

T/P Number
 94/0644

Date
 Opened

12/04/94

THE ROYAL BOROUGH OF
**KENSINGTON
 & CHELSEA**

200

TOWN PLANNING
 DEVELOPMENT CONTROL

Cons Area - 8.

PROPERTY

4 ST. MARY ABBOTS PLACE, W.B.

Referred to	Date	Min. or Encl.	Referred to	Date	Min. or Encl.	Referred to	Date	Min. or Encl.	Referred to	Date	Min. or Encl.

[Handwritten signature/initials]

4-8 (EVEN) ST MARY ABBEYS PLACE

Part 1 General Financial Charges

1 Description of charge (including reference to appropriate statutory provision)	2 Originating authority	3 Date of registration
Fees payable to the Council under the London Building Acts (Amendment) Act, 1939, and the London County Council (General Powers) Act, 1955.		12.3.97

Part 2 Specific Financial Charges

1 Description of charge (including reference to appropriate statutory provision)	2 Amount originally secured and rate of interest (if any) payable	3 Date of last payment and balance of charge then outstanding	4 Place where relevant documents may be inspected	5 Date of registration
DANGEROUS STRUCTURE EXPENSES payable to the Council under the London Building Acts (Amendment) Act, 1939, and the London County Council (General Powers) Act, 1955.	£ 524.45			20.5.97

ST. MARY ABBOTS PLACE

PART 3. PLANNING CHARGES

Consent granted subject to conditions contained in letters dated:

WITHIN A DESIGNATED CONSERVATION AREA PURSUANT TO SECTION 277 OF THE TOWN & COUNTRY PLANNING ACT 1971 AS AMENDED BY SECTION 1 OF THE TOWN & COUNTRY AMENITIES ACT 1974

C.A. reg. 21-7-86. from Yellow Book
par Search 4391.

4 ST MARY ABBOTS PLACE

PART 3 PLANNING CHARGES

Consent granted subject to conditions contained in letters dated 11.7.95. Erection of two semi detached single family dwelling houses, with associated off-street parking and external amenity space at land on and adjacent to No. 4. 25.7.95.

11.7.95: Demolition of existing 2 storey detached building and 3 adjacent single storey garages, at land on and adjacent to No. 4. (CAC) 25.7.95.

50109

50110

This agreement made pursuant to Section 106 of the Town and County Planning Act 1990 on 22.6.95

209

27.6.95

4 ST. MARY ABBOTS PLACE.

PART IV. REGISTER OF PROHIBITIONS OR RESTRICTIONS NOT FALLING WITHIN PARTS I, II, III,
OR V, AND PRIORITY NOTICES RELATING THERETO.

(Parts VI-X of the Register are subject to different rules).

<p>Nature of prohibition or restriction and reference to order, scheme, instrument, resolution, covenant, agreement, or other document, and also to the statute under or by virtue of or in connexion with which the prohibition or restriction is created or enforceable, sufficient to show the effect of the prohibition or restriction or, in the case of a priority notice, nature of the contemplated charge.</p> <p style="text-align: center;">1</p>	<p>Where prohibition or restriction or priority notice registered on behalf of another local authority, name of that authority.</p> <p style="text-align: center;">2</p>	<p>Place at which inspection may be made of any document other than a public general statute, referred to in column 1, or a certified copy of such document.</p> <p style="text-align: center;">3</p>	<p>Date of registration of charge or priority notice.</p> <p style="text-align: center;">4</p>
<p><i>Conditional Consent granted as per appended copy of Council letter dated 23.3.48 (3563) and 6.12.28. (3566)</i></p>		<p>Town Hall, Kensington, W.8.</p>	<p>24.3.48 14.12.28.</p>

PART IV. REGISTER OF PROHIBITIONS OR RESTRICTIONS NOT FALLING WITHIN PARTS I, II, III, OR V, AND PRIORITY NOTICES RELATING THERETO.

(Parts VI-X of the Register are subject to different rules).

<p>1 Nature of prohibition or restriction and reference to order, scheme, instrument, resolution, covenant, agreement, or other document, and also to the statute under or by virtue of or in connexion with which the prohibition or restriction is created or enforceable, sufficient to show the effect of the prohibition or restriction or, in the case of a priority notice, nature of the contemplated charge.</p>	<p>2 Where prohibition or restriction or priority notice registered on behalf of another local authority, name of that authority.</p>	<p>3 Places at which inspection may be made of any document other than a public general statute, referred to in column 1, or a certified copy of such document.</p>	<p>4 Date of registration of charge or priority notice.</p>
<p>Certificate issued by the Secretary of State for the Environment under Section 19 of the Leasehold Reform Act on 9. 7.76</p> <p>ORDER OF THE HIGH COURT OF JUSTICE DATED 20. 5. 78 APPROVING THE SCHEME OF MANAGEMENT SET FORTH IN THE SCHEDULE ATTACHED THERETO PURSUANT TO SECTION 19 OF THE LEASEHOLD REFORM ACT 1967.</p>	<p>State for the Leasehold</p>	<p>Town Hall, Kensington, W.8.</p>	<p>10. 2.77</p> <p>22.6.78</p>

Part 4: Miscellaneous Charges

Description of charge (including reference to appropriate statutory provision)	Originating authority	Place where relevant documents may be inspected	Date of registration
<p>An order made under Section 11 of the Clean Air Act, 1956 and confirmed by the Minister came into operation on 1-10-65</p>		<p>Town Hall Hornon Street Kensington</p>	

BETHAM ASSOCIATES, ARCHITECTS**105-111 EUSTON STREET, LONDON NW1 2EW**
Telephone and facsimile 0171-387 0451**Draft**Our ref: 9603
Your ref: 97/C/2707

13th January 1999

Mrs P A Thomas
Local Government Ombudsman
Beverley House
17 Shipton Road
York, YO30 5FZ**COPY**
ALAN PHILLIPS
0171 387 2764

Dear Mrs Thomas

Re: 11 & 15 Warwick Gardens W14 and St Mary Abbot's Place London W8

I have been passed a copy of your Report on the above.

I am the Adjoining Owners' Surveyor appointed by Mr and Mrs "Green" and by the owners of another house adjoining the development under the London Building Acts (Amendment) Act 1939 (the "Act") to prepare Party Wall Awards with the Building Owners' Surveyor (together known as "the two surveyors"). I am surprised you did not talk with me about the Award and party wall matters referred to in your Paragraph 28.

From my experience as an architect, I would agree that there has been maladministration by the Council. Members were clearly right to require screening to protect amenity of neighbours in accordance with policies against overlooking by upper floor new windows as near as 8 feet from the boundary, but this is less than clear from the wording of Condition 15. Neighbours will suffer if not properly screened. The applicants were reportedly present at the meeting and failed to bring the effect of the Condition to the attention of the purchasing developers, the complainant herein.

However I do not know of any circumstances consistent with significant financial loss to the present complainant.

The Awards by the two surveyors required the council's agreement to landscaping proposals under Condition 15 to avoid risk of abortive and repeated construction work causing unnecessary inconvenience to the adjoining owners which would be contrary to s51(1) of the London Building Acts (Amendment) Act 1939.

The "third party arbitrator" you refer to appears not to have been properly appointed in accordance with the Act, but his findings were based upon the Building Owners', that is the complainants', representation that Condition 15 had been met and so there was no reason not to start in October 1996.

Progress was as follows:-

- a/ Development started without reference to adjoining owners or their appointed surveyor all in accordance with the Council's letter of 4th October 1996. (Awards only govern works to the Party Walls themselves).
- b/ Start of the party wall works was determined by protection of trees in adjoining owners' gardens which was the building owners' responsibility in accordance with the Award and as agreed by the two surveyors.
- c/ Police were only called to my knowledge on 6th November 1996 to prevent damage to adjoining owners' trees contrary to the Awards and as agreed by the two surveyors.

- d/ Contractors left site among rumours of bankruptcy without notice to the building owners. My file memos of 14th and 17th February 1997 refer.
- e/ In April and May 1997 my file memos show I learned from Mr "Green" that the developer was in no hurry to restart as prices were rising faster than costs.

As adjoining owners' surveyor, I am aware that neighbours have been pressing for expeditious completion of works once started. I have been unaware of any delay that could be blamed on the Council following the letter of 4th October 1996.

It also surprises me that the change in property values has not been taken into account as might have suggested by the complainant had they fallen rather risen.

Yours sincerely

ADRIAN BETHAM
Betham Associates, Architects

BETHAM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451**COPY**Our ref: 9603
Your ref: DPS/DCC/TP/94/0644

8th January 1999

Attention Mr D Taylor
Planning and Conservation
Kensington & Chelsea Town Hall
Hornton Street
London W 8 7NX

Dear Mr Taylor

Re: 11 & 15 Warwick Gardens W14 and St Mary Abbot's Place London W8

Thank you for copying to me your letter of 6th January 1999 to my appointing adjoining owner, Mr Fergusson at No 15 Warwick Gardens.

Your letter confirms that at its lowest the boundary wall should be a minimum of 2.5m from the finished patio level within no.4 or 0.05m (5cm or 2") below the flat garage roof. You indicate the garage as shown on approval drawings would place the top of the wall 2.45m above pavement level in St Mary Abbot's Place.

This latter fixed point is particularly important where the height of the wall was relied upon to "avoid any overlooking from the ground floor of the property" which has become higher than pavement level, while the patio has been lowered.

It may assist if I set out the spot heights used on drawings the developers have referred to me, in particular the Ground Floor Plan No.6366/11:-

<u>Location</u>	<u>Spot height</u>	<u>Wall as above</u>	<u>Top wall</u>
Garage roof:	to be measured on site	-0.05	?
Pavement (lowest)	6.51	2.45	8.96
Ground floor finish level (approved at pavement level)	6.70	2.45	9.15
Patio	6.35	2.50	8.85
Top of wall	8.34	n/a	8.34

I think you will see these heights on the base for the developer's Ground Floor landscape drawing no.6366/26. I am sure you are up to developers' tricks of submitting a drawing to satisfy one condition such as planting, and then claiming that approval covers anything else shown such as the height of the garden wall below the minimum approved.

The 1:100 approval drawings show ground floor finish at pavement level whereas it has been built 0.19 higher at 6.70m, suggesting that the building as whole is higher than approved.

Yours sincerely

ADRIAN BETHAM
Betham Associates, Architects



The Commission for
Local Administration in England

Report

on an Investigation into
Complaint No 97/C/2707 against
The Royal Borough of Kensington
and Chelsea

December 1998

**Investigation into Complaint No 97/C/2707
Against The Royal Borough of Kensington and Chelsea**

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Key to names used

Mr Griffin	Developer's agent
Mr Green	Local resident
Officer A	Planning officer
Councillor X	Chairman of Planning Committee

Report Summary

Subject

The complaint concerns unreasonable delay by the Council in confirming the fulfilment of a condition attached to a planning permission for a development, with the result that the developers incurred significant financial loss.

Finding

The requirements of the condition, which related to landscaping and particularly tree planting, were met in November 1996. The Council has still not formally agreed that its requirements are met. That failure is maladministration causing injustice to the complainants.

Recommended remedy

The Council should meet the abortive costs of the developer.

Introduction

1. Mr Griffin, as agent for a firm of property developers, complains on their behalf that the Council has ⁽¹⁾ unreasonably delayed confirming that the developers have supplied sufficient details to fulfill a condition attached to the planning permission for a development. Mr Griffin claims that, ⁽²⁾ as a result of the delay, the developers have been unable to place contracts for completion of the development and ⁽³⁾ have suffered considerable financial losses.
2. The law generally requires me to report without naming or identifying the complainant or other individuals. The names used in this report are therefore not the real names of the people and places involved.
3. An officer of the Commission has talked with the developer's agent and with officers of the Council. She has also talked with the ex-Chairman of the Planning Committee (Councillor X) and with a local resident (Mr Green). The same officer has examined the Council's records.
4. An opportunity has been given for the complainant and the Council to comment on a draft of this report prior to the addition of the conclusion.
5. I may not normally investigate a complaint where a right of appeal is available, except where I consider it unreasonable for the complainant to make that appeal¹. In the light of what Mr Griffin has told me (see paragraph 27 below) I have exercised my discretion to investigate this complaint despite the availability of an appeal to the Secretary of State (see paragraph 8). (C)

Legal and Administrative Background

6. Councils may impose conditions in granting planning permission for development.
7. If development takes place without complying with conditions imposed on a planning permission, a council may serve a breach of condition notice on the developer. The notice must specify the conditions concerned and the steps which the council considers should be taken to secure compliance².

¹ The Local Government Act 1974, Section 26(6)(b)

² Town and Country Planning Act 1990, S. 186 (as amended by the Planning and Compensation Act 1991)

8. Where a council refuses an application for any agreement required by a condition imposed on a grant of planning permission or fails to give notice of a decision on such an application, the applicant may appeal to the Secretary of State³.

Investigation

Approval of the Planning Application

9. On 1 May 1995 the Council's Planning and Conservation Committee considered an application for the erection of two dwelling houses on land in the heart of the historic borough of Kensington and Chelsea. The Council says that there was considerable local opposition from nearby residents to the granting of planning permission. In particular residents of the properties to the west of the development site had lobbied local members about the landscaping proposed in the planning application.
10. The Council says that the Committee concluded that the most appropriate way to mitigate a perceived overlooking problem would be to ensure that trees were provided at the boundary between the proposed houses and existing properties to their rear. The minutes of the meeting which granted planning permission recorded:-

"The Committee asked that an additional condition, the precise wording of which to be agreed with the Chairman, be imposed requiring the applicant to undertake some appropriate tree planting at the rear of the new buildings."

11. Planning permission was granted on the casting vote of the Chairman, Councillor X. On 12 May Councillor X wrote to Mr Green (one of the residents):-

"I will see that (the Director of Planning) runs the wording of the Planning Permission over with you before it is issued."

12. On 11 July the decision notice granting planning permission was issued to the developer. The additional condition (Condition 15) read:-

"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:

the treatment of the open land within the site including hard and soft landscaping."

Mr Griffin points out that this is a standard landscaping condition and did not impose the very specific requirements which Council officers later sought to achieve; nor does it appear clearly to reflect the requirements of the Planning and Conservation Committee (paragraph 10).

13. Mr Green continued to write to the Director of Planning and to the Chairman of the Committee about his concerns over the landscaping details. On 26 July Councillor X wrote to Mr Green:-

"On the question of the screen of trees I can assure you that the best form of concealmentwill be discussed and agreed fully with you when the application on such detail is submitted."

14. Councillor X says that he used the word "agree" colloquially rather than legalistically in assuring Mr Green that the landscaping scheme would be agreed with him; he did not believe that he was promising him any more than the Committee had agreed. He denies that he was offering the local residents the right of veto over the landscaping details and says that he did not in any event have the authority to do so.

Submission of Details for Condition 15

- when* 15. The property developers for whom Mr Griffin is acting bought the development site. In May 1996 they submitted the first draft of a landscaping scheme to fulfill Condition 15. Planning officers met with the developers and their architect in July to discuss the details further and, as a result, more drawings were submitted by the developers. The architect wrote to the Council in August indicating that ground works were due to start.
16. On 4 October Officer A, the planning officer who handled the details of the application, wrote to the developers approving the start of works. His letter states that he considered the developers were now proposing an appropriate species of tree for the landscaping scheme and continues:-

“Therefore, I accept that the landscaping details as depicted on (the drawings) can be taken as a satisfactory scheme for the purposes of Condition 15....As such, I can advise that a start on site can now be made without conflict with the aims and terms of this Condition. However, I permit this under the terms of Condition 15 subject to a number of points which still need to be confirmed.”

Officer A added that two further sets of details had to be submitted before the development could be completed. He indicated that the developers should submit a letter setting out the various tree sizes, to be agreed by the Council; he also requested a further plan showing the positioning of two new trees.

17. On 21 October the developers met Officer A and the Council’s arboriculturalist to discuss the species of trees which should be planted to meet the requirements of Condition 15. On 1 November the arboriculturalist wrote to the developers with specific details of the trees to be planted and added the requirement that large integral raised planters should be used for at least some of the planting. The arboriculturalist’s letter specified the nursery at which trees of the heights and varieties specified could be purchased.
18. On 5 November Officer A also wrote to the developers. He pointed out that the details requested in his letter of 4 October had not yet been received, and added:-

“I consider it perfectly clear that if these two requirements have not been properly discharged, with written confirmation from myself that they have been so discharged, then the requirement of Condition 15 of the Planning Permission cannot itself have been fully met.”

He said that in order for him to issue a statement that Condition 15 had been fulfilled, he needed confirmation that the minimum tree sizes specified were acceptable and would be installed, a drawing indicating the appearance of the landscaping scheme at installation, agreement of the position and type of the two trees on the northern boundary of the site and confirmation of the details of the raised planters. He sent a copy of this letter to Mr Green.

19. On 6 November the developers wrote to Officer A. They confirmed that they would install trees of the varieties and sizes specified by the arboriculturalist and

that they would use planters of the type recommended. They also enclosed drawings showing the inclusion of the two new trees.

20. Officer A replied on the same day welcoming the confirmation of the details. He added :-

“the Chairman of the Planning Services Committee that approved the scheme has asked me to consider prosecution for breach of Condition unless these matters are resolved forthwith. Once I have received further copies of the landscaping plans clearly including the raised integral planters and the two new trees, I should be able to issue a final letter confirming that Condition no. 15 of the Planning Permission has been complied with.”

21. On 7 November Mr Green wrote to Officer A commenting on the details submitted by the developers. He indicated that the tree screen heights at installation must conceal the first floor windows of the new dwellings from windows opposite. He concluded that he looked forward to agreeing to the proposals before anything was finalised “as promised by the Chairman of the Planning Committee. Until then, Condition 15 cannot be met.”

22. On 11 November the developers submitted revised landscaping plans as requested, showing the planters and the two new trees, indicating plant sizes at installation. The Council’s arboriculturalist confirms that the elevational drawings indicating the tree sizes at planting were essentially those which his office had drawn up and given to the developers. His assistant noted in a memo entitled “arboricultural observations” that both the arboriculturalist and himself felt that a satisfactory conclusion had been reached. On 14 November Mr Griffin, who had now taken over the role of agent for the developers, wrote to the Council about the delay in approving Condition 15. His letter concluded:-

“I understand that you now have all of the detail that you require to enable you to confirm complete compliance with Condition 15.”

The Council's Failure to Discharge Condition 15

23. Officer A has viewed the landscaping drawings, submitted by the developers on 11 November and received by the Council on 13 November, in the presence of one of the Commission's officers. He agrees that all the details which he had requested the developers to provide to comply with Condition 15 were included in those drawings. He says that the reason why he did not then issue a statement agreeing that Condition 15 was fulfilled was because he was under pressure from Councillor X, by then no longer Chairman of the Planning Committee, and from the Director of Planning to see if he could get more concessions out of the developers to placate local residents and in particular Mr Green. The Council says that it was evident that the size of trees recommended by the arboriculturalist would take some time to provide protection against overlooking.
24. Officer A says that he never had any intention of recommending to the Planning Committee that the Council should serve a Breach of Condition Notice on the developers, contrary to his letter of 6 November. He says that he was very careful to word his letter to the developers in such a way that it was clear that this was something which the former Chairman of the Committee was considering rather than the Planning Department. Mr Griffin says that, as far as he was concerned, the letter was a letter from the Council threatening action and it did not matter what the writer's intentions were.
25. On 16 December, in the absence of a reply to his earlier letter, Mr Griffin wrote again to the Council about the fulfilment of Condition 15. He pointed out that a recent conversation with Officer A had revealed that the Director of Planning had sought the advice of the Council's Legal Department on how far the Council could go in requesting more details. He went on:-
- "Furthermore, I understand that this situation appears to have been brought about by the fact that the Chairman of your Planning Committee appears to have written to interested neighbours in a way which perhaps gives them more encouragement as to the implications of condition 15 than is actually legally the case."
26. Councillor X says that he wrote only to Mr Green.

27. Mr Griffin says he did not receive any reply to his letter. He says that he sought Counsel's advice about whether to appeal to the Secretary of State about the failure of the Council to give a final decision on whether Condition 15 had been fulfilled. He says that Counsel's advice was that the terms of the Council's letter of 4 October advising that the landscaping scheme satisfied the terms of Condition 15 implied that there was no adverse decision which could be the subject of an appeal. In addition he points out that at the time the developer would have waited between nine months and a year before an appeal could have been heard and the costs of the delay would, therefore, have been greater than would have been incurred by stopping work on site.
28. Mr Griffin wrote again to the Council on 8 January and 6 February 1997 requesting a reply to his letters. He says that work ceased on site in February because the developers were taking action against their contractors for breaking the time clause in the contract as a result of the delays in the approval of Condition 15. (The contractors had been prevented from working on site by the actions of local residents who interpreted the Council's letter of 5 November to the developer to mean that planning permission had not fully been granted. The neighbours claimed that as their Party Wall Agreement was dependent on the planning permission being obtained first, they were entitled not to allow access on to their land. A third party arbitrator eventually found in the developer's favour and the Metropolitan Police were required to escort the contractors on site). Mr Griffin says that the developers could not place the second phase of the contract until they were certain that Condition 15 would be approved.
29. On 14 February Officer A replied to Mr Griffin, apologising for the delay in replying and for the inconvenience to Mr Griffin's client. He concluded:-

“Nevertheless, as you are aware the matter is a sensitive one, with a number of third parties remaining concerned that the requirements of Condition 15 have still not been met. Discussions are taking place on this at the moment.”

On 19 February Mr Griffin wrote back to Officer A indicating that it was for the Council, not third parties, to say whether the details submitted were acceptable or not.

30. On 21 February two local residents, one of whom was Mr Green, met their ward Councillor and the Director of Planning to discuss their concerns about the landscaping plans submitted by the developers. In a note which he made of the meeting, Mr Green indicated that the Director of Planning said that Councillor X had had no right to assure Mr Green that the tree screen would be fully agreed with him, as only the Council could decide such a matter.
31. On 29 April, in the light of the Council's failure to reply to his further letter of 19 March, Mr Griffin wrote to Officer A pointing out that he had now received Counsel's advice that approval had been granted in respect of Condition 15. He did not receive a reply to this letter. On 18 June he complained to me that the Council's delay in approving Condition 15 was preventing his client from placing the contracts for the second phase of the development. He said that any such contract would contain a time-break clause which would cost his client dearly in compensation if the works could not be completed within the specified contract time. He said that until the Council approved the fulfilment of Condition 15 there was no prospect of completing the development.

The Council's Response

32. Officer A says that, in his view, the scheme which was submitted by the developer in November 1996 satisfied Condition 15 and he indicated as much to local residents. He says that the approval of Condition 15 was complicated by local residents' continued opposition to the scheme, which they conveyed to Councillor X as former Chairman of the Planning Committee, and the letter which Councillor X had written to Mr Green in July 1995 which residents took as giving them a right of veto over the details of the landscaping scheme.
33. The Director of Planning says that in his view it was perfectly reasonable to consult closely with local residents over the landscaping details of the development, particularly in view of the considerable opposition to the grant of planning permission. He says that, while officers were at pains to ensure that residents were happy with what was being proposed by the developers, he does not think that residents had the right of veto over the scheme. He says that the Council has always been clear that final approval of the landscaping scheme could only come from the Council. He accepts, however, that the reason why Condition 15 has not been discharged is because of local residents' unhappiness with all of the schemes so far put forward.

34. The Council's arboriculturalist, who has since left the Council, says that officers were pressurised by local residents on a daily basis to ensure that any landscaping scheme which was accepted met with their approval. He says that this vociferous group of residents, led by Mr Green, was also putting considerable personal pressure on Councillor X to prevent the scheme being approved in the form which the developers were presenting. The arboriculturalist says that he suggested to the developers that it would be helpful to submit with their revised drawings an elevational drawing demonstrating tree sizes at planting: to assist the process, his own assistant drew up such an impression which the developer submitted without change.
35. In its comments on the complaint in response to my enquiries, the Council says that its officers have sought to resolve the situation through negotiation rather than through conflict. The Council adds that if Condition 15 itself was thought to be unreasonable, the developers should have lodged an appeal against its imposition. (Mr Griffin says they have no objection in principle to Condition 15 itself). The Council says that, as it has never taken any action to stop the works on site, it is wrong for Mr Griffin to claim that the delay in resolving the problems with Condition 15 has caused work to cease.

Events Since September 1997

36. A further meeting was held between Officer A and Mr Griffin in September 1997 at which further landscaping details were discussed. On 17 and 22 September Mr Griffin wrote to the Council with further drawings for consideration. Between 22 October and 1 December Mr Griffin telephoned Officer A's office on ten occasions to speak to him about the revised drawings. Officer A was not available at any time and did not return Mr Griffin's calls.
37. The Council's records show that Officer A submitted the further drawings to Mr Green for his consideration. On 27 October Mr Green replied:-
- "What is presented here is...merely an adjustment to the previous landscaping scheme..... We therefore find it unacceptable."
38. On 19 November Officer A wrote to Mr Green in detail about the objections he had made to the latest scheme. He concluded:-

“I believe that a reasonable landscaping scheme has now been produced.”

39. On 28 November Officer A wrote to Mr Griffin. He confirmed his understanding that Mr Griffin had not as yet formally submitted the latest drawings for approval, but was asking rather whether they would be approved if they were formally submitted. Officer A concluded that once he had received Mr Griffin's formal application for acceptance of the drawings, he could issue a letter confirming that the requirements of Condition 15 had been met.
40. Mr Griffin replied to Officer A on 15 December. He advised Officer A to look again at his own (Officer A's) letters of 4 October and 1 November 1996 requiring submission of details of tree sizes, species and location. He concluded:-

“As you are quite aware, those details were submitted to you over 13 months ago in November 1996 following recommendations from your own officers and completely in accordance with their wishes.”

Officer A says that as he has not received an application for agreement of Condition 15 from Mr Griffin based on the most recent drawings, he cannot confirm Condition 15 has been met.

41. Mr Griffin says that work has now recommenced on site because it has become marginally more in the developers' favour, after this length of time, to risk paying compensation in respect of completion clauses than to continue paying the interest costs on an idle site. He says that, in his view, the costs to his client of the Council's delay in agreeing that Condition 15 has been fulfilled amount to £220,000. He says that £108,000 had to be paid to have the groundworks completed when the original contractors left the site because of the delays caused by neighbours preventing their access to the site (paragraph 27); £24,817 was paid after November 1996 in additional professional fees to the architect, to planning consultants, to the site agents and in getting Counsel's advice on the fulfilment of the planning condition; £78,657 was paid solely in bank interest charges on the site during the period 14 February 1997 to 13 October 1997. He says that in his view

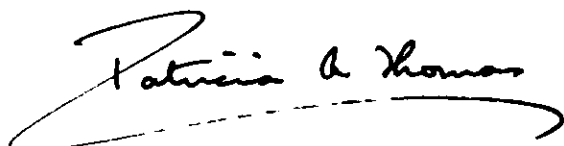
the Council should also pay the £17,895.00 which the original contractors are claiming from the developer for their inability to complete their contract because of their difficulties in gaining access to the site.

Conclusion

42. The two key questions in determining the outcome of this complaint are firstly, whether the terms of Condition 15 have been met, and secondly, if they have been met, when did that happen?
43. All the items which the Council had specified should be included in the landscaping scheme were submitted by the developer on revised drawings to the Council. The developer had not only agreed to obtain trees of the varieties and sizes specified by the Council, from the supplier specified by the Council, but had even resubmitted the elevational drawings put to him by the Council's officers in an effort to ensure that the revised scheme could be approved. Officer A, the planning officer handling the details of the case, accepts that Condition 15 was met in November 1996. I therefore see no reason to dispute the complainant's view that Condition 15 was effectively met and furthermore was met as long ago as 13 November 1996.
44. Why was no agreement issued by the Council that Condition 15 was fulfilled in November 1996? The answer given by both Officer A and by the Director of Planning is that local residents were unhappy with the details. It seems perfectly clear to me that, contrary to what the Council says, residents were in effect given the right to approve or reject the plans submitted by the developer, in other words a veto, despite the denials that that was so.
45. I acknowledge the Council's efforts, particularly in the case of such a contentious application, to take residents' wishes into consideration. In principle that is to be applauded. Nevertheless, the Council had a duty to take its own decisions on the agreement of the conditions attached to the planning permission, which it has singularly failed to do. Eighteen months after the submission of the details which the Council had requested to fulfill the terms of Condition 15 - and which its officers acknowledge were submitted as requested - it still has not formally issued a statement agreeing that the requirements of Condition 15 have been met. I regard that failure as maladministration.
46. I am concerned by the way in which the Council has suggested that the developers should have appealed against Condition 15 if they thought it unreasonable, and also

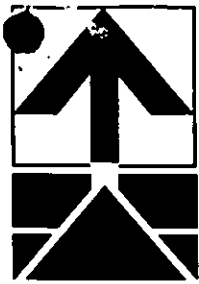
that it threatened to serve a breach of condition notice which it had no intention of serving. The developers however did not consider Condition 15 to be unreasonable: their argument is that the terms of Condition 15 have long since been satisfied. Had the Council served a breach of condition notice, the developers would have had the opportunity to argue that point on appeal. The developers however could have appealed against the failure of the Council to determine the matter. They chose not to do so because of the advice they had received that such an appeal was likely to be time consuming and unsuccessful, given the terms of the Council's letter of 4 October that Condition 15 was satisfied and that they themselves had no objection in principle to Condition 15, which they believed to be a standard condition.

47. The consequence of the maladministration for the developers has been considerable financial loss. The Council should now compensate the developers by a payment sufficient to cover their abortive costs directly consequent on the Council's failure to discharge the condition in November 1996. I have identified those costs as the professional fees paid (£24,817) and the bank interest charges while the site was idle (£78,657): the Council should therefore now make a payment to the complainant of £103,464. The Council should also now promptly confirm approval of the details submitted as satisfying the terms of Condition 15.



Mrs P A Thomas
Local Government Ombudsman
Beverley House
17 Shipton Road
York
YO30 5FZ

16 December 1998



N.B.

Richardson's Botanical Identifications

Root identification
Vegetation surveys
Tree/Building investigations
Plant taxonomy

Dr Ian B K Richardson
BSc, PhD, CBiol, MIBiol, MIHort, FLS

Royal Borough of Kensington and Chelsea
Planning & Conservation
The Town Hall
Hornton Street
LONDON W8 7NX

The Innovation Centre
The University of Reading

Whiteknights
Reading RG6 6BX

Tel: (0118) 986 9552 (Direct line)
Fax: (0118) 986 9553

Tel: (0118) 986 1361 (Innovation Centre)

18-DEC-97

Your ref: DPS/ARB/DI/S

Our ref: 46/1501

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
19				19 DEC 1997			
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEEs	

Dear Sirs,

Root Identificaton - O/N PAR0000195

The root you sent in relation to the above on 02-DEC-97 has been examined microscopically for identification by comparative anatomical methods. Its structure was referable to that of *PLATANUS* (*Plane*).

Iodine test: alive. [The iodine test is a test for starch, stored in some cells of living tree roots, but which is more or less rapidly broken down by micro-organisms upon the death of a root in the soil.]

I trust this is of help. Please contact us if we can be of further assistance, but meanwhile I enclose an Invoice.

Yours faithfully,

Dr Ian B. K. Richardson.

John Peacock Planning

Consultancy Services in Town Planning and Development

① PC ✓ ② Copy to Nick Bentley
③ DT

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

15th December 1997

M.J. French, Esq.,
Executive Director Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AJ ACK
18 DEC 1997 32							
APPEALS	IO	REC	ARB	FIN PLN	CON DES	FEE	

cc N. Bentley ✓

Dear Sir,

4 St. Mary Abbot's Place, London W8: London Plane Tree

On 3rd December 1997, I received from you two letters dated 27th and 28th November respectively (post-marked 2nd December) concerning the above. Your letters have now been widely circulated and I feel obliged to comment on various points raised.

Firstly, you have not responded to the various points raised in my letter of 25th November, especially in connection with the plans clearly approved by your Council and the way in which you must have briefed your Committee before consent was granted.

You should know that the issue of the Tree Preservation Order has come as a complete surprise to all parties on the developers side. Your letter of 17th November is the first reference that we have had stating that the plane tree was covered by a TPO although it is, I understand, of a very long-standing nature having been made and confirmed in 1954. I note also that the issue of the TPO is not covered at all in the Committee report in respect of the original application, although it ran to some 21 pages. Surprisingly, the planning permission document itself makes no reference to the existence of a TPO and it has never featured in any correspondence from you until 17th November 1997.

To compound this serious error, you may wish to know that my clients' Official Certificate of Search (submitted by solicitors and returned dated 10th November 1995) makes no mention of the TPO and, furthermore, under the Standard Enquiries Section, the Council have answered "no" to the question as to whether or not the Council has resolved to make any Tree Preservation Orders affecting the site.

Further enquiries on the issue of trees were made by my clients' solicitors in November 1995 and in a reply dated 17th November 1995 your Council's letter was again quite silent on the issue of any TPOs.

There are obviously serious legal implications attached to the non-disclosure of what must be a Registered Land Charge and I have no doubt that the Council will be hearing further on behalf of my clients on this matter.

John Peacock, Dipl.E.P., M.R.T.P.I.,
(Chartered Town Planner)

105 High Street, Needham Market, Ipswich, Suffolk IP6 8DQ
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
VAT Reg. No. 571 4444 43

Now turning to your recent letters. Firstly, the question of Condition 15. I would ask you to revisit your letters of 4th October 1996 and 1st November 1996. In particular, your letter of 4th October accepted the scheme put forward at that time under drawing no. 6366-26C and 27B - you described it as a "satisfactory scheme for the purpose of Condition 15". You required two points to be addressed, namely the "various tree sizes" which had to be submitted to you "before this development is completed", and the question of the positioning of "two new trees" to replace the two sycamores felled with the Council's knowledge and consent. As you are quite aware, those details were submitted to you over 13 months ago in November 1996 following recommendations from your own officers and completely in accordance with their wishes. I would therefore be grateful if you would deal with this matter **immediately** by confirming acceptance of those details.

I now turn to the question of the London plane tree and details contained in your letter of 27th November. I would like to remind you that my clients were not the applicants when the original proposal was submitted, they did not commission the plans, and not surprisingly, did not attend the Committee meetings when this matter was discussed.

Under these circumstances, I am sure that you will wish to concur with my view that the most interesting cross section details submitted with your letter had not been seen by them before, and is evidently not one of those approved drawings referred to in the decision notice. It would appear that its status is one of a sketch detail presented by the then applicants in support of their proposal at the Committee meeting which took place in 1995.

The detail does, of course, bear little relationship to the approved drawings which show quite a different detail including a ground beam that happens to be just that, in the ground rather than airborne. I trust that you realise that the description "mini-pile" does not relate to the dimensions of the pile but simply the type of machinery used to install them. The impression that such piles can be "threaded through root systems" is, I am sure you will agree, subject to limitations.

Please look again at the approved drawings and in particular any references to foundation details. Please also look at your planning permission document and point out to me where there is any requirement for my clients to have submitted any further details to you as **Local Planning Authority** in respect of foundation works.

I have to say that I am amazed by the final paragraph of your letter of 27th November. For you to suggest that tree protection details have "still not been submitted or approved" flies completely in the face of correspondence exchanged with you. You have all of the details of how the "tree is to be protected". By way of confirmation, I should add that it is Counsel's opinion that the terms of two letters sent to my clients or their agents dated 9th October and 1st November 1996 respectively, when read together, constitute approval relating to Condition 3.

I await your early reply, and please note that for information purposes, a copy of all future correspondence will be sent to the Ombudsman's office for information.

Your faithfully,



John Peacock

RBK&C ARBORICULTURAL OBSERVATIONS

Address <u>New Build.</u> ↗ ↘	Appl. No. /	DC Officer / D.T.	Date of Obs. 12/12/97
Development 4 <u>St. Mary Abbotts</u>		For Info.	
Status of Tree(s): 1) C.A. YES/NO		2) T.P.O. YES/NO (If yes, give details)	

Comments

Further to your Connect message of 9/12/97 I would consider that on satisfactory attendance to the items below these conditions 3 can be discharged:

- 1) Installation of protective boarding to Linden Plane tree.
- 2) Laying of concrete hard surface to protect tree roots.
- 3) Confirmation ~~of~~ of foundation details particularly with regard to amended ground beam proposals.
- 4) Method statement regarding how stem water collection system will be installed.
- 5) Adequate notice will be given (approx 2 weeks) where tree pruning is required and that this will be carried out by a competent arborist.
- 6) Confirmation on foundation details and a method statement ~~such that~~ for re-building of west boundary wall in the context of ensuring maximum protection to trees in neighbouring gardens.
- 7) Adequate notice and agreed method by which hard surfacing within the courtyard will be removed prior to final surface installation.
- 8) Description of how and where all service runs, sewer connections, soakaway and ^{all} other activities involving trench excavation will be carried out.

Signed: Nick Bentley

Arboricultural Officer (print name): Nick Bentley



RIDD WOOD PARTNERSHIP
CONSULTING STRUCTURAL AND CIVIL ENGINEERS

Market House, 19/21 Market Place, Wokingham, Berkshire RG40 1AP
 Telephone: 0118 978 7930 Facsimile 0118 977 4689

P. Graham Ridd CEng MStructE
 John A. Wood BSc CEng MICE

Alan M. Dow CEng MStructE
 Graham L. Charlesworth
 Geoffrey Scott CEng MStructE

Partnership Secretary: Jean M. Price

~13.

Our ref: GS/AMS/S1006

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

11th December 1997

Attention: Mr N Bentley

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
15 DEC 1997							
APPEALS	IO	REC	ASB	FWD PLN	CON DES	FEES	

Dear Sirs

re: 4-8 ST MARY ABBOTS PLACE, LONDON W8

With reference to our meeting in your offices on the 8th December 1997 I consider the proposed reinforced concrete ground beam, in the vicinity of the tree, can be modified and repositioned to prevent damage to the roots of the London Plane tree.

I gather from our meeting that roots from the tree are likely to exist 200 to 300mm below the surface. The site survey you have in your possession reveals the existing ground level in the vicinity of the tree is 6.2 metres above datum. The Architect's drawings show the finished floor level inside the property is 6.7 metres above datum. When these levels are added to the edge beam detail provided by the Engineers, Scott-White & Hookins, the underside of the ground beam close to the tree is 400mm below ground level. There are no anti-heave precautions beneath the soffit of the beam. We believe by raising the ground beam so that the top of it is tight to the underside of the precast concrete ground floor units and reducing the depth of the ground beam by 75-100mm, the penetration of the ground beam would be reduced to between 225 and 250mm. The void beneath the floor could be vented by inserting air bricks between the floor beams as there is a gap of approximately 50mm between the underside of the beams and the underside of the infill blocks.

We have discussed the above proposals with the Project Engineer, Mr D J Westwell of Scott-White & Hookins and he appeared to be very sympathetic to these proposals and he is to approach his clients on this problem.

Yours faithfully
 RIDD WOOD PARTNERSHIP

G Scott CEng MStructE

11:32

R.B. of Kensington & Chelsea

9.Dec.19

Cabinet PLNNB

Inbasket

4 St. Mary Abbots

Tuesd

From Taylor, Derek

Mailed

9.Dec.1997

New

Page 1

Line 1

Our surveyor has just phoned - their eneingeer, a Mr Westwell, seemed perfectly amenable to our suggestions, said he couldn't see the need eithe for a900mm trench, and said he would speak to his client. Before I prepare a letter, can I ask you for a list of points that, if satisfied, would enable us to confirm that Condition 3 on tree protection will be discharge as long asthey are all observed? Thanks, Derek

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Replies

Reply

Top

Notes on meeting with Geoff Scott, Pidel Wood & Plus.

8/12/97. Ken T.M. re 4 St. Mary Abbots Place

Present N. BENTLEY ARB RBKC D. Tessler D.C. RBKC.

1) General discussion about planning history.

② NB. Concerned about excavation to a ^{depth} of 900mm, within 1.0 to 1.5m of tree. This was the proposed depth of excavation for ground beam as described by site foreman.

③ NB explained that in excavating this trench it is highly likely that major structural roots from tree would be encountered. Were there to be severed the short term stability and long term health of tree would be compromised.
Question: Can the foundation be designed where depth of excavation required is lessened?

④ G.S. A. Yes - but the piles have to have a ground beam to tie them in:

Floor level of room 6700. Ground level shown @ 6200. Eliminate engineering brick (Makes casting with accuracy more critical with ventilation elsewhere & reduce depth of ground beam.

This gives depth below g.l. to underside of g-beam of between 250 and 300mm. Under this further excavation of 150mm required for clay board however where roots are found in this region clay board can be cut to shape around.

⑤ Action G.S. telephone Developers engineers then write with synopsis of meeting, advice + telephone conversation. D.T to write to Developer.

NB 8/12/97

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Ridd Wood & Partners
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Berkshire
RG40 1AP

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Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643

04/12/97

F
**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

My reference: **DPS/ARB/D1/S**

Your reference:

Please ask for: **Nick Bentley**

Attn Mr A.Dow

Dear Mr Dow,

Re. 4, St Mary Abbots Place, London, W8.

Following your conversation with my colleague Mr Bentley, we look forward to meeting you on the 8th December 1997 and receiving your advice on foundation detailing for 4, St Mary Abbots Place, W8.

I can confirm that your charge of £55.00 per hour is acceptable.

Yours faithfully,

Chris Colwell
Senior Arboricultural Officer
for the Executive Director of Planning and Conservation

2-12-97 11:30am approx: Met with site foreman ~~SS~~ advised

line of north stretch pile. West of tree. none without trial holes

Piling on site Benny Weathers Piling 0181 666 3994.

Piling due to commence on east side of tree no trial holes. He said (foreman) would make machine suitable also said 'No roots run up by airspit'. I picked up sample of root laying on spirit.

Appears no intention of doing ~~exploratory~~ dig before any piling.

Pile also sunk further from tree directly on north side

Watched piling rig being operated by Benny Weathers wearing small men preparing to work in an area where no trial hole dug. To the ~~west~~ east of tree at east end of east west piling run.

Examined spirit + looked for roots: found on spirit: Send for analysis.

Further discussion with foreman still intends to install ground beam until he instructed otherwise \therefore go developer.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Richardsons Botanical Identifications
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02/12/97

F

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

My reference: DPS/ARB/DI/S

Your reference:

Please ask for: Nick Bentley

Dear Sir/Madam.

Tree Root Identification.

Please find enclosed a single root sample for which we require your opinion and report as to genus, species if possible and whether it is alive or dead.

I have today raised an internal order for your services which should be with you shortly.

Yours faithfully

Chris Colwell
Senior Arboricultural Officer
for the Executive Director of Planning and Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQ

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

28th November 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Landscaping Condition, 4 St. Mary Abbot's Place, W.8

I write with reference to your letter of 22nd September 1997, and the meeting held at the Town Hall on 4th September 1997.

With your letter you enclosed copies of drawings nos. 6366-26F and 27D, which detail trees, shrubs, planters, and a landscaping scheme generally, pursuant to the requirements of Condition 15 of the Planning Permission ref. TP/94/0644. I have noted the various points mentioned in your letter, including your last paragraph in which you do not actually ask the Council to confirm that this revised scheme meets the requirements of Condition 15, but purely ask whether the revisions comprise a scheme which would satisfy the requirements of Condition 15 if, indeed, it was formally submitted. You confirmed this understanding on the telephone.

The Planning Services Committee asked for a screen of trees to be incorporated in the landscaping scheme to serve the dual roles of protecting the amenity of the properties to the rear by limiting overlooking to acceptable levels, and "softening" the visual aspect of the development. In my letter to you of 4th October 1996, I confirmed the purpose of the Condition, and the requirements that flowed from it. It was always going to be a matter of balancing the purpose of the Condition with the restrictions of the site, and the fact that the denser the planting screen became the better the amenity of the adjacent property would be protected, but the more the amenity of the proposed house would suffer.

In my view the revised scheme now achieves as much that can reasonably be expected given the need to balance all the relevant considerations. From the neighbouring properties' point of view it will not provide a total screen and will not totally remove overlooking, and from the occupants of the proposed houses' point of view it will require care and effort to maintain. However, I believe that it does reduce overlooking to levels that are not unreasonable in a built up environment, and I believe that it is a scheme which can be maintained without an undue burden upon the new property.

