(45) states that the Council will:

4.14 'Permit additional storeys and roof level alterations the following circumstances: b) The alterations are architecturally sympathetic to the age and character of the building and would not harm its appearance.

5.0 AMPLIFICATION OF THE APPELLANTS GROUNDS OF APPEAL

5.1 The Council in their reasons for refusal contend that the additional storey would be out of keeping and detrimental to the character and appearance of the existing building and mews. The Council have not raised concerns in respect of any impact upon residential amenity as may arise through potential loss of sunlight, privacy or overbearance and consequently the grounds of appeal will relate to the specific issues regarding the perceived impact upon local character.
5.2 The mews comprises an enclosed group of residential property screened from public view and dominated by the scale and height of surrounding property. Streetscene views from Earls Court road are restricted and consequently views are restricted to residents of the mews and to occupiers of higher neighbouring properties who are afforded views from the rear windows of those houses. The roofscape of the mews is considered somewhat bland and compromised by the industrial character of the roofs to the underground station and to neighbouring depots and the like. From within the mews the upper part only of the development will be visible due to the considerable setback, which is evident from the example of the similarly proportioned roof extension at 1 Old Manor Court (allowed at appeal). The design of the extension would be compatible with the existing building as converted in the 1960's. The parapet line would be maintained and would not be interrupted by handrail or other such element. The Inspector in respect of 89/0642 noted that views of the development at No 1 are partial and oblique and over a restricted length and that the unified line of the parapet would be retained. The Inspector accepted the importance of maintaining the architectural integrity of the mews but given the site specific circumstances and proposed form did not consider that implementation of the proposals would result in harm. It is submitted that in respect of the impact upon the character of the building and of the mews there is no material difference between the roof level development at No 1 and that proposed at No 3 and that harm to the character of the mews cannot be justifiably demonstrated. The extension is considered to be sympathetic to the age and character of the building and as such the proposal complies with Policies CD25 and CD39.
5.3 Although Policy CD38 resists the addition of storeys and roof level alterations, it is submitted that a mews of this type and character, screened from public view and having no constraints in respect of conservation policy and limited historical context by virtue of past re-development, is a special case whereby justification for a more flexible interpretation of policy may be appropriate especially in the light of Government Guidance requiring more beneficial use to be made of previously developed land. Consequently strict adherence to policy is considered in this case unwarranted and objections can be outweighed by benefits arising from the provision of roof garden space, which does not prejudice neighbour amenity. Adequate amenity space is an objective of Policy H7 (Housing).

6.0 CONCLUSION

6.1 It is submitted that the appeal proposal would not appear out of keeping with the existing building and mews nor be detrimental to their character and appearance.

6.2 It is submitted that the appeal proposal should be considered in context with the development previously allowed at 1 Old Manor Yard.

6.3 It is submitted that the proposal provides enhancement to the quality of the existing roofscape and provides usable outdoor amenity space in accordance with the aims and objectives of the Council.
6.4 It is submitted that the appeal proposal accords with the provisions of the UDP and the Inspector is respectfully requested to allow the appeal.
1. Old Manor Yard

2. Private Road

3. Old Manor Yard, SW5 9AB
3
Partially visible roof extension at No.1 Old Manor Yard

4
Partially visible roof extension at No.1 Old Manor Yard

3 Old Manor Yard, SW5 9AB
5
Partially visible roof extension at No. 1 Old Manor Yard

6
The Appeal Premises

3 Old Manor Yard, SW5 9AB
7 View down the Mews

8 View down the Mews towards exhibition centre
View from roof of Appeal premises

View of roof of Earls Court Underground station immediately to the rear of the Appeal premises
11  
Roofscape

12  
Roofscape

3 Old Manor Yard, SW5 9AB
THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
MEMORANDUM - SECTION 101 - LOCAL GOVERNMENT ACT, 1972

To: Chief Administrative Officer (Planning)  Date: 19 December 2002
From: The Executive Director, Planning & Conservation  Our Ref: PP/02/02361/CHSB
Application Date: 01/10/2002  Complete Date: 16/10/2002

Agent: Mr. Bryn Abrams, Top Flat, 4 Harlescott Road, Nunhead, London, SE15 3BZ
Address: 3 Old Manor Yard, London, SW5 9AB

This application is for a class of development to be determined under powers delegated to me by the Council on 18th July, 2001 and is not a major, controversial or sensitive application nor one which a Ward Councillor has asked to be considered by Planning Services Committee.

Class - 8th Schedule development
Class - shop fronts
Class - conversion from non s/c dwellings etc
Class - amendments as required by T.F. Committee
Class - grant or refuse certificates of lawful development
Class - Crossover under S.108 of the Highways Act 1980

Class - Listed building consent for above Classes.
Class - Conservation area consent
Class - approval of facing materials
Class - grant of planning permission for a change from one kind of non-residential use to another non-residential use except where this would involve the loss of a shop in a Principal core shopping frontage.
Class - grant permission/license or no objection under Sections 73, 74, 138, 143, 152, 153, 177 & 180 of the Highways Act

Consent under T&CP Control of Advertisement Regulations 1984-90; incl. refusal of consent for Reg. 15 applications.