Therefore, I confirm that, if you would agree to formally submitting the revised scheme depicted in plans 6366-26F and 27D, then I can see no reason why they should not be accepted as meeting the requirement of Condition 15. Once I receive your written advice, with two further copies of the relevant drawings, I can issue a letter confirming that the requirements of the Condition have been satisfied.

I await your instruction in this regard.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

Memorandum

To: Derek Taylor

From: Arboriculture

c.c:

My Ref: DPS/ARB/NB/D1

Your Ref:

Room No. 317

Please Ask For: Nick Bentley

Ext. 3249

Date: 27th November 1997

4 St Mary Abbots Place, W8

Letter from John Peacock Planning 25th November 1997.

I am please to note that Mr Peacock's clients through their contractors will be exercising the utmost care to the best of their ability to protect the London Plane Tree.

However I am gravely concerned that the intention in implementing the planning permission of constructing a ground beam requiring a trench excavation up to 900mm deep within 1 metre of the tree will result in severe if not terminal harm to the tree where roots may be cut for the purposes of installing the beam.

Since this intention was explained to me by the contractor on site and reiterated to me by Mr Peacock during my meeting with him of the 20th November 1997, I have received no assurance that works will not proceed in a manner that will cause severe harm to the tree as stated above.

I have met with John Gale in the District Surveyors Office and explained the basics of the foundations proposed and why I am concerned. He gave me his opinion that it would be possible to design and implement foundations that would not require a trench for a ground beam so close to the tree.

It the third from last paragraph of his letter Mr Peacock seems to be informing the Council that a ground beam will be installed and that the consequences of doing so will rest with the Council via the consent granted.

The Council must be able to rely on Condition 3 to ensure the protection of the tree from the potential consequences of installing a ground beam so close and at such depth to it. I consider it critically important that this matter is resolved before irreparable harm is done. So far my confidence has not been achieved.

Nick Bentley

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

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27th November 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Plane Tree, 4 St. Mary Abbot's Place, W.8

I write with reference to your letter of 25th November 1997, and your prior meeting at the above site with the Council's Arboriculturist, Mr Bentley, of 20th November.

I am encouraged to note that, as you state at the bottom of your second page, your clients will ensure, via their contractors, that the utmost care and attention will be given to protecting the Plane tree. As you are aware, the tree is protected by a Tree Preservation Order, and the design of the approved building and Conditions attached to the Planning Permission were all directed at ensuring that this valuable tree is retained, protected during works, and safeguarded thereafter.

In granting planning permission there was absolutely clear understanding, by all parties involved, that the need to protect and preserve the Plane tree would necessitate a suitably sensitive approach to laying the foundations for the development. The applicants, and their consultant arboriculturist Mr Grainger, explained to Officers, and the Planning Services Committee, that there was no need to carry out any significant excavation in areas that would be seriously damaging to the Plane tree. The plan was for the greater part of the development to sit on a raised raft, generally above the falling ground level, to avoid serious damage to the trees root system. For explanation at Committee, the applicants presented a coloured up drawing to demonstrate exactly how the raft sat above the falling ground level on the site, only cutting into the ground at the eastern boundary. I enclose a copy of that drawing, and you will see that there is a clear void beneath the raft and above the ground level. Mini-pile supports are "threaded through" the root system. You will also note that the existing ground level falls across the site from North to South, as well as from East to West.

The reason that the applicants produced this drawing for Committee was that, on their first consideration of the proposal, the Committee asked for a simple clear drawing to illustrate exactly how the raised raft would work. The Committee deferred the application on other grounds too, but this was one of their specific requests.

Planning permission would not have been granted if it had involved the loss of the tree. The construction of the building does not necessitate the loss of the tree.

R

Mr Bentley, following his site inspection, has confirmed that it certainly appears at this point in time that the way the contractors are proposing to construct the building, by carving out a trench of 900mm depth within 1m of the tree, will be likely to result in very severe root loss, to the extent that it would be unlikely to survive. As I understand it, you are maintaining that there is no alternative; the implication is that there is only one way to carry out the approved development, whatever the cost to the tree. Following his site inspection, Mr Bentley immediately checked with the Council's District Surveyors as to whether it is indeed the case that the only way to construct the building, according to the approved drawings, must involve a trench of the depth and position as that now proposed. The Surveyors advised that this was not the case, and that there would be other methods of supporting the raft that did not require a 900mm deep trench. It would appear to me that the contractors have taken their chosen course not with the security of the tree as their primary consideration, but that other considerations, maybe financial, are driving them; these considerations must now be reconciled to ensure that this tree survives.

I do not accept, therefore, that this is the only way to support the raft for this building. There are clearly other ways, achieving the same end in terms of supporting the raft, which would not involve the degree of root severance that would result from the currently proposed method. In order to protect the tree, the methods of support used must be revised to the extent that such severance is absolutely minimised.

In my opinion satisfactory tree protection details have still not been submitted, or approved, pursuant to Condition 3, and no letter has been issued discharging this Condition. The reason no such letter has been issued is that this Council has never been satisfied as to what limited measures have been proposed, and that caution is shown as prudent by the present events. The degree of harm to the tree that is likely to result from the work that is now proposed can only be in direct conflict with the purpose and requirement of Condition 3, and the Tree Preservation Order, and the assurances given in your own letter. I advise that satisfactory details of how the tree is to be protected should be submitted forthwith.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

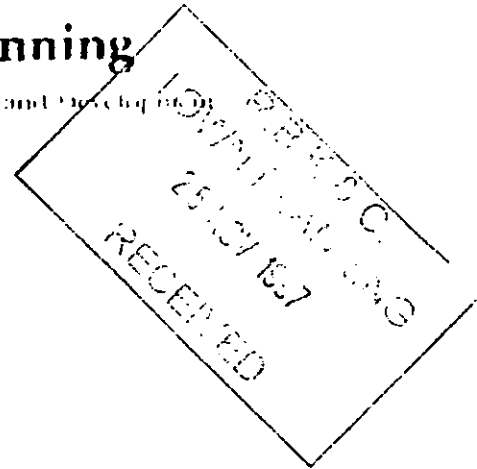
① PG

② DT & Copy to
Nick Bentley

OM 26/11

John Peacock Planning

Consultancy Services in Town Planning and Conservation



Our reference: C541/JCP
Your reference: TP/94/0644

25th November 1997

Michael J. French, Esq.,
Executive Director of Planning and Conservation,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London,
W8 7NX

CC.
N. Bentley

For the attention of Mr. D. Taylor and Mr. N. Bentley

Dear Sir,

4 St. Mary Abbot's Place, London W8: Protection of London Plane Tree

I refer to your letters dated 23rd October and 17th November 1997 to H. Randell & Son Ltd., and to my subsequent meeting on site with Mr. N. Bentley and his Assistant on Thursday, 20th November 1997.

I believe it is appropriate for me quickly to recap on my client's interest and involvement in this site. The scheme approved by the Council by planning permission dated 11th July 1995 was conceived by Messrs. Roger Carpenter, Kerr and O'Hara, Architects, who submitted at that time a series of drawings to scale 1:100 as listed in the Schedule contained on the first sheet of the planning permission document. As I understand it, those drawings were the only ones available to your officers in presenting the application to Committee for consideration.

That being the case, I would particularly draw your attention to the following drawings which dealt with the issue of the tree and its proximity to the new building

Drawing No. L(--) 02.D - Basement Plan

This drawing has on it a detail of the basement plan and a hatched line indicating the position of the foundations of the building closest to St. Mary Abbot's Place road. The hatched line is noted;

"Line of mini pile foundations and suspended ground floor construction over to avoid severing of tree roots + maintain adequate supply of oxygen."

There is no indication on that plan precisely the location of any pile or other "foundations" detail such as a ground beam.

Drawing No. L(-) 01.D - Ground Floor Plan

This drawing quite clearly includes details of the London plane tree and its proximity to the proposed building which is, at best, 1 metre to the north elevation (from the northern face of the trunk to the closest part of the construction work giving access to the kitchen).

Drawing No. L(-) 03.D - First Floor Plan

This plan again clearly demonstrates that the first floor balcony is within 950mm of the northern face of the tree trunk.

Drawing No. L(-) 06.D - Section A/Elevations

I note that this drawing includes sketch details of a pile at least 325mm and probably 350mm in diameter together with part of a ground beam which measures some 700mm in width and over 500mm below what is described as "ground level". That plan also includes the note:

"8-9m ground clearance after permissible crown raising to existing plane tree - primary boughs retained."

It also contains a note:

"Mini-pile foundations threaded through plane tree roots" - the details of which show the ground beam at least 750mm wide and piles of varying diameters.

Once again I have considered carefully the conditions appended to planning permission TP/94/0644 and in particular to correspondence which took place with the Council last year in respect of "tree protection". I should also like to record that this matter has been the subject of Advice obtained from Counsel who is of the opinion that your letters dated 9th October and 1st November 1996 respectively, when read together, constitute approval relating to Condition 3 of the permission.

I would further wish to comment that there is no requirement in the planning permission for any further details of the proposed foundation works to be submitted and approved to the Council as **Local Planning Authority**.

In reaching a decision on this matter, no doubt your officers briefed your Committee on the question of TPO14 made in 1954, to **British Standard 5837 of 1991, of Tree Preservation Orders - A Guide to the Law and Good Practice** published by the Department of the Environment in October 1994, to **DoE Circular 36/78**, and to **Sections 197 - 210** inclusive of the **Town and Country Planning Act 1990**.

Having of course given very careful consideration to all of these material considerations, the Committee granted planning permission for the development which is presently being implemented by my clients. It must have been the case that all those concerned in the decision-making process were fully aware of the possible consequences of allowing development to take place as proposed on the submitted plans.

Under these circumstances, I have to record that my clients are therefore concerned to be threatened by the Council as set out in recent correspondence. This is not to say that they will not seek to ensure to the best of their ability via their contractors that the utmost care and attention will be given to protecting the tree as required by condition, and as would be commensurate with the building of the house as approved by the Council.

Mr. Bentley will know that it would be impossible for my clients' contractors to work on the super structure of the house without amending the position of the existing boarding protecting the tree trunk. A working space of at least 1.2 metres will be required to enable a working scaffolding area to be erected which will mean repositioning the boarding at least back to the front (north) face of the tree trunk. The temporary hard surface will, of course, be retained during construction works under the scaffolding and within the working area.

As regards the piles and ground beam installation, you will know that the contractors have undertaken to dig by hand, down to a depth of approximately 1 metre over the positions of the mini piles required as indicated on the enclosed plan. Within reason, you will note that there is some leeway for the installation of the piles should major tree roots be encountered within the trial holes. As regards the ground beam, however, you will know that a construction trench of some 900mm in depth will be required to pick up the pile caps. It seems to me that this work must have already been considered in some detail by the Council in looking at the original drawings and, I repeat, the potential consequences of this work on the tree must have been assessed before planning permission was granted.

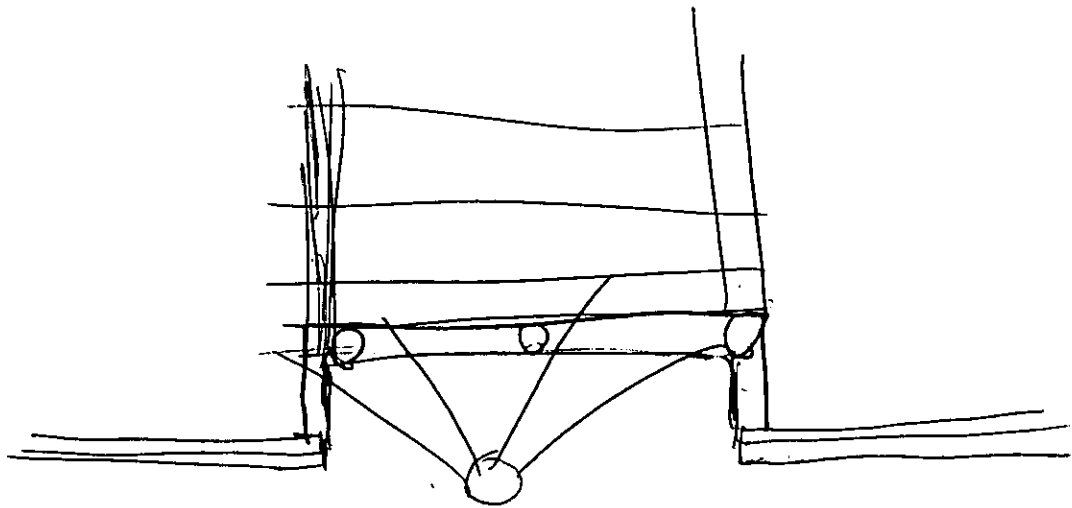
My clients and I know their contractors have wholly taken into account the protection of the plane tree to the best of their ability. However, I note that the Council have threatened action, including the service of a Stop Notice in this case, and I would like to place on record that in the event of such action by the Council, my client will seek to pursue his case in open public forum, i.e. Public Inquiry and/or through the Courts as appropriate. Any liability incurred by my clients occasioned by the Council's action in this respect will, I am instructed, be vigorously pursued.

Mr. Bentley will again know that work is progressing rapidly on the ground works which are due for completion within the next few days.

Yours faithfully,



John Peacock



TPO ORDER NO. 14 FAXED TO JOHN PEACOCK

***** -JOURNAL- ***** DATE 19-11-1997 ***** TIME 12:34 *****

NO.	COM	PAGES (START)	DURATION	X/R	IDENTIFICATION	DATE	TIME	DIAGNOSTIC
32	OK	14	00:10'50	XMT T	901449722234	19-11	12:23	8404402C0800

-RBK&C H'WAYS & TRAFFIC -

***** - 0171 361 3156- *****

TO: Mr. Peacock

FAX NO: 01449 727234

FROM: Dean Gibson

DATE: 19.11.97

NO. OF PAGES (INCLUDING THIS ONE): 16

MESSAGE: As requested.

T.P.O. 14

CONFIRMED

T.P.O. 14

KENSINGTON

THE TOWN AND COUNTRY
PLANNING ACT, 1947.

THE COUNTY OF LONDON
(KENSINGTON NO. 14)
TREE PRESERVATION ORDER,
1954.

J. G. BARR,
The Solicitor,
London County Council,
The County Hall,
Westminster Bridge,
S.E.1.

Copy of the County of London (Kensington No. 14)
Tree Preservation Order, 1954, as confirmed by the Minister
of Housing and Local Government on the 9th day of September,
1954.

TOWN AND COUNTRY PLANNING ACT, 1947.

THE COUNTY OF LONDON (KENSINGTON NO.14)
TREE PRESERVATION ORDER, 1954.

THE LONDON COUNTY COUNCIL (in this Order called "the authority") in pursuance of the powers conferred in that behalf by Section 28 of the Town and Country Planning Act, 1947, hereby make the following Order:-

1. In this Order -

"the Act" means the Town and Country Planning Act, 1947;

"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; a lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and

"the Minister" means the Minister of Housing and Local Government

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, or wilfully destroy or cause or permit the cutting down, topping, lopping or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map sealed with the Common Seal of the authority and marked "Map referred to in the County of London (Kensington No.14) Tree Preservation Order, 1954", which map and a certified copy thereof have been deposited for inspection the former at the offices of the authority and the latter at the offices of the Council of the Royal Borough of Kensington, which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule.

3. An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent.

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision, and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied -

(a) that the refusal or condition is in the interests of good forestry; or

(b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

6. (1) Where consent is granted under this Order to fell any part of a woodland then unless -

(a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or

(b) the authority with the approval of the Minister dispense with replanting,

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall subject to the provisions of this Order replant the said land in accordance with the direction.

(2) Any direction given under paragraph (1) of this Article may include requirements as to -

- (a) species;
- (b) number of trees per acre;
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, draining, removal of brushwood, lop and top; and
- (e) protective measures against fire.

7. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

8. Subject to the provisions of this Order, any person who has suffered damage or has incurred expenditure in consequence of any refusal of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such damage or expenditure.

Provided that no compensation shall be payable in respect of damage suffered or expenditure incurred by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

9. In assessing compensation payable under the last preceding Article or under Section 22 of the Act as applied by this Order account shall be taken of:-

(a) any compensation or contribution which has been paid in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 28 of the Act or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) Act, 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act, 1932, and

(b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.

10. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority such service to be effected by delivering the claim at the offices of the authority addressed to the Clerk thereof or by sending it by prepaid post so addressed.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the authority, or of the Minister, as the case may be, or where an appeal has been made to the Minister against the decision of the authority, from the date of the decision of the Minister on the appeal.

11. Any question of disputed compensation shall be determined in accordance with the provisions of Section 110 of the Act.

12. Any person contravening the provisions of this Order is guilty of an offence under subsection (6) of Section 28 of the Act and liable on summary conviction to a fine not exceeding fifty pounds; and if in the case of a continuing offence the contravention is continued after conviction he is guilty of a further offence thereunder and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued.

FIRST SCHEDULE

Trees specified individually
(uncircled in black on the map).

Number on map	Description	Situation
T.1	One Plane	11, Warwick Gardens
T.2	One Plane)	Site of 29, Warwick Gardens
T.3	One Plane)	
T.4	One Thorn)	
T.5	One Thorn)	31, Warwick Gardens
T.6	One Thorn)	38, Warwick Gardens
T.7	One Lime	46, Warwick Gardens
T.9	One Thorn	78, Warwick Gardens
T.10	One Thorn	
T.11	One Laburnum)	
T.12	One Robinia	61, Warwick Gardens
T.13	One Ailanthus	63, Warwick Gardens
T.14	One Sycamore	102, Warwick Gardens
T.15	One Sycamore)	10, Pembroke Gardens
T.16	One Sycamore)	
T.17	One Flowering Almond	17, Pembroke Gardens
T.18	One Horse Chestnut	23, Pembroke Gardens
T.19	One Ailanthus	1, Edwardes Place
T.20	One Flowering Almond)	

Trees specified by reference to an area.

None.

Groups of Trees
(within a broken black line on the map).

Number on map	Description	Situation
G.1	Two Flowering Almond Three Flowering Plum One Thorn Two Holly	Land comprising gardens fronting Nos. 1 to 5 (consec.), Edwardes Place
G.2	One Poplar Three Plane One Horse Chestnut	Land fronting St. Mary Abbot's Place at rear of Nos. 19 to 25 (odd), Warwick Gardens
G.3	Three Laburnum Two Lime One Flowering Crab Two Flowering Plum One Birch Two Plane One Thorn One Sycamore	Land comprising garden fronting No.13, Pembroke Gardens, the garden of No.73, Warwick Gardens, and the garden fronting No.71, Warwick Gardens

FIRST SCHEDULE (continued)

Number on map	Description	Situation
G.4	Three Lime Three Plane One Ailanthus	Land comprising gardens fronting Nos. 49 and 51, Warwick Gardens
G.5	Eight Lime	Land comprising part of the garden of No.43, Warwick Gardens
G.6	Three Lime One Laburnum One Weeping Elm One Flowering Cherry One Flowering Plum Four Flowering Crab Six Poplar	Land comprising gardens at the side of Nos. 1 and 12, Pembroke Studios, fronting No.35, Pembroke Gardens, the garden of No.41, Warwick Gardens, and the gardens fronting Nos. 35, 37 and 39, Warwick Gardens
G.7	Six Thorn Three Laburnum One Sycamore One Flowering Cherry Five Robinia Two Holly One Flowerin, Plum	Land comprising gardens fronting Nos. 11 to 27 (odd), Warwick Gardens
G.8	Three Laburnum Two Flowering Almond One Magnolia Three Plane	Land comprising gardens fronting Nos. 28 to 34 (even), Warwick Gardens
G.9	One Sycamore One Lime One Laburnum One Horse Chestnut	Land comprising garden fronting Kensington High Street at the side of No.1, Warwick Gardens

WOODLANDS - None

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority

- that is dying; or dead or has become dangerous;
- (1) to the cutting down, topping or lopping of any tree
 - (2) to the cutting down, topping or lopping of any tree-

(a) in compliance with an obligation imposed by or under an Act of Parliament;

(b) in pursuance of the power conferred on the postmaster General by virtue of Section 5 of the Telegraph (Construction) Act, 1908;

(c) in pursuance of the powers conferred by Section 24 of the Regulation of Railways Act, 1868;

(d) for the purpose of preventing or abating a nuisance;

(e) in the case of a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking;

(f) by or at the request of an Electricity Board within the meaning of the Electricity Act, 1947, where such tree obstructs the construction by the Board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act, 1919, and the Electric Lighting Act, 1882, or interferes or would interfere with the maintenance or working of any such line.

THIRD SCHEDULE

Provisions of Part III of the Act as adapted and modified to apply to this Order.

15. (1) The Minister may give directions to the authority requiring that any application for consent under the Order, or all such applications of any class specified in the directions, shall be referred to the Minister instead of being dealt with by the authority, and any such application shall be so referred accordingly.

(2) Where an application for consent under the Order is referred to the Minister under this section, the provisions of Articles 4 and 5 of the Order shall apply in relation to the determination of the application by the Minister as they apply in relation to the determination of such applications by the authority.

Provided that before determining any such application the Minister shall, if either the applicant or the authority so desire, afford to them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

(3) The decision of the Minister on all applications referred to him under this section shall be final.

16. (1) Where application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions or where any certificate or direction is given by the authority, then if the applicant is aggrieved by their decision on the application, or by any such certificate, or if the person directed is aggrieved by the direction, the applicant or that person, as the case may be, may, by notice in writing served within 28 days from the receipt of notification of their decision, certificate or direction, or such longer period as the Minister may allow, appeal to the Minister.

(2) When an appeal is brought under this section from a decision, certificate or direction of the authority, the Minister may allow or dismiss the appeal or may reverse or vary any part of the decision of the authority, whether or not the appeal relates to that part, or may cancel any certificate or

cancel or vary any direction, and may deal with an application as if it had been made to him in the first instance, and the provisions of the last foregoing section shall apply, subject to any necessary modifications in relation to the determination of an application by the Minister on appeal under this section as they apply in relation to the determination by the Minister of an application referred to him under that section.

(3) Unless within two months from the date of receipt of an application for consent under the Order, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either:-

(a) give notice to the applicant of their decision on the application; or

(b) give notice to him that the application has been referred to the Minister in accordance with the directions given by him under the last foregoing section;

the provisions of subsection (1) of this section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the expiration of the said period of two months or the extended period agreed upon as aforesaid, as the case may be.

21. (1) Subject to the provisions of this section, if it appears to the authority that it is expedient that any consent under the Order granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the consent to such extent as appears to them to be expedient as aforesaid.

Provided that no such order shall take effect unless it is confirmed by the Minister, and the Minister may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

(2) Where an authority submit an order to the Minister for his confirmation under this section that authority shall furnish the Minister with a statement of their reason for making the order and shall serve notice of the making of the order on the owner of the land, and on any other person who in their opinion will be affected by the order, and if within the period of 28 days from the service thereof any person on whom the notice is served so requires, the Minister shall, before confirming the order, afford to him and to the authority an opportunity of appearing before and being heard by a person appointed by the Minister for that purpose.

(3) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed.

Provided that the revocation or modification of consent shall not affect so much of those operations as has been carried out before the date on which the order was confirmed as aforesaid.

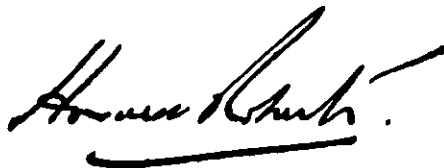
(4) Where a notice has been served in accordance with the provisions of subsection (2) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Minister under subsection (1) of this section.

22. (1) Where any person is affected by an order under the last foregoing section, or by a notice served on him under subsection (2) of the foregoing section in a case where the order is not confirmed, then, if on a claim made to the authority within the time and in the manner prescribed by Article 9 of the Order it is shown that he has incurred expenditure in carrying out work which is rendered abortive by the revocation, or modification, or stay of operations, as the case may be, or has otherwise suffered loss or damage which is directly attributable to the revocation, modification or stay of operations, the authority shall pay to that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section any expenditure incurred on matters preparatory to acting on the consent shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid, no compensation shall be paid under this section in respect of any work carried out in the period after the making of the Order and before the grant of consent which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of any interest in land) arising out of anything done or omitted to be done during that period.

GIVEN under the Common Seal of the London County Council this Twenty day of April One thousand nine hundred and fifty-four.

SEALED BY ORDER



Clerk of the Council.

The County Hall,
Westminster Bridge, S.E.1.

P.2204

The Minister of Housing and Local Government in exercise of the powers conferred upon him by subsection (8) of Section 28 of the Town and Country Planning Act, 1947, hereby confirms the above Order.

GIVEN under the official seal of the Minister of Housing and Local Government this ~~ninth~~ day of September, nineteen hundred and fifty-four

M. D. ...
Assistant Secretary,
Ministry of Housing and Local
Government.

BB

PRESERVATION ORDER. 1954

The official record of the
Warren Commission
official records will include
September, 1954
filed here.

(Signed) E.M.T. Ad
Assistant Secretary
Ministry of Housing and
Urban Development



I hereby certify that this is a true copy of:

The County of London (Kensington No 14)
Tree Preservation Order, 1954

Signed.....*J. Coburn*.....

Miss J. Coburn, Head Archivist
Greater London Record Office

Date: 30 June 1986

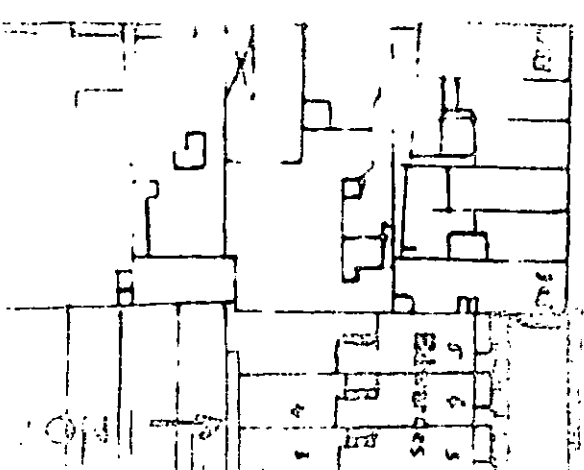
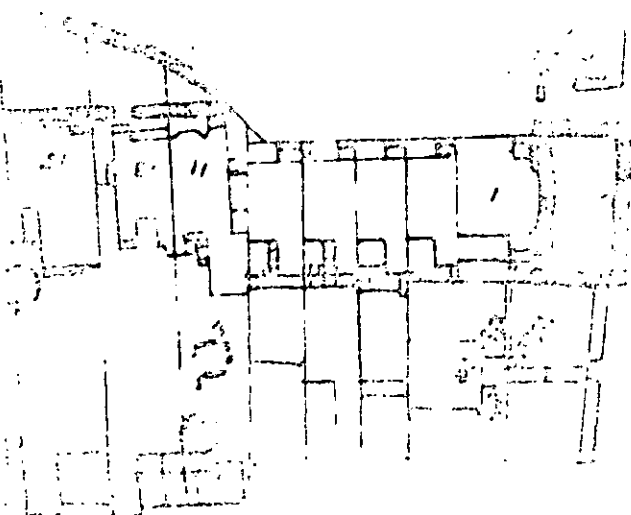
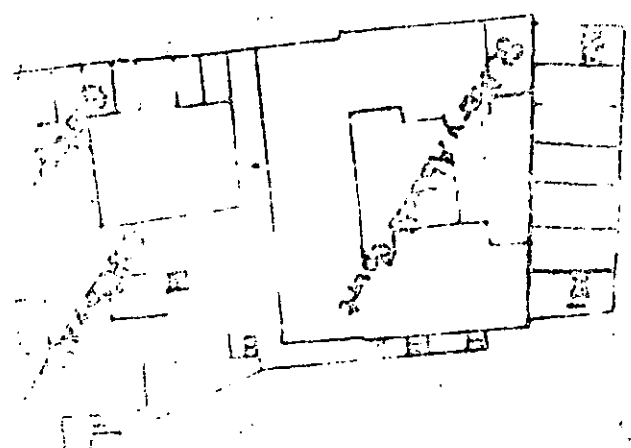
MAP REFERRED TO IN THE COUNTY OF LONDON
(KENSINGTON No. 14) TREE PRESERVATION ORDER 1954



Handwritten notes in the bottom right corner of the map area:

1. The above order is in
accordance with the
provisions of the
Town and Country
Planning Act 1947
and the Kensington
Local Act 1953

FEDERAL BUREAU OF INVESTIGATION
 DEPARTMENT OF JUSTICE
 WASHINGTON, D. C. 20535
 NOV 19 1963



INSIDE

STAIRS

STAIRS PLANT

Report of [Name] on
 [Date]
 [Location]
 [Details]

18-11-97 Conversation with John Peacock.

1) Discussed Pump hole

2) Discussed Foundations. + Tree Roots.

I refer condition 3. Discuss location of pile & flexibility therein.

My concern over root resistance by ground beams in a C. 700mm below exty. gnd. lvl.

Mention TPO exemption seems not to apply - being curbed by D.O.E.

Faxed copy of letter reping to stop notice / earlier ^{to} ~~from~~ Paulell + copy of drawing --020.

F

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Randell
F.A.O. S.R.Mallett
68-72 Webbs Road
London
SW11 6SE

Switchboard: 0171-361 2605
Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643

17/11/97

My reference: DPS/ARB/D1

Your reference:

Please ask for: Mr Bentley

Dear Sir,

4 St Mary Abbots Place London, W8: Protection of London Plane Tree

The London Plane tree on the above site is protected by Tree Preservation Order and by conditions pertaining to the planning consent that is being exercised.

I have been informed by a member of my Arboricultural staff that the tree is seriously threatened by the proposed construction of foundations as described to him by the site manager. More specifically the proposed pile and ground beam foundations are likely to sever major structural roots.

I take the matter of the protecting this tree extremely seriously and will not hesitate to instruct the serving of a stop notice where I consider your activities to pose a threat to its continued well-being. Were you to be in breach of Condition I would give strong consideration to the use of tree protection legislation as detailed in the Tree Preservation Order itself and the Town and Country Planning Act 1990. The maximum fine in a magistrates court for the destruction of a protected tree is £20 000.

Condition 3 specifically refers to the protection of the tree during building and other operations. A number of matters were discussed with the previous contractors, a crucial one of which appears to have been disregarded. A large hole has been dug to accommodate pumping machinery in an area designated as tree protection. This must be attended to with the complete reinstatement of levels to match the surrounding area finished with a layer of concrete to withstand vehicle and piling rig loadings.

Given the above concerns I would be pleased to receive your detailed proposals with regard to condition 3 of the Planning Permission which covered the safeguarding of the tree.

Your attention to these matters is required as a matter of urgency; please confirm how you intend to construct the foundations for the property without harming tree roots.

Your faithfully,

M.J.French
Executive Director of Planning & Conservation

cc. **Mr J. Eyton Jones**
Mr D. Taylor

● CHRONOLOGY

- 12-9-96 NB. Met Guardian Foundation + agreed: Tree Crib ~~Protection~~ plus retention of garage bases.
- 2-10-96 Above confirmed in writing to NB.
- 11-10-96 A.F. Letter: No Tree Protection: ^{as agreed?} Works started. Cons of sycamores, Ground Penetrating Radar.
- 11-10-96 A.F. Letter: Landscaping + sycamores.
- 25-10-96 D.A writes to Guardian. Requesting additional concrete raft protection
- 9-10-96 " " " " 1) Tree Protection OU. (Crib)
2) Leave handtending.
3) Prune crown 20% to compensate.
- 25-10-96 M.J.F. ⇒ A.F. Re felling Sycamores
Pruning NOT required.
- 1-11-96 D.T. ⇒ G.E. Jones.
- 1-11-96 D.A ⇒ Guardian. Re-iteration. Pruning Not Required. G-PR?!?
- 1-11-96 D.A ⇒ G.E. Jones. re landscaping.
- 1-11-96 Guardian ⇒ D.A. Re letter of D.A on 25/10/97: passed on.
- 7-11-96 A.F. Replanting sycamores + landscaping

PLANNING AND CONSERVATION


THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Randell
68 - 72 Webbs Road
London
SW11 6SE

Switchboard: 0171-9
Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3463

23 October 1997

FILE NB
1811
pw / i agree, no
exemption in
respect of P.P.
JZ.
L
IF

KENSINGTON
AND CHELSEA

My reference: DPS/ARB/D1/S

Your reference:

Please ask for: Mr Bentley

F.A.O. S.R.Mallett

Dear Sir,

Re. 4 St Mary Abbots Place, London. W8

Thank you for your letter of the 17th October 1997, I note that you will be commencing excavations at the above address in due course.

Please be aware that the existing London Plane tree towards the centre of the site is being protected by both the hoarding erected around its trunk and by the concrete around its base. Neither of these are to be removed without the written authorisation of either myself or the planning case officer.

From time to time I or my staff will be visiting the site; however do not hesitate to contact the arboricultural section if you are in any doubt about construction matters that will or appear likely to affect the tree.

Yours faithfully,

CHRIS COLWELL
Senior Arboricultural Officer
for the Executive Director of Planning and Conservation

cc. D.Taylor, Development Control

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
20 OCT 1997						(176)	
APPEALS	IO	REC	ARB	PLN	CON DES	FEES	



SINCE 1926

H RANDELL & SON LIMITED
 68-72 WEBBS ROAD
 LONDON SW11 6SE
 TELEPHONE 0171-223 5448
 FACSIMILE 0171-924 3628

Our Ref: SRM/PAS

The Council's Arboricultural Officer,
 The Royal Borough of Kensington & Chelsea,
 The Town Hall,
 Hornton Street,
 London, W.8. 7NX

17th October, 1997.

RE: NO. 4 ST. MARY ABBOT'S PLACE, LONDON, W.8.

We write with reference to the above and your correspondence Ref: DPS/PV/TP/94/0644/G/18/2195 dated 11th July, 1995, Item No. 14 on Page 3 and hereby give notice of excavations due to re-commence.

We have been appointed as the Main Contractor adopting previously commenced excavations by others, and presume you have already been notified of those.

Should you have any queries please do not hesitate to contact the writer.

Yours faithfully,

S.R. Mallett
 S.R. MALLETT
 CONTRACTS MANAGER

Copy to:- K. Gill - Gill Associates



REGISTERED IN LONDON NO. 493493



CHARTERED
 BUILDING
 COMPANY.

FOUNDER MEMBER



Oct 14 97

X

Work seems to have resumed with diggers.

Spoke to Derek Taylor, who said

that a letter has come from E Jones

saying that a slightly modified landscaping

scheme is on the way (D.T. expects no

significant changes); and that he is

preparing obscure glass along the front

back windows to prevent overlooking.

DT says that may meet the overlooking

problem, although has not one called

house like that? He will send me

the new scheme and ask for comments.

I replied so, but he must expect a

strong objection. A well-eyed window is

still a window. Overlooking is a big one

objection. What happens if a new

neighbour asks if we would mind the

window being opened to see the bedroom?

17th July 1997

Our ref.: 9603:11 and 15

N. M. A. Lambarde-Scott
Scott Davidson, Surveyors
113 Westbourne Grove
London W2 4UP

Dear Mr. Lambarde-Scott,

11 and 15 Warwick Gardens, W14 and St. Mary Abbot's Place, London W8 6LS

Further to our telephone conversations and correspondence earlier in the year, I understand that there has been no sign of any site activity since work came to a stop early in the new year, now approximately 6 months ago. This is clearly contrary to items 8 and 7 respectively of the two Awards, each requiring that the works shall be carried through with reasonable expedition after commencement and so as to avoid any unnecessary inconvenience to the Adjoining Owners.

There is no advantage in reinstatement during the summer months, but I suggest that Adjoining Owners should reckon to have their gardens reinstated during the dormant planting season next winter and in time for the spring of 1998. To this end, and to avoid unnecessary repetition of Notices etc., may I propose for your agreement or comment the following timetable ?

Recommencement: Should the Building Owner wish to recommence works under the current Notices and Awards, a fresh programme to be submitted by 1st September 1997 for agreement by the Surveyors and for completion of the Works under the current Awards complete with all reinstatement with reasonable expedition and, at the latest, by 28th February 1998.

Abandonment: By Award or other agreement between the two Surveyors, reinstatement of Adjoining Owners' gardens, party fence walls etc. to be completed, together with all other matters arising out of the two Awards, by Christmas 1997.

Please would you signify your agreement to such arrangements which would allow your Appointing Owners further periods of grace, firstly to decide on how to proceed and secondly to recommence the works if this is their choice?

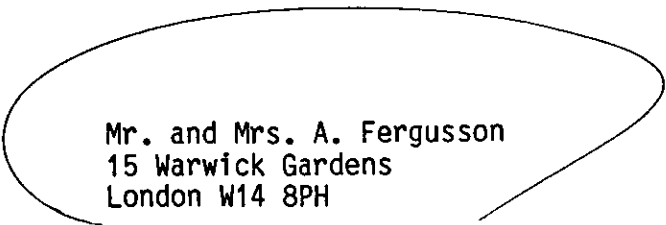
While writing, perhaps you could also confirm that your Appointing Owners are still the owners of the land as at the time the Awards were published ?

Yours sincerely,


Adrian Betham
Betham Associates, Architects

PS: We have since spoken. AJB

cc: Mr. and Mrs. P. Mullins
11 Warwick Gardens
London W14 8PH


Mr. and Mrs. A. Fergusson
15 Warwick Gardens
London W14 8PH

R

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Ferguson
15 Warwick Gardens
London
W14 8PH

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

15 July 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/H/ Your reference:
DT

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

Further to your recent correspondence enquiring as to the present state of affairs relating to the above site, I write to provide you with a short summary of the situation.

I apologise for not writing sooner, however there have been two reasons for this which I will now explain.

Firstly, since the contractors left the site several months ago there has been no movement in negotiations at all. It is not that discussions have been taking place without consulting you, it is simply that nothing has taken place. The owners of the site have not responded to enquiries as to whether they intend to continue with the development or not, and have not submitted any further documents or drawings relating to the detailed treatment of the site. It would appear that the last submitted drawing, of which you were sent a copy, is their final attempt at a negotiated solution, and that, at least for the present, they are not interested in returning to the table to re-open the matter.

Secondly, and no doubt the reason behind the above, the owners of the site have now taken the matter to the Ombudsman. The complaint to the Ombudsman is on the ground that the Council have acted unreasonably in delaying confirmation of acceptance of details in respect of Conditions attached to the Planning Permission. The Council is at present preparing a response to that complaint.

I will write again as soon as there are further developments.

Yours faithfully,

Derek Taylor
Area Planning Officer
for
Executive Director, Planning & Conservation

cc. Councillor Miss Elizabeth M. Christmas MBE

X

From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Councillor Desmond Harney OBE,
16, Stafford Terrace, W 8.

May 21, 1997

Thank you very much for writing. Yes - we are having a rather sad spring with all that boarding sitting where our best shrubs and roses used to be while nothing goes on behind it, other than the gradual silting up with water and rubbish of the deep crater that may one day be a swimming pool. But I am grateful for your sympathy!

Meanwhile I am sending you what I wrote to Mr French last week in one more attempt to get him to confirm that he will apply the tree screen condition effectively. I cannot think why he wriggles so much, or constantly refuses to answer, or tries to deny us the right to agreement which you promised us as committee chairman. The absence of a new tree officer has nothing to do with it, even though his grasp of the problem may be more complete than Mr Austin's was.

If this too produces no serious response, I suppose we shall at last have to move into a higher gear.

With best wishes

**From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax 4114**

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

May 17, 1997

Dear Mr French,

St Mary Abbot's Place

It is nearly two months since I wrote to you inviting you to confirm that my memorandum of our meeting of February 21 was accurate; and asking for your assurance - despite the absence of a head of your tree department - that the developers would without further delay be instructed to provide drawings of a tree screen running the full length of the four party walls and of a fully functional height on installation.

I take it that your continued silence on that memorandum means that you have agreed it. There were, of course, other issues on which you were to keep us informed.

Since the provision of such a tree screen was clearly a Condition of planning permission, there can be no good reason for not requiring revised and appropriate drawings at once. They should be ready for the new tree officer to discuss with us when he is appointed.

Please would you confirm to me that these drawings have been requested, or otherwise explain to me why you have not insisted on them?

I should add that, as neighbouring householders, we feel we are being kept in the dark about matters that concern us and our properties directly. We are becoming increasingly frustrated by the protraction of this matter, and fear that our interests are not being protected as they should. I therefore request a full and early reply.

Yours sincerely,

Adam Fergusson

cc Councillor Miss E Christmas
Peter Mullins

10 PHILLIMORE GARDENS
LONDON W8 7QD
Tel/Fax: (0171) 938 3291

16th May 1997

Dear Adam,

Just to say that out of sight is not
out of mind and that I continue to keep a
private eye on the mess of St Mary Abbots'
Place out of a certain sense of moral obligation,
if not remorse. My worst case. (Gave father-in-law's
- another story).
(gather that all is in limbo (you
may see it worse as Hell!) until the new
developer and/or contractor responds to our
enquiries and shows himself active again.

All most unhappy & disaffairing — and I
only hope the boarded up Plane has enough of the
sparse rain getting to it .

This is not to say that I am seeking to
insert myself between Miss Christmas (the
piper responsible), Mr. Friend and yourself, but
only to say that I will keep a weather eye
on it from time to time .

One day we really must have
land and chew over Europe . At least
I'm firmly for Clarke !

Love to Penelope .

Ps: off at dawn with
the Mayor for two
days 'winning' at
the Cannes Film Festival:

Dr.
Sturmand

MEMO

April 5 1997.

X

George Eyer - Jones telephoned April 5, 1997, returning PFI's call (requesting to know when work would resume). He said:

1. Hold up was the Council's fault, who would not give agreement to proposed landscaping. Quadron and he were in dispute; he had sided then over a problem; but that was not holding up work. (Quadron had started a go-slow).
2. He is in no hurry to proceed (whatever Council may think) as there is a bull market for property. S. likes to go on without controversy over landscaping first.
3. He is in dispute with Council over the size of bees. He is about to proceed against them, and is instructing his lawyers. He has not told the Council this - he will hit them with a lawsuit. ~~He will not proceed without~~
"Personally I want to fight everybody"... "I am ready to fight everyone". "I will slash scratches over the Council" [for treating me like this]."
4. I said my quarrel, too, was with Council whose assurances to me had not yet been banked. He said he would certainly visit the case - it would be taken out of the

Council's hands, after which its promise to
he would be worthless.

5. I said I had done all I could to ensure
that the Tree Screen Condition had re-appeared
the planning permission — both to the original
purchaser (which French had been slow to
extract) and to himself. Hence my
suggestion that he build further away.
6. He said he had accepted that idea, the Council
would still be stalling. I said he had a
problem not with me but with the Council and
with Meadowsview Estates. He said he
could concentrate his fire on those two areas
was — [i.e. the Council].
7. He discussed the Condition. I said it was fine.
He said it was invalid because not ~~part~~ stipulated
in permission. I said the developer had
been left in no doubt. (Was he — since
I told him myself).
8. He questioned why pp. had been given, and why
the Pl. Dept had not been much more clear
in its mind earlier on. Was there a special
relationship between Dept. and Applicant?
I said Pl. Dept. at that time had asserted that
applicant intended to develop for ^{own} use;
the Council had said it was a speculative development.

When we told Dept the developers were an off-shore company they made a comment. E-T wondered whether the CID should be called in. I said we had continually marvelled at how the Pl. Dept. had overridden every one of its own guidelines for development and free preservation in a conservative area.

E-T said he hoped other would begin in a week or so. We agreed that our interests were in total conflict in this matter but that it was the Council which had allowed this to arise.

— by failing to inform E-T adequately of the assurances given to neighboring proprietors.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

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03 April 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF

Your reference:

Please ask for: Mr. French

Dear Mr. Fergusson,

St. Mary Abbots Place

Thank you for your letter of 27th March regarding the above site. I would apologise for not having replied to your earlier letter of 5th March, but unfortunately this was referred to the Arboriculture Section, and with all the upheaval of Mr. Austin's departure, it was not referred to me for my attention. I will of course go carefully through your minutes of our meeting and should there be any need for amendments, I will come back to you.

On the other matters which you have raised, I am still in discussion with both the developers and the Arboriculturists. I hope we will be able to resolve these matters amicably in the near future.

Yours sincerely,


M. J. French,
Executive Director, Planning and Conservation.

c.c. Councillor Miss Elizabeth M. Christmas MBE

**From ADAM FERGUSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax 4114**

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

March 27, 1997

Dear Mr French,

St Mary Abbot's Place

Thank you for your letter of March 21 referring to our meeting on February 21. In it you do not acknowledge my letter and the memorandum of that meeting which I sent to you (copied to Miss Christmas) on March 5. I shall assume that you therefore accept that memorandum as accurate, and that it represents the present position and the events leading up to it as you and your department remember them.

I have shown your letter to Peter Mullins. We note that Mr Taylor is at some future time to discuss the question of tree screens. However, it is not clear to us why anything need delay your instructions to the developers to produce - as we have asked for many months - drawings that depict a tree screen running the full length of the four party walls and of fully functional height on installation. At that point, it will be possible to have with Mr Taylor the discussions and agreement that we were promised. Please will you tell me why this cannot be done? It should, we think, have been done long ago, and does not require the appointment of a tree officer..

Meanwhile, living indefinitely beside a vast crater with ugly boarding across our garden is at best an unpleasant experience for us. Nevertheless, we do not think works should be allowed to begin there again until the matter of the tree screen has been resolved to our satisfaction. We therefore once more ask you to take positive action on our behalf, and look forward to hearing very soon that that has been done.

Yours sincerely,

Adam Fergusson

cc Councillor Miss E. Christmas
Mr Peter Mullins

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

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Facsimile: 0171-361 3463

21 March 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF/TP/
94/0644

Your reference:

Please ask for: Mr. French

Dear Mr. Fergusson,


4 St. Mary Abbots Place

I write with reference to our recent meeting to inform you of the current position. Following our meeting, I wrote to the developer seeking confirmation as to whether or not they intended to proceed with the development. They subsequently replied asking me the purpose of my question. I have again written to them explaining why I need to know and their response is still awaited. I have asked Mr. Taylor to check the approved drawings as regards the height of the rear wall, and Mr. Mullins kindly sent me a copy of the drawings he had in his possession to help in this matter.

Finally, Mr. Taylor will be discussing the question of the tree screens, but at the present time this is put on hold as Mr. Austin has now left the Council's employ and his replacement has not yet been appointed.

I will keep you informed as further progress is made on these matters.

Yours sincerely,


M. J. French,
Executive Director, planning and Conservation.

c.c. Councillor Miss Elizabeth M. Christmas, MBE

BETHAM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

14th March 1997

Our ref: 9603/11 & 15
Your ref: NMALS/SH/3377

N. M. A. Lambarde-Scott, FRICS
Scott Davidson
Chartered Surveyors
113 Westbourne Grove
London W2 4UP

Dear Mr. Lambarde-Scott,

11 and 15 Warwick Gardens, W14 and St. Mary Abbot's Place, London W8 6LS

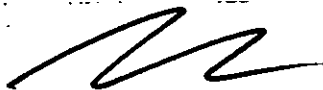
Further to our telephone conversation of last Tuesday, 11th March, I look forward to hearing from you as to completion or abandonment of works which are the subject of the two Awards.

Party wall works commenced I believe around mid November and the contract programme you issued in September suggested completion some 13 weeks later, say 15 weeks to allow for Christmas and New Year which would be the end of February. However, reports from site suggest that there may be some five to six weeks work left to complete even once a contractor returns to site.

You will realise, I am sure, that my Appointing Owners are concerned that the works should have been carried through with reasonable expedition after commencement so as to avoid any unnecessary inconvenience to them in accordance with paragraphs (8) and (7) of the respective Awards. In particular, they were concerned to have the works completed in time for replanting shrubs and/or trees within the current planting season and, although this will already have been missed, they are still obviously concerned to regain the gardens relatively complete and private in time for the spring and summer.

I look forward to hearing from you as to your Appointing Owners' proposals and timetable either for recommencing and completing or for terminating the Works.

Yours sincerely,



Adrian Betham
Betham Associates, Architects

cc: Mr. and Mrs. P. Mullins
11 Warwick Gardens
London W14 8PH

Mr. and Mrs. A. Fergusson
15 Warwick Gardens
London W14 8PH

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

March 5, 1997

Dear Mr French,

St Mary Abbot's Place: Tree Screen etc.

I am sending to you and to Miss Christmas a memorandum I made of our very useful meeting at the Town Hall on February 21. Peter Mullins has seen it and agreed it. Please would you read it and let me know if you find anything in it which you consider inaccurate - or tell me if I have left anything of importance out. As you will see, there were various matters raised which were not fully dealt with.

I understand that the reason for the suspension of work on the site, now more than two weeks old, is a dispute between developer and builder. There is apparently to be an on-site meeting between them tomorrow.

Peter Mullins and I hope that you will be able to give us the assurances we need on these outstanding planning issues very soon. We expect - to be specific - that the developers will at last be required to produce drawings that depict a tree screen of fully functional high on installation.

Adam Fergusson

copies to Cllr Miss Christmas
Cllr Desmond Harney
Peter Mullins

MEMORANDUM (by AF) of MEETING on FEB 21 1997 in TOWN HALL with Councillor Miss E Christmas, M French, P Mullins, A Fergusson

Miss Christmas asked me to run through the points at issue. I said that I had written to Mr Taylor on November 15, followed up by further letters on December 2 and December 20 and a further request for a substantial answer relayed through Councillor Harney. Mr French's short letter to me of February 6 had not addressed all the points and had been dismissive of the main one - hence today's meeting kindly arranged by Miss Christmas. I spoke on the lines of notes I had brought, drawing attention to two documents:

(1) Mr French's letter of Oct 4 1995 to Meadview Developments alerting them to the planning condition of a tree screen to protect all four neighbouring properties.

(2) The letter to me from Cllr Harney as Chairman of the Planning Committee dated July 26 1995, assuring me that "the best form of concealment (whether a line of Leylandii or a Beech hedge or single trees) will be discussed and agreed fully with you . . . But have no doubt that the Planning Officers are aware of the Council's Condition (not wish) that an agreed form of 'screen' must be provided and that the developer will be given our requirements"

As to (1), I said that, in spite of Cllr Harney's assurance that the developer would be informed, the present developer (Eyton-Jones) only learned of that condition from me through his party wall surveyor; and had dismissed it verbally, considering it did not apply because it was not on the permission he had seen. I asked Mr French what negotiations he or his department had had with the developer regarding the tree screen Condition (as opposed to the landscaping). [This question was not answered].

As to (2), Mr French said that Councillor Harney had had no right to assure me that the screen would be agreed fully with me, as only the Council could decide on such a thing. I was entitled only to consultation. When I asked if that meant that the Committee Chairman's assurances were invalid, he said No.

[Note: This issue was not resolved: nor was it explained whether the "Council" meant the Planning Department, the Planning Committee or the full Council; nor why its Chairman could not speak for the Committee].

I said that in any case there had been no consultation with adjoining owners on the latest landscaping plans. We had seen them and objected strongly. We had been informed that the Arboriculturalist had approved the scheme submitted by the developer, but our protests that it was inadequate in every detail had been ignored - as witness Mr French's own recent letter to me of February 6 which states simply that "the

Principal Arboriculturist is now satisfied with the proposed landscaping details including the rear screen of trees".

PM and I strongly made the point that the Arboriculturist's opinion had nothing to do with consultation; that his ignorance of what had been proposed for the site (specifically because he had not realised that the swimming's pool's continuous piling could not be penetrated by the plane's roots) made his knowledge and opinions in this case suspect; that he had never understood the purpose of the tree screen until we explained it to him; and that he had then personally advised us to ask for drawings of what the trees would look like from our gardens on the day of installation. When these drawings came, they proved the point.

Mr French found it hard to believe that his Arboriculturist could have made such a mistake.

PM and I said that of the four affected gardens, only No 13 was being offered any pretence at screening, but even that would be too low when planted, and therefore (through pruning or felling) might never be allowed to grow to its functional height. The Condition of adequate protection clearly covered all four houses. No screen at all was proposed for No 9 - we argued that the deciduous tree in No 9's own garden would not serve. No 11 and No 15 were both unprotected from oblique overlooking. As for the trees - eucalyptus was not thick enough and juniper neither wide nor tall enough.

We said that works had been allowed to go ahead only under promise of agreement on the screen. Mr Taylor's letters to Eyton-Jones confirm this. We had maintained to Mr Taylor that inserting a swimming pool beside the party walls was inconsistent with an adequate tree screen. Mr Taylor, who fully understood the need for trees high enough on installation, had been assured by the Arboriculturist that trees already tall enough to shield the windows could be installed in planters on day one. We had questioned that repeatedly - one of the reasons why potted trees were abandoned in favour of ones in deeper, permanent troughs. Mr Taylor had checked and repeated the assurances he had been given - so we had to accept that it was true. Now (we pointed out) we had been told that the trees would have to grow to the right height after all. Mr French agreed that, if they were allowed to, this might take five or six years. He also noted that it might be difficult - not impossible - to enforce planting and replanting in the future.

Mr French confirmed that no formal agreement had been given that the requirement of Condition 15 (landscaping) had been fully met. I asked whether that would be given by the Council or Planning Committee, and noted again that the works should never have been allowed to start.

[Note: The start was provisional. The police said I would be breaching the peace if I tried to resist the builder's

entering my garden. Mr French's letter to me of November 1 said "the developers . . . must withhold such action until I have issued the necessary written confirmation". The action was not withheld.]

Miss Christmas asked if the assurance was on paper that trees already of adequate height could be planted. I said it was not; that Derek Taylor had discussed this several times with me and had passed on to us the positive opinion of the Arboriculturist; and that I had noted the point in letters and conversations with Mr French and Mr Taylor, which was never denied.

[Note: As long ago as July 10 1995, I wrote to Mr French: "I hope you may find a way to ensure that an evergreen tree screen remains a permanent and enforceable feature . . ." Mr Taylor has on several occasions confirmed that his department understood the need for a high enough screen]

There was further discussion about the two sycamores felled on the site by permission of the Arboriculturist - although Mr French had written to me that the Arboriculturist had no authority to give it. We objected to the Arboriculturist's approval given to replacing the mature trees with baby ones . I questioned why the Arboriculturist had decided (according to Mr French) that the use of a radar scan to protect the plan's roots would be "neither effective nor necessary", although he had written to the builder last November that it would be "very useful"

[Note: Mr French also alluded approvingly to the idea in his letter to me of October 25. The builder told me in January 1997 that no one had ever spoken to him about the scan]

Mr French noted that we required a full, immediately effective, screen of trees, presumably evergreen, not necessarily leylandii, planted on completion of the works. We asked that - before work on the swimming pool continued - planters big enough to support such a screen be insisted on. He is once again to speak with his Arboriculturist.

Mr French is to enquire and report on the recent cessation of all work on the site and the reason for it. The neighbouring owners may be faced with living next to a deep hole with the loss of their own garden amenity and flower beds for an indefinite time. This may be a chance to reinforce the application of Condition 15 with its requirements fully spelt out.

Mr French will further look into the question of why the sycamores were felled (illegally but with Mr Austin's approval) and of replacing them with mature trees to restore the view of the site from St Mary Abbot's Place and the High Street.

A.F.

**From Adam Fergusson
15 Warwick Gardens
London W 14 8PH
Tel: 0171-603 7900 Fax: 4114**

Councillor Desmond Harney,
16 Stafford Terrace
London W8 7BH

January 29, 1997

Dear Desmond,

I don't know whether you have yet been able to follow up our conversation last week about the developments beside and (at present) inside my garden here - but, in case not, let me put on paper my concerns.

First - agreement on the tree screen, which we were promised would protect from intrusion and overlooking the four affected properties. We were assured that there would be agreement with us on the proposed landscaping before works began. Works began some months ago, and there is still no agreement. The last proposals we saw were inadequate in almost every detail, as the Council officers know. Nor have we heard anything satisfactory about the replacement of the sycamores at the north end of the site which the operators felled without proper authority.

Second - protection of the plane tree. The works are now moving away from excavating the swimming pool to be inserted right up to our party walls (the reason why boarding intrudes into our gardens and our borders have been destroyed). The continuous piling needed for the swimming pool meant that the plane's roots in that area have been totally severed - a factor which came as a surprise to the Tree Officer when it was pointed out to him. The developers are now preparing to sink piling closer to the tree - but they have still, after six months, heard nothing from the Council officers about the radar scan recommended to ensure that no other significant roots were damaged.

Third, and not least serious: I have received no reply to my letter to Mr Taylor of November 15, despite writing twice again; and Mr French has not followed up his reply to mine of December 20 with anything substantial. You have had copies of these.

I hope that the Council officers, with the support of the Council, will at once ensure that the conditions which were imposed are fully met - that is to say, that plans for an adequate tree-screen are submitted to and agreed with the owners of the neighbouring properties forthwith. Otherwise I should much appreciate your advice on how to proceed.

Relevant letters and events.

1994.

31/3/94

- Application for PP from RCK
1 4/5 hed + 1 2 hed.

18/4/94

- Notification to adjoining owners.

6/6/94

- Complaint by Anderson ESSA -
bulk affects Wmwide Geds.

13/6/94

- Complaint by Mullins - 11 Wmwide.

13/7/94

- Further notification - amended.
11 objections - 14.

7/10/94

- Bulk.

21/10/94

- Revised drawings
Revised changes mtd.

15/12/95

Planning Review Committee

24/4/95

17 objections

No 11 - CK Chesterton.

bulk, density - loss of privacy
security.

Visual Valhalla.

22/4/95

Ferguson.

28/4/95

with Aroel's advice

24/4/95

- Large trees objections at
plan.

1/5/95

- Planning + Conservation
Committee

- i] Local newspaper.
- ii] A8 - exp Cardiac - appropriate tree planting.
- iii] Cardiac 15. -
- iv] letter 25th July. - Barron.
- v] letter 4th August Rck in reply.
- vi] letter 4th October 1995 - Barron
- vii] 1996 -
- 15 January - Fern to Aylee Jan
- garden.
- 7 February - send Taylor to
Patrick Allen.
- 10 Jan - approval under Cardiac
4 - removal of 2 Sycamores.
- ix] 21 / 5 / 96 - letter for cardiac
15.
- x] 31 / 5 / 96 - letter Barron.
- >] 11 / 7 / 96 French to Allen.
- > 15 / 7 / 96 - letter Screening

13 / 9 / 96 - Application for Licence
S W area

25 / 9 / 96 * Burkett's to Fay R.
Schulte advice.
Correct
partial cut
→ but well

* 3 / 10 / 96 * - Adam Ferguson.

4 / 10 / 96 - Fyter J.

16 / 10 / 96 - Party Wall award.

30 / 10 / 96 - Credit 15 - met. -
to start work +

1st 11 / 96 - p Credit to be met.
not enough to proceed
work

1 / 11 / 96 D A.

6 / 11 / 96 Allen Co.

6 / 11 / 96 - main height.

11 / 11 / 96 -

14 / 11 / 96 - Peck Co.

16 / 12 / 96 - Letter where acti.

6 / 2 / 97 -

7 / 3 / 97 -

12 / 3 / 97 -

19 / 2 / 97.

29 / 4 / 97 -

PLANNING AND CONSERVATION

THE TOWN HALL, HORNTON STREET LONDON W8 7NN

Executive Director: M.J. FRENCH FRICS Dip TP MRTPI Cert TS

Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

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30 December 1996

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

My reference: EDPC/MJF

Your reference:

Please ask for: Mr. French

Dear Mr. Fergusson,

4 St. Mary Abbots Place

Thank you for your letter of 20th December regarding the continuing difficulties which you appear to be experiencing with regard to the development at the above site. I have asked both the Arboriculturist and the Planning Officer to comment on the matters which you have raised.

I will write to you once I have received their detailed replies.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

From ADAM FERGUSON
15, Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Mr M.J.French,
Executive Director, Planning & Conservation,
Kensington & Chelsea

December 20, 1996

Dear Mr French,

Landscaping at 4 St Mary Abbots Place

I wrote to Mr Derek Taylor urgently on this matter on November 15. Having had no reply, I wrote again on December 2, reminding him of how disturbed we have become, and had only an acknowledgment of that second letter (with a second-class stamp) on December 12 - nothing else.

I do not know why it always takes so long to have an answer out of your department. Please would you now give your attention to insisting and agreeing on the fully satisfactory tree screen to protect the four houses neighbouring the site from overlooking, which was a condition for the planning permission? You must understand that, until this has been done, it is impossible for any of us to have comfortable relations with those who are working on, and in my case over, our boundaries.

On a related matter - since you assured me that your tree department was developing a strategy for the protection of the plane tree, which was to include a radar scan of the root system - would you tell me whether that scan has been effected, what the result was, and whether you will in consequence be requiring the repositioning of any of the piles which are supposed to support the protective "raft"? If the scan has not been done, would you tell me why?

Yours sincerely,

Adam Fergusson

CC to Councillor Miss Christmas
Councillor Harney

Winkworth Surveyors



Mark Lanyon F.R.I.C.S.
John R. Knox BSc F.R.I.C.S. F.S.V.A.

Chartered Surveyors
11 Lexham Mews, London W8 6JW
Tel: 0171-937 0959
Fax: 0171-937 5227

COPY

CONSULTANT
Simon P. Agace F.R.I.C.S.

20 December 1996

Ref: 96/434

Adria: Betham Esq
Betham Associates
105-11 Euston Street
London NW1 2EW

Dear Mr Betham

**RE: 11 & 15 WARWICK GARDENS, LONDON W14 AND
ST MARY ABBOT'S PLACE, LONDON W8**

Thank you for your letter of 17 December together with enclosures. I am slightly concerned that you did not reply to either of the telephone messages I have left you on your answerphone in the last week and it was only when I actually managed to contact you because you were on the end of the telephone that you are now apparently questioning my work as the Third Surveyor in your dispute. Since I have published my Award on 21 October, you have waited nearly two months to contact me with your doubts and only then when prompted by me.

The facts of the case, as I see them, are as follows:

1. I was instructed by Nicholas Scott on 15 October to act in a dispute between him and you and as agreed by both of you in both of the Party Wall Awards.
2. On 16 October I sent out a three page document setting out the details of the dispute as I understood it in order for you to check the facts and correct them if you felt the need. As it was, you faxed me a letter on 17 October stating that you agreed with the contents generally. I therefore take it that you agree to both my appointment as the Third Surveyor and to my charges of £100 p.h. plus VAT as set out in the last paragraph of the document of 16 October.
3. On 21 October, I sent out my "decision" as to the facts of the case forming part of the original document of 16 October. You now question that this was an "Award" as laid out by the London Building Acts (Amendment) Act 1939.
4. You claim that my suggestion of two days' notice to be given to the Adjoining Owners accords with your fax of 15 October 1996.

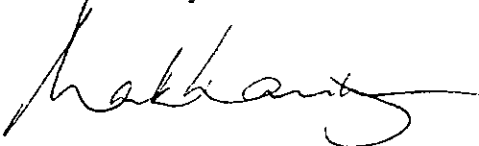
My comments on the above paragraphs are as follows:

1. I take it that you do not dispute the facts.
2. I take it that you do not dispute that you appointed me as the Third Surveyor to arbitrate in this dispute and you did not at any stage question my fees in my letter of 16 October.
3. You dispute that this is an Award on the basis, presumably, that the word is not mentioned on the front of my document and that I simply made a "decision" and "award of costs". Surely this is just splitting hairs? You asked me to make a decision on this dispute between surveyors and that is precisely what I did. If I had called my "decision" an "Award" it would have made not the slightest difference to the contents of the document. Are you now disputing this?
4. As to the matter of fourteen days' appeal, you and your Appointing Owners have had this time, during which time you have done nothing. Therefore your appeal notice, which you apparently knew about, expired. My suggestion of a two day notice period was as a gesture of conciliation to the Adjoining Owners but you are ignoring the fact that both you and the Adjoining Owners had been effectively aware of the start of work since June. However, the dispute arose because the Adjoining Owners would not let the contractors onto their gardens without the fulfilment of the third paragraph of your fax of 15 October to Nicholas Scott. Therefore, the last paragraph of that same fax, where you suggest two working days' notice could not have been carried through. In other words, you would require two days' notice after the fulfilment, as you saw it, of the "two outstanding requirements". This is hardly the same thing.

I spent (and am still spending) a considerable amount of time on this job and I have not been properly recompensed for that work. It was implicit in your acceptance of my letter of 16 October by your letter of 17 October that you accepted my terms and conditions. It is rather hard for me to accept now that, after prompting by me two months later, that you tell me you do not agree with my Award. I am, of course, clearly out-of-pocket at the moment. If you felt that you would not pay me (or have your Appointing Owners pay me) merely because you disagreed with me, why did you instruct me?

Please give this matter your attention. I am sending you two further copies of the letter for distribution to your Appointing Owners and will copy the letter to Nicholas Scott as well.

Yours sincerely



Mark Lanyon FRICS
for WINKWORTH SURVEYORS
(Chartered Surveyors)

Enc: 2 copies

cc: Mr N Lambarde-Scott

BETHAM ASSOCIATES, ARCHITECTS

copy

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

17th December 1996

Our ref.: 9603.11 & 15
Your ref.: 96/434

Mark Lanyon, FRICS
Winkworth Surveyors
11 Lexham Mews
London W8 6JW.

Dear Mr. Lanyon,

11 and 15 Warwick Gardens, London W14 and St. Mary Abbot's Place, London W8

Thank you for your telephone message which I have tried to return and, checking the file, I am sorry that I have not appeared to reply to you directly as to your letter and enclosure of 21st October 1996 which I did communicate to the Adjoining Owners.

However, I did express misgivings about the document and invoice to the Building Owners' Surveyor and solicitors in my letters of 4th and 1st November 1996, copies of which I now enclose.

Since your involvement, both Adjoining Owners have agreed to works commencing, subject only to protecting the planting (fig tree in no. 11 and wisteria in no. 15) in accordance with the Awards, and this in the event is what determined the start of works to the two party fence walls. You will see that it was left to us to call in the tree expert selected by the Building Owners or their contractors in each case.

I understand that the contractor was under instructions to call the police with a view to commencing work at no. 15 but was advised that this would constitute a breach of the peace, given the Building Owners' Surveyor's agreement that proposals would not protect the wisteria as called for in the Award. This was resolved by amending the sub-structure proposals to realign piling as noted in my letter to the Building Owners' Surveyor dated 2nd December 1996.

The Adjoining Owners did ask me why fees are payable by them and, as you will infer from my letters of 1st and 4th November 1996, I have not been able to give a certain response where the document does not appear to purport to be an Award under the terms of the Act.

Beyond the status of the document, I accept of course that you have found for the Building Owners' Surveyor as to the Council's prior approval in your decision (B). However, in your decision (A), you conclude by saying that the Adjoining Owners might now reasonably be given two days' notice which surely follows the proposal which I made in my fax to the Building Owners' Surveyor dated 15th October 1996 when contractors had wanted to start on that very same day. I presume that this may affect your allocation of responsibility for fees following the event should they be levied in accordance with Part VI of the Act.

Yours sincerely,

cc: Mr. and Mrs. A. Fergusson
15 Warwick Gardens, W14 8PH.

BETHAM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

C o p y

2nd December 1995

Our ref.: 9603

N.M.A. Lambarda-Scott, Esq.
Scott Davidson, Surveyors
113 Westbourne Grove
London W2 4UP.

Dear Mr. Scott,

11 and 15 Warwick Gardens, W14 and St. Mary Abbot's Place, London W8

My last information from Warwick Gardens and St. Mary Abbot's Place was that works were proceeding to the rear of no. 11, and that adjacent no. 15 Mr. Eyton-Jones proposed having the re-entrant in the substructure relocated slightly westwards. This was so that piling operations would be clear of the Wisteria following your visit in accordance with the Award as well as clear of the existing flank wall of the no. 15 garage.

I wonder if you have news of either the revised substructure plans or indeed of further progress?

Yours sincerely,



Adrian Betham
Betham Associates, Architects

R

cc: Mr. and Mrs. P. Mullins
11 Warwick Gardens
London W14 8PH.

Mr. and Mrs. A. Fergusson
15 Warwick Gardens
London W14 8PH.

From ADAM FERGUSON
15, Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Mr Derek Taylor,
Assistant Planning Officer,
Kensington & Chelsea

December 2, 1996

Dear Mr Taylor,

Landscaping at 4 St Mary Abbots Place

I am much concerned that you have not responded to my letter to you of November 15 regarding the above.

Please would you give me assurance that your department has rejected, or is preparing to reject, the plans that you sent me; that it is requiring from the developers the full tree screen that was a condition of the planning permission; and that the trees, on installation, will provide the complete protection from overlooking that the neighbouring properties were promised.

I look forward to being shown a satisfactory revised plan as soon as possible. It is greatly disturbing us that this vital matter is being allowed to drag on so long.

Yours sincerely,

Adam Fergusson

From ADAM FERGUSON
15, Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Mr Derek Taylor,
Assistant Planning Officer,
Kensington & Chelsea

November 15, 1996

Dear Mr Taylor

Landscaping at 4 St Mary Abbot's Place

I received today the latest plan and elevation for this scheme. As I have just explained to you on the telephone, I consider them highly inadequate in many respects - not the least of which is that they do not in any way meet the assurance which you have repeatedly given to me as to either the immediate or long-term adequacy of the tree screen stipulated by the Planning Committee last year to protect mine and neighbouring houses from intrusion and overlooking.

You will recall Mr French's letter of October 4 1995 to Meadowview Developments Ltd, which said unequivocally that landscaping proposals **"must include a screen of trees along the rear boundary with nos. 9, 11, 13 and 15 Warwick Gardens"** and that the details had to be submitted "before development commences". You will recall, too, that the Chairman of the Planning Committee assured me by letter of July 26 1995 that **"the best form of concealment (whether a line of Leylandii, or a Beech hedge or single trees) will be discussed and fully agreed with you when the application on such detail is submitted"**. "Have no doubt", he went on, "that the Planning Officers are aware of the Committee's Condition (not wish) that an agreed form of 'screen' must be provided".

In the way of trees, the drawing for the elevation facing Nos 9 and 11 Warwick Garden shows 1) a single eucalyptus in the north-west corner where it gives no protection from overlooking whatever, and 2) two junipers neither of which, even at full height, will prevent any overlooking of Nos 9 and 11 from the cottage first-floor windows. The garden of No 9 is protected only by a climbing plant peeping over the wall. The Ligustrum aureum facing No 11 is merely decorative. In short, there is in no sense a tree screen proposed behind these two gardens, whose own single trees are deciduous. The eucalyptuses opposite No 7 are irrelevant.

The elevation opposite No 13 alone proposes trees which, if allowed to grow to their full height, would apparently provide the protection the Committee asked for. You have on several occasions given me the tree officer's assurance that trees (the

prunus and eucalyptus) can be provided which at installation will constitute the screen required. He thought - so you told me - that it would be possible and practicable for such trees to be put in tubs; but he has since recommended "integrated planters". Unaccountably (without discussion with me or my neighbours, and although he advised us to insist of seeing an elevation of what the trees would look like on installation) Mr Austin sent the developers a letter two weeks ago requiring too few trees and all with minimum sizes which do not meet the case. The elevation shows that on installation the prunuses (slow-growing, according to my tree book) would be three feet below the window they are supposed to conceal. That is far greater than any tolerance which might reasonably be agreed. The same applies to the eucalyptus. Effectively, by pruning or replanting at will, it would be open to the occupiers of the new house to arrange legitimately to maintain trees of low profile so that our properties would be permanently overlooked.

There is no elevation provided to show the effect from my own garden, No 15. I would want one. I have already told you and Mr Austin more than once that three junipers (described in my tree book as slow-growing "pencils") do not meet the requirement of Mr French's letter of October 4 1995. To judge by the two junipers depicted on the elevation provided they, also, would be far too short and far too thin to be any use. |||

I therefore cannot agree that either in intention or in detail these proposals meet the Condition laid down, and request that you insist on the real, immediate screen of trees that those who originally obtained planning permission, and who heard the councillors' question and request to the planning officers, well understood to be necessary. As I have pointed out since summer last year, the design of the development and the planters must clearly be arranged to accommodate the Condition fully.

Last - the replacement of mature sycamores by birches no more than 4 metres is not an adequate restitution for what the amenity of the street lost (for reasons which are still unexplained). I hope that the Council will demand - and help to pay for if need be - mature trees of the size which Mr Austin said could be put there.

From ADAM FERGUSON
15, Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Councillor Desmond Harney OBE,
16, Stafford Terrace, W 8.

November 10, 1996

Thank you for your letter (and telephone call) acknowledging the copy of my letter to Mr Austin. You asked to be kept up to date, and I am sending you a copy of what Mr French replied on Mr Austin's behalf regarding the felling of the sycamores and the assault on the plane tree.

It is an extraordinary document. Among other inconsistencies it says simultaneously [para 3] that "Mr Austin did not give permission for the two mature sycamore trees to be felled nor has he the authority to do so" but that [para 4] "Mr Austin did not raise objections with the developers when they expressed a desire to remove the sycamores". The contractors had written authority to fell them - so far as I can gather, from Mr Austin. He was thus acting beyond his authority and the developers acted without proper authority. Mr French is careful to lay no blame anywhere for what, in my view, was a very serious mistake.

The sycamores, it seems, are to be replaced; but so far Mr Austin has stipulated larches of a minimum initial height of only about 12 feet. The sycamore stumps, which may still be seen, had a girth of three feet and were over 25 feet high. I hope that reasonably mature trees will be put there.

As to the Plane: when at last Mr Austin moved to protect it, he ordered on November 1 (three weeks after I drew the danger to his attention) the "immediate" construction of a temporary reinforced concrete raft over the roots which the machines and drills were hammering. Simultaneously he recommended employing Ground Penetrating Radar to make it possible to avoid damaging the roots not already destroyed by the construction of the swimming pool. (Mr Austin, on site a fortnight ago, only understood for the first time that the roots would not be able to penetrate the swimming pool piling at any point. To survive, the tree will need all the remaining roots it has: but it seems that the piles to support the house may go in regardless).

Although I have twice telephoned the planning department, there is still [November 10] no concrete raft; and there is no sign of the developers' bringing in any radar. A light, moveable plastic fence, on the other hand, now surrounds part of the area over the roots where three days ago heavy drilling equipment was still being dropped and kept. It was put there on Wednesday when, I was told, Mr Austin was on holiday. That is

comment enough on Mr French's statement that "the arboriculturists are collectively devising a strategy for the avoidance of root damage to the tree", and on his dismissal of the guidelines his own department issues. The contractors, incidentally, say that apart from Mr Austin's letter of November 1 and the original instruction to board in the plane's trunk they have received no advice on how to protect its roots.

Last, the tree screen. We were promised, as you recall, that this would be agreed with us before work started on the site. If they meet only Mr Austin's minimum specifications they will still be inadequate. But work has started. The contractors, backed by police, and despite Mr Taylor's letters to the developer and me saying that the conditions had not yet been met, have knocked down our party walls and are preparing to sink 30-foot piles along them for the swimming pool. Our garden is now one-quarter mud. We - my neighbours and I - have still not seen any drawing that comes near our needs, although some new drawings are said to be with the planning department.

All of which will be bearable if, in a year's time, there is installed a tree-screen which means what it says. The most important thing is that, as you promised, we and our neighbours should see and approve the plans and elevations before the planning department intimates that the landscaping condition has been fully met.

With best wishes

Adam Fergusson

BETHAM ASSOCIATES, ARCHITECTS
MEMORANDUM

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

15 Warwick Gardens, W14 0PH and 4-8 St. Mary Abbots Place, W8
Telephone message from Mrs. Fergusson

9603.15
7 Nov 1996

I have had a meeting here with Mr. Teakle and Mr. Eyton-Jones. Mr. Eyton-Jones was very reasonable and agreed that no further winching of the wisteria can be done at all. I think Treecare had been there earlier, unfortunately they came and went so I didn't see them, but they told him that there was no more winching possible and he is going to work out a plan, I think probably Adam's plan of continuing a metre or whatever necessary to protect the whole of the Wisteria. Mr. Teakle is going to give me a copy of minutes of the meeting so that we have something down in writing. I think that was pretty satisfactory, really.

He's been very reasonable, Mr. Eyton-Jones, but perhaps he would.
Thank you.

ADRIAN BETHAM

BETHAM ASSOCIATES, ARCHITECTS

URGENT MESSAGE to

MR DEREK TAYLOR, Planning.

From ADAM FERGUSSON, 15 WARWICK Gdns.

NW 7 1996.

Thank you for your fax. It worries me because you have not told Eyton-Jones that we must study and agree his proposals before accepting them. At present they appear inadequate and unacceptable.

- (1) The proposed replacements for the sycamores, at 4 metres, are obviously not mature trees and too small.
- (2) There is no sign of a tree screen properly to protect No 9 Warwick Gardens from overlooking.
- (3) I have to be certain that my own garden wall is fully screened at adequate heights. Juniper or Cupressus only 3.5 metres high* - and only 3 in number - may not serve the purpose - and I should like to see what the effect will be.
- (4) We are agreed, I think, that all tree-screen heights on installation must exceed the first-floor windows of the new houses from windows opposite, and prevent overlooking of gardens. 3 metres is not high enough, we must see the drawings.

I therefore look forward to seeing and discussing the proposals with you before anything is finalized - and agreeing to them is promised by the Chairman of the Planning Committee. Until then, Condition 15 cannot be met. I hope you agree.

Yours sincerely,

*Mr Austin's letter of NW 1.

Adam Fergusson.

FAX FROM

NAME: DEREK TAYLOR

THE ROYAL
BOROUGH OF

THE DIRECTORATE OF PLANNING SERVICES

DATE: 6/11/96

NUMBER: 0171 937 3464

DIRECT LINE: 0171 361



KENSINGTON
AND CHELSEA

FAX NUMBER (if different from below): _____

TO

NAME: ADAM FERGUSON

OF: _____

ADDRESS: _____

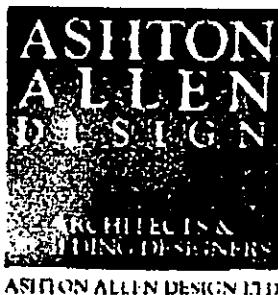
POSTAL CODE _____

FAX NUMBER: 603 4114

NUMBER OF PAGES TO FOLLOW: 3

COMMENTS AND/OR INSTRUCTIONS (if any):

OUR FAX NUMBER IS 071 361 3463



To PLANNING & CONSERVATION
THE ROYAL BOROUGH OF KENSINGTON
& CHELSEA

Date 6.11.96

Our Ref. 6366

116 TOWN HALL
MORTON STREET
LONDON W6 7NX

Your Ref.
DPS/PV/TP/94/0644/2/18/2195
FAX 0171 361 3463 (2 PAGES)

PROJECT
LAND ON & ADJACENT TO NO 4, ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR. D. TAYLOR

DEAR SIRS

FURTHER TO MR AUSTIN'S LETTER DATED 1 NOVEMBER 96 TO
SIR EYTON JONES REGARDING PLANT SIZES AT THE ABOVE SITE
WE CONFIRM THAT OUR CLIENT WILL PROVIDE PLANS OF THE
SIZES SET OUT IN ITEMS A TO F INC. OF THAT LETTER. OUR CLIENT
ALSO AGREES TO ADOPT LARGE INTEGRAL RAISED PLANTERS AS
SET OUT IN THE SAME LETTER.

REFERENCE THE FOURTH PARAGRAPH ON THE SECOND PAGE OF YOUR
LETTER DATED 4 OCTOBER 96 TO MR EYTON JONES WE ATTACH
AN EXTRACT OF THE SITE PLAN/LANDSCAPE DRAWING SHOWING
THE INCLUSION OF 2NO BETULA JACQUEMONT II, PLANTING SIZE
1.5 TO 4.0 M HIGH.

WE LOOK FOR YOUR IMMEDIATE CONFIRMATION THAT THE ABOVE
FULLY SATISFIES THE OUTSTANDING ITEMS ON LANDSCAPING
AS RAISED IN YOUR LETTER DATED 4 OCTOBER 96.

Signed

Francis Ashton

1 Tide Mill Way, Quayside
Telephone 0181 734 1000
Registered

1 NO. EUCALYPTUS GYNNII
PLANTED IN GROUND.

215mm facing brick wall
with brick on edge coping

4 NO 2.5m HIGH SEASONED
TIMBER POSTS (100x200mm)
SET VERTICALLY.

4 NO EUCALYPTUS GYNNII

215mm f
with brick

PARISA
JAPONICA

20 NO
STACHYS LAMATA

7.890

6.05

Paving brick edging

Area to be grassed and
planted.

Paving bricks in
square herringbone
pattern

EXISTING

2 NO BETULA JACQUEMONTII
(PLANTING SIZE - 3.5 TO 4.0m)

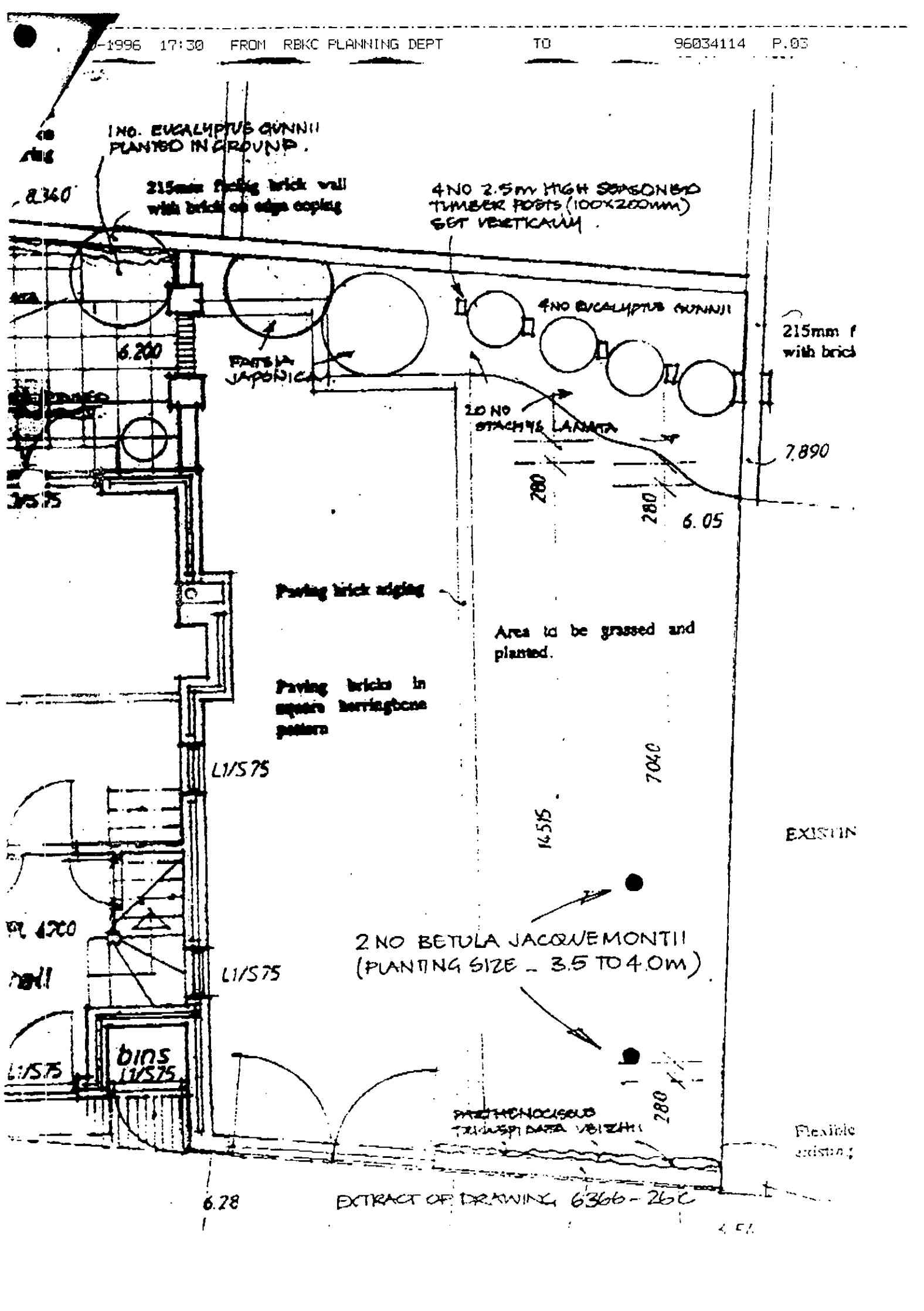
PROTHONOCISSUS
TETRASPIDA VEITCHII

Flexible
existing

6.28

EXTRACT OF DRAWING 6366-26C

4.51



PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

George Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3STSwitchboard: 0171-937 5464
Extension: 57
Direct Line: 0171-251 2087
Facsimile: 0171-361 3463

06 November 1996

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor.

BY FAX AND POST

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

I refer to the letter dated 6th November 1996, sent on your behalf by your agents Ashton Allen Decker which responds to my letter of 1st November and the various points contained therein. I also refer to the letter of the same date, from the Principal Arboricultural Officer, in which he sets out minimum planting requirements for the trees to be installed on the site pursuant to the landscaping scheme for the site.

I note your confirmation that you will provide plants of the sizes specified in items A to I, plus the Arboriculturists letter, and that you will also install large integral raised planters as set out in the same letter. I also note that you will provide 2 betula jacquemontii (birch) trees in the northern garden area of the site, at planting sizes of 3.5m to 4.0m.

These confirmations are clearly most welcome in view of the evolving situation on site and in view of the fact that the Chairman of the Planning Services Committee that approved the scheme has asked me to consider prosecution for breach of Condition unless these matters are resolved forthwith. Once I have received further copies of the landscaping plans clearly including the integral raised planters and the two new trees, I should be able to issue a final letter confirming that Condition 5 of the Planning Permission has been complied with. I recommend that the further drawings are delivered by bike without delay.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation



S O L I C I T O R S

DEREK STEWART WILKINSON
PAUL RONALD SKILBECK
DOUGLAS JAMES SUTHERLAND
JANET BARBARA HOYLE
IAN PEGGIE SINCLAIR

EST. 1925
TERENCE MILLETT
DJAN ISMAIL

34 SUMNER PLACE • SOUTH KENSINGTON
LONDON SW7 3NT • FAX 0171-225 0450
DX 35753 SOUTH KENSINGTON
TEL 0171-581 1300

Our ref MT EF

Date 6th November 1996

Dear Sirs

RE: 4 St Mary's Abbotts Place, Kensington, London W8

Further to the above matter we enclose copy correspondence we have today forwarded to the Superintendent of Police for your information.

Yours faithfully

Terence St J. Millett

The Superintendent of Police
Kensington Police Station

Our ref MT/EF

Date 6th November 1996

Dear Sirs,

RE: 4 St Mary's Abbots Place, Kensington, London W8

It is the stated intention of the Contractors on this site on Thursday 7th November 1996 to cut down or otherwise damage the Wisteria Tree at the north east corner of the garden of our Client, Mr Adam Ferguson of 15 Warwick Gardens. It is clear to us that such an action would be in breach of the Party Wall Award dated 17th June 1996 which relates to the wall beside the Wisteria. This award unequivocally states that the Wisteria is to be protected and preserved.

It is our opinion that our Client would be fully within his rights in protecting his Wisteria from damage and trespass and he is expecting the full cooperation of the Police.

Yours faithfully

Bill TEAKLE,



Guardian Foundations and Construction Limited

Specialist Engineering Contractors in Piling, Underpinning, Designed Foundations, Structural Repairs and Void Stabilisation

Our Ref: WT/HCS/96-2043.14

6th November 1996

By Fax & Post

Ashton Allen Design Ltd
1 Tide Mill Way
Quayside
Woodbridge
Suffolk
IP12 1BY

For the Attention of: Mr Patrick Allen

Dear Sirs,

Re: 4-8 St Mary Abbots Place, Kensington, London, W8

arrived on site
We arrived on site today, 6th November 1996 and attempted, as programmed to break through the party wall of Mr Ferguson's garden, with Sergeant Jason Guillem and the Party Wall Surveyor, Mr Nick Lombarde-Scott in attendance.