DESCRIPTION OF PROPOSED DEVELOPMENT
Erection of an additional storey at second floor level.

RECOMMENDED DECISION Refuse planning permission
RBK&C drawing(s) No. PP/02/02361
Applicant's drawing(s) No.PS/OMY/112/01 and MY/001

Number of Objections - 4

I hereby determine and refuse this application under the powers delegated to me by the Council, subject to the condition(s) indicated below imposed for the reason(s) appearing thereunder, or for the reasons stated.

Exec. Director, Planning and Conservation  Head of Development Control  Area Planning Officer

DELEGATED
11 DEC 2002
REFUSAL

PP/02/02361: 1
REASON FOR REFUSAL

By reason of its height, design and position obtruding upon the substantially unbroken roofline of Old Manor Yard, the proposed additional storey would appear out of keeping with the existing building and mews to the detriment of their character and appearance. Therefore, it would conflict with Council policy as stated in the Unitary Development Plan, in particular Chapter 4 and Policies CD25, CD38 and CD39.

INFORMATIVE

You are advised that a number of relevant policies of the Unitary Development Plan were used in the determination of this case, in particular, Policies CD25, CD28, CD30, CD30a, CD38 and CD39. (I51)
DELEGATED REPORT

1.0 THE SITE

1.1 Old Manor Yard is a cul-de-sac of twelve two-storey mews-type houses located off Earl's Court Road immediately to the south of Earl's Court Station.

1.2 No. 3 is located on the northern side backing onto the Station. It is a two-bedroom house with integral garage.

1.3 The premises are not listed nor in a Conservation Area.

2.0 PROPOSAL

2.1 It is proposed to erect an additional storey to provide a study and patio, the latter being enclosed within the walls of the extension but open to the sky.

2.2 The roof addition would be inset by 2m. from the house's front elevation and would rise vertically at the side and rear boundaries. The front would be a slate hung vertical wall with a pair of French windows and a pair of gates. The area of flat roof retained to the front would be for maintenance and escape purposes.

3.0 RELEVANT PLANNING HISTORY

3.1 Planning permission was granted in 1959 for alterations and conversion of No. 1-12 Old Manor Yard from mews garages and flats to two storey dwelling houses, each with a built-in garage.

3.2 In 1990, planning permission was granted on appeal for an additional storey at No. 1. The Council had refused permission on grounds of disruption of uniform roofline, that it would be obtrusive and detract from the architectural appearance of the mews and character of the road as a whole and that it would set an undesirable precedent. In deciding to allow the appeal, the Inspector noted the premises' untypical location opposite the one and a half storey imperforate wall of a depot building, not facing another residential unit. He stated:

"Whereas I accept the importance of maintaining the architectural integrity of the Mews, given the site-specific circumstances and the form of the proposed extension, I consider that such integrity would not be harmed if your scheme were to be implemented."

Accordingly the appeal was allowed, subject to a condition precluding railings on the perimeter parapet without express planning permission.

4.0 PLANNING CONSIDERATIONS

PP/02/02361: 3
4.1 The issues in this case are considered to be the effect upon:

4.1.1 the character and appearance of the existing building, the terrace in which it is located and Old Manor Yard as a whole

4.1.2 the amenity of nearby residents in terms of light, privacy and sense of enclosure

4.2 Relevant U.D.P. policies are CD25, CD28, CD30, CD30a, CD38 and CD39.

4.3 No. 1 is the first house in the cul-de-sac, located immediately behind the Earl's Court Road frontage buildings. The remainder of the roofline formed by the two opposing terraces 2-6 and 7-12 is uniform, unimpaired by extensions and consists of flat roofs with a continuous low parapet on each street frontage. The erection of an additional storey at No. 3 would conflict with Policy CD38(h) because the terrace is broken only by the isolated roof addition at No. 1 and would conflict upon Policy CD39(a) because the character of the terrace/group has not been severely compromised by a variety of roof extensions.

4.4 It is further considered that the extension would detract from the appearance of the existing building. The front parapet is low and the height and design of the extension is such that the extra storey would look over-dominant and make the building appear top heavy. Therefore the development would conflict with Policy CD39(b) because it would be architecturally unsympathetic to the building. The roof addition would be out of character in Old Manor Yard, contrary to Policy CD25.

4.5 The appeal decision in respect of No. 1 pre-dates the initial adoption of the U.D.P. (1995) and adoption of the modified policies (2002). The Inspector's decision to allow the appeal had regard to the particular circumstances at No. 1 and those circumstances do not pertain at No. 3, which is mid-terrace and opposite other houses. Therefore the 1990 planning permission in respect of No. 1 is not considered to support an approval in this case.