We started breaking through the wall after lengthy consultations and briefings with Sergeant Guillem and Nick Lombarde-Scott with a complete situation with what we are attempting to do. Sergeant Guillem went to see Mr Ferguson, who did not answer the door, we then proceeded under our own instruction, with carefully taking down the bricks from the Party Wall. *then proceeded* in full agreement with Sergeant Guillem.

we were in
As we were moving the brickwork, Mr Ferguson came out of his house into the garden and ordered us to stop work immediately. At this point Sergeant Guillem went to discuss matters with Mr Ferguson and the time being has instructed *to cease work* until matters could be resolved.

we are
We are now in a standing time position, while we await for further instructions from Sergeant Guillem.

Yours sincerely

W. S. Teakle
Director

CC: George, Epton Developments (Suffolk) Ltd - 01473-253020
CC: Mr Ferguson - 0171-603-4114

*(in the event, to Sgt Guillem's
satisfaction, the dismantling of the
wall continued during our
discussions; and later a
second recording was made of
the - very friendly - talks we
all had in the nearby office - also
led to the Sergeant's surprise)*

Guardian Foundations and Construction

11 Barretts Green Road, London W14 7AE

Telephone: 0181 965 1800 Fax: 0181 963 2307

Registered Engineers No. 122488 Registered
Structural Engineers No. 122488

Registered Civil Engineers No. 122488, 122489, 122490, 122491

15, Warwick Gardens, London W14 8PH
Telephone: 0171-603 7900
Fax: 0171-603 4114

Chief Superintendent Rice,
Kensington Police Station,
72-74 Earl's Court Road W8.

November 5 '96.

Sir,

I wish to notify you that tomorrow morning, November 6, an unlawful act may be committed here in that the developers of a site, No. 4 St Mary Abbots Place, have given me notice that they intend to break through a party wall and enter on my property.

In as much as the conditions have not been fulfilled which would permit this act, I require your protection against the trespass and damage that may follow.

I attach letters from the Council Planning Department to the developer and to myself, dated after any document which the developer's contractor may produce, which make the legal position clear.

Yours faithfully,

Adam Fergusson.

ADAM FERGUSSON

4 pages follow this one.

Mr Bill Tebble,
 Guardian Journals - Ltd. November - 5 '96.

Dear Mr Tebble,

I must give you notice that I consider your proposed demolition of my party wall and uninvited entry on my property would be an illegal act under the Party Wall Award between Cytra Developments and myself - so long as the conditions attached to that Award and the planning permission for the present at No 4 St Mary Abbe's Place have not been met.

I refer in particular to Clause 9 of the Award which states that "prior approval will be obtained from the local planning authority in accordance with the planning consent as to landscaping".

(over)

The enclosed copied letters to us and to Mr Cytra-Jones make it clear that, in the opinion of the Planning Authority, prior approval has not been granted. They explain how that approval may be obtained. You will note the date of those letters, which must supersede any previous opinion.

Therefore, if you proceed in this act in the knowledge of what is entailed, it will be at your own risk.

Yours sincerely,

Adam Ferguson.

16 STAFFORD TERRACE,
LONDON, W8 7BH.
(071) 938 3291

5th November 1996

Dear Adam,

I am most remiss in not having replied earlier to the copy of your letter to Mr French that you sent me but I thought I had ???

In case I didn't, let me say that I spoke to French at the time and subsequently wrote to him to say that on the face of it I was agnostic at your account of developments and that, though I no longer had any responsibility in the matter, I wished to be copied any

reply that Mr Austin preferred for you.

Adam, if this duplicates what I
have already sent you, please forgive the
vagrancies of an O.T.P. with too many balls
in the air! I am watching it.

Love to Penelope,

As ever (I hope!),

Demond

BETHAM ASSOCIATES, ARCHITECTS

COPY

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

4th November 1996
9603

N M A Lambarde-Scott
Scott Davidson, Surveyors
113 Westbourne Road
LONDON W2 4UP

Dear Mr Lamarde-Scott

Re: 15 WARWICK GARDENS W14 AND 4-8 ST MARY ABBOTS PLACE, LONDON W8 6LS

You will have received a copy of my letter of 1st November to Birketts and I now have copies of the Local Planning Authority's letter of 1st November to the Building Owner and of Treecare's recommendations of today's date.

The Building Owners have demonstrated marked reluctance to show planting or appropriate constructional arrangements required by the planning authority in letters of 1st November or 4th October 1996 or indeed 4th October 1995.

I would remind you that the Adjoining Owners are reluctant to lose rights under the Act s51(1) and Award paragraphs 7, 4(g) and 9 and to lose a part of their garden before proposals can be finalised so that works may be expected to be completed with reasonable expedition after commencement. I am of course aware of the Third Surveyor's document, but you will realise that this was not an Award or delivered to the Adjoining Owners giving them opportunity, inter alia, of appeal.

It has also been left to the Adjoining Owners, and to me as their appointed surveyor, to make arrangements for meeting Building Owners' obligations such as to preserve the Wisteria in accordance with paragraphs 4(m) and (n) of the Award. Treecare advise that this cannot be done without rearranging the wall line at what, I would point out, would be only at basement level.

I am keen, as you will realise, that the works started on site should be completed as soon as possible, at least so far as the party wall is concerned. May I suggest without prejudice to anyone's position:-

- a/ Information requested by the Planning Authority should be submitted fully and without delay, and
- b/ The offset in the basement south wall should be rearranged say 1 metre westwards to avoid the Wisteria as well as the garage building as presently proposed ?

Remaining differences between the Owners might then evaporate without any need for further Awards or dissent. Notice is not a problem where my suggestion of two working days has been generally accepted subject to actual circumstances. In the meanwhile works to the Fig Tree at No 11 are being completed allowing the contractors full access tomorrow if not today.

Yours sincerely



Copies to:

Birketts, Solicitors
Mr & Mrs A Fergusson
Mr & Mrs P Mullins

ADRIAN BETHAM, RIBA
Betham Associates, Architects

R

Construction Department
Direct Fax: (01473) 218980

BIRKETT'S

S O L I C I T O R S

24-26 Museum Street, Ipswich IP1 1HZ,
United Kingdom

Adam Fergusson Esq
15 Warwick Gardens
LONDON W14 8PH

MEMBER OF THE NORTH SEA GROUP OF LAWYERS

Case: SDO/K

Your ref:

Date: 4 November 1996

Dear Sir,

Proposed Dwellings St Mary Abbots Place

Thank you for your letter of November 2nd 1996.

We will of course refer your letter to our client for detailed comment on the points that you make.

In relation to the landscaping proposals, we would remind you that the original planning permission obtained by our client and the Party Wall Award that regulates your own relationship with our client are separate issues.

We will deal first with the planning permission. You will be aware that clause 15 required approval of the treatment of the open land within the site including hard and soft landscaping. This is not an unusual requirement and it is normal practice for approvals such as these to be finalised during the course of the works without causing delay to their commencement. In his letter of 4th October 1996 Mr French the Executive Director, Planning & Conservation of the Royal Borough of Kensington & Chelsea, confirmed that a start on site could now be made without conflict with the aims and terms of condition 15. This statement was made subject to various points which still needed to be confirmed which he set out, but there can be no argument over our client's entitlement to commence works in accordance with the planning permission.

A separate consideration is the detail of the Party Wall Award dated 17th June 1996 regulating, pursuant to the London Building Acts, how the works to be carried out by our client will affect you as an Adjoining Owner. As Mr French points out in his letter of 1st November 1996 he cannot comment as to the right of our client to enter your land pursuant to the London Building Acts. Within the Party Wall Award, if there is any confusion as to its terms, it is in relation to the interpretation of clause 9 stating that prior approval will be obtained from the local planning authority in accordance with the planning consent as to landscaping. Regardless of the questions of interpretation of clause 9, this matter has already been referred to the Third Surveyor who, after hearing representations from your surveyor

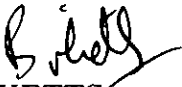
4 November 1996

Mr Betham, issued a decision on 21st October 1996. We are surprised that you have not yet received a copy of this as we understand that your surveyor was sent one but take this opportunity to enclose it for your consideration. This decision did not purely relate to the length of notice but also to the interpretation of clause 9 and you will see that the Third Surveyor found that it was permissible for the works to be commenced on the party wall line.

Our client is therefore of the opinion that the planning permission originally granted is being observed albeit that there is further detail to be agreed with the authority. The issue of the party wall works have been dealt with separately and we now have the benefit of the Third Surveyor's Award supporting that position.

In any event, we concur with your view that with goodwill on both sides there need be no further dispute and we hope that the works can be carried out amicably and without delay.

Yours faithfully



BIRKETTS

cc: Eyton Developments (Suffolk) Limited

PLANNING AND CONSERVATION

THE TOWN HALL • HORNTON STREET • LONDON W8 7NX

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

ADAM FERGUSON,
15 WARWICK GARDENS, W14

Switchboard: 0171-937 5464
Direct Line: 0171-361 2011

Facsimile: 0171-361 3463

Date: 04/11/96

My reference:

Your reference:

Please ask for:

DPS/DCE/DT/E/96/305/C

D. Taylor

Dear Sir/Madam,

TOWN AND COUNTRY PLANNING ACT, 1990

4 ST. MARY ABBOT'S PLACE, W8

I refer to your letter / telephone call of 30th October, 1996 relating to the above mentioned premises, and have asked my planning enforcement section to deal with the matter(s) you raise as soon as possible.

This section deals with a considerable number of complaints relating to planning contraventions throughout the Borough and it is sometimes not possible to investigate a complaint as quickly as the Council would wish. Priority is given to cases involving unauthorised building works.

I can assure you, however, that your complaint has been registered and the officer dealing with your complaint will contact you as soon as preliminary inquiries have been made.

Yours faithfully,

M.J. FRENCH

Executive Director, Planning and Conservation

15 Warwick Gardens
London W 14 8PH
Telephone: 0171-603 7900 Fax 4114

Birketts,
24-26 Museum Street
Ipswich IP1 1HZ

November 2, 1996

Sir,

St Mary Abbots Place

I have received and read your letter to me of October 30. I am surprised both by its tone and its contents. It is a new experience for me for a neighbour - or a neighbour-to-be - to threaten "forcible entry" on my property.

You state that I have "intimated to [your] client on a number of occasions that access would not be allowed". You must tell me which the occasions were. The last communication I had with your client was a letter that I wrote to him on June 12 which he has not answered. I have always been entirely prepared to allow access as soon as the conditions laid down by the Council have been met and (now) provided the Party Wall agreement, about which I wrote to your client, is honoured. Your client and his architects do, I think, know that. If anyone has told you anything else, it is wrong. I am sending with this a copy of a letter I wrote to Mr Lambarde-Scott, which you do not appear to have been aware of, replying to his letter of October 18 to which you refer.

You write about a decision by a third surveyor because of a dispute - imaginary, so far as I can make out - between the other two over the notice of entry to be given. I have not yet been sent a copy of whatever the third surveyor said. I look forward to receiving it - though I should make it clear that the length of notice has never greatly troubled me: we do not wish to prolong the work on the site. On the contrary.

There is, however, a problem which needs to be sorted out. The enclosed letter from the Kensington Planning Department states the position as I understand it - that the conditions have not fully and formally been met that allow your client to start work. It may not have been explained to you that our main concern, as neighbours, is simply to have a final agreement on the extent and nature of the future tree screen which will ensure our privacy. This is of crucial importance to all the adjoining owners, and was critical to the planning permission given last year. We have the assurance of the Planning Committee that no work will start until this condition is fully agreed (I can let you have the relevant letter, if you do not know of it).

We have been anxious for many months to reach agreement on this issue. So far as I know, your client's architects have not yet produced a drawing which adequately meets requirements which the Planning Department has repeatedly defined to them. They, too, have been aware of this since June - indeed, long before. Until the drawing is approved, and we are happy with what we shall have to live with, you will understand our reluctance to have the most important part of our garden destroyed. The only matter that is holding up an agreement is your client's failure to provide the requested and obligatory drawing.

On Monday, November 4, tree specialists are coming here to examine the problem of preserving and protecting our wisteria (as specified in the Party Wall award). So long as the recommended steps are agreed and taken to preserve and protect it, that, too, need not delay your client's access to my property.

I believe that, with good will on both sides and since the conditions are clear, there need be no further dispute. I look forward to having your comments.

Yours faithfully,

Adam Fergusson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3ST

Switchboard: 0171-937 5464

Extension: 3524

Direct Line: 0171-361 3524

Facsimile: 0171-361 3643

01 November 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/ARB/DGA Your reference:
/B1/MC

Please ask for: Derek Austin

Dear Mr. Eyton Jones,

Re: Landscape proposals, 4-8 St Mary Abbots Place W8

I write further to our recent meeting at Kensington Town Hall where drawings 6366-27B, 6366-26c and appropriate sizes of hardy nursery stock were discussed.

To reiterate, a general principle to be applied when executing this scheme is that of selection the most advanced stock available whilst planting into a container of such size that a 'root run' or a volume of compost for the trees to root into is available.

To this end it may be desirable to replace the free standing containers with large integral raised planters for at least some of the plantings, namely the three Golden Privets, the three Portuguese Laurels flanked by Eucalyptus (five trees in all) and the group of three Junipers at the south end of the terrace.

The specification for the nursery stock is as follows:-

- A. - Eucalyptus gunnii
- currently available at 3 metres high, container grown
- B. - Fatsia japonica
- currently available at 1.25 metres high, 1 metre wide in 25 litre container
- C. - Parthenocissus tricuspidata 'Veitchii'
- purchase as climbing shrubs
- D. - Juniperus virginiana
- currently unavailable as large plants. Nurseryman suggests Cupressus arizonica fastigiata as a substitute, currently available at 3.5 metres high in 50 L containers. This choice is acceptable to R.B.K.C. arboriculturists.
- E. - Ligustrum aureum
- currently available as L. Lucidum 'Excelsum Superbum'
A golden form 18/20 cm circumference at 1 metre from the ground with a 3.5 metre bole and a 1 metre diameter head

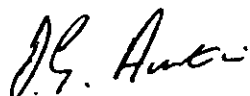
F. - Hedera helix 'Goldheart'
- purchase as climbing shrubs

Also Portuguese Laurel (*Prunus lusitanica*) currently available as 3 metre high, rootballed specimens, 3 times transplanted and bushy.

The specified nursery stock is available from Europlants Ltd on 01707 649996.

I trust that the above will assist.

Yours sincerely,



Derek Austin
Principal Arboricultural Officer
for the Executive Director of Planning and Conservation

c.c. Adam Ferguson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NN

Executive Director: M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr W. S. Teakle
Director
Guardian Foundations and Construction Ltd.
11 Barretts Green Road
London
NW10 7AE

Switchboard: 0171-937 5464
Extension: 3524
Direct Line: 0171-361 3524

Facsimile: 0171-361 3643

01 November 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/ARB/DGA Your reference:
/D1/MC

Please ask for: Derek Austin

Dear Mr. Teakle,

Re: Protection of London Plane Tree, 4-8 St. Mary Abbots Place, London W8

I refer to my visit to the above site on Tuesday 29th October 1996 and to my earlier letters to Duncan Gray (wrongly addressed as Duncan Gram as I misread Mr. Gray's signature) dated 9th and 25th October 1996 (copies enclosed).

As you know the Royal Borough's arboriculturists may make any stipulations that they see fit to ensure the sustained well-being of the London Plane tree on the site as part of the conditions attached to the planning permission for development.

As we are anxious to ensure that conditions are complied with I now write to reiterate certain points raised in previous correspondence:-

1. My colleagues and I are satisfied with the wooden 'crib' that has been erected around the tree. On confined sites it is impossible to adhere strictly to the British Standard BS 5837 'Trees in Relation to Construction' the contents of which are meant to be guidelines.
2. The concrete hardstandings outside the footprint of the building are to be retained until such a time that permission for their removal is given in writing by the L.P.A.
3. A temporary raft of reinforced concrete laid over the existing surface of the site (no excavations) of such a depth that it will withstand a loading of seven tons, covering the area between the tree's protective 'crib' and the building line (in other words what will become the courtyard) must be laid immediately and remain in place until such a time that permission for its removal is given in writing by the L.P.A.
4. After a conference on site, the arboricultural team members are agreed that further pruning of the London Plane tree may compromise the assurances given to residents that the upper crown of the tree will be highly visible above the upper extremities of the building from both Kensington High Street and properties in Warwick Gardens. Russell Mathew has explained that it is possible to manoeuvre the beam of the piling machinery between branches in the lower crown and this is preferable to further pruning. If the tree makes any deadwood following development this may be removed without the consent of the Local Planning Authority.

5. In view of the fact that some root severance is inevitable, a survey by Ground Penetrating Radar would be very useful to monitor the extent of such severance and ensure that it is kept within acceptable limits. I am not certain if the Pipehawk apparatus is capable of operation on rough terrain such as that on this site but the urgent advice of the firm (EMRAD) must be sought.

I trust that you will give these matters your urgent attention.

Yours sincerely,



Derek Austin
Principal Arboricultural Officer
for the Executive Director of Planning and Conservation

c.c. Mr. George Eyton-Jones
Mr. Russell Mathew
Mr. Adam Ferguson /
Mr. Peter Mullins

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Ferguson
15 Warwick Gardens
London
W14 8PH

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Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

01 November 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

Following our recent meeting to discuss the matter of compliance with Condition no.15 attached to the Planning Permission for the above site, ref. TP/94/0644, I write to clarify the position as it is at the time of writing. You have a copy of my letter to the developers of 4th October 1996, which has also been copied to the various party wall surveyors involved, and it is evident that an amount of uncertainty, or misunderstanding, still exists.

My letter of 4th October advised the developers that the landscaping scheme depicted on drawings 6366-26C and 27B, can be taken as satisfactory for the purposes of Condition 15. The letter then clearly states that a start on site could be permitted subject to two conditions that still needed to be satisfied. I consider it perfectly clear that if these two requirements have not been properly discharged, with written confirmation from myself that they have been so discharged, then the requirement of Condition 15 of the Planning Permission cannot itself have been fully met.

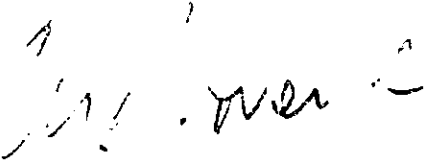
I understand that your party wall agreement stipulates that the developers should not commence work upon your land until such time as Condition no.15 has been fully complied with. At the time of writing, the two requirements presented in my letter of 4th October have not been discharged. Notwithstanding the fact that an amount of negotiation has taken place and it would seem that we are fairly close to agreeing to the requisite installation sizes for the trees, I cannot yet provide you with a statement that the provisions of Condition 15 have been fully complied with.

In order for me to issue such a statement, I need (a) confirmation from the developers that the minimum tree sizes stipulated are acceptable and will be installed and maintained accordingly, (b) a drawing showing, as a rear elevation, the appearance of the landscaping scheme at installation, and (c) agreement as to the position and type of the two replacement trees for the northern end of the site.

I am sending these requirements by fax to the developers today, however it will clearly take some time for them to submit the information. Until such time as I have issued a letter confirming that these matters have been satisfactorily dealt with, I will not be able to confirm that the requirements of Condition 15 have been fully met.

I cannot comment as to the right of the developers to enter your land as the Town and Country Planning Act does not deal with this, however if your party wall award stipulates that the requirements of Condition 15 must be fully met before they can commence work upon, or enter, your property, then it would seem to me that they must withhold such action until I have issued the necessary written confirmation.

Yours faithfully,



M. J. French
Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Director M J FRENCH FRICS Dip TP MRTPI Cert TS

George Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3STSwitchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463**KENSINGTON
AND CHELSEA**

01 November 1996

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

De:

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

I write following a number of recent meetings between various party wall surveyors in connection with the above site, plus on site meetings between Council Officers and the contractors, and your meeting last week with the Council Arboriculturist. It has become evident that an amount of uncertainty exists as to the matter of compliance with the requirements of Condition no.15 attached to the Planning Permission for the above site, ref. TP/94/0644. I understand that your contractors wish to enter the adjoining land and carry out works on that land, and that the party wall agreement stipulates that they may enter the land when the requirements of Condition no.15 have been met. Therefore, for your benefit and for the benefit of the other interested parties, I now write to clarify the position as it is at the time of writing.

My letter to you of 4th October advised that the landscaping scheme depicted on drawings 6366-26C and 27B, can be taken as satisfactory for the purposes of Condition 15. The letter then clearly states that a start on site could be permitted subject to two conditions that still needed to be satisfied.

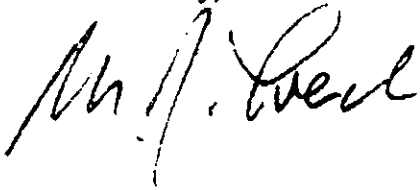
I consider it perfectly clear that if these two requirements have not been properly discharged, with written confirmation from myself that they have been so discharged, then the requirement of Condition 15 of the Planning Permission cannot itself have been fully met.

At the time of writing, the two requirements presented in my letter of 4th October have not been discharged. Notwithstanding the fact that an amount of negotiation has taken place and it would seem that we are fairly close to agreeing to the requisite installation sizes for the trees, I cannot yet issue a statement that the provisions of Condition 15 have been fully complied with.

In order for me to issue such a statement, I need (a) confirmation from you that the minimum tree sizes specified are acceptable and will be installed and maintained accordingly, (b) a drawing depicting clearly, as a reservation, the appearance of the trees at installation, and (c) confirmation as to the position and type of the trees to be installed at the northern end of the site. It is necessary for you to confirm the details of the trees to the Council Arboriculturist, as I understand that it is of concern that some of the planter sizes are small for the particular species and size of trees. A proper and separate letter has been sent to you on this matter.

I am copying this letter to the owners of the adjacent land. The first time as I have issued a letter confirming that these matters have been satisfactorily dealt with. I am not able to confirm that the requirements of Condition 15 have been fully met.

Yours faithfully,



M. J. French
Executive Director, Planning & Conservation

BETHAM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

1st November 1996

Our ref 9603

S D Oats Esq
Birketts, Solicitors
24-16 Museum Street
IPSWICH
IP1 1HZ

Dear Mr Oats

11 & 15 WARWICK GARDENS W14 AND 4-8 ST MARY ABBOTS PLACE, LONDON W8 6LS

I confirm our telephone conversations this afternoon concerning preservation of the Wisteria (Paras 4(i), (m) and (n) re No 15) and Fig trees (Paras 4(g) and (j) re No 11) together with security screening, setting aside topsoil and access for the works themselves.

We have called Treecare of 3 Rosebank Works, Rosebank Way, London W3 6TT (Telephone 0181-993 1443 and fax 0181-993 2828) to site on Monday afternoon 4th November to prune the Fig Tree (2 limbs) as necessary to accommodate the screening and to advise and to quote for works to protect and preserve the Wisteria. This latter is expected to require a/ strapping and winching back the trunks away from the Party Wall and, if necessary, b/ cutting one or both main stems so as to preserve the plant where it climbs the face of the adjacent garage. We did not speak of the provision where the Wisteria's protection and preservation cannot be guaranteed in this way which may require relocating westwards the change of line of foundations already proposed around the garage so as to miss the Wisteria as well. A small Japanese Maple in No 15 might also be root-balled and temporarily transplanted more efficiently than destroyed and replaced.

You confirmed that the Building Owner would meet the reasonable costs of the works by Treecare whose name had been mentioned by the contractor and is on the approved list of the Local Authority.

Fencing works to No 11 (Mullins) may proceed on Monday subject to awaiting Treecare work to the Fig Tree before finalising that part. On site it appeared that a Forsythia could be released from the garden fence party wall to fall back against a simple support, say a single scaffold pole angled against the garden wall between numbers 11 and 9.

Access and work to number 15 (Fergusson) are subject to more complex considerations including to protect and preserve the Wisteria about which we may know on Monday afternoon.

The Building Owner will instruct his architect to instruct the contractor not to attempt access earlier than implied by the above.

The above represents a genuine attempt to move matters forward amicably without prejudice to the parties' general misgivings about the content and form of the documents which does not appear to meet requirements of the Act by being a/ s55(1) or (j) to settle differences between Owners and subject to s55(1) within two weeks of delivery to each party.

While writing with copies to those involved it may be helpful to confirm other matters discussed on site:-

a/ Foundations have been set out from the two garden fence party and not to oversail them with the possible exception of reinforced ground beams not permitted by the Act. Mr Teakle of the contractor request clarification to send to me on Monday.

b/ No 15 (Fergusson) garden wall bricks are to be salvaged and re-used where appropriate as para 2(a). *(They were lost)*

c/ Mr Fergusson's garage may require underpinning as para 2(e). Mr Teakle will request advice from the engineer on Monday where pre-contract site investigation was inconclusive.

d/ Electrical supply to the garage is to be maintained throughout.

For the avoidance of doubt, I have made it clear to Adjoining Owners in the presence of Mr Teakle of Guardian Foundations that it is not for me to issue any instructions.

I trust that this accords with your understanding.

Yours sincerely

ADRIAN BETHAM, RIBA
Betham Associates, Architects

Copies to:-

N M A Lambarde Scott
Scott Davidson
113 Westbourne Grove
LONDON W2 4UP

0171-221 1855

W S Teakle
Guardian Foundations & Construction Ltd
11 Barretts Green Road
LONDON NW10 7AE

0181-963 0567

Mr & Mrs P Mullins
11 Warwick Gardens
LONDON W14 8PH

0171-602 0624

Mr & Mrs A Fergusson
15 Warwick Gardens
LONDON W14 8PH

0171-603 4114

BETHAM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

Attention Derek Taylor re St Mary Abbots Place

1st November 1996

Neighbours are concerned that it may prove time-consuming if not impossible for the Council to ensure retention of a screen of trees in pots which may appear temporary to future occupants and which may not accrue full Conservation Area or Tree Protection status.

Furthermore, the size of trees proposed or which may be reached or which may be reached through natural growth makes adequacy of pots a concern in terms of root growth, irrigation and stability. For these last three reasons, neighbours feel that to satisfy details of size etc required by the Council in its letter dated 4th October 1996 a common planter integral with the building will reasonably be required for each of the two groups of trees in the screen adjacent to No's 13 and 11 Warwick Gardens.

The Council has acknowledged on 4th October at the developer's request it would not stand in the way of a start on site pending remaining details. However it may wish to confirm that this must be at the developer's own risk with regard to matters flowing from outstanding requirements referred to in its letter.

MEETING WITH DEREK TAYLOR and PETER MULLINS, October 31 96. [Mr Austin turned up at the site, having not been told by the Planning Dept where to go, and therefore wasn't present]

Asked DT to state again his belief that the developers could not come on to our land without permission. He did so, saying it would be trespass. I showed him the solicitors letter threatening entry by force.

He said as a planner he could not stop that, though would consult the Council solicitor. He was unaware of Party Wall law! He said that his letter had permitted work to start subject to conditions, one of which was producing and agreeing landscaping - and no agreed drawing has yet been submitted; so as far as he is concerned the condition has not been met.

Could the Council halt the work? Technically yes, but getting a court order when dialogue was continuing would be difficult. permission?

Showed DT French's letter. Agreed that the statements about the felling of the sycamores ("Mr A did not give permission . . . nor has he the authority"; and "Mr Austin did not raise any objections") were illogical and inconsistent. He would discover who has issued that permission.

DT was told that Austin had now for the first time understood the screen problem - yet had earlier this week discussed tree heights with developers. Was told that Austin had not understood that the plane roots could not penetrate piling because of the swimming pool. Austin had said that a London plane could survive with the loss of 30 % of its roots; and was surprised to be shown that the swimming pool had already cut off a third of the area below the branches - the piles for the house proper are still to go in all round the plane. Had Austin agreed on tree sizes? If so, what is meant by his having no authority to give permission?

Told DT that Austin said that tubbed trees were bonzais and would have to be replaced every 15 years. To root satisfactorily in tubs, they should not be too big in the first place - junipers should be only two metres. Austin had agreed that the instant tubbed trees used at Chelsea flower show would be high enough to do the job but might not stand up here. Austin had further advised that the drawings should show the height of the trees on Day One.

DT said he was unaware that Austin had these reservations; and agreed that he had assured me that the trees would provide immediate concealment and privacy. DT was also told Jane Dow's comment that the the question of further lopping of the plane arose from doubts whether there would be enough roots left to sustain it [Jane Dow had actually said that Austin suggested further lopping].

On site, the foreman called Russell said that Duncan Gray had walked out leaving no instructions; that he had had absolutely no guidance on tree care or root care, having seen neither guidelines nor written instructions. Nor had he been asked to do anything about putting down a concrete raft to protect the roots, or to use a scanner. Austin had left no instructions.

DT saw that no effort was being made to prevent heavy plant and objects from moving across the root system.

He could not comment or promise anything without first finding out why so many mistakes had been made, with so little communication.

Memoranda

Jane Dow Oct 11 - spoke to about heavy
plant roots - seen under spread
not protected. Said she or D Austin
w'd check call - nothing.
Referred her to BS services.
She said if necessary Graham Foster
w'd look into it.

Oct 16 - Spoke to Duncan Gray. Asked
why the hurry to erect screen ^{NO} 15
given if the well to stay up.
He said that ~~the~~ the builders were
there & it ~~could be~~ he didn't want to

call them back again.
Oct 17. Saw plans on site - very good.

Oct 18. Spoke to D Taylor (who failed to
get back today). He agreed that I was
justified in not letting builders in until
the fire screen types and size had
been agreed. Promised to send some
best plans. I said I thought I had already seen
them; the carpenters were still here, so screens
No 9, not replaced yet.

Apr 20

Scout Bush on site. He discovered for first time that plane's roots would not penetrate 16 piles lining the swimming pool. He said that a plane could afford to lose 30% of its roots: I showed (a Teckle's plan) that $\frac{1}{3}$ of the branch spread over a ~~bed~~ area being cut away - before the other piles were started.

He has left a brochure for scanning with Teckle. Teckle says he will do whatever he is instructed (by whom?).

Austin is not certain that the screw in tubes will serve its purpose - which he has only today understood. - Teckle says he says will not be high enough. Agrees that the branch might be better.

Is going to take action on sycamore replacement.

Teckle wants to see me tomorrow morning.

Austin says Taylor says it will be necessary to take a well done without permission. I say is he sure - did about party well settlement? "Carbon Biding Act?" asks Austin. Yes, I say.
over

Ashin trying ~~to~~ to arrange a site
why with me → Taylor on Thurs.
Taylor too busy on Wed.

Meanwhile Taylor also too busy
to return my calls.

Ashin delivers a letter for Fred
Excuses Ashin for falling the excuses
but not accepting blame himself.

Why is letter not here? Because of
policy only to use 2nd class stamps.
Letter voluntarily tracked to build
a temp. left also delayed !!!

Fri Oct 25

Spoke to Mr French (D Taylor being a holiday). Complained about adjudicator and his bill.

French agreed that work should be commenced until landscaping fully agreed. I said we had to see a drawing which satisfied us.

He to talk to Austin to see where things stand.

(Still rather better we used from Austin.)

NB Agreed with P. Mullins that we have agreed to an adjudicator over notice, but were warned of a bill. We are concerned with notice - only over the conditions which haven't been met!

Fri 25.

Telephoned Austin.

Says he spent some time (hours + free time) with French drafting a reply to my letter of Oct 11.

Said he would take steps ϕ regarding the root survey (but wd. be on a "tree walk" [Holland Park] on Monday. Conceded that machinery parking had done damage & do damage. Said that tracked vehicles were better than others.

Said he would think on a temporary raft over the root was being threatened (I said it was rather late). Said he would allow no taller machinery in as requested, as that wd. mean more lopping.

Offered on site mtg on Tuesday.

~~Wed~~ Tuesday 29th a.m.

Still no letter from Austin. Rang Planning. Taylor is mtg all a.m. Requested site mtg from Dept. to ring back after 12.30.

Oct 21. 10-45

Rong Tea Office (361-3249 / 2767 / 3521)

Spoke to Beverly, who said it was the first (as I told her) had ever heard about pricing in Singapore - as the plan had to show them.

To J Daw, who said she saw my letter to Ashin last Monday (Oct 14), but Ashin had not seen it yet.

So that Ashin said no sign of root material brought up so far (JD agreed that was lack), and that use of scanner was up to developers.

[I so may that be indicated]

Complained that the Tea Dept failed to respond to call a letter.

J.D. will talk to DA, and ring back at 12.30 - and will come and hand himself

if necessary.
As at last had can be removed !!

Site for Oct-51

Austin says tubbed trees are banyans and must be replaced every 15 years.

That he supposed 2 male junipers would be most suitable.

Preferred ~~semi-mature~~ or advanced nursery trees as roots would grow to be finer.

Most of semi-mature trees were fine for Chelsea flower show tubs - but here they had to stand up to wind.

Hence, to ensure a functioning tea-screen.

1. They must be tall enough for Day One, especially replacements which would follow damage or cutting by mass.

ie. fully affected trees must be useable and durable. Austin Advises an electric

2. Trees and tubs/troughs must be ^{short} supplied that will do the job - able to withstand winds and weather such as Monday.



ich

rist, Mr. Austin. I do to discuss the points d his team to visit the

conversation with you ss the landscape

nature sycamore trees to for Development bmitted, Mr. Austin Arboriculturist's point of

culated to him, Mr. esire to remove the he sycamores should be

* 2nd class stamp policy ?

1. Clearly Austin is ~~capable~~ ^{with consultation} and able to give the instructions "in good faith" irrespective of Planning Officer's instructions. - from an arboriculturist's point of view, irrespective of anxiety or of protests.

order to difference between

Austin "did not give permission" and

1) Austin "did not raise any objections" ?

2. How about the application to proceed?

- reason because ^{reduced} tree roots cannot support canopy.

3. Arboriculturist's collective duty ... sent by 2nd class stamp.

4. Who is to blame?

sycamores. He did not advise the Planning and Conservation Officers that the sycamores should be retained and his observations were made in good faith for the guidance of Development Control Officers.

Mr. Taylor did ask Mr. Austin if he would be willing to write to you concerning the loss of the sycamores and the latter said that he would so upon receipt of copies of earlier correspondence for which he is still waiting.

The quotation in the third paragraph of your letter cannot be attributed to Mr. Austin who stands by his original site observations. The only "tree of note" that was ever on the site was the retained London Plane in his opinion.

The tree did not have a symmetrical lower crown before site clearance began, the trunk standing between two garages, its basal portions buried in debris to a depth of 1.5m. Some crown lifting was

Then whose ?

Mr M.J.French,
Executive Director, Planning & Conservation,
Royal Borough of Kensington & Chelsea.

October 31, 1996

Dear Mr French,

St Mary Abbott's Place

Thank you for your letter of October 25 in reply to mine of October 11 to Mr Austin. Owing to your Department's using second-class stamps even for urgent matters, it reached me yesterday.

I have these comments.

The sycamores: your third paragraph says "Mr Austin did not give permission for the two sycamores to be felled nor has he the authority to do so". Your fourth paragraph says "Mr Austin did not raise objections with the developers when they expressed a desire to remove the sycamores". Was Mr Austin therefore acting beyond his authority? Who did authorise the destruction of those trees, if Mr Austin did not and could not? If it was done without authority, will you prosecute those who felled them, or insist that the trees be replaced? As you are aware, I have the assurance of the Chairman of the Planning Committee that those trees were safe.

I find Mr Austin's inability to reply to letters extraordinary. From whom does Mr Austin claim to be awaiting "copies of earlier correspondence" before writing to me? He has been shown the letter from Councillor Harney.

The quotation referred to in the third paragraph of my letter (about the importance of "all the trees in and around the site" and the five "trees of note") comes from your own Department's report, presented to the Planning Committee with your signature and recommendation, on which they based their decision. Are you now saying that this was not based on your arboriculturist's advice? In that case, who provided that advice (which was entirely ignored), and what authority did it have?

I do not agree that the plane "did not have a symmetrical lower crown". I have photographs which show that last year it was a very well-shaped tree immediately above the garages.

You say that "The Arboriculturists are collectively devising a strategy for the avoidance of root damage to the tree which is enforceable...A ground penetrating radar scan would show up any linear obstructions . . ." My letter to Mr Austin warning of damage to the tree was written (after oral warnings) on October 11. I have learnt that Mr Austin, who spoke to me about bringing in a scanner before I wrote that letter, did not feel able to insist on a root scanner for the tree - saying it was up

to the developer. Has this policy changed to something more imperative?

Although Mr Austin told me he had sent a letter with a second-class stamp to the developer suggesting a concrete raft over the threatened tree roots, there is no evidence that any strategy is yet in effect. If rafts or scanners are needed, it must be for the arboriculturist or your department, not the developer, to decide - and they should have been on the site before the pile driving began. Do you agree?

Mr Taylor will have told you that he heard today, on site, that the foreman had received no written instructions or guidance whatever for caring for the plane tree or its roots. He had heard nothing of a concrete raft or a scanning machine. Mr Taylor saw that heavy plant and materials were still being driven and dumped close to the tree. Yet you tell me that Mr Austin's team will keep a close watch on this site "and monitor the tree's psychology". So far, this is simply not so. Mr Austin may have visited the site, but nothing is being enforced. If anything has been stipulated, no one is aware of it. If Dr Biddle's guidelines, to which you refer me, mean anything, it may already be too late. If you have decided that safeguarding the plane fully is after all (in your words) "not practicable on a small site", then I am sure the Planning Committee will want to know of that decision at once. Work should be halted forthwith.

I would appreciate a very rapid reply to the questions I have put to you.

Adam Fergusson

copies as before

Construction Department
Direct Fax: (01473) 218980

BIRKETTS

S O L I C I T O R S

24-26 Museum Street, Ipswich IP1 1HZ,
United Kingdom
Telephone: 01473 2322
Fax: 01473 23521 23175
Dx: 3296 Ipswich
MEMBER OF THE NORTH SEA GROUP OF LAWYERS

Adam Fergusson Esq
15 Warwick Gardens
LONDON W14 8PH

Our ref: SDO/K

Your ref:

Date: 30 October 1996

Dear Sir,

Proposed Dwellings St Mary Abbots Place

We are instructed by Eyton Developments (Suffolk) Limited in relation to the above development.

We have been passed copies of correspondence, the Party Wall Award and a subsequent decision of the Third Surveyor.

You will be aware that pursuant to the Party Wall Award dated 17th June 1996 our client is entitled to carry out certain works as detailed within that Award. Despite the clear terms of the Award we are instructed that you intimated to our client on a number of occasions that access would not be allowed. As a result of this the alleged dispute over the effect of the Party Wall Award was referred to the Third Surveyor, Mark Lanyon FRICS, to determine and on 21st October 1996 he gave his decision which, inter alia, stated that he was satisfied that the local planning authority had clearly stated that the landscaping details were satisfactory for the purposes of fulfilling Condition 15 of the Planning Consent. This has the effect of amending the original Award, if such amendment was ever needed, to make it clear that it is now open to our client to commence the relevant work.

Notice was served upon you on 18th October 1996 stating that forcible entry upon your rear garden would be effected to carry out the relevant works within 14 days and if an emergency should arise further notice as may be reasonably practicable. The Third Surveyor's decision also provides that, as you have effectively been aware since June and have been reminded in September of the works that are to be carried out, reasonable notice to you of two days may now be given prior to work commencing. You have already therefore had notice well in excess of the Third Surveyor's ruling and you should be aware that our client reserves the right to commence work as soon as is convenient within the overall building programme.

If you persist in refusing access, forcible entry will be effected. Any further hinderance that affects our client's progress with the works will form the basis of legal action and our client will be seeking damages and recovery of any costs expended by them in addressing your

GJ Cocksedge	JDH G	SRM	SRM	SRM	SRM	SRM	SRM
JDC Young	PN Wen	SRM	SRM	SRM	SRM	SRM	SRM
SRM Wilson	NW Fawc	SRM	SRM	SRM	SRM	SRM	SRM
J Bristol	Annette W Abrow	SRM	SRM	SRM	SRM	SRM	SRM

CONSULTANTS:
JDC Young
SRM Wilson
J Bristol

30 October 1996

failure to observe the Party Wall Award.

Yours faithfully


BIRKETTS

cc: Eyton Developments (Suffolk) Limited

Date: 16/10/96
Ref: 96/434

**REFERRAL TO THIRD SURVEYOR MARK LANYON FRICS OF
WINKWORTH SURVEYORS, 11 LEXHAM MEWS, LONDON W8**

IN THE MATTER OF A DISPUTE BETWEEN

**THE SURVEYOR FOR THE OWNER OF
4, 6 & 8 ST MARY ABBOT'S PLACE, LONDON W8 (BUILDING OWNER)**

AND

**THE SURVEYOR FOR THE OWNERS OF
11 WARWICK GARDENS, LONDON W14 &
15 WARWICK GARDENS, LONDON W14 (ADJOINING OWNERS)**

**BUILDING OWNER'S SURVEYOR: N M A LAMBARDE-SCOTT FRICS FSVA OF
SCOTT DAVIDSON LIMITED, 113 WESTBOURNE GROVE, LONDON W2 4UP**

**ADJOINING OWNERS' SURVEYOR: A BETHAM RIBA OF
BETHAM ASSOCIATES, 105-111 EUSTON STREET, LONDON NW1 2EW**

GENERAL

In Party Wall Awards both published on 17 June 1996, I, Mark Lanyon FRICS of Winkworth Surveyors, was appointed the Third Surveyor to act in the event of dispute arising under the terms of the Awards. Since both surveyors signed the Awards, I take it that my appointment is approved by both surveyors.

Since there is clearly a matter of extreme urgency in the resolution of this dispute, I have taken evidence from both surveyors over the telephone, together with letters and documents faxed to me. I have not made a formal inspection of the site (although I have visited it briefly) since the dispute is on a matter of interpretation alone.

The following is my understanding of the dispute to which I invite both surveyors to comment pending my decision.

DETAIL

1. A substantial house is to be constructed on the site known as 4, 6 & 8 St Mary Abbot's Place which adjoins two properties known as 11 & 15 Warwick Gardens.

The development was given planning consent on 11 July 1995 subject to various conditions, one of which (No 15) states: "full particulars of the following shall be submitted to and approved in writing by the Local Planning Authority before the development hereby denoted commences and the development shall not be carried out otherwise than in accordance with the details so approved:

(a) the treatment of the open land within the site including hard and soft landscaping"

2. It is understood that this landscaping consists of the planting of trees, shrubs etc on the western party boundary in order to protect the amenity enjoyed by the owners of 11 and 15 Warwick Gardens.
3. In the Party Wall Award relating to 11 Warwick Gardens, it is stated in Section 7 "that prior approval will be obtained from the Local Planning Authority in accordance with the Planning Consent as to landscaping". This is repeated verbatim in the Award relating to 15 Warwick Gardens under Section 9.
4. Works were due to commence on Monday, 30 September 1996 (although they in fact started on the 7th October 1996). The building owners' surveyor, Mr Scott sent a letter to the adjoining owners' surveyor, Mr Betham, on 26 September enclosing a programme of works dated 23 September 1996 and Mr Betham acknowledged both by letter on 30 September 1996 (copies attached). I have a copy of a letter, dated 24 September 1996, from Guardian Foundations & Construction Ltd stating that "works on the site were due to commence on Monday, 30 September 1996 and giving a telephone number of the site agent in case of queries or complaints. It is not known to whom this was posted and it is regarded as hearsay evidence only (copy appended).
5. In Section 4(n) of the Award relating to 15 Warwick Gardens, it is stated that the building owner shall "erect screening on site parallel with party fence wall line, 1.5m in,

extending north to connect with party fence wall to No 13, and additionally as agreed on site to protect the wisteria and the garage roof. Screening to consist of 8' by 4' plyboarding supported on scaffolding poles". The adjoining owners' surveyor, Mr Betham, has requested an adjudication of what would constitute reasonable notice given to the owner of this property before the building owners' contractors enter onto the site in order to carry out this work.

6. In a letter, dated 4 October 1996, from Mr Derek Taylor of the Town Planning Department of the Royal Borough of Kensington & Chelsea to Mr George Eyton-Jones a number of details are expressed and Page 2 of this letter is appended. It will be referred to in the decision.

Please read through this resume carefully and ring me to discuss it as soon as possible. I propose to charge £100 p.h. plus VAT for this work and will make an Award as to costs at the same time as my decision. I need confirmation from both surveyors that this is in order and my costs will be met.

Mark Lanyon FRICS

WINKWORTH SURVEYORS
Chartered Surveyors

16 October 1996

COMMENTS ON REPLY TO THE ABOVE FROM NICHOLAS LAMBARDE-SCOTT (NLS) AND ADRIAN BETHAM (AB) IN A LETTER FROM AB AND FAX FROM NLS, BOTH OF 17TH OCTOBER 1996.

AB LETTER OF 17/10/96 TO ME:

- 2 (a) The awards clearly do not "make allowance for trees". Since the planning phrase "hard and soft landscaping" (condition 15) will be defined by the planning department, I do not think specific reference to trees is required in the awards.
- 2 (b) I do not think there is any allegation that the building owner, his contractors or surveyor will do other than "take all reasonable precautions to retain the adjoining owner's land and buildings etc". I do not propose to adjudicate on this.
3. The significance of section 7 and section 9 in the awards is fully understood. Both surveyors agreed on it anyway by signing the awards.
4. Whether the contract programme provided by the contractors refers to the sub-structure contract or the works permitted by the awards, it was an indication (albeit provisional) of the programme of works and when they would start. The adjoining owners' surveyor would have known that the excavation for the basement would be almost the first item in the

?
1.2
2.0

not
appended

programme. It would therefore be necessary to safeguard the bottom 1.5m of the gardens to 11 and 15 Warwick Gardens. As to the Guardian letter, I am assured that it was hand-delivered to all neighbouring properties but I have no easy way of checking this.

- 5. These items are clearly important but all have apparently been anticipated by both surveyors and all items are covered by the awards.
- 6. I have spoken to Derek Taylor, the planning officer, who said that whilst he was happy for the works to start on the site, the full and final detail of the landscaping was to be agreed as soon as possible and condition 15 to the planning consent was not fulfilled to the letter until that time.

The paragraph after item 6 assumes that reasonable notice had NOT been given. The definition of reasonable notice in this context will be part of my adjudication.

NLS FAX TO ME:

It is accepted that the dispute is between the surveyors because they make the decisions as to the detail of the awards. The title page is therefore changed although it is to be hoped that both surveyors recognise the need for fair and equitable decisions because of their effect on the owners.

It is accepted that works to the party structure in question have not commenced. Work on the site commenced on the 7th October, about one week later than originally intended.

DECISION

- A. My decision in the matter of what might be considered in this context reasonable notice to the adjoining owners is as follows:
 - (i) the awards envisage the building owner's contractors coming on to the site some time after the awards were published in June 1996 and after planning consent was granted in July 1996.
 - (ii) the owners of 11 and 15 Warwick Gardens would have copies of the awards and would therefore have been aware of item (i) above.
 - (iii) AB requested the programme of works for no other reason than to advise the adjoining owners when works would begin and therefore when it would be necessary to start moving shrubs etc.
 - (iv) the adjoining owners must have seen the contractors coming on to the site at the bottom of their gardens. Yet this still does not seem to have alerted them to the need for removal of their plants and shrubs.

I therefore decide that the adjoining owners had been given ample notice by reason of having effectively been aware since June with further reminders from their surveyor in September. All previous notice having been disregarded apparently, the adjoining owners might reasonably now be given two days' notice.

- B. In the matter of the interpretation of section 7 and section 9 "that prior approval will be obtained from the local planning authority in accordance with the planning consent as to landscaping" I find as follows:

- (i) Whilst it may be the case that the adjoining owners will have a say in the final detail of the landscaping in, for instance, consultation with the planning department, it is ultimately this department which will make the decision, not the building owner and not the adjoining owner. Therefore, to some degree, the wording in section 7 and section 9 of the awards cannot be judged by the party wall surveyors.
- (ii) In the letter, dated the 4th October 1996, from Derek Taylor, it is clearly stated that landscaping details are satisfactory for the purposes of fulfilling condition 15 of the planning consent. Even if the second paragraph of the second page slightly clouds the issue, I cannot just ignore the contents of the first paragraph and I do not accept that the building owner or his surveyor could be expected to reach any different conclusion, particularly in light of item (i) above.
- (iii) I have the impression that AB believes that the planning authority is happy for the work to start on the site pending full details to satisfy condition 15, but this does not give the building owner authority to start on the party wall line by reason of his interpretation of the wording of section 7 and section 9 in the awards. However, it seems to me that the building owner has clearly taken steps to satisfy the planning department, to the extent that their representative confirms this in writing.

Since the contract of works is likely to take between 6 and 9 months and it will not be possible to carry out the landscaping until almost the end of the contract, it is unreasonable to prevent works being carried out on the party wall line. I therefore find for the Building Owner's surveyor.

AWARD OF COSTS

In view of the fact that I find in favour of the building owner's surveyor on both points but consider that the wording of section 7 and section 9 to have been rather poorly drafted, I award 75% of the costs against the adjoining owners' surveyor and 25% of the costs against the building owner's surveyor. I have spent approximately 4 1/2 hours on this matter and enclose bills in the sum of £112.50 plus VAT for the building owner and £337.50 plus VAT for the adjoining owners.

ENCLOSURES

The following are appended to this decision:

Letter to AB from NLS (26/9/96).

Provisional contract programme 23/9/96.

Letter from AB to NLS (30/9/96).

Letter from Guardian Foundations and Construction Ltd (24/9/96).

Second page of letter from Derek Taylor, town planning department, for 10/96

Page 3 of planning consent showing condition 15.

Letter from AB to me (17/10/96).

Fax from NLS to me (17/10/96).

Mark Lanyon FRICS
for WINKWORTH SURVEYORS
(Chartered Surveyors)

21 October 1996

DA

PLANNING AND CONSERVATION

TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

Switchboard: 0171-937 5464
Extension: 2944
Direct Line: 0171-361 2944
Facsimile: 0171-361 3443

25 October 1996

My reference: EDPC/MJF/ARB/ DGA Your reference:

Please ask for: Mr. French

Dear Mr. Fergusson,

St. Mary Abbots Place

Thank you for your letter of 11th October addressed to my Principal Arboriculturist, Mr. Austin. I do apologise for the delay in replying to your letter but it has been necessary for me to discuss the points raised in some detail with Mr. Austin and Mr. Taylor, and also for Mr. Austin and his team to visit the site to take an overview of the works in progress there.

I understand that Mr. Austin has visited the site several times since his telephone conversation with you and has had a meeting with the developer here at Kensington Town Hall to discuss the landscape proposals for the site.

To answer your points in turn, Mr. Austin did not give permission for the two mature sycamore trees to be felled nor has he the authority to do so. In his original observations prepared for Development Control Officers when the planning application for the development was first submitted, Mr. Austin stated that the sycamores were "volunteer" or "self set" trees and that from an Arboriculturist's point of view, it was a little consequence whether they were removed or retained.

Having not had sight of Councillor Harney's letter to you because it was not circulated to him, Mr. Austin did not raise any objections with the developers when they expressed a desire to remove the sycamores. He did not advise the Planning and Conservation Committee that the sycamores should be retained and his observations were made in good faith for the guidance of Development Control Officers.

Mr. Taylor did ask Mr. Austin if he would be willing to write to you concerning the loss of the sycamores and the latter said that he would so upon receipt of copies of earlier correspondence for which he is still waiting.

The quotation in the third paragraph of your letter cannot be attributed to Mr. Austin who stands by his original site observations. The only "tree of note" that was ever on the site was the retained London Plane in his opinion.

The tree did not have a symmetrical lower crown before site clearance began, the trunk standing between two garages, its basal portions buried in debris to a depth of 1.5m. Some crown lifting was

then whose?

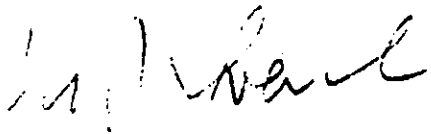
avoidable to clear the eaves of the new building. This was measured by the original developer's arboricultural consultant, Mr. Grainger, using a clinameter and checked by Mr. Austin. Having visited the site with his colleagues, Ms. Dow and Mr. Bentley on Monday, 21st October 1996, the tree officers are all of the opinion that further pruning is not necessary at the moment and this is the view that will be expressed in the Council's decision with regard to the current application to prune. The Arboriculturists are collectively devising a strategy for the avoidance of root damage to the tree which is enforceable under the conditions attached to the planning permission. A ground penetrating radar scan would show up any linear obstructions such as tree roots but the technique is a new one and had not been fully developed at the time that planning consent was given for this development.

What has been done?

Please be assured that the Arboriculturists will keep a very close watch on this site and monitor the tree's physiological well being and the condition of its protective "crib". A dialogue has been set up between the tree officers and the workmen on site which can only be beneficial to the tree's welfare.

The British Standard to which you refer in your penultimate paragraph, BS3998, is actually 'Recommendations for Tree Work'. The appropriate standard is BS5837 "Trees in Relation to Construction" from which you quote. The author of that document, Dr. Giles Biddle, has made it plain to the industry that the contents are essentially guidelines and what may be possible in a farmer's field or former factory site is not always practicable on a small site where site machinery needs room to manoeuvre. London Planes are extremely tough trees with hybrid vigour and a high tolerance of pruning and root severance. My Arboriculturists are confident that the tree in question will survive this development given the attention described in your final paragraph.

Yours sincerely,



M. J. French,
Executive Director, Planning and Conservation.

** why the application?*

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director: M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. Adam Fergusson,
15 Warwick Gardens,
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25 October 1996

THE ROYAL
BOROUGH OF



KENSINGTON
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My reference: EDPC/MJF/ARB/ Your reference:
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Please ask for: Mr. French

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Thank you for your letter of 11th October addressed to my Principal Arboriculturist, Mr. Austin. I do apologise for the delay in replying to your letter but it has been necessary for me to discuss the points raised in some detail with Mr. Austin and Mr. Taylor, and also for Mr. Austin and his team to visit the site to take an overview of the works in progress there.

I understand that Mr. Austin has visited the site several times since his telephone conversation with you and has had a meeting with the developer here at Kensington Town Hall to discuss the landscape proposals for the site.

To answer your points in turn, Mr. Austin did not give permission for the two mature sycamore trees to be felled nor has he the authority to do so. In his original observations prepared for Development Control Officers when the planning application for the development was first submitted, Mr. Austin stated that the sycamores were "volunteer" or "self set" trees and that from an Arboriculturist's point of view, it was of little consequence whether they were removed or retained.

Having not had sight of Councillor Harney's letter to you because it was not circulated to him, Mr. Austin did not raise any objections with the developers when they expressed a desire to remove the sycamores. He did not advise the Planning and Conservation Committee that the sycamores should be retained and his observations were made in good faith for the guidance of Development Control Officers.

Mr. Taylor did ask Mr. Austin if he would be willing to write to you concerning the loss of the sycamores and the latter said that he would so upon receipt of copies of earlier correspondence for which he is still waiting.

The quotation in the third paragraph of your letter cannot be attributed to Mr. Austin who stands by his original site observations. The only "tree of note" that was ever on the site was the retained London Plane in his opinion.

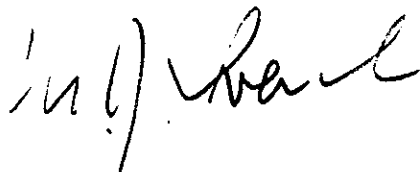
This tree did not have a symmetrical lower crown before site clearance began, the trunk standing between two garages, its basal portions buried in debris to a depth of 1.5m. Some crown lifting was

unavoidable to clear the eaves of the new building. This was measured by the original developer's Arboricultural consultant, Mr. Grainger, using a clinameter and checked by Mr. Austin. Having visited the site with his colleagues, Ms. Dow and Mr. Bentley on Monday, 21st October 1996, the tree officers are all of the opinion that further pruning is not necessary at the moment and this is the view that will be expressed in the Council's decision with regard to the current application to prune. The Arboriculturists are collectively devising a strategy for the avoidance of root damage to the tree which is enforceable under the conditions attached to the planning permission. A ground penetrating radar scan would show up any linear obstructions such as tree roots but the technique is a new one and had not been fully developed at the time that planning consent was given for this development.

Please be assured that the Arboriculturists will keep a very close watch on this site and monitor the tree's physiological well being and the condition of its protective "crib". A dialogue has been set up between the tree officers and the workmen on site which can only be beneficial to the tree's welfare.

The British Standard to which you refer in your penultimate paragraph, BS3998, is actually "Recommendations for Tree Work". The appropriate standard is BS5837 "Trees in Relation to Construction" from which you quote. The author of that document, Dr. Giles Biddle, has made it plain to the industry that the contents are essentially guidelines and what may be possible in a farmer's field or former factory site is not always practicable on a small site where site machinery needs room to manoeuvre. London Planes are extremely tough trees with hybrid vigour and a high tolerance of pruning and root severance. My Arboriculturists are confident that the tree in question will survive this development given the attention described in your final paragraph.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. J. French', written in a cursive style.

M. J. French,
Executive Director, Planning and Conservation.

To Peter Mullins pld # 9
 to Adam Fergusson "

23/10/96

In response to my fax this morning I have received from the Third Surveyor his Award / Adjudication which he appears to be relying on me to deliver to you and to the Fergussons.

Whereas I am surprised by his decisions, the system is designed to achieve decisions without teams of lawyers and so I do advise you to go along with it: awards can be appealed in the County Court within 2 weeks of delivery on a point of law only.

The best would be to agree time with Purcell Gray to suit both parties but starting from now.

I cannot help expressing surprise for the following reasons there are three matters: -

1/ NOTICE - he finds 2 days appropriate which was my suggestion. NMA LS went to the 3rd surveyor when you declined access the same day.

2/ REMOVAL "AS SOON AS POSSIBLE" - by definition this also requires installation as late as possible.

3/ PLANNING: we are not concerned with amplification ~~for~~ but that final planning requirements do not require ~~more~~ and delay. *Am*

Further to my telephone message to Mark Lanyon, yesterday (Tuesday) afternoon, Nick Lombard-Scott had left a message at my office on Monday evening referring to the 'Thir's Surveyor's Award which I had not received and to 2-days notice to the Adjoining Owners.

As of yesterday (Tuesday) evening the Adjoining Owners had not received delivery of any Award or notice other than Nick Lombard-Scott's letters referring to access week - commencing 29 October around which they have been arranging their schedules.

I am out of London Tuesday and Wednesday and, probably, Thursday and my message asked Mark Lanyon to fax any Award, if and when prepared, for my attention at 01873 890 548 as well as to deliver ~~my~~ to Owners in the normal way.
Wednesday 23 October
Adrian Pattison

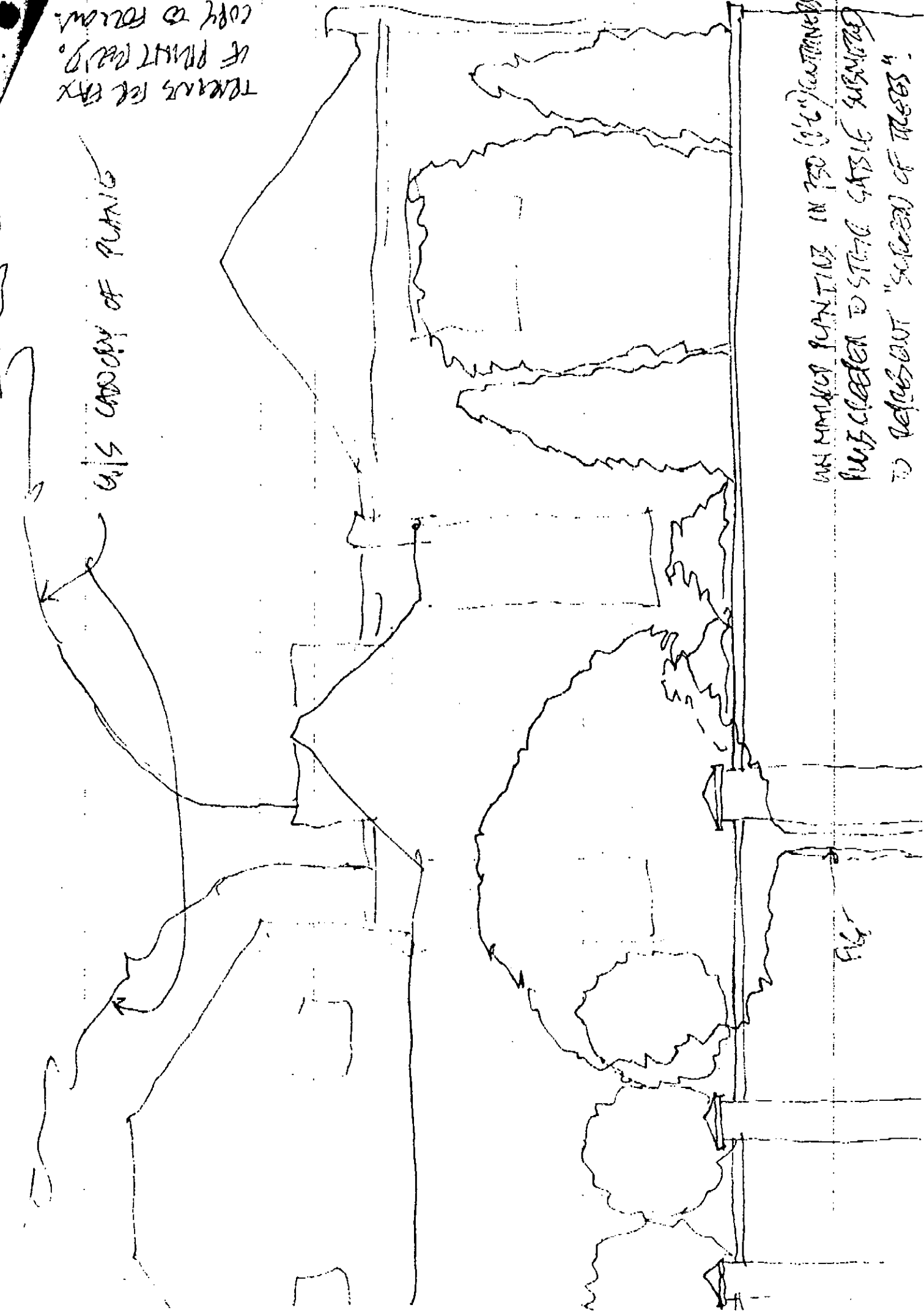
Copy attention Mark Lanyon
071-937 5007

"SEED TO SEEDS" PROJECT
BIRMINGHAM, ALABAMA
MAY 1968

5/68

THIS COPY OF PLANS

TEARS FOR THE
COPY TO FOLLOW



FAX SENT BY : 01873 898548

BETHAM ASSOCIATES

A4->A4

23/10/96

15:24

PG: 8

FAX FROM : +44 171 937 5227

23/10/96

11:31

PG: 8

23/10 '96 11:34 FAX -44 171 937 5227

WINKWORTH

06

INVOICE

Date: 21/10/96

Invoice no: 96/434a

Mr & Mrs AD Fergusson and Mr & Mrs PS Mullins
c/o Betham Associates
105-111 Euston Street
London NW1 2EW

RE: 11 & 15 Warwick Gardens and 4, 6 & 8 St Mary Abbot's Place W8

TO: Accepting instructions to adjudicate as third surveyor in party wall dispute between NMA Lambard-Scott, surveyor to the building owner and A Betham, surveyor to the adjoining owners;

FEE: 4 1/2 hours @ £100 per hour at 75%

FEE	£337.50
VAT @ 17.5%	59.06
BALANCE	<u>£396.56</u>

VAT NO: 396 6270 12

21 October 1996

Ref: 96/434

A Betham Esq RJBA
Betham Associates
105-111 Euston Street
London NW1 2EU

Dear Mr Betham

**RE: 11 & 15 Warwick Gardens and 4, 6 & 8 St Mary Abbot's Place, London W8
Third surveyor dispute.**

As requested, herewith my adjudication in this dispute between Nick Scott and yourself over the party boundary wall between the above properties. The memo which arrived from Adam Fergusson at midday today was not considered relevant to this adjudication.

Herewith also my bill for your appointing owners and perhaps you would be kind enough to arrange to have it discharged in the normal way.

Yours sincerely

Mark Lanyon FRICS
for **WINKWORTH SURVEYORS**
(Chartered Surveyors)

**From Adam Fergusson
15, Warwick Gardens, London W 14 8PH
Telephone: (44) 71 603 7900 Fax: 4114**

Adrian Betham,
Adrian Betham Associates

October 18 1996

ST MARY ABBOTS PLACE

I attach my reply to Lambarde-Scott.

While this is still fresh in my memory -

On **October 16**, I spoke to Duncan Gray the site manager, and asked him why, if the wall was to stay in place (as a "base line") for the present, it was necessary to erect a screen on my side of it right away. He answered that the builders were on site, and that otherwise they would have to come back again later. I said that we could not give way on this matter, and urged him to get the developers to provide landscape plans.

October 17, at Gray's request went to inspect plans on site. He was not there. The plans were unsatisfactory: still no screen for No 9; no replacement for sycamores; carpentaria (rather than eucalyptus) still in south-west corner; too few junipers bordering No 15. Said so. Also rang Planning Office who said Taylor or French would ring back (mainly about the plane tree). Neither telephoned. Alerted ESSA (Res. assoc.) and Councillor Christmas.

October 18. Spoke to Derek Taylor in a.m., He agreed that I was justified in not letting builders in until the tree screen types and sizes had been agreed. He promised to send round latest plans when he had them, I said I thought I had seen them and they were no good. He has sent none. Miss Christmas rings to say Austin of Trees claimed he had only just got my letter to him of October 11 because it had been forwarded directly to Planning! Odd - Taylor of Planning said he had not seen the letter, although I had also copied it to Planning myself. Austin is to have an on-site meeting with the landscape architect, and will get in touch with me (if so, it will be for the first time in two years). Taylor will be on leave next week. Ho hum.

AF

**From Adam Fergusson
15, Warwick Gardens, London W 14 8PH
Telephone: (44) 71 603 7900 Fax: 4114**

Mr N M A Lambarde-Scott
113 Westbourne Grove, W2 4 UP

October 18, 1996

Dear Mr Scott,

Thank you for your letter giving two weeks' notice of the wish of the builders in St Mary Abbots Place to do work on my side of the boundary wall.

I am content with that arrangement, but only provided that I have first been supplied with, and agreed to, the full details of the landscaping proposals for the site. The developers, I hope, understand this; and Mr Taylor of the Council's Planning Department is in agreement with that position.

I know no reason why these proposals should not have been agreed at any time this year, or why the developers have delayed their production so long. As of today's date, none has been delivered to me, and the last version I saw (yesterday, on site) was self-evidently inadequate in that, inter alia, it did not include the tree screen which the Council has required to protect the four properties on the boundary of the site.

Yours sincerely

Adam Fergusson



**SCOTT DAVIDSON
CHARTERED SURVEYORS**

113 WESTBOURNE GROVE, LONDON W2 4UP
TEL (0171) 727 0619 FAX (0171) 221 1855

Mr & Mrs Fergusson
15 Warwick Gardens
London
W14

Our ref: NMALS/St-i/3377

18 October 1996

Dear Mr & Mrs Fergusson

RE: 15 WARWICK GARDENS

On behalf of Eyton Developments (Suffolk) Ltd, I hereby give you notice under Section 53 of the London Building Acts (Amendment) Act 1939 Part VI and with reference to the Party Wall Award that in fourteen days of the date of this notice the building owner and/or his agents and workmen will enter upon the rear garden of 15 Warwick Gardens in order to carry out works in pursuance of part VI of the Act. In the event that an emergency should arise, necessitating earlier access, in accordance with Section 53(3)a of the Act, further notice as may be reasonably practicable shall be given.

Yours sincerely

N M A Lambarde-Scott FRICS FSVA

cc Adrian Betham
George Eyton-Jones
Simon Oates, Birketts
Duncan Grey, Guardian Foundations & Construction

SLITHRAN ASSOCIATES, ARCHITECTS

105-111 DUSTON STREET, LONDON N1 6PE
Telephone and facsimile 0171-347 347

17th October 1995
Our ref: 9503
Your ref: 95/343

Re: Fax to 0171-934 5977

Ray Lanyon, FRIB
Planning Supervisors
in Exton News
LONDON W8 6JW

Dear Mr Lanyon

Re: 11 & 15 MARWICK GARDENS W14 AND 4 & 8 St MARY ABBOTS PLACE, LONDON W14

Thank you for your fax yesterday evening. I agree with the points generally subject only to comments including the following which occupy the time I have been able to devote today.

References are to the Award re No 15 Marwick Gardens but apply equally to No 11 where the context permits. "Works" refers to works permitted by the Award unless defined otherwise.

You appear not to have been passed my memorandum of 10th October 1995 or the letter of the planning officer of 9th October 1995 which I now attach, or of the drawings referred to in the letter of 9th October 1995 which I have not seen or promised copies by fax by mid-day yesterday.

Other points following your numbering:-

2. Planning matters do not impinge on the Awards except that:

a. eventual approval of the "screen of trees" (4-10-95) and of works already "at least semi-mature specimens" (4-10-95) referred to in the Award make no allowance for the difficulty to estimate forces involved in supporting fully mature trees under strong windload with foliage and planting soil covering works.

b. Adjoining Owners are entitled to expect that "the works" carried out with reasonable expedition (s3) and that the Owners will "take all reasonable precautions to retain the stability of their land and buildings" s4(b) for instance by minimising the excavation in area and will "remove any scaffolding as soon as possible" s4(c) after their installation.

3. In view of the above, s3 was included in the Awards to minimise screening being in place and excavation open for longer than should the Works require amendment or replacement for instance to support the weight of fully mature trees and the soil in the ground.

4. In the programme "works" refer to the substructure construction throughout the site and not only to the "Works" permitted by the Award. The start date had been given verbally only not on the drawings as acknowledged in my letter but omitted in writing of the Award and subsequent matters. The relevant letter had not been received.

+ (18/10/95) SEE RES CONFORMING LETTER 20/10/95 RE: PENDING
OUTSTANDING PLANNING ISSUE

GENERAL

In Party Wall Awards both published on 17 June 1996, I, Mark Lanyon FRICS of Winkworth Surveyors, was appointed the Third Surveyor to act in the event of dispute arising under the terms of the Awards. Since both surveyors signed the Awards, I take it that my appointment is approved by both surveyors.

Since there is clearly a matter of extreme urgency in the resolution of this dispute, I have taken evidence from both surveyors over the telephone, together with letters and documents faxed to me. I have not made a formal inspection of the site (although I have visited it briefly) since the dispute is on a matter of interpretation alone.

The following is my understanding of the dispute to which I invite both surveyors to comment pending my decision.

DETAIL

1. A substantial house is to be constructed on the site known as 4, 6 & 8 St Mary Abbot's Place which adjoins two properties known as 11 & 15 Warwick Gardens.

The development was given planning consent on 11 July 1995 subject to various conditions, one of which (No 15) states: "full particulars of the following shall be submitted to and approved in writing by the Local Planning Authority before the development hereby denoted commences and the development shall not be carried out otherwise than in accordance with the details so approved:

(a) the treatment of the open land within the site including hard and soft landscaping"

2. It is understood that this landscaping consists of the planting of trees, shrubs etc on the western party boundary in order to protect the amenity enjoyed by the owners of 11 and 15 Warwick Gardens.
3. In the Party Wall Award relating to 11 Warwick Gardens, it is stated in Section 7 "that prior approval will be obtained from the Local Planning Authority in accordance with the Planning Consent as to landscaping". This is repeated verbatim in the Award relating to 15 Warwick Gardens under Section 9.
4. Works were due to commence on Monday, 30 September 1996 (and it is assumed that they did). The building owners' surveyor, Mr Scott sent a letter to the adjoining owners' surveyor, Mr Betham, on 26 September enclosing a programme of works dated 23 September 1996 and Mr Betham acknowledged both by letter on 30 September 1996 (copies attached). I have a copy of a letter, dated 24 September 1996, from Guardian Foundations & Construction Ltd stating that "works on the site were due to commence on Monday, 30 September 1996 and giving a telephone number of the site agent in case of queries or complaints. It is not known to whom this was posted and it is regarded as hearsay evidence only (copy appended).
5. In Section 4(n) of the Award relating to 15 Warwick Gardens, it is stated that the building owner shall "erect screening on site parallel with party fence wall line, 1.5m in

extending north to connect with party fence wall to No 13, and additionally as agreed on site to protect the wisteria and the garage roof. Screening to consist of 8' by 4' plyboarding supported on scaffolding poles". The adjoining owners' surveyor, Mr Betham, has requested an adjudication of what would constitute reasonable notice given to the owner of this property before the building owners' contractors enter onto the site in order to carry out this work.

6. In a letter, dated 4 October 1996, from Mr Derek Taylor of the Town Planning Department of the Royal Borough of Kensington & Chelsea to Mr George Eyton-Jones a number of details are expressed and Page 2 of this letter is appended. It will be referred to in the decision.

Please read through this resume carefully and ring me to discuss it as soon as possible. I propose to charge £100 p.h. plus VAT for this work and will make an Award as to costs at the same time as my decision. I need confirmation from both surveyors that this is in order and my costs will be met.


Mark Lanyon FRICS

WINKWORTH SURVEYORS
Chartered Surveyors

16 October 1996

53.—(1) A building-owner-his-servants agents and workmen may during usual working hours enter and remain on any premises for the purpose of executing and may execute any work in pursuance of this Part of this Act and may remove any furniture or fittings or take any other action necessary for that purpose.

(2) If the premises are closed the building owner his servants agents and workmen may if accompanied by a constable or other police officer break open any fences or doors in order to enter the premises.

(3) Before entering any premises in pursuance of this section a building owner shall give to the owner and occupier of the premises—

- (a) in case of emergency such notice of his intention to enter as may be reasonably practicable;
- (b) in any other case fourteen days' notice of his intention to enter.

INTERPRETATION

Once again, note, this applies to all of Part VI. In other words, an uncontested notice under s.45, no less than an award dealing with s.46, conveys all the rights given in this section, 53.

The word "premises" includes land and buildings. The word "fences" in this sub-section makes it clear that land is included.

A Dangerous Structure notice would constitute an emergency. "Reasonably practicable" is a matter of fact in each case.

COMMENT

This section allows the building owner to erect scaffolding on the adjoining owner's land, and to bring and leave any equipment, if it is necessary to do so. "Usual working hours" for scaffolding are 24 hours a day. It would be helpful if future legislation was more explicit on this point.

The provisions of s.53 cannot be used to obtain access to property whose owner does not respond to notices. The proper procedure is to serve notice in accordance with s.124, appoint a surveyor under s.55 (c) and then, if necessary, use s.53.

Surveyors may impose conditions, under s.55, upon use of s.53, and might apportion cost of damage caused by effecting entry if the adjoining owner had unreasonably refused it. It might be a good idea to mention "land" specifically in any re-enactment.

Policemen may need to be persuaded of their duty to witness a breaking-in, and surveyors should produce documentary proof that they are within their rights under the Act.

Opinions may differ as to what is "reasonably practicable", but in an emergency it could be very short notice indeed. If you're dealing with an aggressive objector who won't let you in, you could obtain a court order, and take a policeman with you. (Some people recommend sending assistants, as being more expendable, with the policeman.)

BETHEM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1
Telephone and facsimile 0171 387 0451

Re: to BTH-221 (051
105 Euston Street

11th October 1996
Mr. ...

I have been unable to reach you by telephone but I have again tried
sending a duplicate letter and refer to the BTH-221 covers since you are
a little while ago.

I understand your adjoining works and the City Council's position and
effective and friendly communication while recognizing each other's
positions and that it would be convenient but not essential to postpone
the works to install the protective fencing now.

It is probably a good thing because I think we have a good
reading the letter I see that the Council does allow
with on its part, but there are two outstanding points
and is formalised as required by the Board's (see 7 of the
BTH-221) for early work to start.

The second requirement concerns proposals to relocate two
which could be made from the adjoining work provisionally
disregarded.

The first however requires that "written agreement on all
items part of the requirement of the underground conditions
agreement which should not take more as a temporary
and that once started, works can proceed to completion
without interruptions which might for instance be due
to changes involved changes to constructional detail.

Can you please obtain this written agreement from the
Council to me together with the copies of drawings
that works can start?

How could you also arrange the working of the
protective works?

Yours faithfully

Bethem Associates

Miss Christmas told me on Oct 18, that DA claimed his letter was passed to the Planning Dept, and that he had only just seen it. D Taylor of the Planning Dept (to whom - hence - it had been copied) claimed not to have seen it at all.

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

DA to hold site w/ty
w/ landscape architect
advice back with us.
October 11, 1996

Mr Derek Austin,
Principal Kensington Arboricultural Officer,

Dear Mr Austin,

ST MARY ABBOTS PLACE

My neighbours and I have become thoroughly alarmed because the trees on this site have not been given the protection of which we were assured at the time of planning permission.

First, there is the matter of the two mature sycamores which, with your permission, were felled last week without any notice to the residents affected. You have now seen (although you denied earlier knowledge of) the letter to me from the Chairman of the Planning Committee stating that one sycamore was likely to come down, but would be replaced, while the other was secure without a TPO. The destruction of these trees is against the expressed wishes of the Planning Committee; against your own advice to that Committee; against the guidelines for the protection of trees in a conservation area; and unnecessary for the construction of the new buildings. It was also done in pre-emption of an agreement on how the open area of the site should be landscaped; and we consider that thereby Conditions 3, 4 and 15 of the Planning Permission have been seriously violated.

I was promised by Mr Derek Taylor of the Planning Department that you were writing to me to explain how this came about. No letter has come. In our telephone conversation yesterday you told me that you regarded these trees, being "voluntary", as of no great importance. But you will recall that in 1995, advised by you, the Planning Department three times assured the Council that

"The only proposed work to the trees on the site involves the lower branch of the Plane tree, and the one sycamore ... Cumulatively, all the trees in and around the site are considered to be an essential element in the amenity of the occupiers of all the properties that look over the site. It is considered that any proposal that may harm the health, vigour, appearance or longevity of the trees on the site ... must be unacceptable. The loss of the one Sycamore in poorer health can be tolerated".

There is now only one tree left out of the original five "trees of note" on the site - the London plane which was last year lopped to look like a lollipop. Everything the occupiers of the adjacent properties have said, and everything on which the Council based its decision, has thus been systematically ignored.

Second, there is the plane tree itself. Yesterday I expressed my concern to you that the developers had applied to remove

further parts of it, including more lower branches, apparently to compensate for root damage. You told me that the application had only just arrived and you had not studied it. However, you told me you would resist it, agreeing that the preservation of the canopy of the tree - or all that is left of it - was what the Planning Committee (and nearby residents) had been promised. You told me, too, that you would suggest introducing a root scanner so that the piling, for which borings are going on as I write, would avoid the roots. You obviously now expect an amount of root damage of which the Planning Committee is unaware and was uninformed.

The preservation of the plane tree was the sole reason why this unfortunate development has been designed as it has. If the result is the ultimate disfiguring of what, a year ago, was one of the most pleasing trees in this part of Kensington, the whole exercise will have been pointless: it would have been better to have felled the plane, and have built the new development where it did not occupy the open space we all used to enjoy.

Please would you therefore assure me in writing, immediately, that you will oppose any more lopping or pruning or removal of branches from the plane tree; and insist and ensure that none of its roots suffers any damage for which further compensation might be needed above ground? If a scan is to take place, at once will not be too soon; and I look forward to hearing that it has happened - before any more holes are drilled.

Last - I have before me BS3998 Recommendations on providing adequate protection for trees. They state clearly that protective fencing for a mature tree of normal vigour of the girth of the plane must be at a minumum distance from its centre of 6 metres (though half the height of the tree is preferred). They state, too, that there should be no materials or spoil within 5 metres of any tree. Meanwhile, your own leaflet "Protection of Trees on Development Sites" says clearly that "building materials ... and vehicles should not be permitted over areas of tree root spread as this causes ground impact-ion - a major cause of tree damage. This includes even the temporary storage of top soil or excavated material".

The protective fence erected last week around the plane is no more than 2.5 metres across. Drilling plant is being driven and parked inches from it. Spoil and equipment are lying beside it.

We request that you have this rectified at once; and that your department now pays close and continual attention to what is going on on the site with a view to protecting the tree according to your own recommendations and assurances.

Yours sincerely

Adam Fergusson

cc Councillor Levitt
Councillor Desmond Harney
Councillor Miss Christmas
Councillor Mark Field
Mr French (Planning)

From ADAM FERGUSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Derek Taylor, Esq.,
Acting Area Planning Officer,
Town Hall, Kensington

October 11, 1996

Dear Mr Taylor,

4 ST MARY ABBOTS PLACE

By the close of play today you had not yet let me have (I suppose because you have not had it yourself) the revised plan and elevation of the landscaping proposals on which I provisionally gave the agreement of Peter Mullins and myself that work should be going on the site. You will recall that the Chairman of the Planning Committee promised me that the tree screen would be "agreed fully" with us before work started.

My party-wall surveyor, however, has sent me a copy of the letter you sent last week to Mr Eyton-Jones, permitting him to go ahead subject to various provisos.

There are two matters which I do not yet find satisfactory.

First, a single extra eucalyptus is by no means enough to provide an effective tree screen for No. 9. I understood you to say you had stipulated that it would run the length of his wall (also protecting No.11). I hope you will put this right.

Second, I do not agree that a single extra juniper (which my tree book describes as "a pencil") will be sufficient along my own wall: at a guess it will need six in all, if the indicative circumferences on the plan are correct. The important thing, of course, is not the number but their effectiveness.

I am also anxious to hear that the developer has accepted the obligation to insert two new trees where the sycamores fell (about which I have still not been written by Mr Austin). Thereafter we shall be able to make our agreement final and be willing to co-operate fully with the builders.

Yours sincerely,

Adam Fergusson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

THE ROYAL BOROUGH OF 32

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Duncan Gram Esq.
Guardian Foundations and Construction Ltd.
11 Barretts Green Road
London
NW10 7AE

Switchboard: 0171-937 5464

Extension: 3524

Direct Line: 0171-361 3524

Facsimile: 0171-361 3643



KENSINGTON
AND CHELSEA

09 October 1996

My reference: EDPC/ARB/DGA Your reference:
/D1/MC

Please ask for: Derek Austin

Dear Mr. Gram,

Re: 4-8 St. Mary Abbots Place, Kensington W8

Thank you for your facsimile communication of 4th October 1996.

I can confirm that we were all agreed that:-

- 1) The tree protection set in place for the large London Plane tree was satisfactory and of a higher standard than that usually required by the Local Planning Authority in similar circumstances.
- 2) The concrete hardstandings outside the footprint of the building are to be retained as long as possible to alleviate the effects of soil compaction on surface roots.
- 3) It will be necessary to make a separate application to carry out crown reduction by up to 20% and crown lifting by 2 metres to compensate for loss of roots during the piling works.

Your fax will suffice by way of an application. You will receive a 'standard' letter of acknowledgement from the Executive Director of Planning and Conservation in the near future followed by a decision letter in due course.

I trust that the above will assist.

Yours sincerely,

Derek Austin
Principal Arboricultural Officer
for the Executive Director of Planning and Conservation

c.c. Nick Bentley, R.B.K&C. Arboricultural Officer
Edward Radziwillowicz, Treecare

**SCOTT DAVIDSON
CHARTERED SURVEYORS**

113 WESTBOURNE GROVE, LONDON W2 4UF
TEL (0171) 727 0619 FAX (0171) 221 1855

Handwritten: FAXED FROM A. D. L. BETHAM 1-

A Betham Esq
Betham Associates
105-111 Euston Street
London NW1 2EW

→ **Teletax**

PostNet Notes 2865	To: PETER MULLINS
	Fax: 0171-602 0629
	From: A. D. L. BETHAM
	Date: 9/10/96

Pages: 3

Our ref: NMAIS/SH/3377

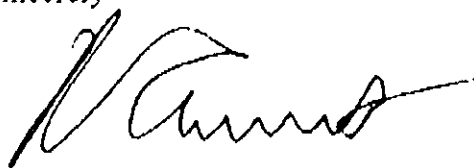
8 October 1996

Dear Mr Betham

**RE: 11 & 15 WARWICK GARDENS AND 4, 6 & 8 ST MARY ABBOTS PLACE
PARTY WALL MATTERS**

I enclose herewith a copy of a letter dated 4 October from the Planning and Conservation Department at the Royal Borough of Kensington & Chelsea to George Eyton-Jones, the building owner, for your information.

Yours sincerely



N M A Lambard-Scott FRICS FSVA

-9007

07-OCT-1996 12:40 FROM RBKC PLANNING DEPT

901473253020

PLANNING AND CONSERVATION

THE TOWN HALL NORNTON STREET LONDON W8 7NX

Executive Director M / FRENCH FRICS Dip TP MRTPI Cert TS

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

George Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3ST

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Faxsimile: 0171-361 1111

04 October 1996

My reference: **DPS/DCC/TP/96/** Your reference:
0644

Please refer to: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Land on and adjacent to 4 St. Mary Abbot's Place, W.8

I refer to our recent conversations, and submitted plans and samples in connection with the discharge of Conditions nos 12 and 15, attached to Planning Permission ref. TP96/0644, granted on 11 July 1996.

Condition no 12 required the submission and agreement of the materials for most parts of the elevation of the two proposed houses. I note that we have still not received a sample of the red Leicester (front elevation, however I do understand it is on its way and I know that we have anyway agreed verbally. I can confirm, therefore, that the requirement of this Condition has now been discharged, subject to final approval of the Leicester.

Condition no 15 requires approval of the details of the treatment of the open land within the site, including hard and soft landscaping. This Condition was imposed by the Planning Services Committee in approving the planning application, with the aim of limiting the impact of the proposal upon the levels of amenity presently enjoyed by the occupants of the residential houses immediately to the West of the site. The Committee made it clear on the night, and the Chairman of the Committee has subsequently reaffirmed in writing, that this landscaping scheme should include a satisfactory screen of trees along the rear boundary of the site, where it abuts the boundaries of the Warwick Gardens properties. The achievement of such a planting screen has not been easy, as many species of tree or shrub would not be suitable for this purpose.

The latest revisions to the landscaping scheme involve the addition of a further juniper to provide a more complete screen along the southern boundary with nos 15 Warwick Gardens, two eucalyptus trees along the line with the prunus lusitanica in the southern site boundary, and an extra eucalyptus to be planted in the ground near the boundary with no.9 Warwick Gardens. Following these further amendments to the scheme, you are now proposing appropriate species, and that your latest landscaping scheme should satisfy the two aims of providing visual relief for views of the two houses, and a significant element of screening to the windows at first floor level of the houses.

6/10/96

09-10-1996 12:41 FROM: RBKC PLANNING DEPT TO: 901473293000 P.03

Therefore, I accept that the landscaping details, as depicted on drawings no. 6366-26C and 27B, can be taken as a satisfactory scheme for the purposes of Condition 15. I would be grateful for six further copies of these drawings for my records.

As such, I can advise that a start on site can now be made without conflict with the aims and terms of this Condition. However, I permit this under the terms of the Condition subject to a number of points which still need to be confirmed. Further details will need to be submitted to formalise these matters.

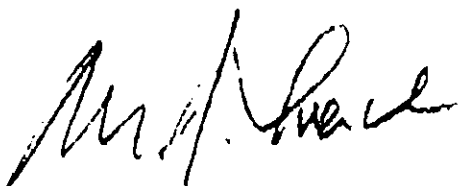
Firstly, I must require you to submit details as to the size of the proposed trees at their installation, as this is clearly crucial in determining how quickly the trees can form an effective screen. For example, the juniper trees proposed for the southern boundary of the site must be at least semi-mature specimens when they are installed. A letter setting out the various tree sizes must be submitted, and agreed by myself in writing as being suitable for their purpose, before this development is completed. I would advise that discussions relating to the size of the trees should proceed as soon as possible in order that it is not left as an outstanding matter until completion is near, and it must be understood that the written agreement on the size of the trees forms part of the requirement of the landscaping condition.