4.6 With reference to residential amenity, the extension would not significantly affect privacy provided that the front flat roof was not used as a terrace. Light to the premises opposite, whilst currently below the BRE Report guideline, would not be reduced by more than 20%, so loss of light is not considered sufficient to sustain a refusal. Given the set back of the roof addition, it is not considered to cause undue sense of enclosure. Accordingly, no objection is recommended under Policies CD28, CD30 and CD30a.

5.0 PUBLIC CONSULTATION

5.1 Fourteen addresses in Old Manor Yard, Earl's Court Road and Penywern Road were notified of the proposal. Seven representations were received.

5.2 Three residents of Old Manor Yard support the proposal. One gives the
reason. One supports all residents who seek to improve and keep their properties in good order. The third (No. 1) hopes that the Department will not incur costs in opposing an appeal.

5.3 Three residents of Old Manor Yard object, stating that the appeal decision at No. 1 was not a precedent. Reference is also made to loss of light, increased noise and density, additional parking demands and the recent vacancy of the house opposite No. 3 hence the absence of objection from that quarter.

The development is considered unacceptable as stated in section 4 of this report. Loss of light, increased noise, density and parking demands are not recommended reasons for refusal. The extension would add only one habitable room, the terrace would be enclosed, and it is considered difficult to sustain a reason for refusal on these grounds. The effects upon light are not considered sufficient to sustain a planning refusal.

5.4 London Underground Limited raises no objection on planning grounds but comments that the construction would raise concerns about potential effects upon the safe operation of the railway, so recommends a condition requiring discussion of necessary measures with L.U.L.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

Background Papers

The contents of file PP/02/02361 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

Report Prepared By: SW
Report Approved By: JT/LAWJ
Date Report Approved:
PLANNING AND CONSERVATION

THE TOWN HALL, HORNTON STREET, LONDON W8 7NX

Executive Director: M J FRENCH, FRICS, Dip TP, MRTP, Cert TS

Mr. Bryn Abrams,
Top Flat,
4 Harlescott Road,
Nunhead,
London, SE15 3BZ

Switchboard: 020-7937-5464
Direct Line: 020-7361-2082
Extension: 2082
Facsimile: 020-7361-3463

11 DEC 2002

My Ref: PP/02/02361/CHSE

Please ask for: South West Area Team

Dear Sir/Madam,

TOWN AND COUNTRY PLANNING ACT, 1990
TOWN AND COUNTRY PLANNING GENERAL PERMITTED DEVELOPMENT ORDER, 1995

REFUSAL OF PERMISSION TO DEVELOP (DP2)

The Borough Council in pursuance of its powers under the above-mentioned Act and Order, hereby REFUSE to permit the development referred to in the under-mentioned Schedule as shown in the plans submitted. Your attention is drawn to the enclosed Information Sheet.

SCHEDULE

DEVELOPMENT:
Erection of an additional storey at second floor level.

SITE ADDRESS:
3 Old Manor Yard, London, SW5 9AB

RBK&C Drawing Nos:
PP/02/02361

Applicant’s Drawing Nos:
PS/OMY/112/01 and MY/001

Application Dated:
01/10/2002

Application Completed:
16/10/2002

REASON(S) FOR REFUSAL OF PERMISSION ATTACHED OVERLEAF

PP/02/02361: 1
REASON(S) FOR REFUSAL:

By reason of its height, design and position obtruding upon the substantially unbroken roofline of Old Manor Yard, the proposed additional storey would appear out of keeping with the existing building and mews to the detriment of their character and appearance. Therefore, it would conflict with Council policy as stated in the Unitary Development Plan, in particular Chapter 4 and Policies CD25, CD38 and CD39.

INFORMATIVE

You are advised that a number of relevant policies of the Unitary Development Plan were used in the determination of this case, in particular, Policies CD25, CD28, CD30, CD30a, CD38 and CD39. (I51)

Yours faithfully,

[Signature]

Michael J. French  
Executive Director, Planning and Conservation
Gentlemen

TOWN AND COUNTRY PLANNING ACT, 1990, SECTION 16 AND SCHEDULE 9

APPEAL BY MR. E. FINSTER EVANS, ARCHITECT, TOWN PLANNERS,
APPLICATION NO: EF/79/6642/6/15/2171

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. The appeal is against the decision of the Royal Borough of Kensington & Chelsea Council to refuse planning permission for the erection of an additional storey at 2nd floor level at No 1, Old Manor Yard, Earls Court, Kensington; London SW5. I have considered the written representations made by you and also those made by other parties and interested persons. I inspected the site on 20 March 1990.