Secondly, the removal of the two sycamore trees from the northern part of the site was authorised by this Council by letter dated 5th March 1996, however their demise is still regretted by local residents who considered them an important local amenity. Furthermore, the Chairman of the Planning and Conservation Committee has written to local residents in the past stating that their future would be secure. The function of these trees in amenity terms was not so much as a screen, but more an amenity that could be seen from St. Mary Abbot's Place itself. Therefore, I consider that a suitable landscaping scheme should ensure that the planting at this end of the site should be increased to take account of their loss. Further trees at this end would not need to be sycamores, but agreement should nevertheless be reached as to their species and position. I recommend that they are deciduous and semi-mature trees for this purpose. Therefore, in order to complete the requirements of the landscaping condition, I would request that a further plan showing the positioning of two new trees, one of which should be on the street, should be submitted and approved in writing before the development is completed.

It must be understood that should any of the proposed trees fail to survive, or be determined by the Council as too sickly or otherwise unfit for their purpose, then they should be replaced with a further tree, perhaps of an alternative species as required. The future occupants of these properties should be under no illusions that the provisions of the agreed landscaping scheme will run with the land, and that the obligations will continue whenever the properties change hands.

Finally, I should remind you that any variation to the approved drawings, or the content of this letter, must also be applied for and approved by the Council in writing.

Yours faithfully,



M. J. French
Executive Director, Planning & Conservation

1st October 1996

Mr. and Mrs. P. Mullins
11 Warwick Gardens
London W14 8PH.

Mr. and Mrs. A. Fergusson
15 Warwick Gardens
London W14 8PH.

LANDSCAPING PLANNING PROVISIONS

Awards under the adjoining owner provisions require only one thing, that works do not start until there is compliance with the precedent condition. This is so that works affecting Adjoining Owners can progress uninterrupted by change or delay to meet such condition.

Neighbours will also be interested in the wider planning control, although not by virtue of the provisions of the London Building acts which can be the subject of the Awards.

- 1/ The approval was granted by members on the basis of the officers' report that:-
 - a/ trees on site included 1 Plane, 3 Sycamores and at least 1 Hawthorn,
 - b/ only 1 Sycamore in poor health & 1 bough of the Plane would be removed.This was to be protected by conditions.
- 2/ Conditions are intended to apply where consent would not otherwise be appropriate. By definition therefore members would have refused consent without protection of all but 1 sickly Sycamore and 1 bough of the Plane.
- 3/ Conditions applied to the consent indeed permitted protection of the remaining and indeed of all trees on site. All trees were to be protected and prior written consent was required for any lopping, far less felling.
- 4/ Even had it not been for the conditions, such works to any tree in a Conservation Area have to be notified in advance so that protection can first be introduced if thought appropriate. A "tree" in accordance with British Standard 5837: Trees in Relation to Construction is one with a trunk diameter of 75mm (3") or more at breast height of 1.5m (5ft).
- 5/ Conditions were also made requiring landscaping proposals to be approved before commencement of the development on site. This was later defined without contradiction to the owners and to neighbours require a screen of trees, as I recall along the rear western boundary adjacent numbers 9, 11, 13 and 15 Warwick Gardens.
- 6/ Thus, in accordance with the planning decision:-
 - a/ the Hawthorn(s), the Plane (all but one bough) and two Sycamores must be protected and retained, and
 - b/ the screen of trees must be includedotherwise the development should not be permitted.

BETHAM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

COPY

30th September 1996

Our ref.: 9603.11 and 15

Your ref.: NMALS/CLT/3377

N M A Lambarde-Scott, Esq.
Scott Davidson, Chartered Surveyors
113 Westbourne Grove
London W2 4UP

Dear Mr. Lambarde-Scott,

11 and 13 Warwick Gardens, London W14 and St. Mary Abbot's Place, London W8

Thank you for your letter and the copy of the substructure programme which it enclosed showing a start today as indicated by telephone. I look forward to receiving a programme for the rest of the works referred to in the two Awards.

I note also your comments that the planting is almost complete, but surely this must be an error in transcription ? Can you please ensure that, before significant works are envisaged, I receive a copy of the planning consent under the precedent condition as to landscaping covered by Item 7 of the Award re No 11 Warwick Gardens and Item 9 in the Award re No 15 Warwick Gardens as a matter of urgency ?

Yours sincerely,



Adrian Betham
Betham Associates, Architects

R

cc: Mr. and Mrs. P. Mullins
11 Warwick Gardens
London W14 8PH.

Mr. and Mrs. A. Fergusson
15 Warwick Gardens
London W14 8PH.

Weds 25. Sept.

96

Last night P. Mullins telephoned to say
works start on Sept 30th. Dick Taylor
in a meeting (11.10 am). Try again in an
hour says the girls' bus committee meeting tonight
so probably too busy to talk. Ask to be put
through to Mr. French. Answaphone on. Civil says
try tomorrow (Thurs 26th) —

In the meantime all 3 Sycamores have
been felled where they were meant to be
(the ill one) —

426-75
~~289-66~~

137.09

937 5464

dict planning office.
Deek Taylor

- French.
- i. Conditions unfulfilled
 - a. Tree seen (not shrubs)
 - b. Why have they felled all 3 sycamores?
 (only 1 was to be felled because it was sick
 Sept 4th A's letter - 30th threaten to start work.
 - c. To notify A. before works start.

Deek Taylor - Rodman Harney.

Mr. Bryan Leitch (evenings: 602 1849) ^{after 7pm}
Chairman of planning & conservation

Deek Taylor. (Evenings: - No Number).
3.20 (Sept 25) ^{pm} Alitan Flight (talked to on telephone).
9375464 x 2011.

Deek Austin
arboriculturalist

Deek Taylor
dict planning office.

Party would notice - must be served before
works start.

00 252 2521 3888



Form 2-111
361 2763

Guardian Foundations and Construction Limited

Specialist Engineering Contractors in Piling, Underpinning, Designed Foundations, Structural Repairs and Void Stabilisation

Our Ref: HCS/96-2043.1

24th September 1996

To whom it may concern **To:-**
ADAM FERGUSSON.

HONG KONG

Dear Sir/madam,

Re: St Mary Abbotts Place, Kensington

John Sheena

We write with reference to the above and to introduce ourselves.

We are Guardian Foundations and Construction Ltd and we have been instructed by Eyton Developments Suffolk Ltd to carry out the construction of the foundations for the properties in St Mary Abbotts Place. We are due to commence works on Monday 30th September 1996.

With regards to the London Plane Tree, we have consulted the Tree Planning Officer and under his instruction, we will be protecting the trunk of the tree during the construction works, with full hoarding to his specification.

We hope to cause minimal disruption and upset to yourselves during the works, however, if you have any questions or complaints, please do not hesitate to contact our Site Agent in charge of this contract (Mr Duncan Gray), who will be in residence during working hours, or contact the London office on 0181-965-9600

→ 0385 752 636 - mobile telephone

Yours faithfully

Says he will not start before receiving Council's permission.

(NO)
Not until Council issues permit with a letter.

Preparatory work above ground only.

ADAM. Mr. Taylor is coming here on Thursday at 11 a.m. to see you with the final tree solem plan, approved! the arboriculturalist
His direct line num!

Guardian Foundations and Construction Limited

11 Barretts Green Road, London, NW10 7AE
Telephone: 0181 965 9600 Fax: 0181 963 0567

Registered in England No. 3026852 Registered Office: 4 Dragon Court, Crofts End Road, St George, Bristol BS5 7XX
Bristol 0117 951 8158; Manchester 01925 241885

They say container grown trees can reach 30ft & live happily.

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Derek Taylor, Esq.,
Acting Area Planning Officer,
Town Hall, Kensington

September 4, 1996

Dear Mr Taylor,

Thank you very much for sending the drawings of the proposals for the tree screen in St Mary Abbots Place. You asked for my comments.

The drawings do not meet the case at all. The principal potted plants proposed are not trees but shrubs. One is a creeper. The Planning Committee did not stipulate a shrub screen. The small number of trees of the varieties suggested would not provide an adequate screen even if they lined the entire wall from end to end: the juniper is too narrow and does not grow to more than 15 feet (and that after 20 years), while the eucalyptus would be insufficiently dense except as a bush. The eucalyptus is anyway confined here to a stretch of boundary where there is no overlooking.

You will have noted that no screen whatever is proposed for the stretch of wall opposite No 9 Warwick Gardens, although it is more overlooked than any. The boundary with my own garden is only partially served, and at that only with two low-growing junipers in the corner and an irrelevant pruned privet.

For this house and garden, the main necessity is to prevent overlooking and intrusion from the most southerly first-floor bedroom window of the development. My neighbours have similar concerns. What has been put forward in these drawings is not a tree screen - merely decoration.

Additionally, I note that they have done away with the remaining sycamores at the north end of the development. This is in direct contravention of the conservation area guidelines to which the council subscribes, and I would wish to register my objection to those trees being felled as part of any landscaping exercise involving the present building proposals.

Yours sincerely,

Adam Fergusson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Fergusson
15 Warwick Gardens
London
W14 8PH

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

14 August 1996

**THE ROYAL
BOROUGH OF****KENSINGTON
AND CHELSEA**

My reference: **DPS/DCC/TP/94/** Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
St. Mary Abbots Place

I enclose a copy of two further drawings produced by the architects now working on the follow up to the granting of permission for two houses to be built at the rear of your property. You will see that they have now included a rear elevation of the proposed trees.

I would appreciate your comments upon these, although I shall be on leave until 3rd September. In the meantime, you could call Derek Austin, the Council's Arboriculturist, on 361-2763 to discuss any matter relating to the proposed planting scheme.

Yours faithfully,

Derek Taylor
Acting Area Planning Officer
for
Executive Director, Planning & Conservation

July 14, 1996

Dear Mr French,

Development at 4 St Mary Abbot's Place

Thank you for your letter of July 10 and the copy of the Conditional Development Permission to be sent to Roger Carpenter.

Further to my letter of July 10 which crossed with yours, and our short telephone conversation this morning:

1. I find it extraordinary that Condition 15, though obliging the developer to submit landscaping details, gives no guidance about the particular condition made by the committee with regard to the screen of trees to prevent overlooking and intrusion. However, you have assured me that the developer was present and heard what was said in committee; and that if the details when submitted do not conform with the committee's wishes the developer will be required to change them. I am of course most grateful for your promise to consult us when this happens.

2. In my letter I commented at some length on the inaccuracies of Drawing 06.D and the misleading nature of Drawings 07.C and 12.D, among others. These three are all included in the Schedule. Since the ground does not lie as represented in the elevation in Drawing 06.D, the Borough Council is thereby giving approval to a development plan which cannot be carried out. More, since the "raft" to be built out over the area is not depicted in the drawings, it is consenting to a plan whose most important mechanical details Members of the Planning Committee may have read about but, like the residents, have not yet seen.

You said this morning that you would look at this aspect again. You also said that the matter was now out of the Committee's hands, although it would be able to look at the details once more; and that, if the developer put up something which did not conform to the plan approved, the Council could take steps to rectify it. It seems to me to be common sense to make certain first that the approved proposal is physically possible. I therefore hope that when more accurate and informative proposals (or details) are submitted the Planning Committee will be able to take a harder look than last time round.

As before, if you disagree with anything I have recorded in this letter, please let me know.

Adam Fergusson

cc. as before

$$\begin{array}{r} 175 \\ \underline{12 \overline{) 875}} \\ 73 \end{array}$$

$$\begin{array}{r} 4.5 \\ \underline{50} \\ 12 \overline{) 2250} \\ 190 \end{array}$$

- (c) Ligustrum Vulgare Atrovirens. A shrub (privet). 10 ft at most if untrimmed
- (b) Fatsia Japonica. A shrub. 10 ft at most
- (g) Carpenteria Californica. A shrub. 10 ft at most.
- (d) Juniperus Virginiana. A conifer. 6 ft after 10 yrs. "eventually" "15 foot pencil".
- (e) Eucalyptus Gunnii. A tree. up to 50 ft.
- (e) Parthenocissus. A creeper (Virginia) (opposite 9). 20-40 ft.

Objections.

- The principal potted plants are shrubs not trees, capable of growing to a maximum of 10 feet. One is a creeper!
- The ^{small number of} trees proposed would not provide a screen being even if they ^{would be} ~~entire well~~ dense. The Juniper is ~~is~~ ^{is} ~~are~~ too narrow; ~~the~~ ^{eucalyptus} ~~are~~ insufficiently dense. The Juniper after 20 years may reach 15 feet, still short of the necessary height.
- There are ~~not~~ ^{full} proposals for the party wall with No 15.
- The stretch opposite No 9 ~~is~~ ^{is} ~~has~~ ^{has} no screen whatever, although it ~~is~~ ^{is} ~~has~~ ^{has} overlooked that way.
- In short there is not a screen: mere decorations.
- The plan suggests that the existing sycamores ~~are~~ ^{are} to be removed. I object strongly to this, and require.

BETHAM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1 2EJ
0171-387 0451 (FAX 0171-388 0342)

17th June 1996

9603/15

Mr and Mrs A D Fergusson
15 Warwick Gardens
LONDON W14 8PH

Dear Mr and Mrs Fergusson

15 WARWICK GARDENS, W14 AND 4, 6 & 8 ST MARY ABBOTS PLACE, LONDON W8

I enclose by hand today the Party Wall Award and photographic schedule made and signed by the two appointed surveyors under Part VI of the London Building Acts (Amendment) Act 1939 and which sets out the rights and duties in connection with the proposed works.

I must point out that, under the London Building Acts (Amendment) Act 1939 Part VI clause 55(n), you are legally entitled to appeal within 14 days against the Award in the County Court if you feel that it has been made improperly. To the best of my knowledge however, there is nothing in the Award which should cause you to take this action.

While writing, I confirm that the reference to stock brickwork to the flank wall of the house accords with the planning consent which does however still require samples to be submitted and approved by the local planning authority. While I agree that the south flank wall would be better with red-brown bricks to match the front, this is a planning rather than party wall matter. I suggest that representations are made through the planning authority for their approval at the time samples etc are submitted in the expectation that the two surveyors will agree any such amendment.

Yours sincerely



ADRIAN BETHAM, RIBA
Betham Associates, Architects

Copy to:-
N M A Lambard-Scott

Encl



THE TOWN HALL KENSINGTON W8 7NX 071-937 5464

14 June 1996

Adam Fergusson
15 Warwick Gardens
LONDON
W14 8PH

Dear Adam,

Thank you for your letter of 10 June enclosing copies of previous correspondence with the Executive Director of Planning & Conservation and Cllr Desmond Harney.

You may not be aware, but Desmond is no longer the Chairman of Planning & Conservation, as his previous deputy, Bryan Levitt has taken on this unenviable mantle!

I shall, of course, follow this up on your behalf and please keep me informed if there are any further developments.

With kind regards,

Yours sincerely,

MARK FIELD (Cllr)

DESMOND HARNEY

STAFFORD TERRACE, LONDON W8 7BH

Tel: 0171-938 3291

Fax: 0171-937 0423

BROADWATER, SHERBORNE, CHELTENHAM, GLOS. GL54 3DR

Tel: 01451 844271

12 June 1996

Dea Adam,

You will not know but I am Chairman
if planning no more - my two years are up!

However I remain concerned about decisions
taken in my time, not least at St Mary Abbots
Place, and have written a private note to French

asking him to reply substantively to your
letter and its concerns. I am awaiting this
and will reply formally as soon as I have it.

I want that ball to go!

Yours ever.

Howard

**From Adam Fergusson
15, Warwick Gardens, London W 14 8PH
Telephone: (44) 71 603 7900 Fax: 4114**

**From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8PH
Tel: 0171-603 7900 Fax: 0171-603 4114**

George Eyton-Jones, Esq.,
2 Park Road,
Ipswich,
Suffolk IP1 3ST

June 12, 1996

Dear George,

Development at St Mary Abbot's Place W 8.

It is some weeks since we last talked and since you told me you would again look at the possibility of repositioning your building here if the Council were prepared to release a suitable area of roadway for that purpose.

I am writing to ask how that is coming along - I imagine that your architect has by now provided sketches suitable for the Council's planning staff to look at. So far as I know, they are still expecting to hear from you and to react sympathetically. Furthermore, our local Residents' Association is prepared to take a "very positive" attitude in favour of a proposal on the lines we discussed.

Meanwhile our party wall surveyors have been at work on the basis of the plans with planning consent. Concerning our mutual wall, I believe that their award will be relevant whichever way you decide to move forward.

Yours sincerely,

Adam Fergusson

BLITHAM ASSOCIATES, ARCHITECTS

105-111 FUSTON STREET, LONDON W40 2J
Telephone and telex: 0171-387 041

12th June 1990

Ref: Ref: 2608/11 & 15
Our Ref: 2608/11/27

Ref to 0171-271 1815

Mr G Lander-Scott FRIBA
Scott Davidson
115 Westbourne Grove
LONDON W2 4UP

Dear Mr Scott

Re: 11 & 15 Warwick Gardens W14 and St Mary Abbots Place W8

I confirm my telephone message this morning. I do have some drawings to make as below. I am sorry to have needed so long to do this but now offer to arrange for papers to be passed between the two properties to be delivered to the adjoining Owners today. I was sorry to hear accidentally the adjoining Owners are now each reconciled to the proposed content of the Easements.

Re No's 11 & 15:

- a) Do you simply want the easements signed for the architect's signature?
- b) Should the date inserted in the Easements be that when they were taken?
- c) Yes? I would have preferred "2 metres off the top of a building" - this could be annotated onto the drawings re No.15. They need to be signed.

a) 11:

- 4(1)(a), (b) and (c) all refer to No 15 and would be signed by me. I can do this by hand and signature for your countersignature. (They do also appear correctly in the No.15 Easements).
- 4(e) - My instructing owner insists that it is a "live" tree. I can again sign this by hand and signature.

Re No 15:

- 1) The two drawings have not been found.
- 2) Scaffold is not referred to in other drawings and should be on garage roof. I would like to see any scaffold spec, and the level of garage roof level off a stand where the new house is. The scaffolding and sheeting should be required.
- 3) The front wall would be preferred in the red brick brick front wall which it meets for full height of the corner of the front wall to the garden wall colours. The rear wall should be red brick above the garden wall. The garden wall could be a light red brick.
- 4) The front wall would be preferred in the red brick brick front wall to the garden wall colours. The rear wall should be red brick above the garden wall. The garden wall could be a light red brick.
- 5) The front wall would be preferred in the red brick brick front wall to the garden wall colours. The rear wall should be red brick above the garden wall. The garden wall could be a light red brick.

[Handwritten signature]

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

June 3, 1996

Dear Mr French,

Development at 4 St Mary Abbot's Terrace

I wrote to you on this matter on April 3 asking to be kept fully up to date with the landscaping proposals to be made in relation to this development. I assume that, since I have heard nothing from you, the developers have so far made none.

However, my neighbours and I have been going through the usual party-wall exercise, with surveyors acting for both sides. From the present developers' still evident intention to build right up to the wall and dismantle it, we have reason to think that they are not fully aware that planting a screen of trees along the boundary was a condition of the planning permission given; and are worried that they may shortly try to press ahead with the project in spite of that.

Can you therefore assure me that the contents of the letter you wrote last October 4 to Mr Barrow of Meadowview Developments stipulating that a tree screen must be planted were duly passed on to the present developers, and are fully understood by them? Although it must have been incumbent on Meadowview Developments not to conceal any of the conditions attached to the planning permission when they sold the property, whether the details were contained in the original document or added subsequently, it is obviously best that the present developer is in no doubt about what the Council decided - and that steps are taken to make sure.

Yours sincerely,

Adam Fergusson

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Councillor Desmond Harney OBE,
16, Stafford Terrace, W 8.

May 31, 1996

Development at 4 St Mary Abbot's Place W8

We have been going through the usual party wall exercise here, each with our own surveyors. In consequence, our neighbours and we are very worried, first, that the conditions laid down when planning permission was given - particularly in regard to the tree screen to be planted - may not have been made clear to the present developers (who bought the site from the original applicants); and second, that the assurances on which the Planning Committee based its judgment so marginally in favour of consent are not watertight - in particular in respect of the damage to trees neighbouring the site.

The original applicants, Meadowview Developments, would have had an obligation to pass on all such details when they sold the site with planning permission - including what they heard when the committee granted it and what had to be confirmed subsequently by letter. I have written to Mr French asking whether, to his knowledge, these details are understood by the present developers, who may be relying on the undemanding wording of the basic consent.

The Planning Committee was led to assume that trees and their root systems close to the site (as well as on the site) would be satisfactorily protected. However, it appears that ensuring the survival of neighbouring trees, in particular the fig tree which is crucial to the amenity of No 11 Warwick Gardens, is not a condition of the consent.

I remain sorry (and astonished) that planning permission was ever given for a scheme that will rob us and our neighbours of the open space we have enjoyed, and still wish it could be revoked. Short of that, however, would your committee consider at a very early date (because development is imminent) amending the consent fully and explicitly to reflect what the committee said and meant at the time, both in regard to the tree screen and the protection of root systems close by?

Adam Fergusson

copies to Councillor Miss Christmas
Councillor Mark Field



**SCOTT DAVIDSON
CHARTERED SURVEYORS**

113 WESTBOURNE GROVE, LONDON W2 4UP
TEL (071) 727 0619 FAX (071) 221 1855

WITH COMPLIMENTS

Dear Mr Betham

Re: 11 & 15 Warwick Gardens and 4, 6 & 8 St Mary Abbot's Place

I have tried to telephone you regarding the above matter, and there has been no reply. I have tried to send a facsimile transmission, but the machine does not appear to be switched on.

I refer to my letter of 28th March and enclosed draft Party Wall Awards. I do not appear to have received a reply to these letters.

In accordance with Section 55(e) of the London Building Acts (Amendment) Act 1939 Part VI, I now formally call upon you to act, and give you notice that if you fail to do so within 10 days, I will exercise my authority to proceed ex-parte.

Yours sincerely

N M A Lambarde-Scott FRICS FSV A

cc. Mr and Mrs A D Fergusson
Mr and Mrs Mullins

Directors: NICHOLAS M. A. LAMBARDE-SCOTT FRICS FSV A
MICHAEL PORTIS BSc(Hons) ARICS

Consultant: JAMES M. GLERUM ARICS

Architect: TOM SHANNON BA(Hons) Dip Arch

VAT Reg. No. 341 3235 94

SCOTT DAVIDSON LTD. REGISTERED OFFICE: 113 WESTBOURNE GROVE, LONDON W2 4UP. REGISTERED IN ENGLAND. REGISTERED NO: 2008584

COPY LETTER from



**SCOTT DAVIDSON
CHARTERED SURVEYORS**

113 WESTBOURNE GROVE, LONDON W2 4UP
TEL (0171) 727 0619 FAX (0171) 221 1855

Adrian Betham RIBA
Betham Associates
105-111 Euston Street
London
NW1 2EW

Our Ref: NMALS/CLT/3377

15 April 1996

Dear Mr Betham

Re: 11 & 15 Warwick Gardens and 4, 6 & 8 St Mary Abbot's Place

I have tried to telephone you regarding the above matter, and there has been no reply. I have tried to send a facsimile transmission, but the machine does not appear to be switched on.

I refer to my letter of 28th March and enclosed draft Party Wall Awards. I do not appear to have received a reply to these letters.

In accordance with Section 55(e) of the London Building Acts (Amendment) Act 1939 Part VI, I now formally call upon you to act, and give you notice that if you fail to do so within 10 days, I will exercise my authority to proceed ex-parte.

Yours sincerely

N M A Lambarde-Scott FRICS FSVA

cc. Mr and Mrs A D Fergusson
Mr and Mrs Mullins

Directors: NICHOLAS M. A. LAMBARDE-SCOTT FRICS FSVA
MICHAEL PORTIS BSc(Hons) ARICS

Consultant: JAMES M. GLERUM ARICS

Architect: TOM SHANNON BA(Hons) Dip Arch

SCOTT DAVIDSON LTD. REGISTERED OFFICE: 113 WESTBOURNE GROVE, LONDON W2 4UP. REGISTERED IN ENGLAND. REGISTERED NO: 2008584

VAT Reg. No. 341 3235 94

4 St. Mary Abbots Place

John Peacock
Nick Bentley
Steve Mallett

Nick was reluctant to say pump was o.k. until next Wednesday.

John was told by the site manager there were no roots found when they dug the hole for the pump.

John said when the ~~the~~ pump comes out a concrete slab would be layed over the soil.

JP: John said he ~~wanted~~ had difficulty with the gap between the tree and the construction - the boarding will have to go right up to the tree.

NB: As long as the boarding was protecting the tree and the ground level was protected NB saw no problem.

When elevation closest to tree is completed it will be 300mm away from the bough of the tree.

JP: Tree branches will be across the scaffolding when it put up. Some of the lower branches may have to come off when the roof is put on.

NB. Will talk to Stuart about that.

Agree foundations first - deal with bough/branches later

JP: Drawings are not precise. Working drawings have been drawn from Roger Carpenter's drawings.
Working drawings have been approved by district surveyor.

NB: Drawings ~~is~~ needed to, dist. surveyor - 1 1

JP: Map 02DL()..

NB: Tree roots will not be severed by pile lines.

JP: Mini pile lines don't go so deep but there are lots of them.
JP would prefer bigger pile lines.

NB: What you can do is ascertain where tree root comes in mini-piles.

NB: Major/Mini piling - if that is done in the ^{planning} ground beam
NB concern is the severing of the main ~~sets~~ ^{ground beam} which causes Health + Safety concerns.

JP: Would prefer slightly bigger piles.

NB: ~~the road to right~~
Doesn't think that bigger piles are really acceptable.

JP: Would prefer less but bigger piles.
Piles would go down to 7m.

NB: Has a problem with going so deep because of the ground beam.

NB: How does client build house and keep NB happy.
Need to find out where roots are on the mainline line.
Before groundbeam goes in you need to establish where tree roots ~~are~~ are.
At moment this is all speculation.

JP: If there is a root the mini pile is going in.

NB: Only way is to establish where tree roots are on the main line.

NB: 230mm up to centre pile (M)

NB: If you excavate the ^{groundbeam} main line to 1.5m then I'll be able to see the tree roots.

JP: Dig a 900m trench

JP: If we find a major tree root in that corner

NB: Doesn't want a groundbeam to upset tree foundation
Doesn't want ^{Mini} Piles to sever ground roots.

JP: Planning app does ^{not} specify protection of foundations of tree.

NB: The planning app does ask for protection of the tree. Condition 3

JP: Because 1954 TPO is so old he feels it is out of date.

JP: What will happen if you find major roots ~~to~~ under rest of foundations.

NB: Can't say until that happens.

JP Asked about Stop Notice: Would Council be prepared to serve a

NB Yes following serving of enforcement notice if condition 3 were not or seemed likely to be breached.

JP Council (legal) advice that would go for Public Inquiry or Judicial review if stop notice served.

Joe
Builder: They can make piles around, but they don't want to dig a trench.

I think these trees are deep rooted.

NB: It doesn't matter whether the tree is deep or shallow rooted - you still mustn't harm the roots.

NB: Told JP that he was very concerned the groundbeam would be damaging to the tree.

Joe
Builder: I can dig by hand the ~~presumed~~ pile holes and a groundbeam hole.

JP has a letter about condition 3 dated 4th October concerning landscaping from the Council.

NB: Is there potential to adapt if roots are found beneath the piles.

Joe
Builder: Engineer might be able to adapt plan.

Joe Builder: Can't go below 900mm because hole excavated would be too large.

He can only dig a pile hole a metre deep.

NB: Can you give me a full assurance to the points raised in M. French's letter.

Can you confirm that you will do construction ~~to~~ and not harm tree roots.

JP: I can't give you assurance that roots won't be harmed, but I can only follow planning regulations as stipulated by your planning dept.
It's on plan that we have groundbeam going around tree.

Official Number 3859
(To be completed by the registering authority)

Register of local land charges

Requisition for search and official certificate of search

The Royal Borough of Kensington & Chelsea
Department 140
Town Hall
Hornton Street
London W8 7NX

Requisition for search

An official search is required in Part(s) of the register of local land charges kept by the above-named registering authority for subsisting registrations against the land [defined in the attached plan and] described below:

Description of land sufficient to enable it to be identified
4 St. Mary Abbot's Place, London as shown edged red on the attached plan.

Name and address to which certificate is to be sent

MESSRS BIRKETTS
Solicitors
24-26 Museum Street
Ipswich
Suffolk IP1 1HZ

Signature of applicant (or his solicitor)

Birketts
Date

2nd November 1995

Telephone number

01473 -232300

Reference

JB/9203 - 62/TMD

Enclosure

~~Cheque/Money Order/Postal Order/ Giro~~ £100.00 3/11

Official certificate of search

I hereby certify that the search requested above reveals subsisting registrations

of NINE registrations described in the Schedule to up to and including the date of this certificate.

Signed

On behalf of

Date

10 NOV 1995

0778

TO: THE BOROUGH PLANNING OFFICER

FROM: LAND CHARGES

4 ST. MARY ABBOTS PLACE	
Search No. 3859	Date 3/11

1.1.1	GREATER LONDON DEVELOPMENT PLAN	7.2	
1.1.2	NO	(a)	IN WRITING OR IN PERSON TO DIRECTOR OF PLANNING SERVICES
1.2.1	DISTRICT PLAN (SEE OVER)		
1.2.2	NONE		
1.3	NONE	(b)	ROOM 325 KENSINGTON TOWN HALL
1.4.1	ON DEPOSIT - INQUIRY COMPLETED INSPECTOR REPORT RECEIVED MARCH 1994 PREPOSED MODIFICATIONS ON DEPOSIT 21/10/94 TO 2/12/94	8.1.1.	NO ENTRIES/SEE SEPARATE SHEET
1.4.2	NO	8.1.2	
1.5.1	NO	(a)	IN WRITING OR IN PERSON TO DIRECTOR OF PLANNING SERVICES
1.5.2	N/A	(b)	ROOM 325 TOWN HALL
1.6		8.2	YES / NO
(a)	NONE / SEE OVER 1A.	8.3	YES / NO / N/A
(b)	NONE / SEE OVER	8.4	YES / NO
1.7	YES / NO	8.5.1	YES / NO
4.1.1	SEE ATTACHED / NONE	8.5.2	YES / NO / N/A
4.1.2(a)	SEE ATTACHED / NONE	8.5.3	YES / NO
4.1.2(b)	SEE ATTACHED / NONE	9	YES / NO
4.2	SEE ATTACHED / NONE	10.1	YES / NO
4.3	SEE ATTACHED / NONE	10.2	YES / NO
4.4(a)	SEE ATTACHED / NONE	11	NONE / N/A / - - - - -
4.4(b)	SEE ATTACHED / NONE	12	NO / SEE OVER 1A.
7.1(a)	NO ENTRIES / SEE SEPARATE SHEET	13	YES / NO
7.1(b)	NO ENTRIES / SEE SEPARATE SHEET	16	NONE SEE SEPERATE SHEET
7.1(c)	NO ENTRIES / SEE SEPARATE SHEET		

PART 3. PLANNING CHARGES

4 ST MARY ABBOTS PLACE

Consent granted subject to conditions contained in letters dated:

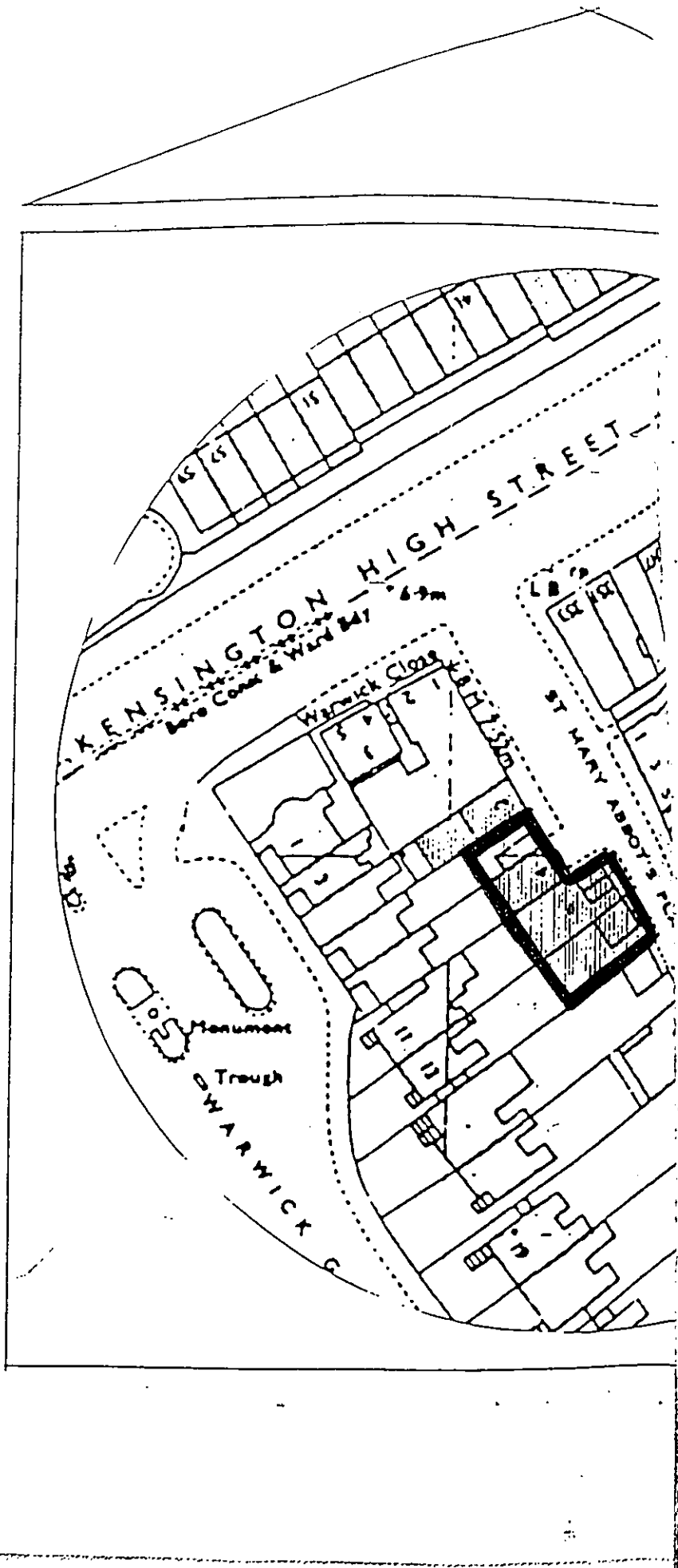
- 50109 11.7.95. Erection of two semi-detached single family dwelling houses, with associated off-street parking and external amenity space at land on and adjacent to No. 4. 25.7.95.
- 50110 11.7.95. Demolition of existing 2 storey detached building and 3 adjacent single storey garages, at land on and adjacent to No. 4. (CAC) 25.7.95.

WITHIN A DESIGNATED CONSERVATION AREA PURSUANT TO SECTION 277 OF THE TOWN & COUNTRY PLANNING ACT 1971 AS AMENDED BY SECTION 1 OF THE TOWN & COUNTRY AMENITIES ACT 1974

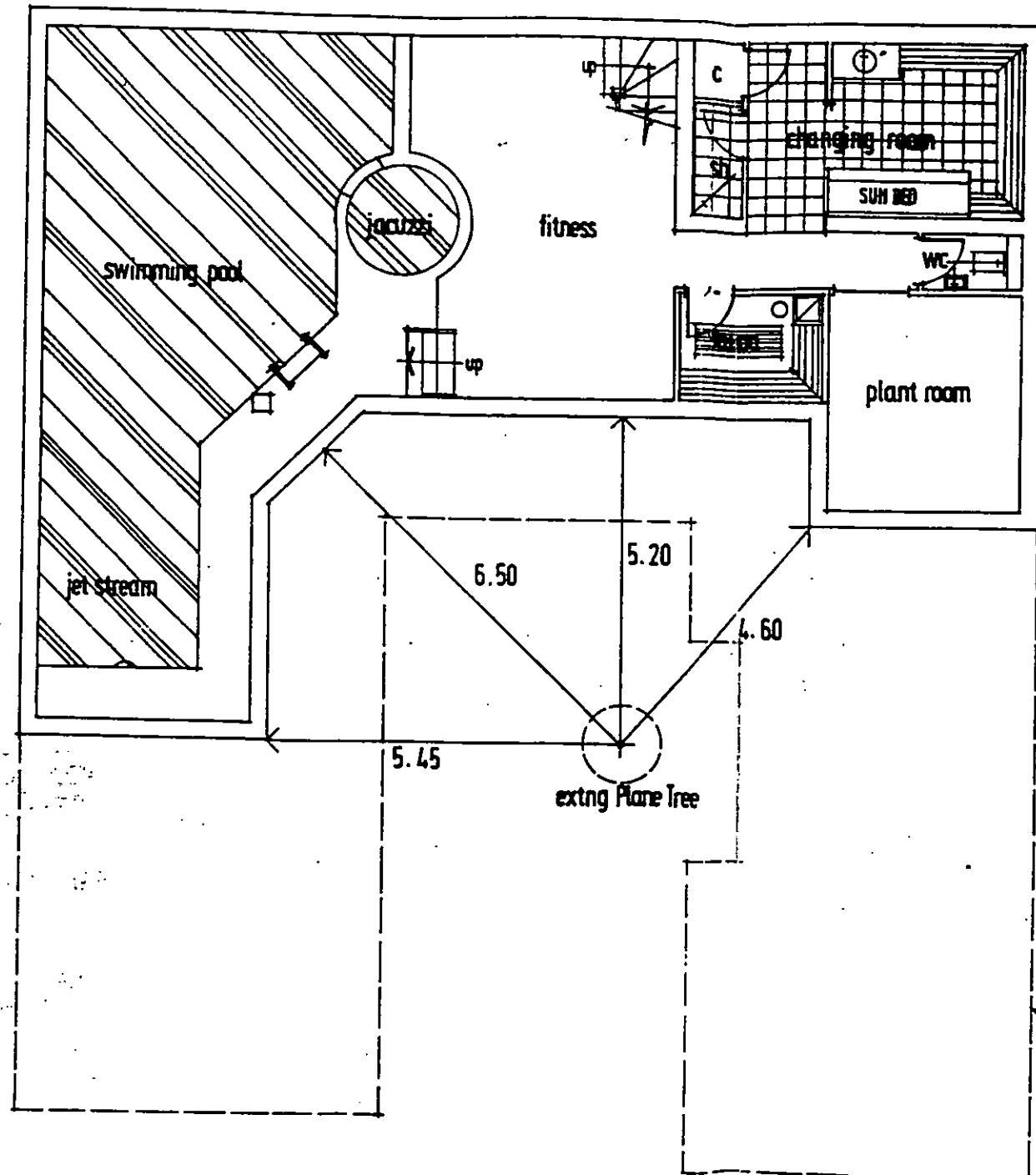
This Appointments made pursuant to Section 106 of the Town and Country Planning Act 1990. on 22.6.95

209

27.6.95



TP940645/D



APPROVED BY
 PLANNING SERVICES CTTEE
 MAY 1995
 CONSENT REF.....

line of mini pile foundations and suspended ground floor construction over to avoid severing of tree roots + maintain adequate supply of oxygen.

Scale	1:100.	Date	FEBRUARY 1994.	Title	LOCATION DWG. BASEMENT G.A. PLAN.
Dwg by	GRK.	Client	MEADVIEW DEV LTD.	Job	ST MARY ABBOTS PLACE WB.
JOB NO.	94002	DWG NO.	L (---) 02 D	Architects	ROGER CARPENTER KERR AND O'HARA 108 FLETHAM ROAD LONDON SW3 8-6S TEL 071 225 2541/2/3

RECEIVED BY PLANNING SERVICES					
DC	DC	DC	DC	DC	DC
N	C	S	E	Ao	Ac
16 APR 1995					
Exec Dir	IO	Records	ARB	Con Des	Head
Appeals Office	IO	Fees Office	Forward Plan		IC

PLANNING AND CONSERVATION

THE TOWN HALL • HORNTON STREET • LONDON W8 7NX

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

Roger Carpenter
Kerr and O'Hara,
106 Fulham Road,
London SW3 6HS

Switchboard: 0171-937 5464
Direct Line: 0171-361 2646

Facsimile: 0171-361 3463

11 JUL 1995

My reference:

Your reference:

Please ask for:

DPS/PV/TP/94/0644/G/18/2195

Miss P. Valley

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING ACT, 1990
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER, 1988**

Permission for development (Conditional) (TP6a)

The Borough Council hereby permit the development referred to in the under-mentioned Schedule, subject to the conditions set out therein and in accordance with the plans submitted, save insofar as may otherwise be required by the said conditions. Your attention is also drawn to the enclosed Information Sheet.

SCHEDULE

DEVELOPMENT

Erection of two semi-detached single family dwelling houses, with associated off-street parking and external amenity space, at **LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON, W.8**, as shown on submitted drawing(s) No(s). TP/94/0644, TP/94/0644/C and TP/94/0644/D, Applicant's drawing(s) No(s). 7413A/1, L(--)01.D, L(--)02.D, L(--)03.D, L(--)04.D, L(--)05.D, L(--)06.D, L(--)07.C, L(--)08.D, L(--)09.C, L(--)10.D, L(--)11.D, L(--)12.D and L(--)100B, in accordance with your application dated 31/03/94, completed 08/04/94, revised 10/02/95, 18/04/95 and 01/05/95.

Ground Beams

/ CONDITIONS ...

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission. (C.1)
2. All planting, seeding and turfing comprised in 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. (C.18)
3. 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 development commences and maintained for the duration of building and other operations on the site. (C.21)
4. No tree within the curtilage of the site shall be lopped, topped or felled without the prior written approval in writing of the local planning authority. (C.23)
5. The garage accommodation hereby permitted shall be available at all times for car parking and shall not be adapted for living, commercial or other purposes. (C.28)
6. The development hereby permitted shall be carried out exactly and only in accordance with the drawings and other particulars forming part of the permission and there shall be no variation therefrom without the prior written approval of the local planning authority. (C.68)
7. Notwithstanding the provisions of Article 3 and Part 1 Schedule 2 of the Town and Country Planning General Development Order 1988 no external alterations shall be carried out or extensions constructed to the premises the subject of this permission without the prior approval in writing of the local planning authority. (C.70)
8. The roof slopes of the building(s) hereby permitted shall be clad in natural slates and so maintained. (C.73)
9. No water tank, lift motor room or other roof structure shall be erected which rises above the level of the roof hereby approved. (C.77)

/10. No additional ...

- 11/27/0044
10. 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. (C.85)
 11. The courtyard and hardstanding shown on drawing No. L(--)01.D shall not have any impermeable base or surface, and shall be surfaced in gravel and so maintained.
 12. Samples of materials numbered 1, 2, 6, 7, 8, 11, 12, 14 and 18 on drawing L(--)100B shall be submitted to and approved in writing by the Executive Director of Planning and Conservation before development commences.
 13. No window or opening other than those shown on drawing L(--)10.D, hereby approved, shall be inserted within the rear elevation.
 14. The Council's Arboricultural Officer shall be informed, in writing, 7 days before any excavation commences on site.
 15. 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 treatment of the open land within the site including hard and soft landscaping. (C.11)

REASONS FOR THE IMPOSITION OF CONDITIONS

1. As required by Section 91 of the Town and Country Planning Act 1990 to avoid the accumulation of unexercised planning permissions. (R.1)
2. To protect and enhance the amenities of the area. (R.18)
3. To ensure that the trees are adequately protected and to safeguard the amenities of the area. (R.20)
4. To ensure that the trees are adequately protected and to safeguard the amenities of the area. (R.20)
5. To protect the amenities of the area. (R.28)
6. The details are considered to be material to the acceptability of the proposals and to safeguarding the amenities of the area. (R.68)
7. To ensure that future alterations to the exterior of the building do not result in detriment to the amenity of the residential properties to the rear of the site, or detriment to the character or appearance of the Conservation Area.
- /8. To ensure ...

8. To ensure a satisfactory standard of external appearance. (R.71)
9. To safeguard the appearance of the building. (R.77)
10. To ensure a satisfactory standard of external appearance. (R.85)
11. To ensure that adequate rainwater drains down to the tree root systems.
12. To ensure a satisfactory standard of external appearance. (R.71)
13. To protect the amenity of nearby residential property.
14. To allow observation of excavation proceedings, and building operations thereafter, in order to ensure that the trees and their root systems are satisfactorily protected.
15. The particulars 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. (R.11)

INFORMATIVES

1. This permission does not permit the use of the premises as temporary sleeping accommodation (including holiday lets or short lets) or any purpose specified in Section 25 of the Greater London Council (General Powers) Act 1973 as substituted by the Greater London Council (General Powers) Act 1983 or as timeshare accommodation as specified in Section 5 of the Greater London Council (General Powers) Act 1984. Use for such purposes would constitute a change of use requiring planning permission and it is the Council's policy to resist such changes of use. (I.2)
2. Planning permission is hereby granted for the development as shown on the approved drawings and subject to the conditions. Any alteration to the approved scheme, resulting from the requirements of the Building Regulations or for any other reason, may require further permission. You are advised to consult the Directorate of Planning Services before commencing work. (I.9)
3. Your attention is drawn to the conditions of this permission and to the Council's powers of enforcement, including the power to serve a Breach of Condition Notice under the Town and Country Planning Act, 1990, as amended. (I.10)

/4. Separate ...

TOWN AND COUNTRY PLANNING ACT, 1947THE COUNTY OF LONDON (KENSINGTON NO. 14)
TREE PRESERVATION ORDER, 1954

TO

OF

TAKE NOTICE THAT the London County Council in pursuance of the powers conferred in that behalf by Section 28 of the Town and Country Planning Act, 1947, on the 20th day of April, 1954, made a Tree Preservation Order referred to as "The County of London (Kensington No. 14) Tree Preservation Order, 1954", which has been submitted to the Minister of Housing and Local Government for confirmation, making provision for the preservation, in accordance with Section 28 of the said Act, of the trees numbered T.1 to T.7 inclusive and T.9 to T.20 inclusive, and the groups of trees numbered G.1 to G.9 inclusive described in the Schedule hereto and shown as to the numbered trees encircled in black, and as to the groups of trees within a broken line on the map referred to in the Order.

A sealed copy of both the Order and map have been deposited at Room 208, The County Hall, Westminster Bridge, S.E.1, and a certified copy of both the Order and map have been deposited at Kensington Town Hall, Kensington High Street, W.8, and may be inspected during the usual office hours.

The effect of the Order will be to prohibit (subject to certain exemptions contained in the Order) the cutting down, topping, lopping or wilful destruction of any tree the subject of this Order except with the consent of the London County Council. Further, if any person contravenes the provisions of the Order he shall be guilty of an offence and liable on summary conviction to a fine.

Any objection or representation with regard to these proposals must be made in writing in accordance with the provisions of the Town and Country Planning (Tree Preservation Order) Regulations 1950, specifying the particular tree or group of trees in respect of which it is made and stating the grounds thereof and addressed to the Secretary, Ministry of Housing and Local Government, Whitehall, London, S.W.1, within 28 days from the date of service of this Notice.

THE SCHEDULE REFERRED TO:-TREES SPECIFIED INDIVIDUALLY
(encircled in black on the map)

Number on Map	Description	Situation
T.1	One Plane	11, Warwick Gardens
T.2	One Plane	Site of 29, Warwick Gardens
T.3	One Plane	
T.4	One Thorn	31, Warwick Gardens
T.5	One Thorn	38, Warwick Gardens
T.6	One Thorn	
T.7	One Lime	46, Warwick Gardens

COPY

TOWN AND COUNTRY PLANNING ACT, 1947

THE COUNTY OF LONDON (KENSINGTON NO. 14)
TREE PRESERVATION ORDER, 1954

TO
OF

TAKE NOTICE THAT the Minister of Housing and Local Government in pursuance of the powers vested in him by Section 28 of the Town and Country Planning Act, 1947, confirmed on the 9th day of September, 1954, "The County of London (Kensington No. 14) Tree Preservation Order, 1954" submitted to him by the London County Council authorising the Council to preserve in accordance with Section 28 of the said Act, the trees numbered T.1 to T.7 inclusive and T.9 to T.20 inclusive and the groups of trees numbered G.1 to G.9 inclusive described in the Schedule hereto and shown as to the numbered trees encircled in black, and as to the groups of trees within a broken black line on the map referred to in the Order.

A copy of the confirmed Order is sent herewith and a sealed copy of the map referred to therein has been deposited at Room 208, The County Hall, Westminster Bridge, S.E.1, and a certified copy of the map has been deposited at Kensington Town Hall, Kensington High Street, W.8, and may be inspected during the usual office hours.

THE SCHEDULE referred to:-

Trees specified individually
(encircled in black on the map)

No. on Map	Description	Situation
T.1	One Plane	✓ 11, Warwick Gardens
T.2	One Plane)	✓ Site of 29, Warwick Gardens
T.3	One Plane)	
T.4	One Thorn	✓ 31, Warwick Gardens
T.5	One Thorn)	
T.6	One Thorn)	✓ 38, Warwick Gardens
T.7	One Lime	✓ 46, Warwick Gardens
T.9	One Thorn	
T.10	One Thorn	✓ 78, Warwick Gardens
T.11	One Laburnum)	
T.12	One Robinia	✓ 61, Warwick Gardens
T.13	One Ailanthus	✓ 63, Warwick Gardens
T.14	One Sycamore	✓ 102, Warwick Gardens
T.15	One Sycamore)	
T.16	One Sycamore)	✓ 16, Pembroke Gardens
T.17	One Flowering Almond	✓ 17, Pembroke Gardens
T.18	One Horse Chestnut	✓ 23, Pembroke Gardens
T.19	One Ailanthus	
T.20	One Flowering Almond)	✓ 1, Edwardes Place

Trees specified by reference to an area

None

Groups of trees
(within a broken black line on the map)

No. on Map	Description	Situation
G.1	Two Flowering Almond Three Flowering Plum One Thorn Two Holly	Land comprising gardens fronting Nos. 1 to 5 (consec.), Edwardes Place
G.2	One Poplar Three Plane One Horse Chestnut	Land fronting St. Mary Abbot's Place at rear of Nos. 19 to 25 (odd), Warwick Gardens.
G.3	Three Laburnum Two Lime One Flowering Crab Two Flowering Plum One Birch Two Plane One Thorn One Sycamore	Land comprising garden fronting No. 13, Pembroke Gardens, the garden of No. 73, Warwick Gardens, and the garden fronting No. 71, Warwick Gardens.
G.4	Three Lime Three Plane One Ailanthus	Land comprising gardens fronting Nos. 49 and 51, Warwick Gardens
G.5	Eight Lime	Land comprising part of the garden of No. 43, Warwick Gardens
G.6	Three Lime One Laburnum One Weeping Elm One Flowering Cherry One Flowering Plum Four Flowering Crab Six Poplar	Land comprising gardens at the side of Nos. 1 and 12, Pembroke Studios, fronting No. 35, Pembroke Gardens, the garden of No. 41, Warwick Gardens, and the gardens fronting Nos. 35, 37 and 39, Warwick Gardens
G.7	Six Thorn Three Laburnum One Sycamore One Flowering Cherry Five Robinia Two Holly One Flowering Plum	Land comprising gardens fronting Nos. 11 to 27 (odd), Warwick Gardens
G.8	Three Laburnum Two Flowering Almond One Magnolia Three Plane	Land comprising gardens fronting Nos. 28 to 34 (even), Warwick Gardens
G.9	One Sycamore One Lime One Laburnum One Horse Chestnut	Land comprising garden fronting Kensington High Street at the side of No. 1, Warwick Gardens

Woodlands - None

THE SCHEDULE (continued)

GROUPS OF TREES
(within a broken black line on the map)

<u>number on map</u>	<u>Description</u>	<u>Situation</u>
G.7	Six Thorn Three Laburnum One Sycamore One Flowering Cherry Five Robinia Two Holly One Flowering Plum	Land comprising gardens fronting Nos. 11 to 27 (odd) Warwick Gardens
G.8	Three Laburnum Two Flowering Almond One Magnolia Three Plane	Land comprising gardens fronting Nos. 28 to 34 (even) Warwick Gardens
G.9	One Sycamore One Lime One Laburnum One Horse Chestnut	Land comprising garden fronting Kensington High Street, at the side of No. 1, Warwick Gardens

WOODLANDS - None

DATED this 4th Day of May, 1954.

(SGD) HOWARD ROBERTS

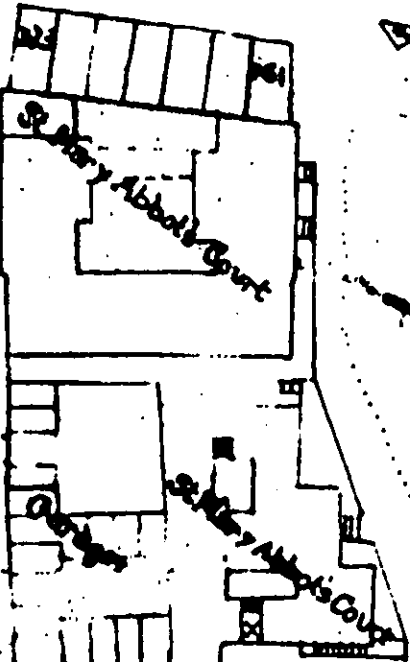
Clerk of the London County Council.

The County Hall,
Westminster Bridge,
S.E.1.

Section
fifty to
G
arrived
minutes
later

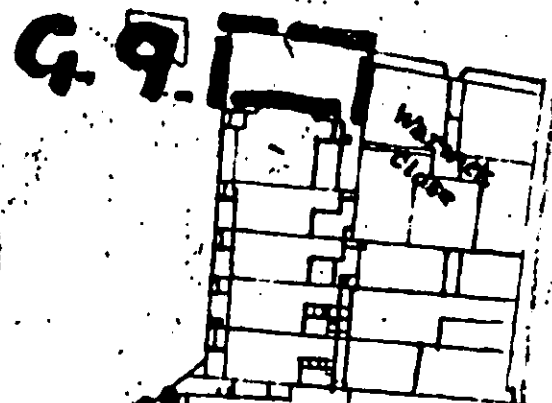
KENSINGTON

HIGH STREET



St Mary Abbott's Court

St Mary Abbott's Court

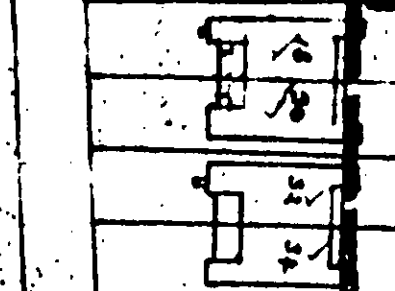
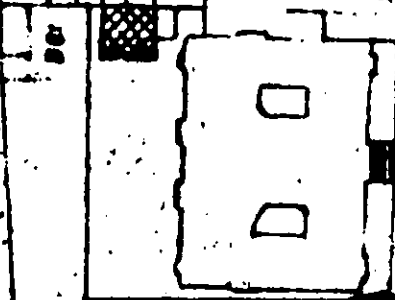


G.9.

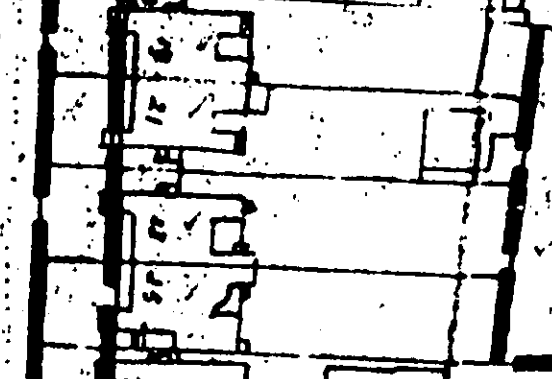
T.10

ST MARY ABBOT'S PLACE

G.7



G.8

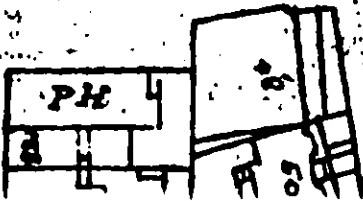


G.2

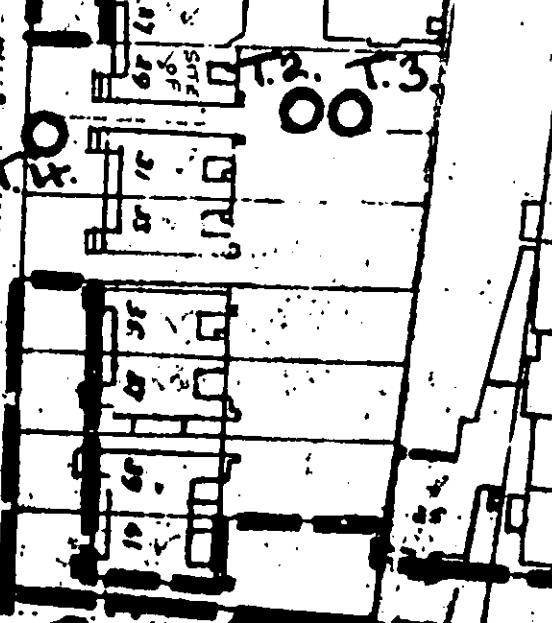
T.2. T.3

W
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PH



G.6.

PEMBROKE STUDIOS

PEMBROKE GARDENS

LAND ADJACENT TO 4 ST. MARY ABBOT'S PLACE, KENSINGTON, W.8

OMBUDSMAN COMPLAINT BY JOHN PEECOCK PLANNING

Summary of Complaint

That the Council acted unreasonably by delaying dealing with applications relating to planning Conditions attached to a Planning Permission, and failed to supply information requested.

Requirements

- (1) General Response to complaint
- (2) A description of what was envisaged by Conditions 3 and 15
- (3) A chronology of what was requested, when it was requested, and when provided
- (4) Why did the Council consider prosecution if Condition 15 was met bar two minor issues which did not have a time scale attached
- (5) Copies of the letters sent by the Planning Department and Chairman of the Planning Committee to "interested neighbours" about the terms of Condition 15

(1) GENERAL RESPONSE TO COMPLAINT

- 1.1 The root of the complaint to the Ombudsman is that the Council have not confirmed that the requirements set by the Council under Condition 15 have been fully discharged. The simple reason why such confirmation has not been forthcoming is that those requirements have not yet been fully discharged. When they are, then the Council would be pleased to issue appropriate confirmation.
- 1.2 Planning permission was granted on 11th July, 1995, for the construction of two houses on land adjacent to no.4 St. Mary Abbots Place. A total of 15 Conditions were attached to the Permission; a number of these were conditions precedent whereby certain requirements were laid down that would need to be discharged before development commenced.
- 1.3 The three Conditions requiring submission of details were numbered (3), (12), and (15). Matters relating to each of these Conditions are set out in Section 3 of this Statement which provides a chronology of what was asked for and provided, and when.

1.4 The wording of these Conditions is as follows:

Condition (3)

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 development commences and maintained for the duration of building and other operations on the site

Condition (12)

Samples of materials 1, 2, 6, 7, 8, 11, 12, 14, and 18 on drawing L(--)100B shall be submitted to and approved in writing by the Executive Director, Planning & Conservation before development commences

Condition (15)

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 treatment of the open land within the site including hard and soft landscaping.

(2) A description of what was envisaged by Conditions 3 and 15

2.1 The reason given for the imposition of Condition 3 was:

To ensure that the trees are adequately protected and to safeguard the amenities of the area

2.2 The reason given for the imposition of Condition 15 was:

The particulars 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.

2.3 Condition 3 is a standard Condition, commonly imposed where the Council is concerned that operations on site pursuant to a planning permission may seriously harm important trees. In the case of St. Mary Abbot's Place, the Council was particularly concerned for the well being of a mature Plane tree located at the centre of the site. Exhaustive negotiations had taken place, prior to the granting of planning permission, between the Council's arboriculturists and the arboricultural consultant acting for the applicants, with regard to the safety of this Plane tree, and the development was finally approved on the basis that the approved building would sit on a raft with pile and beam foundations to protect the roots of the tree. It was evident that great care would need to be taken in the clearance of the site, in the sinking of piles, and in constructing the raft and building above.

2.4 The onus is upon a developer to comply with a Condition. When the present complainants bought the site from the original applicants, with its Planning Permission, the onus was upon the present complainants to approach the Council with details of the measures necessary to comply with Condition (3). In the event, details were agreed but these details had to be amended once work commenced on site, in response to the particular circumstances of the site. A letter confirming compliance with Condition (3) was not issued whilst

the detailed requirements on site were being reassessed in the light of events on site in the early stages.

- 2.5 In terms of Condition (3), the Council considers that, by continuing to advise on site when problems occurred including root loss, rather than simply require work to cease, far from in any way acting unreasonably towards the developers/contractors the Council applied a significant degree of discretion and practicality in using its enforcement powers.
- 2.6 A chronology of events in relation to Condition (3) is provided below.
- 2.7 Turning to the matter of what was envisaged in imposing Condition (15), it can be very simply stated that same requirement, i.e that the matters pursuant to the Condition should have been agreed and discharged prior to commencement of works, fell to the developers under Condition (15) as it did (3). Again, what was envisaged under this Condition proved to be rather different to the sequence of events that unfurled in reality.
- 2.8 A detailed chronology is provided below, however to look at what was envisaged in Condition 15 it is also necessary to go back to the time when planning permission was granted, in 1995.
- 2.9 The planning application was first presented to the Planning Services Committee, comprising 7 Councillors, on 11th January 1995. The Committee heard objectors and the applicants speak for and against the application, and a decision was deferred. The application was then presented to the Planning Services Committee on 4th April 1995, and again a decision was deferred. Finally, the application was considered by the full Planning & Conservation Committee (comprising 12 Councillors) on 1st May 1995, and this Committee granted planning permission.
- 2.10 The Planning & Conservation Committee considered and debated the application at great length, with the discussion ranging from the principle of using the site for housing, to the architectural detail of the proposed buildings, and to the resultant impact that the development may have upon the levels of amenity enjoyed by occupants of neighbouring property. On the last point, the Committee were receptive to objections from residents to the rear (West) of the property, who amongst other things were concerned that the proposed houses would overlook their gardens and houses. The Committee concluded that the most appropriate way to mitigate the overlooking problem would be to ensure that trees were provided at the boundary between the proposed houses and the properties to their rear.
- 2.11 The Minutes of the Meeting for the 1st May Committee recorded that:
- "The Committee asked that an additional Condition, the precise wording of which to be agreed with the Chairman, be imposed requiring the applicant to undertake some appropriate tree planting at the rear of the new buildings."**
- 2.12 A Condition was duly added to the draft Planning Permission, to become known as Condition 15 attached to the issued Planning Permission.
- 2.13 The Council envisaged, in imposing this Condition, that a process of negotiation would then ensue which would lead to the applicants installing sufficient trees at the rear of the property to avoid any significant overlooking of nearby property. The detail of the landscaping scheme, to be approved before works commenced on site, were deliberately not specified in the Condition, as it was clear that there might be any number of acceptable mixes

of tree species that could meet the objectives of the Condition. Trees differ widely in their growth rates, foliage density, duration of foliage cover, and rooting requirements, and the exact detail of the trees was left to negotiation.

(3) A chronology of what was requested, when it was requested, and when provided

Condition (15) relating to the soft landscaping and new trees

- 1/5/95 Planning & Conservation Committee added a Condition to the list of then draft Conditions, in order that the applicant should undertake some appropriate tree planting at the rear of the new buildings [1].
- 11/7/95 Planning Permission issued, with Condition (15) attached [2]
- 25/7/95 Letter sent to developers reminding them the requirements of Condition (15), [3] specifying that:
- "As part of the landscaping proposals, a screen of tree planting will be required to the rear boundary with 9, 11, and (13) Warwick Gardens"**
- 26/7/95 Letter sent by Chairman of the Planning & Conservation Committee, Cllr. Desmond Harney OBE, to neighbouring resident at rear of site, advising that there would be various alternatives in terms of trees to satisfy Condition 15, and that the residents would be fully consulted in the process [4]
- 11/9/95 Letter sent from Council to neighbouring resident, paragraphs 3 and 4 being those most relevant to this Ombudsman complaint [5]
- 4/10/95 Letter sent to developers, again reminding them of the need to provide a screen of trees along the rear boundary of the site. [6]
- 20/11/95 Meeting held at Town Hall with C. P. Barrow of Meadview Developments, concerning boundary details but not specifically Conditions (3) or (15). This was to be the last meeting with Meadview Developments.
- 24/1/96 First communication from Ashton Allen Design, on behalf of Eyton Developments (Suffolk) Ltd., who appeared to be new owners of the site. [7]
- 7/2/96 Reply from Council to letter of 24th January. [8]
- 3/4/96 Letter from neighbouring resident received, stressing concern that Condition 15 still appeared to be outstanding. [9]
- 21/5/96 Receipt of complainants first attempt at devising a landscaping scheme including trees at the rear [10] Several further sets of plans followed over the next few weeks, adjusting the planting scheme and adding several extra trees. In terms of respecting the existing levels of amenity enjoyed by residents to the rear of the property the landscaping scheme was improving with these amendments, although there was some remaining concern particularly regarding the size of the trees at installation. Residents were understandably concerned that the trees

may only begin to offer screening of any worthwhile nature after many years growth.

- 3/10/96 Letter sent to neighbouring residents, advising them of progress relating to the discussions on tree size at installation, and growth rates. [11].
- 4/10/96 Whilst the matter of purchase/installation size was still being examined by Council Officers, the developers advised the Council that they were aiming to start on site on 7th October 1996, and that the Council should issue a letter before that date to approve the landscaping. Letter received 8th October 1996 from Birketts Solicitors, advising that their clients were fully geared up for an imminent start on site. The letter advised the Council that a delay would incur unnecessary expense on the part of their clients, for which they would seek compensation. [12]
- 4/10/96 Letter sent from Council to developers (faxed 7/10/96 and crossed in post with Birketts letter of 4th October) explaining that the Condition 12 had now been complied with subject to final approval of the brick type. The letter also advised that the Landscaping scheme was now satisfactory and that a start could be made on site with two provisos. One proviso was that two new trees should be added to replace two removed sycamores, and the other was that the size of the proposed trees along the rear boundary, at installation, should be agreed, as slower growing varieties would need to be installed at a larger size in order to provide effective screening. [13]
- 22/10/96 Site visit by three Council Officers in response to urgent complaints by local residents - work was found to be proceeding apace on site but adequate tree protection had not been installed.
- 25/10/96 Letter from Council to developers regarding protection for the Plane tree. [14]
- 1/11/96 Letter sent from Council to neighbouring residents, updating them on the position with regard to Condition 15 and the two outstanding provisos. [15]
- 1/11/96 Letter sent from Council (Arboriculturist) to developers specifying minimum tree sizes at installation. [16]
- 1/11/96 Letter sent from Council to developers reminding them of requirements Condition 15, as established in letter of 4th October 1996. [17]
- 1/11/96 Letter sent from Council to on site contractors specifying tree protection measures needed. [18]
- 6/11/96 Fax received from Ashton Allen Design, on behalf of developers, agreeing to install trees of the sizes set out in Council's letter of 1st November. [19]
- 6/11/96 Letter from Council to developers, requesting revised drawings before a final letter could be issued confirming that Condition no.15 had been discharged. [20]
- 8/11/96 Revised copy of drawing 6366-26/D received. Plant sizes still not shown.

- 13/11/96 Revised rear elevation 6366-27/C received, showing plant sizes at installation. Further revisions to 6366-26/D received, in the form of 26/E.
- 14/11/96 First letter received from John Peacock Planning [21]. Letter requested confirmation of discharge of Conditions (3) and (15).
- 15/11/96 Letter from neighbouring resident to Council, advising that the proposed tree screen was still unsatisfactory. [22]
- 16/12/96 Further letter from John Peacock Planning, chasing confirmation of Conditions. [23]
- 6/2/97 Further letter from John Peacock Planning. [24]
- 14/2/97 Letter from Council to John Peacock Planning. [25]
- 19/2/97 Reply from John Peacock Planning. [26]
- Work on site ceased at around this time.
- 4/3/97 Letter from Council to John Peacock Planning. [27]
- 12/3/97 Letter from Council to John Peacock Planning. [28]
- 21/3/97 Letter from Council to neighbouring resident. [29]
- 29/4/97 Letter from John Peacock Planning to Council, threatening to start on site again "within 7 days". [30]
- 15/7/97 Letter from Council to neighbouring resident [31]

Condition (3) relating to tree protection

- 12/9/96 Meeting held on site to agree necessary measures for protection of Plane tree. The erection of a protective crib, plus retention of garage bases to prevent impaction, was agreed.
- 9/10/96 Letter from Council to contractors, confirming the agreed works to protect the Plane tree. [32]
- A letter was not sent formally discharging Condition (3), as work started on site soon afterwards and immediately generated concern, and complaint, that the Plane tree was not adequately protected.
- 22/10/96 Urgent site meeting in response to complaints from neighbouring residents that heavy machinery on site was damaging tree roots. Three Council Officers attended the site meeting, and found that the piling rig under the tree was doing lots of manoeuvring and churning soil and badly damaging roots. Instructions were given to cease work, and lay a concrete slab before restarting work, to prevent this damage continuing.
- 29/10/96 Further site visit by Council's senior Arboriculturist

- 1/11/96 Letter sent to contractors specifying re-assessed precautions, including laying of concrete slab. [18]
- 14/11/96 Letter received from John Peacock Planning, requesting discharge of Conditions (3) and (15). [21]
- Condition (3) could not be discharged at that time because the concrete protection slab had not yet been laid to the required dimensions.

(4) Why did the Council consider prosecution if Condition 15 was met bar two minor issues which did not have a time scale attached

- 4.1 The Council's letter of 6th November 1996 stated that "the Chairman of the Planning Committee that approved the scheme has asked me to consider prosecution for breach of condition unless these matters are resolved forthwith" The letter also stated that recent agreements were "most welcome" and it is was evident that the question of formal action for breach of condition would not be appropriate as long as negotiations seemed to be moving towards an acceptable solution to the matters in question. The matter of prosecution for breach of condition was never formally considered by the Planning Services Committee.
- 4.2 It is not correct to say that there was no time scale attached. The Council's letter of 4th October 1996 to the developers clearly advised that the details of tree sizes should be submitted and agreed in writing **before the development is completed**. It further advises that the necessary discussions should **proceed as soon as possible**. [paragraph 7 of the letter]

(5) Copies of the letters sent by the Planning Department and Chairman of the Planning Committee to "interested neighbours" about the terms of Condition 15

- 5.1 Enclosed with bundle of numbered documents.

(6) Further Observations

- 6.1 The situation as it now stands is frustrating, to say the least, for all concerned. The requirements under Condition (15) were very close to being met when negotiations ceased. A lot of progress was made last year in negotiating a tree planting scheme that would provide the neighbouring residents with the privacy and amenity that they desired, and that the Planning Services Committee sought in imposing Condition 15, whilst at the same time providing the developers with a suitable landscaping scheme and discharge of the requirements of the Condition. The Council Officers have sought to achieve a solution to the matter through negotiation, not through conflict. The Council have shown themselves to have acted reasonably in, for example, using their discretion in allowing the developers to make a start on site under the letter of 4th October 1996, despite the fact that the requirements of the Condition had not yet been fully met and the amenity of neighbouring property still not safeguarded.

6.2

The Council does not consider that the process of negotiation that took place last year was either (a) unreasonable or (b) has involved the developer in significant extra expense. The Council allowed the developer to start on site with some matters outstanding pursuant to Conditions (3) and (15). In so doing, the health of the Plane tree suffered, and so did the Council's relationship with its local residents. For the most part, negotiations took place whilst work was progressing on site. The indications appear to be that the developer in fact had some disagreement with the contractors, which is why work ceased on site. The Council does not have any evidence that the negotiating process pursuant to the various Conditions has involved the developers in any significant extra expense that would be beyond what might reasonably be expected to be incurred in dealing with such a Condition. If the Condition itself was felt to be unreasonable, then it might seem odd that no appeal was lodged against the Condition when it was imposed.

6.3

The Council would hope that one further meeting with the developers, perhaps with one local resident present as a representative of residents interests, could well resolve the problem.

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA**PLANNING AND CONSERVATION COMMITTEE - 26TH FEBRUARY 2001
POLICY AND RESOURCES COMMITTEE - 28TH FEBRUARY 2001****REPORT BY THE DIRECTOR OF LEGAL SERVICES AND THE
EXECUTIVE DIRECTOR PLANNING AND CONSERVATION****OUTCOME OF OMBUDSMAN COMPLAINT**

During 1998, the Ombudsman investigated a complaint from Mr Griffin on behalf of his client. The Ombudsman's report was published on 16th December 1998, concluding that there had been maladministration. The Ombudsman's report and his findings were reported to Committees on 22nd and 23rd February 1999; a copy of that report is attached as Appendix 1 for ease of reference

The complainant raised a further complaint with the Ombudsman about the delay by the Council in responding to the earlier report. The Ombudsman has now investigated that complaint; this report deals with the Ombudsman's conclusions.

FOR INFORMATION

1. THE CURRENT INVESTIGATION

1.1 The complaint is that there was undue delay by the Council in responding to an earlier report by the Ombudsman, failing to respond in a meaningful way or to apologise for delay and perpetuating the maladministration identified in the earlier report. The Ombudsman acknowledges that the Council had sought and obtained her agreement at all stages to extensions of time to consider and respond to her original report, as she considered there had been good reason to grant such extension. However, the Ombudsman feels that there had been unreasonable delay by the Council in formally confirming the discharge of a condition to the planning consent; the Ombudsman's conclusion is that this delay was maladministration but caused no injustice to the complainant or the developer. The Ombudsman has therefore found that there was some maladministration, but no injustice.

1.1 In respect of the complaints that the Council:-

- orchestrated the original delay to suit its own ends;
- failed to respond to the Ombudsman's report in a meaningful and prompt manner;
- failed to show any courtesy in apologising for the delay;

The Ombudsman has concluded that there was no maladministration and she could see no reason to expect the Council to make the apology sought.

- 1.4 As to the complaint that the delay by the Council perpetuated the maladministration which she had identified in her earlier report, the Ombudsman has concluded that this delay amounted to maladministration. "However, work had already recommenced on the site before publication of my report and, in any event, my report made clear that the Council already considered the condition to have been discharged. I, therefore, conclude that neither the complainant nor his client has suffered any injustice in consequence of the Council's maladministration".
- 1.5 The Ombudsman's report has been published and the appropriate statutory notice has been published in the press. The report is available for public inspection at library for three weeks starting on 15th February 2001. A copy of the full report is attached as Appendix 2 to this report.

2. CONCLUSION

- 2.1 In the light of the Ombudsman's findings that there was some maladministration but no injustice, the Committee is invited to note the report and finding.

RICHARD HEMMINGS
Director of Legal Services

MICHAEL J. FRENCH
Executive Director, Planning
and Conservation

Background Papers Used in the Preparation of this Report : Ombudsman's report.

Contact Officer: Mr R Hemmings, Director of Legal Services, Town Hall, Hornton Street, London W8 7NX. Telephone no: 020 7361 2257

THE ROYAL BOROUGH OF KENSINGTON & CHELSEA

PLANNING & CONSERVATION COMMITTEE - 22ND FEBRUARY 1999
POLICY & RESOURCES COMMITTEE - 23RD FEBRUARY 1999

REPORT BY THE DIRECTOR OF LEGAL SERVICES

OMBUDSMAN REPORT

The Ombudsman has made a finding of maladministration with injustice in relation to the Council's delay in approving the fulfilment of a condition of a planning permission. However, officers have very serious concerns about the finding and in particular about the suggested compensation of £103,464. The Committee is recommended to give approval to the Director of Legal Services to raise the concerns with the Ombudsman and report back.

FOR DECISION

1. LEGAL BACKGROUND

- 1.1 The Local Government Act 1974 provides the Ombudsman with powers to report on complaints of maladministration. A local authority has to consider any report together with any finding of injustice together with any recommendation for compensation within three months of receipt of the report.
- 1.2 If the Ombudsman does not receive any response or is not satisfied with the response, he can issue an adverse report. The final sanction if differences cannot be resolved is for a statement to be placed in the local press giving the Ombudsman's views on the matter. The Ombudsman has no powers to order the Council to pay any compensation.
- 1.3 This report was received on 18th December. All statutory requirements regarding advertising receipt of the report have been followed.

2. FACTUAL BACKGROUND

- 2.1 A copy of the Ombudsman's Report is attached. An application was made for the development of a site in Kensington for two dwelling houses. The application was made early in 1994, was amended three times, and was the subject of considerable opposition from local residents culminating in an article in the local press, when the development was approved.
- 2.2 The main objectors were owners of the premises at the rear of the development who challenged its bulk, size and density. In particular, they were extremely concerned about invasion of privacy by overlooking.

- 2.3 The Planning & Conservation Committee met on 1st May 1995, granted the permission subject to the Developer "undertaking some appropriate tree planting at the rear of the new buildings".
- 2.4 The proviso became Condition 15. That condition required "full particulars of the treatment of the open land within the site, including hard and soft landscaping be submitted to the Council and approved in writing before the development commences".
- 2.5 Subsequent to the decision, the Council wrote to the Developer's architects in July 1995 referring to Condition 15 and in particular referring to the need to screen the rear part of the site by the planting of trees.

3. JULY 1995 TO OCTOBER 1996

- 3.1 The land was sold in late 1995.
- 3.2 Between May and October 1996, the new owner submitted details of the landscaping plans with screening details. During that time the owner was also involved in party wall proceedings with the residents at the rear of the development. He needed access to their land to develop. In order to achieve this, he had to show that the Council had given approval under Condition 15.
- 3.3 Prior to any approval under Condition 15 being given, the architect gave notice that ground works were to start in August/September 1996.
- 3.4 On 4th October the Council wrote saying that the submitted scheme for landscaping was satisfactory for the purposes of Condition 15 and giving approval for works to commence. The letter made clear that a number of points had to be addressed before development was completed, the most important issue being the size and planting of the trees at the rear.
- 3.5 The party wall proceedings were determined at the end of October 1996 with the third party surveyor deciding that the letter of 4th October meant that Condition 15 had been met. The Developer could therefore not only start works, but go on to neighbours' land to complete the work. The only real barrier to completion was approval to the size of the trees.
- 3.6 Condition 15 had therefore been varied by the Council's letter of 4th October that substituted requirement for matters to be addressed before commencement of development to matters being addressed during development, but before completion. An approval in writing with a variation had been given.

4. NOVEMBER 1996 TO SEPTEMBER 1997

- 4.1 During November 1996, discussions continued on the question of tree screening at the rear. The discussions were designed to secure proposals that would satisfy the

residents. Difficulties still persisted over whether or not the proposed height of the trees afforded the required privacy.

4.2 Letters were sent to the Planning Department between the end of November 1997 and February 1998 by the architect for the new owner, some of which were not answered. The Planning Department continued to try to reconcile the proposals of the Developer with the aspirations of the residents.

4.3 In June 1998 a complaint was made to the Ombudsman about the delay in issuing the unconditional Condition 15 approval on the basis that this had hampered and delayed the development.

5. THE CONCLUSION

5.1 The Ombudsman considers the questions that have to be asked at paragraphs 4.2 to 4.7 which are:

- When was Condition 15 met?
- Why did the Council not confirm that Condition 15 had been met?

5.2 However, there are far more searching questions that should be asked in determining whether there has been injustice caused by maladministration.

5.3 A person with experience of property development of this nature would ask:

- 1) Why any commercial operator would allow disputes over a few trees at the rear of a developed site valued at over one and a half million pounds to delay that development, and incur losses of around £220,000.
- 2) What advice was sought and received by the Developer on whether he could proceed and complete the development without Condition 15 approval. Architects, Solicitors and Counsel were involved at various stages of the development, giving advice to the Developer.
- 3) Whether there were any other reasons for the work ceasing between February to November 1996. Developers will often cease works because of contract disputes, cash flow problems, or simply because the market is rising and there is no financial incentive to complete the development quickly.

5.4 Accordingly, whilst there may have been delay in responding to the complainant's correspondence and telephone calls between November 1996 and February 1997, it cannot be accepted that the Council's failure to approve in writing that Condition 15 had been met solely and directly resulted in the losses claimed by the Developer's architect.

5.5 Accordingly, the fundamental defect in the report is that the complainant's contentions about the financial consequences of the Council's actions, have been taken at face value and have not been subjected to detailed scrutiny.

- 5.6 In such circumstances, the Director of Legal Services considers that the question of whether or when Condition 15 has been met is not the salient question in determining whether financial losses occurred as a result of a maladministration with injustice.
- 5.7 The Committee is reminded that the Developer was perfectly prepared to carry out works in August/September 1996 before any approval under Condition 15 had been given.
- 5.8 The Developer argued successfully in the party wall proceedings that Condition 15 had been met, and then proceeded to implement that decision that allowed him to carry out works.
- 5.9 It would seem improbable therefore that a developer properly advised would allow losses to occur for the reasons stated, given the relatively minor nature of the issue compared to the whole.
- 5.10 In addition, with so much money at stake, why did the Developer not take the more obvious course of action of simply meeting the residents' aspirations regarding tree planting? Why had that usual commercial option not been pursued?

6. RECOMMENDATIONS

- 6.1 The Council, in considering recommendations of the Ombudsman, must be satisfied that payments can be justified. There may be circumstances where although the Council may not agree with the findings of the Ombudsman, the Council decides to follow his recommendations.
- 6.2 With so much money at stake in this case this cannot be recommended. At this stage, it is recommended that this report is sent to the Ombudsman, and the matters are discussed at officer-level with a report back to the next committee cycle.

FOR DECISION

A.G. Phillips
Director of Legal Services

Background Papers Used in the Preparation of this Report: none

Contact Officer: Mr A.G. Phillips, Director of Legal Services, The Town Hall, Hornton Street, London, W8 7NX telephone number: 0171 361 2257.



The Commission for
Local Administration in England

Report

on an Investigation into
Complaint No 00/C/12432 against
Royal Borough of Kensington & Chelsea

February 2001

**Investigation into Complaint No 00/C/12432
Against Royal Borough of Kensington & Chelsea**

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Key to names used

Mr Griffin Agent to Complainant

Report Summary

Subject

The complainant, acting on behalf of a firm of property developers, complains of undue delay by the Council in responding to an earlier report of the Ombudsman, failing to respond in a meaningful way or to apologise for delay and perpetuating the maladministration identified in the earlier report.

The Council had sought and obtained the Ombudsman's agreement at all stages to extensions of time to consider and respond to her report, as she considered there had been good reason to grant such extensions. There had been unreasonable delay by the Council in formally confirming the discharge of a condition to the planning consent; this delay was maladministration but caused no injustice to the complainant or the developer.

Finding

Some maladministration but no injustice.

Introduction

1. Mr Griffin, as agent for a firm of property developers, complains on behalf of the property developers of inordinate delay by the Council in responding to my report issued on 16 December 1998, following investigation of an earlier complaint made by Mr Griffin on behalf of his client. He complains in particular:-
 - (a) that the Council orchestrated this delay to suit its own ends;
 - (b) that the Council failed to respond to my report in a meaningful and prompt manner;
 - (c) that the Council failed to show any courtesy in apologising for the delay;
 - (d) that the delay by the Council perpetuated the maladministration which I had identified in my earlier report.
2. For legal reasons, the names used in this report are not the real names of the people concerned.¹
3. An officer of the Commission has examined the relevant records.
4. An opportunity has been given for the complainant and the Council to comment on a draft of this report prior to the addition of the conclusion.

Legal Background

5. Where a Local Government Ombudsman reports that injustice has been caused in consequence of maladministration, that report must be laid before the authority concerned. It is the duty of the authority to consider the report and inform the Ombudsman of the action it proposes to take within three months, or such longer period as the Ombudsman agrees in writing.² If the Ombudsman does not receive a satisfactory response within the agreed period, then the Ombudsman must make a further report setting out the facts and making recommendations.

1 The Local Government Act 1974 Section 30(3)

2 The Local Government Act 1974 Section 31

Investigation

6. During 1998 I investigated a complaint from Mr Griffin on behalf of his client, a firm of property developers, about unreasonable delay by the Council in confirming compliance with the terms of a Condition attached to a planning permission for a development. He complained that, as a consequence of the delay, the developer had suffered considerable financial losses.
7. I published my report on 16 December 1998.³ I concluded that there had been significant delay on the part of the Council in confirming that the Condition had been discharged, and that this delay amounted to maladministration. In order to remedy the injustice consequent upon that maladministration, I concluded that the Council should compensate the developers by a payment sufficient to cover their abortive costs directly consequent on the Council's failure. From the information given to me by the complainant, and not challenged by the Council, I identified those costs as professional fees amounting to £24,817 and bank interest charges incurred while the site was idle for six months amounting to £78,657. Therefore I recommended that the Council should make a payment to the complainant of £103,464. I also recommended that the Council should confirm that the terms of the Condition in question were satisfied.
8. The Council considered my report at a meeting of its Planning and Conservation Committee on 22 February 1999 and at its Policy and Resources Committee on 23 February 1999. Concern was expressed at those meetings about the level of compensation proposed. The Council wished to consider that further and wrote to me on 4 March requesting an extension of the period for consideration of the report until 28 April when the next Council meeting was due to be held. That extension was agreed.
9. The complainant was advised of that extension, and also of the fact that the Council had asked for a meeting with me.
10. That meeting took place on 27 April. The Leader and senior officers of the Council told me that, although they conceded that there had been maladministration, they had considerable doubt that the developer had sustained the costs identified in my report. They did not consider it right to expend public money until satisfied that the costs had been incurred in consequence of the maladministration.

11. I wrote to Mr Griffin on 12 May to tell him the outcome of that meeting. I advised him that the Council would seek from him confirmation that the claimed expenditure had been properly incurred by his client as a result of the identified delay. I also advised him that I had asked the Council to provide me with evidence of their contentions that other factors had contributed to or caused the delay in continuation of the building work and that any other loss incurred by his client should be offset against the increase in the value of the client's property during that period of inactivity.
12. Also on 12 May I wrote to the Council summarising the outcome of our meeting and agreeing to an extension of time for the Council to respond until the end of June.
13. In the light of information supplied to me by the Council, I sought further information from Mr Griffin on 3 June. In view of the fact that further information was still needed from the complainant and the Council would be unable to consider the matter at its next cycle of committees, the Council wrote requesting a further extension of time until the end of October. That extension of time was agreed by letter of 16 June. Mr Griffin was not told of this extension of time until 5 July.
14. Mr Griffin wrote on 18 June, giving the name and address of a third party, who would be able to give me information about any other reasons for the delay in construction work.
15. A detailed letter was sent to the third party on 28 June. The third party replied on 6 July to say that it was seeking the necessary information from its archives. In spite of several unsuccessful attempts to speak to the third party on the telephone, and two further letters on 21 September and 27 October, no response was ever received from the third party. Meanwhile, on 28 September, in response to a request from the Council, a further extension of time until 1 December was given to the Council.
16. On 1 November the complainant sent to me a copy of a letter dated 22 October which he had received from the Council, confirming that the disputed Condition had been discharged. In a subsequent telephone conversation with an officer of the Commission, Mr Griffin confirmed that that aspect of his complaint had been resolved. He also undertook to see if he could encourage a response from the third party.

17. On 16 November the Council once again requested an extension of time to 1 March. The letter explained: "This is to enable Mr (Griffin) to deal with all outstanding requests for information." That extension was granted and I wrote to Mr Griffin at the same time seeking clarification of a number of matters and advised him of the extension that had been granted.
18. Mr Griffin wrote to me with further information on 7 December and an officer of the Commission talked at some length with a senior officer of the Council on 14 December.
19. I wrote to both the Council and Mr Griffin on 24 January setting out my understanding of the Council's response to my recommendations and saying that I was now prepared to regard the matter as settled if the Council was prepared to pay the sum of £14,000 in respect of abortive fees.
20. Following a further letter from the Council on 24 February I reviewed its response to my report and concluded that it would not be reasonable to require the Council to pay any compensation to the complainant. I wrote to both the Council and the complainant on 30 March to express myself satisfied with the Council's response.