2. The appeal site is located immediately to the south-east of Earls Court Road Underground Station. Access to the site is from the south-west side of the Earls Court Road by a narrow passageway in the streetfrontage, secured by metal entrance gates. The passageway leads to Old Manor Yard, a mews and mews houses, each of 6 storeys high on each side. These properties were developed in the 1960's and are 2 storeys high with flat roofs. Although similar in architectural treatment, the mews vary in their width. The area surrounding the mews is very built-up. Properties in Panybern Road, whose gardens abut the south-east side of the mews houses, are 3 storeys high with some 1.5 storey extensions. Properties fronting the mews on the north and south sides are 3 and 4 storeys high respectively.

3. No 1, Old Manor Yard, is at the end of a terrace, nearest to the entrance passageway, beyond the north-east flank wall of the site. A narrow access serving a rear yard of the station which fronts on to the Earls Court Road. The station is a tiled roof, of which rise up to its apex a height wall above the mews houses. Opposite No 1, on the other side of the yard, there is an imperforate brick wall, some 1.5 storeys high, partly painted white, above which is a flat roof, part of a large depot building. A slated hatch provides access to this roof.

4. No 1, Old Manor Yard, the appeal property, is at the end of a terrace, nearest to the entrance passageway. Beyond the north-east flank wall of the site is a narrow access serving a rear yard of the station which fronts on to the Earls Court Road. The station is a tiled roof, of which rise up to its apex a height wall above the mews houses. Opposite No 1, on the other side of the yard, there is an imperforate brick wall, some 1.5 storeys high, partly painted white, above which is a flat roof, part of a large depot building. A slated hatch provides access to this roof.

5. The additional storey proposed is to provide a further habitable room to the property. The proposed vertical extension is set back some 6m from the face of the building. There would be 2 windows only, both set in the south-east elevation.
3. From my observations of the site and its surroundings, and having read the publications of the Council, it is clear to me that the main issue in this case is whether the proposal would detract from the architectural integrity of the property and unacceptable harm the character of the area.

6. The planning policy referred to by the Council is the Greater London Development Plan, but more specifically the Borough’s District Plan, adopted in 1992. Chapter 4 of this plan contains conservation and development policies which set out the Council’s criteria for assessing the impact of additional storeys, particularly in respect of the skyline. These criteria are set out in the Council’s Annual Monitoring Report 1985/86. In this case the Council considers that the proposal would be obstructive and detract from the architectural appearance and character of the area. The roofline of the proposed building would be described, and accordingly, the proposal fails to accord with policy 4.9.3 of the District Plan. If the area in front of the proposed building, the bedroom windows were to be used as a balcony, a handrail would be required in order to comply with byelaw requirements, and this would destroy the uniform parapet line of the terrace.

7. You point out that 10 Old Manor Yard is the smallest unit in the terrace, and the internal accommodation is cramped. The proposals satisfy the Council’s car parking standards, those of residential density, and the proposal would not adversely affect the views or be materially detrimental to the skyline. You consider that the proposals accord with the relevant policies of the District Plan and are supported by Government policy as set out in Circulars and Planning Policy Guidance.

9. From the detailed observations of my site visit, I consider the location to be untypical, as it is the only property in the area which does not face another residential property. The importance of maintaining the architectural integrity of the property is highlighted in the context of the proposed extension. I consider that such integrity would not be harmed if your scheme were to be implemented. Views of the proposed extension from ground level in the area would be limited to oblique partial views, and the character of the area, which has a unified line of the parapet, would be preserved, and thus the character of the area would remain intact and any possibility of overlooking would be avoided.

I therefore conclude that the proposal would maintain the architectural integrity of the property and not harm the character of the area.
10. I have considered all the relevant matters raised in the representations, including the possibility of permission in this case establishing an undesirable precedent whereby similar schemes would impair the character of the area. As I have explained in the preceding paragraph, the circumstances relating to the location of No 1 are 'special', and the merits of this case suggest that no demonstrable harm to interests of acknowledged importance would result. No other matter was so cogent or compelling as to outweigh the considerations that led to my decision.

11. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of an additional storey at 2nd floor level at No 1, Old Manor Yard, Earls Court, Kensington, London SW5 in accordance with the terms of the application no. PV/TP/89/0342/0/15/2274 dated 22 March 1989, and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall begin before the expiration of 5 years from the date of this letter;

2. notwithstanding the provisions of the Town and Country Planning General Development Order 1988 (or any order revoking and re-enacting that Order) no railing, handrails or any other form of enclosure shall be erected on the perimeter edges of the flat roof without express planning permission;

12. This letter does not convey any approval consent which may be required under any enactment, by-law, order, or regulation other than sections 23 of the Town and Country Planning Act 1971.

I am Gentlemen Yours obediently Servant

Edward A. Mohr

Edward A. Mohr MA RIBA MRTPI FRSA
Inspector