Conclusion

21. Between publication of my report on 16 December 1998 and my letter of 30 March 2000, the Council sought on five occasions an extension of time for consideration of my report. On each occasion I was satisfied that there was good reason for granting that extension of time.
 - (a) **The Council orchestrated this delay to suit its own ends**
22. In so far as the prudent expenditure of public money amounts to "its own ends", the complainant is correct in his assertion. However, I could not categorise that perfectly proper concern as maladministration,
 - (b) **The Council failed to respond to my report in a meaningful and prompt manner.**
23. The Council gave its initial response to my report within the first three months, in spite of the fact that the Christmas break intervened. The Council continued to respond positively and with proper attempts to resolve its concerns. I do not see

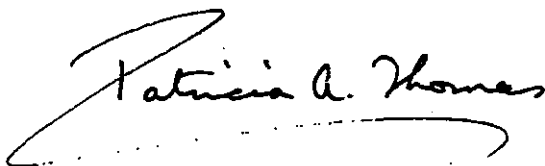
that there was any unreasonable delay on the part of the Council which I could categorise as maladministration.

(c) **The Council failed to show any courtesy in apologising for the delay.**

24. Except as identified in paragraph 25 below, I am satisfied that there was no unreasonable delay on the part of the Council. Consequently, and in view of my comments below, I see no reason to expect the Council to make such an apology.

(d) **The delay by the Council perpetuated the maladministration which I had identified in my earlier report.**

25. The maladministration I identified in my earlier report was the Council's failure to confirm that a Condition of the planning consent had been discharged. The Council did not write to the complainant confirming to his satisfaction and that of his client that the Condition had been discharged until 22 October 1999. That was ten months after publication of my report. I do not consider it reasonable for the Council to have taken so long to issue formal confirmation that the terms of the Condition had been satisfied. I see that delay as maladministration. However, work had already recommenced on the site before publication of my report and, in any event, my report made clear that the Council already considered the Condition to have been discharged. I therefore conclude that neither the complainant nor his client has suffered any injustice in consequence of the Council's maladministration.



Mrs P A Thomas
Local Government Ombudsman
Beverley House
17 Shipton Road
York
YO30 5FZ

7 February 2001

PRESS AND PUBLIC RELATIONS

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Director of Communications A. HILLIER

Press Statement

Direct line 020 7361 2115

Draft

Facsimile: 020 7937 9670

ST 317

Email: pressbox@rbkc.gov.uk

15 February 2001

Website: www.rbkc.gov.uk

OMBUDSMAN'S INVESTIGATION REPORT

The Ombudsman began by recommending that the Council should pay the complainant £103,464. The time extensions granted by the Ombudsman enabled us to scrutinise the justification for these claimed losses. As a result, the Ombudsman ended up agreeing that the Council shouldn't pay a penny. This is something of a vindication. It is true that the formal discharge letter took time to arrive but the council had already made it plain to all parties that it regarded the condition as discharged. That is why the Ombudsman found no injustice.

ENDS

Embargoed until 1.00 am Thursday 15 February 2001

Press Release



1
OF TSW!

FAO MARTIN FITZPATRICK

7937 9670 → from Matthew

Ombudsman criticises Council's delay in formally confirming to developer that a planning condition had been discharged

The Local Government Ombudsman, Mrs Patricia Thomas, has today (27 February 2001) issued a report on the investigation of a complaint about planning against the Royal Borough of Kensington & Chelsea. She found maladministration, but this did not cause injustice to the complainant.

'Mr Griffin' (not his real name for legal reasons), acting on behalf of a firm of property developers, complains of undue delay by the Council in responding to an earlier report of the Ombudsman, failing to respond in a meaningful way or to apologise for delay, and perpetuating the maladministration identified in the earlier report*.

The Council had sought and obtained the Ombudsman's agreement at all stages to extensions of time to consider and respond to her report, as she considered there had been good reason to grant such extensions. There had been unreasonable delay by the Council in formally confirming the discharge of a condition to the planning consent; this delay was maladministration but caused no injustice to the complainant or the developer.

The Ombudsman finds some maladministration, but no injustice.

- ends -

Copy of report on investigation 00/C/12432 attached.

** Ombudsman's earlier report ref 97/C/2707 dated 16 December 1998*

Media enquiries

For further information about this particular report contact:
Richard Harrison

Tel: York 01904 663200

1...

For general information about the Local Government Ombudsman service, contact:

Rob Rundle or Hilary Pook

Tel: 020 7915 3286/3289/3210

Public enquiries

Adviceline

Tel: 0845 602 1983

Notes for editors

- The Council now has to consider the report and tell the Local Government Ombudsman what action it proposes to take. The report may be inspected and copies taken by the public under arrangements to be made by the Council.
- The law does not permit the Local Government Ombudsman to publish the real name and address of the complainant.
- Local Government Ombudsmen investigate complaints of injustice arising from maladministration by local authorities and certain other bodies.
- There are three Local Government Ombudsmen in England and they each deal with complaints from different parts of the country. Mrs Thomas deals with Birmingham, Cheshire, Derbyshire, Lincolnshire, Nottinghamshire, Shropshire, Staffordshire and the north of England. She has dealt with this complaint on behalf of Mr Edward Osmotherly, who usually deals with complaints from Greater London.
- The Local Government Ombudsmen:
 - ▶ are appointed by Her Majesty the Queen;
 - ▶ are independent of Government and councils;
 - ▶ have the same powers as the High Court to obtain information and documents;
 - ▶ are committed to giving an equal service to all members of the public.
- there is no charge for using the Ombudsman's service.
- The Ombudsmen receive in excess of 17,000 complaints a year. In about one in four cases the complainant obtains redress.
- The procedure for making a complaint to the Local Government Ombudsman is explained in a free booklet, *Complaint about the council? How to complain to the Local Government Ombudsman* obtainable (in English and in nine other languages) from council offices, Citizens' Advice Bureaux, or direct from the Local Government Ombudsman at 21 Queen Anne's Gate, London SW1H 9BU. It is also available in Braille, in large print and on tape direct from the Local Government Ombudsman.

Visit our web site at www.open.gov.uk/lgo

1...

3



The Commission for
Local Administration In England

Report

on an Investigation into
Complaint No 00/C/12432 against
Royal Borough of Kensington & Chelsea

7 February 2001

Beverley House 17 Shipton Road York YO30 5FZ

4

**Investigation into Complaint No 00/C/12432
Against Royal Borough of Kensington & Chelsea**

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Key to names used

Mr Griffin Agent to Complainant

5

Report Summary

Subject

The complainant, acting on behalf of a firm of property developers, complains of undue delay by the Council in responding to an earlier report of the Ombudsman, failing to respond in a meaningful way or to apologise for delay and perpetuating the maladministration identified in the earlier report.

The Council had sought and obtained the Ombudsman's agreement at all stages to extensions of time to consider and respond to her report, as she considered there had been good reason to grant such extensions. There had been unreasonable delay by the Council in formally confirming the discharge of a condition to the planning consent; this delay was maladministration but caused no injustice to the complainant or the developer.

Finding

Some maladministration but no injustice.

Introduction

1. Mr Griffin, as agent for a firm of property developers, complains on behalf of the property developers of inordinate delay by the Council in responding to my report issued on 16 December 1998, following investigation of an earlier complaint made by Mr Griffin on behalf of his client. He complains in particular:-
 - (a) that the Council orchestrated this delay to suit its own ends;
 - (b) that the Council failed to respond to my report in a meaningful and prompt manner;
 - (c) that the Council failed to show any courtesy in apologising for the delay;
 - (d) that the delay by the Council perpetuated the maladministration which I had identified in my earlier report.
2. For legal reasons, the names used in this report are not the real names of the people concerned.¹
3. An officer of the Commission has examined the relevant records.
4. An opportunity has been given for the complainant and the Council to comment on a draft of this report prior to the addition of the conclusion.

Legal Background

5. Where a Local Government Ombudsman reports that injustice has been caused in consequence of maladministration, that report must be laid before the authority concerned. It is the duty of the authority to consider the report and inform the Ombudsman of the action it proposes to take within three months, or such longer period as the Ombudsman agrees in writing.² If the Ombudsman does not receive a satisfactory response within the agreed period, then the Ombudsman must make a further report setting out the facts and making recommendations.

1 The Local Government Act 1974 Section 30(3)

2 The Local Government Act 1974 Section 31

7

Investigation

6. During 1998 I investigated a complaint from Mr Griffin on behalf of his client, a firm of property developers, about unreasonable delay by the Council in confirming compliance with the terms of a Condition attached to a planning permission for a development. He complained that, as a consequence of the delay, the developer had suffered considerable financial losses.
7. I published my report on 16 December 1998.³ I concluded that there had been significant delay on the part of the Council in confirming that the Condition had been discharged, and that this delay amounted to maladministration. In order to remedy the injustice consequent upon that maladministration, I concluded that the Council should compensate the developers by a payment sufficient to cover their abortive costs directly consequent on the Council's failure. From the information given to me by the complainant, and not challenged by the Council, I identified those costs as professional fees amounting to £24,817 and bank interest charges incurred while the site was idle for six months amounting to £78,657. Therefore I recommended that the Council should make a payment to the complainant of £103,464. I also recommended that the Council should confirm that the terms of the Condition in question were satisfied.
8. The Council considered my report at a meeting of its Planning and Conservation Committee on 22 February 1999 and at its Policy and Resources Committee on 23 February 1999. Concern was expressed at those meetings about the level of compensation proposed. The Council wished to consider that further and wrote to me on 4 March requesting an extension of the period for consideration of the report until 28 April when the next Council meeting was due to be held. That extension was agreed.
9. The complainant was advised of that extension, and also of the fact that the Council had asked for a meeting with me.
10. That meeting took place on 27 April. The Leader and senior officers of the Council told me that, although they conceded that there had been maladministration, they had considerable doubt that the developer had sustained the costs identified in my report. They did not consider it right to expend public money until satisfied that the costs had been incurred in consequence of the maladministration.

11. I wrote to Mr Griffin on 12 May to tell him the outcome of that meeting. I advised him that the Council would seek from him confirmation that the claimed expenditure had been properly incurred by his client as a result of the identified delay. I also advised him that I had asked the Council to provide me with evidence of their contentions that other factors had contributed to or caused the delay in continuation of the building work and that any other loss incurred by his client should be offset against the increase in the value of the client's property during that period of inactivity.
12. Also on 12 May I wrote to the Council summarising the outcome of our meeting and agreeing to an extension of time for the Council to respond until the end of June.
13. In the light of information supplied to me by the Council, I sought further information from Mr Griffin on 3 June. In view of the fact that further information was still needed from the complainant and the Council would be unable to consider the matter at its next cycle of committees, the Council wrote requesting a further extension of time until the end of October. That extension of time was agreed by letter of 16 June. Mr Griffin was not told of this extension of time until 5 July.
14. Mr Griffin wrote on 18 June, giving the name and address of a third party, who would be able to give me information about any other reasons for the delay in construction work.
15. A detailed letter was sent to the third party on 28 June. The third party replied on 6 July to say that it was seeking the necessary information from its archives. In spite of several unsuccessful attempts to speak to the third party on the telephone, and two further letters on 21 September and 27 October, no response was ever received from the third party. Meanwhile, on 28 September, in response to a request from the Council, a further extension of time until 1 December was given to the Council.
16. On 1 November the complainant sent to me a copy of a letter dated 22 October which he had received from the Council, confirming that the disputed Condition had been discharged. In a subsequent telephone conversation with an officer of the Commission, Mr Griffin confirmed that that aspect of his complaint had been resolved. He also undertook to see if he could encourage a response from the third party.

17. On 16 November the Council once again requested an extension of time to 1 March. The letter explained: "This is to enable Mr (Griffin) to deal with all outstanding requests for information." That extension was granted and I wrote to Mr Griffin at the same time seeking clarification of a number of matters and advised him of the extension that had been granted.
18. Mr Griffin wrote to me with further information on 7 December and an officer of the Commission talked at some length with a senior officer of the Council on 14 December.
19. I wrote to both the Council and Mr Griffin on 24 January setting out my understanding of the Council's response to my recommendations and saying that I was now prepared to regard the matter as settled if the Council was prepared to pay the sum of £14,000 in respect of abortive fees.
20. Following a further letter from the Council on 24 February I reviewed its response to my report and concluded that it would not be reasonable to require the Council to pay any compensation to the complainant. I wrote to both the Council and the complainant on 30 March to express myself satisfied with the Council's response.

Conclusion

21. Between publication of my report on 16 December 1998 and my letter of 30 March 2000, the Council sought on five occasions an extension of time for consideration of my report. On each occasion I was satisfied that there was good reason for granting that extension of time.
 - (a) **The Council orchestrated this delay to suit its own ends**
22. In so far as the prudent expenditure of public money amounts to "its own ends", the complainant is correct in his assertion. However, I could not categorise that perfectly proper concern as maladministration,
 - (b) **The Council failed to respond to my report in a meaningful and prompt manner.**
23. The Council gave its initial response to my report within the first three months, in spite of the fact that the Christmas break intervened. The Council continued to respond positively and with proper attempts to resolve its concerns. I do not see

that there was any unreasonable delay on the part of the Council which I could categorise as maladministration:

- (c) The Council failed to show any courtesy in apologising for the delay.
- 24. Except as identified in paragraph 25 below, I am satisfied that there was no unreasonable delay on the part of the Council. Consequently, and in view of my comments below, I see no reason to expect the Council to make such an apology.
- (d) The delay by the Council perpetuated the maladministration which I had identified in my earlier report.
- 25. The maladministration I identified in my earlier report was the Council's failure to confirm that a Condition of the planning consent had been discharged. The Council did not write to the complainant confirming to his satisfaction and that of his client that the Condition had been discharged until 22 October 1999. That was ten months after publication of my report. I do not consider it reasonable for the Council to have taken so long to issue formal confirmation that the terms of the Condition had been satisfied. I see that delay as maladministration. However, work had already recommenced on the site before publication of my report and, in any event, my report made clear that the Council already considered the Condition to have been discharged. I therefore conclude that neither the complainant nor his client has suffered any injustice in consequence of the Council's maladministration.

Patricia A. Thomas

Mrs P A Thomas
Local Government Ombudsman
Beverley House
17 Shipton Road
York
YO30 5FZ

7 February 2001

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

**PLANNING AND CONSERVATION COMMITTEE - 26TH FEBRUARY 2001
POLICY AND RESOURCES COMMITTEE - 28TH FEBRUARY 2001**

**REPORT BY THE DIRECTOR OF LEGAL SERVICES AND THE
EXECUTIVE DIRECTOR PLANNING AND CONSERVATION**

INTRODUCTION

During 1998, the Ombudsman investigated a complaint from Mr Griffin on behalf of his client. The Ombudsman's report was published on 16th December 1998, concluding that there had been maladministration. The Ombudsman's report and his findings were reported to Committees on 22nd and 23rd February 1999; a copy of that report is attached as Appendix 1 for ease of reference

The complainant raised a further complaint with the Ombudsman about the delay by the Council in responding to the earlier report. The Ombudsman has now investigated that complaint; this report deals with the Ombudsman's conclusions.

FOR DECISION

1. THE CURRENT INVESTIGATION

1.1 The complaint is that there was undue delay by the Council in responding to an earlier report by the Ombudsman, failing to respond in a meaningful way or to apologise for delay and perpetuating the maladministration identified in the earlier report. The Ombudsman acknowledges that the Council had sought and obtained her agreement at all stages to extensions of time to consider and respond to her original report, as she considered there had been good reason to grant such extension. However, the Ombudsman feels that there had been unreasonable delay by the Council in formally confirming the discharge of a condition to the planning consent; the Ombudsman's conclusion is that this delay was maladministration but caused no injustice to the complainant or the developer. The Ombudsman has therefore found that there was some maladministration, but no injustice.

1.1 In respect of the complaints that the Council:-

- orchestrated the original delay to suit its own ends;
- failed to respond to the Ombudsman's report in a meaningful and prompt manner;
- failed to show any courtesy in apologising for the delay;

The Ombudsman has concluded that there was no maladministration and she could see no reason to expect the Council to make the apology sought.

- 1.4 As to the complaint that the delay by the Council perpetuated the maladministration which she had identified in her earlier report, the Ombudsman has concluded that this delay amounted to maladministration. "However, work had already recommenced on the site before publication of my report and, in any event, my report made clear that the Council already considered the condition to have been discharged. I, therefore, conclude that neither the complainant nor his client has suffered any injustice in consequence of the Council's maladministration".
- 1.5 The Ombudsman's report has been published and the appropriate statutory notice has been published in the press. The report is available for public inspection at library for three weeks starting on 15th February 2001. A copy of the full report is attached as Appendix 2 to this report.

2. CONCLUSION

- 2.1 In the light of the Ombudsman's findings that there was some maladministration but no injustice, the Committee is invited to note the report and finding.

RICHARD HEMMINGS
Director of Legal Services

MICHAEL J. FRENCH
Executive Director, Planning
and Conservation

Background Papers Used in the Preparation of this Report : Ombudsman's report.

Contact Officer: Mr R Hemmings, Director of Legal Services, Town Hall, Hornton Street, London W8 7NX. Telephone no: 020 7361 2257

Memorandum

The Royal Borough of Kensington and Chelsea - Planning Services

To:	Richard Hemmings,	From:	Executive Director, Planning and
of:	Director of Legal Services	of:	Conservation
Room:	251/1	Room:	322B
		Ext:	2944

Your ref:	My Ref: EDPC/MJF
-----------	------------------

cc:	Date: <i>15 February 2001</i>
-----	-------------------------------

Re: Ombudsman Complaint: 4 St. Mary Abbots Place, W.8.

Further to the Ombudsman's letter of 7 February, I have little comment to make. Clearly, the Ombudsman thinks no more highly of Mr. Peacock than I do, and whilst it may salve the Ombudsman's conscience to make this finding, it does not change the fact that he got it wrong last time nor does it alter the fact that Mr. Peacock delayed the decision on the complaint because he could not produce any evidence to support his financial allegations.

M. J. French,
Executive Director, Planning and Conservation.

7 February 2001

- 3 FEB 2001



The Commission for
Local Administration in England

FIRST CLASS

Mr D Myers
Town Clerk & Chief Executive
Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
LONDON W8 7NX

P A Thomas
Local Government Ombudsman

R A Harrison
Deputy Ombudsman

Your Ref: dis/ag/205
Our Ref: 00/C/12432/PAT/am

If telephoning please contact: Mr Harrison's Personal Assistant on 01904 663231

Dear Mr Myers

My investigation of the complaint by John Peacock Planning of 84 High Street, Needham Market, Ipswich on behalf of Eyton Developments (Suffolk) Limited is now complete. I enclose a copy of my report. A copy is being sent to the complainant. You will see that I have found maladministration but no injustice.

Your attention is drawn to Section 30 of the Local Government Act 1974, which requires your Council to make a press announcement in more than one newspaper within two weeks of receiving the report and to make the report available at one or more of the Council's offices for a period of three weeks. A specimen press advertisement is attached which you may find helpful. In accordance with Section 30(3) the report does not mention the name of the people or places involved.

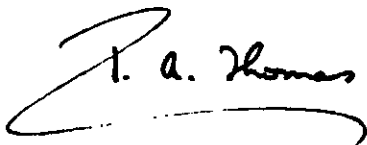
I should be grateful if you would confirm that you have made the appropriate press announcement and let me know within the next two weeks.

/... ..

Page 2
Mr D Myers

Copies of the report, together with a press release, will be sent to the media under embargo until 1.00am on the sixth working day after the date of issue of the report (and the date of this letter).

Yours sincerely

A handwritten signature in cursive script that reads "P. A. Thomas". The signature is written in dark ink and is positioned above the printed name.

Mrs P A Thomas

Enc: copy of bound report
spare copy of report for your assistance
copy of specimen press advertisement

This complaint will be included in the Commission's published figures for the year ending 31 March 2001. The decision will be recorded as: Maladministration but no injustice



The Commission for
Local Administration in England

Report

on an Investigation into
Complaint No 00/C/12432 against
Royal Borough of Kensington & Chelsea

February 2001

**Investigation into Complaint No 00/C/12432
Against Royal Borough of Kensington & Chelsea**

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Mr Griffin

Agent to Complainant

Report Summary

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The complainant, acting on behalf of a firm of property developers, complains of undue delay by the Council in responding to an earlier report of the Ombudsman, failing to respond in a meaningful way or to apologise for delay and perpetuating the maladministration identified in the earlier report.

The Council had sought and obtained the Ombudsman's agreement at all stages to extensions of time to consider and respond to her report, as she considered there had been good reason to grant such extensions. There had been unreasonable delay by the Council in formally confirming the discharge of a condition to the planning consent; this delay was maladministration but caused no injustice to the complainant or the developer.

Finding

Some maladministration but no injustice.

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1. Mr Griffin, as agent for a firm of property developers, complains on behalf of the property developers of inordinate delay by the Council in responding to my report issued on 16 December 1998, following investigation of an earlier complaint made by Mr Griffin on behalf of his client. He complains in particular:-
 - (a) that the Council orchestrated this delay to suit its own ends;
 - (b) that the Council failed to respond to my report in a meaningful and prompt manner;
 - (c) that the Council failed to show any courtesy in apologising for the delay;
 - (d) that the delay by the Council perpetuated the maladministration which I had identified in my earlier report.
2. For legal reasons, the names used in this report are not the real names of the people concerned.¹
3. An officer of the Commission has examined the relevant records.
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5. Where a Local Government Ombudsman reports that injustice has been caused in consequence of maladministration, that report must be laid before the authority concerned. It is the duty of the authority to consider the report and inform the Ombudsman of the action it proposes to take within three months, or such longer period as the Ombudsman agrees in writing.² If the Ombudsman does not receive a satisfactory response within the agreed period, then the Ombudsman must make a further report setting out the facts and making recommendations.

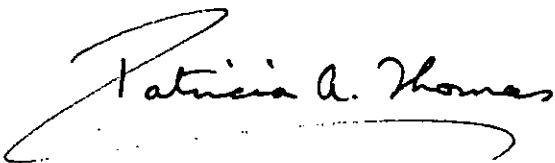
¹ The Local Government Act 1974 Section 30(3)

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that there was any unreasonable delay on the part of the Council which I could categorise as maladministration.

- (c) **The Council failed to show any courtesy in apologising for the delay.**
24. Except as identified in paragraph 25 below, I am satisfied that there was no unreasonable delay on the part of the Council. Consequently, and in view of my comments below, I see no reason to expect the Council to make such an apology.
- (d) **The delay by the Council perpetuated the maladministration which I had identified in my earlier report.**
25. The maladministration I identified in my earlier report was the Council's failure to confirm that a Condition of the planning consent had been discharged. The Council did not write to the complainant confirming to his satisfaction and that of his client that the Condition had been discharged until 22 October 1999. That was ten months after publication of my report. I do not consider it reasonable for the Council to have taken so long to issue formal confirmation that the terms of the Condition had been satisfied. I see that delay as maladministration. However, work had already recommenced on the site before publication of my report and, in any event, my report made clear that the Council already considered the Condition to have been discharged. I therefore conclude that neither the complainant nor his client has suffered any injustice in consequence of the Council's maladministration.



**Mrs P A Thomas
Local Government Ombudsman
Beverley House
17 Shipton Road
York
YO30 5FZ**

7 February 2001

French, Michael: PC-GrpSvc

From: Goodliffe, Alice: CP-Legal
Sent: 02 January 2001 16:08
To: French, Michael: PC-GrpSvc
Subject: RE: Ombudsman Complaint: Mr. Peacock re. 4 St. Mary Abbots Place, W.8.

Mike, I did mention to Richard that Alun should be consulted but Richard did not think it necessary as the latest action by the Ombudsman was only a formality in response to Mr Peacock's new allegation complaining about the Council's appeal and dealing with the response to his original complaint.

Alice

-----Original Message-----

From: French, Michael: PC-GrpSvc
Sent: 02 January 2001 14:32
To: Hemmings, Richard: CP-Legal
Cc: Goodliffe, Alice: CP-Legal; Taylor, Derek: PC-PlanSvc
Subject: Ombudsman Complaint: Mr. Peacock re. 4 St. Mary Abbots Place, W.8.

Further to the draft report which you sent me from the Ombudsman, I have no comments to make on his draft. It appears to be factually correct. I did mention to Alice that Alun Phillips should be consulted as he was closely involved in dealing with our case. No doubt you will include his comments in his response.

French, Michael: PC-GrpSvc

From: French, Michael: PC-GrpSvc
Sent: 02 January 2001 14:32
To: Hemmings, Richard: CP-Legal
Cc: Goodliffe, Alice: CP-Legal; Taylor, Derek: PC-PlanSvc
Subject: Ombudsman Complaint: Mr. Peacock re. 4 St. Mary Abbots Place, W.8.

Further to the draft report which you sent me from the Ombudsman, I have no comments to make on his draft. It appears to be factually correct. I did mention to Alice that Alun Phillips should be consulted as he was closely involved in dealing with our case. No doubt you will include his comments in his response.

~~Walter~~

MEMORANDUM

TO: Mike French - Executive Director, Planning and Conservation

FROM: Richard Hemmings - Director of Legal Services

DATE: 18th December 2000

MY REF: dls/ag/32

Ombudsman Complaint - Mr J Peacock of John Peacock Planning 84 High Street, Needham Market, Ipswich

Further to this matter I enclose a copy of a letter dated 15th December from the Ombudsman. I should be most grateful if the report could be shown to all who have been involved with the complaint, and to receive any comments you wish to make.

Alice Booth

cl Richard Hemmings
Director of Legal Services

*Y
Time*

Alan Philips needs to have been committed, and allowed to verify

(Signature)

18 DEC 2000

15 December 2000

FIRST CLASS : CONFIDENTIAL

Mr A Taylor
Town Clerk & Chief Executive
Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
LONDON W8 7NX



The Commission for
Local Administration in England

P A Thomas
Local Government Ombudsman

R A Harrison
Deputy Ombudsman

Your Ref: dls/ag/205
Our Ref: 00/C/12432/RAH/ecs

Dear Mr Taylor

Following the investigation of the complaint by Mr J Peacock of John Peacock Planning, 84 High Street, Needham Market, Ipswich on behalf of Eyton Developments (Suffolk) Ltd, a draft report has been prepared setting out the relevant facts.

I enclose two copies of the draft without conclusions to give you the opportunity of drawing attention to any inaccuracies. Please return one copy showing any changes you propose by 15 January 2001. I also attach an identification list for your assistance.

I should be grateful if you would ensure that the draft is seen by Members and officers of your Council who have been involved, or are referred to in the text. However, they should be told that, in accordance with Section 32 of the Local Government Act 1974, the draft must be treated in confidence.

If you also wish to make any general comments, the Local Government Ombudsman will take them into account before reaching her conclusions and making her findings known.

/...

Page 2
Mr A Taylor

As you know the Ombudsman welcomes it if a Council is able to settle a complaint locally even at this late stage. Please let me know if you consider that this is a suitable case to be settled locally.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R A Harrison', followed by a horizontal line extending to the right.

R A Harrison
Deputy Ombudsman

Enc: two copies of draft report
identification list

IDENTIFICATION LIST

Mr Griffin = Mr Peacock

Draft Report
in confidence
on an Investigation into
Complaint No 00/C/12432 against
Royal Borough of Kensington & Chelsea

December 2000

**Investigation into Complaint No 00/C/12432/RO3.ecs
Against Royal Borough of Kensington & Chelsea**

Table of Contents	Page
Report Summary	1
Introduction	3
Legal and Administrative Background	3
Investigation	4

Key to names used

Mr Griffin Agent to Complainant

Report Summary

Subject

To follow

Finding

To follow

Recommended remedy

To follow

Introduction

1. Mr Griffin, as agent for a firm of property developers, complains on behalf of the property developers of inordinate delay by the Council in responding to my report issued on 16 December 1998, following investigation of an earlier complaint made by Mr Griffin on behalf of his client. He complains in particular:-
 - (a) that the Council orchestrated this delay to suit its own ends;
 - (b) that the Council failed to respond to my report in a meaningful and prompt manner;
 - (c) that the Council failed to show any courtesy in apologising for the delay;
 - (d) that the delay by the Council perpetuated the maladministration which I had identified in my earlier report.
2. For legal reasons, the names used in this report are not the real names of the people concerned.¹
3. An officer of the Commission has examined the relevant records.
4. An opportunity has been given for the complainant and the Council to comment on a draft of this report prior to the addition of the conclusion.

Legal Background

5. Where a Local Government Ombudsman reports that injustice has been caused in consequence of maladministration, that report must be laid before the authority concerned. It is the duty of the authority to consider the report and inform the Ombudsman of the action it proposes to take within three months, or such longer period as the Ombudsman agrees in writing.² If the Ombudsman does not receive a satisfactory response within the agreed period, then the Ombudsman must make a further report setting out the facts and making recommendations.

1 The Local Government Act 1974 Section 30(3)

2 The Local Government Act 1974 Section 31

Investigation

6. During 1998 I investigated a complaint from Mr Griffin on behalf of his client, a firm of property developers, about unreasonable delay by the Council in confirming compliance with the terms of a Condition attached to a planning permission for a development. He complained that, as a consequence of the delay, the developer had suffered considerable financial losses.
7. I published my report on 16 December 1998.³ I concluded that there had been significant delay on the part of the Council in confirming that the Condition had been discharged, and that this delay amounted to maladministration. In order to remedy the injustice consequent upon that maladministration, I concluded that the Council should compensate the developers by a payment sufficient to cover their abortive costs directly consequent on the Council's failure. From the information given to me by the complainant, and not challenged by the Council, I identified those costs as professional fees amounting to £24,817 and bank interest charges incurred while the site was idle for six months amounting to £78,657. Therefore I recommended that the Council should make a payment to the complainant of £103,464. I also recommended that the Council should confirm that the terms of the Condition in question were satisfied.
8. The Council considered my report at a meeting of its Planning and Conservation Committee on 22 February 1999 and at its Policy and Resources Committee on 23 February 1999. Concern was expressed at those meetings about the level of compensation proposed. The Council wished to consider that further and wrote to me on 4 March requesting an extension of the period for consideration of the report until 28 April when the next Council meeting was due to be held. That extension was agreed.
9. The complainant was advised of that extension, and also of the fact that the Council had asked for a meeting between me and officers of the Council.
10. That meeting took place on 27 April. The Leader and senior officers of the Council told me that, although they conceded that there had been maladministration, they had considerable doubt that the developer had sustained the costs identified in my report. They did not consider it right to expend public money until satisfied that the costs had been incurred in consequence of the maladministration.

11. I wrote to Mr Griffin on 12 May to tell him the outcome of that meeting. I advised him that the Council would seek from him confirmation that the claimed expenditure had been properly incurred by his client as a result of the identified delay. I also advised him that I had asked the Council to provide me with evidence of their contentions that other factors had contributed to or caused the delay in continuation of the building work and that any other loss incurred by his client should be offset against the increase in the value of his property during that period of inactivity.
12. Also on 12 May I wrote to the Council summarising the outcome of our meeting and agreeing to an extension of time for the Council to respond until the end of June.
13. In the light of information supplied to me by the Council, I sought further information from Mr Griffin on 3 June. In view of the fact that further information was still needed from the complainant, and the Council would be unable to consider the matter at its next cycle of committees, the Council wrote requesting a further extension of time until the end of October. That extension of time was agreed by letter of 16 June. Mr Griffin was not told of this extension of time until 5 July.
14. Mr Griffin wrote on 18 June, giving the name and address of a third party, who would be able to give me information about any other reasons for the delay in construction work.
15. A detailed letter was sent to the third party on 28 June. The third party replied on 6 July to say that it was seeking the necessary information from its archives. In spite of several unsuccessful attempts to speak to the third party on the telephone, and two further letters on 21 September and 27 October, no response was ever received from the third party. Meanwhile, on 28 September, in response to a request from the Council, a further extension of time until 1 December was given to the Council.
16. On 1 November, the complainant sent to me a copy of a letter dated 22 October he had received from the Council, which confirmed that the disputed Condition had been discharged. In a subsequent telephone conversation with an officer of the Commission, Mr Griffin confirmed that that aspect of his complaint had been resolved. He also undertook to see if he could encourage a response from the third party.

17. On 16 November the Council once again requested an extension of time to 1 March. The letter explained: "This is to enable Mr (Griffin) to deal with all outstanding requests for information." That extension was granted and I wrote to Mr Griffin at the same time seeking clarification of a number of matters and advised him of the extension that had been granted.
18. Mr Griffin wrote to me with further information on 7 December and an officer of the Commission talked at some length with a senior officer of the Council on 14 December.
19. I wrote to both the Council and Mr Griffin on 24 January setting out my understanding of the Council's response to my recommendations and saying that I was now prepared to regard the matter as settled if the Council was prepared to pay the sum of £14,000 in respect of abortive fees.
20. Following a further letter from the Council on 24 February I reviewed its response to my report and concluded that it would not be reasonable to require the Council to pay any compensation to the complainant. I wrote to both the Council and the complainant on 30 March to express myself satisfied.

X X X X X

Memorandum

The Royal Borough of Kensington and Chelsea - Planning Services

To:	Richard Hemmings,	From:	Executive Director, Planning and
of:	Director of Legal Services	of:	Conservation
Room:	251/1	Room:	322B
		Ext:	2944

Your ref:	My Ref: EDPC/MJF
-----------	------------------

cc:	Date: 24 October 2000
-----	------------------------------

Re: Complaint by John Peacock

Further to your letter of 20 October, the only point of interest is that the complaint to the Ombudsman is from John Peacock. The previous complaint in which the Ombudsman determined that the Council had done nothing wrong, and should do nothing, was made by Eyton Developments. Perhaps John Peacock is trying to have a second stab on the matter.

M. J. French,
Executive Director, Planning and Conservation.

DT

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As there are
outstanding matters
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matter is the
unauthorised works
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now silent building
site, which still
need to be
rectified!

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Everything else
has, as far as
RBK+C and the
Ombudsman are
concerned, been
resolved as
far as I know!

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[NB - the earlier
complaint was
from Eyton Develop'ts
so John Peacock
is trying a second
stab at it! Deced

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**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

WITH THE COMPLIMENTS OF THE
DIRECTOR OF LEGAL SERVICES

To:

Mile French
for information

THE TOWN HALL
HORNTON STREET
LONDON W8 7NX

Telephone: 0171-361 2152
Fax: 0171-361 3488

DX: 84015 Kensington High Street 2

LEGAL SERVICESTHE TOWN HALL HORNTON STREET LONDON W8 7NX

Director of Legal Services RICHARD HEMMINGS

**THE ROYAL
BOROUGH OF****KENSINGTON
AND CHELSEA**

Mr R A Harrison
Deputy Ombudsman
The Commission for Local Administration
in EnglandDirect Line: 020-7361 2257
Facsimile: 020-7361 2764
Email: Richard.Hemmings
@rbkc.gov.uk

DX 65201 York 5

20 October 2000

My reference: dls/ag/205

Your reference: 97/C/2702/RAH/
am

Please ask for: Mr Hemmings

Dear Mr Harrison

Complaint by John Peacock Planning of 84 High Street, Needham Market, Ipswich on behalf of Eyton Developments (Suffolk) Limited

Thank you for your letter of 19th October, telling me of a complaint received from Mr John Peacock.

As you will know, this complaint has been the subject of considerable correspondence between us already resulting in your letter of 30th March 2000. I reviewed my file, and have no further comments to add in addition to those that we have already given you.

Yours sincerely

Richard Hemmings
Director of Legal Services

19 October 2000

19 OCT 2000



FIRST CLASS MAIL

The Commission for
Local Administration in England

Mr A Taylor
Town Clerk & Chief Executive
Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
LONDON W8 7NX

P A Thomas
Local Government Ombudsman

R A Harrison
Deputy Ombudsman

Our Ref: 97/C/2707/RAH/am

Dear Mr Taylor

The Local Government Ombudsman has received a complaint by John Peacock Planning of 84 High Street, Needham Market, Ipswich on behalf of Eyton Developments (Suffolk) Limited.

As I understand it the complaint can be summarised in the following statement:-

1. Inordinate delay by the Council in responding to the report of 16 December 1998.
2. The Council orchestrated this delay to suit its own ends.
3. The failure of the Council to respond in a more meaningful and prompt manner.
4. The failure of the Council to show any courtesy in apologising for the delay.
5. The client of John Peacock Planning alleges that this delay perpetuated the maladministration which had been identified in the report of 16 December 1998.

I am now investigating this complaint. I should, therefore, be grateful if you would send me your comments on the complaint within 15 working days of receiving this letter.

/... ..

Page 2
Mr A Taylor

Please bear in mind that your comments and any accompanying documents will usually be shown to the complainant.

It may be possible to conclude the4 investigation without interviews. If you consider this inappropriate, please tell me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R A Harrison', followed by a long horizontal flourish.

R A Harrison
Deputy Ombudsman

LEGAL SERVICESTHE TOWN HALL HORNTON STREET LONDON W8 7NX

Director of Legal Services RICHARD HEMMINGS

Mr R A Harrison
Deputy Ombudsman
The Commission for Local Administration
in EnglandDirect Line: 020-7361 2257
Facsimile: 020-7361 2764
Email: Richard.Hemmings
@rbkc.gov.uk

DX 65201 York 5

20 October 2000

My reference: dls/ag/205

Your reference: 97/C/2702/RAH/
amPlease ask Mr Hemmings
for:

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Yours sincerely

Richard Hemmings
Director of Legal Services

**THE ROYAL
BOROUGH OF****KENSINGTON
AND CHELSEA**

19 October 2000

19 OCT 2000



FIRST CLASS MAIL

The Commission for
Local Administration in England

Mr A Taylor
Town Clerk & Chief Executive
Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
LONDON W8 7NX

P A Thomas
Local Government Ombudsman

R A Harrison
Deputy Ombudsman

Our Ref: 97/C/2707/RAH/am

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/... ..

Page 2
Mr A Taylor

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It may be possible to conclude the4 investigation without interviews. If you consider this inappropriate, please tell me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R A Harrison', followed by a long horizontal line extending to the right.

R A Harrison
Deputy Ombudsman

CHIEF EXECUTIVE AND TOWN CLERK

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Chief Executive and Town Clerk ALAN TAYLOR LLB

Mrs P A Thomas
The Commission for Local Administration
in England

Direct Line: 020-7361 2299
Facsimile: 020-7361 2764
Email: tclat@rbkc.gov.uk

DX 65201 York 5

03 April 2000

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

My reference: ce/ag/6

Your reference:

Please ask for: Mr Taylor

Dear *Mrs Thomas,*

Thank you for your letter of 30th March advising me that you are satisfied with the Council's response in regard to the complaint by Mr John Peacock on behalf of Eyton Developments (Suffolk) Ltd. This is indeed welcome news; this has been a long and trying matter and I am sorry it has taken so long to resolve.

Yours sincerely

Alan Taylor

Alan Taylor
Chief Executive and Town Clerk

cc Mr Mike French - Executive Director, Planning and Conservation
Mr Alun Phillips - Director of Legal Services

Ce/DL

03 APR 2000

30 March 2000



The Commission for
Local Administration in England

FIRST CLASS MAIL

Mr A Taylor
Town Clerk & Chief Executive
The Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
LONDON W8 7NX

P A Thomas
Local Government Ombudsman

R A Harrison
Deputy Ombudsman

Your Ref: dls/ag/243
Our Ref: 97/C/2707/RAH/am

Dear Mr Taylor

Thank you for Mr Phillips' letter of 24 February about the complaint from Mr John Peacock on behalf of Eyton Developments (Suffolk) Ltd. Mr Harrison has talked with me following his subsequent telephone conversation with Mr Phillips.

In the light of all the information now available, I have concluded that I should end my involvement in the complaint and regard the action which has already been taken by the Council as a satisfactory response to my report of 16 December 1998.

As my report recommended, the Council has taken appropriate action to confirm that the terms of Condition 15 have been met. In my report I also indicated that the Council should compensate the developers by payment to cover their abortive costs. The Council has now satisfied me that the increase in value of the property during the identified period of delay will have more than compensated for any interest incurred. So far as other abortive costs are concerned, I sought from the complainant, but did not obtain, sufficient evidence that the costs claimed had been incurred directly in consequence of the Council's maladministration. Additionally, the information now provided by the Council about further events taking place during the period of delay, as well as the fact that work did not commence following any delay attributable to the Council has given rise to sufficient doubt that the amounts claimed by the complainant can be attributed directly to any failure by the Council, so that I consider it would be unreasonable now to expect the Council to reimburse the complainant those costs.

/.. ..

Page 2
Mr A Taylor

I therefore write to tell you formally that I am satisfied with the Council's response in accordance with Section 31(2) of the Local Government Act 1974.

Yours sincerely

P. A. Thomas

Mrs P A Thomas

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

Blair
WITH THE COMPLIMENTS OF THE
DIRECTOR OF LEGAL SERVICES

THE TOWN HALL
HORNTON STREET
LONDON W8 7NX

Telephone: 0171-361 2152
Fax: 0171-361 3488

DX: 84015 Kensington High Street 2

LEGAL SERVICES

THE TOWN HALL, HORNTON STREET, LONDON W8 7NX

Director of Legal Services A G PHILLIPS LLB

Mr R A Harrison
Deputy Ombudsman
The Commission for Local Administration
in England

Direct Line: 0171-361 2299
Facsimile: 0171-361 2764
Email: telat@rbke.gov.uk

DX 65201 York 5

24 February 2000

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: dls/ag/243

Your reference: 97/C/2707/RAH

Please ask for:

Dear Mr Harrison

Complaint by Mr John Peacock on behalf of Eyton Developments (Suffolk) Ltd

I refer to your letter of 24th January.

At the very outset the Council did consider that there may have been maladministration in relation to Condition 15. However, the evidence that has since materialised, particularly on the question of the party wall award, and on Mr Fergusson's evidence suggests otherwise.

Eyton Developments (Suffolk) Ltd acted in the party wall award on the basis that Condition 15 had been met. If that had not been the case an award would not have been granted. Secondly, it transpires that the delays on site had nothing whatsoever to do with Condition 15. It seemed solely as a result of disagreement with the contractors. I have stated before, and I will repeat, that it is unreal that a developer would stop work because of some screening of trees at the back.

Mr Peacock has submitted a claim which he cannot substantiate. In fact, it is my view that the Ombudsman has been misled on the question of interest and delays. I consider the claims put in by Mr Peacock as so fallacious that I may have to contemplate further action.

In such circumstances I cannot recommend the Council to pay the legal fees. Looking at Mr Derek Taylor's letter amending Condition 15, the meaning is absolutely clear and this Council and Mr Derek Taylor should not be penalised for trying to solve a difficult problem with an unco-operative and difficult planning applicant.

Significant resources paid by the council tax-payer have been spent on this matter and on dealing with the complaint. It would be unconscionable if any further monies were to be forthcoming. Of course, the Council may not follow my recommendation.

I am away for the next week and return to the office on 6th March. I suggest we discuss the matter further.

Yours sincerely

Alun Phillips
Director of Legal Services

Memorandum

The Royal Borough of Kensington and Chelsea - Planning Services

To:	Alun Phillips,	From:	Executive Director, Planning and
of:	Director of Legal Services	of:	Conservation
Room:	251/1	Room:	322B
		Ext:	2944

Your ref:	My Ref:	EDPC/MJF
-----------	---------	----------

cc:	Date:	28 January 2000
-----	-------	------------------------

Re: Ombudsman Complaint: John Peacock Planning

Thank you for your memorandum of 25 January to which you attached a copy of the letter from Mr. Harrison, the Deputy Ombudsman.

I am pleased to see that the Ombudsman has finally accepted that Condition 15 was satisfied by the letter which was sent in November 1996. I am also pleased that the Ombudsman has accepted that any delay in continuing the development was more than offset by the increase in property values over that period. Indeed, the appreciation in value is at least double, if not treble, the amount of money Mr. Peacock sought to claim from the Council. However, as the Ombudsman accepts now that we have discharged the condition, it does appear that the fault in expending further fees was a direct result of Mr. Peacock's inability to understand the meaning of the letter in 1996.

The Council has acted in a very difficult situation in an attempt to meet the wishes of the residents whilst also ensuring that the developer was not unduly prejudiced by any unreasonable delays. To my mind, therefore, the Council should under no circumstances offer anything to Mr. Peacock. £14,000 is exorbitant, and we would wish to see the invoices paid by Mr. Peacock's accountant given that the Ombudsman identified nearly £25,000 and Mr. Peacock suggests £14,000; I doubt whether there are any invoices available.

I would recommend that we refuse to pay £14,000; however, in the light of goodwill and to show that there is no hard feeling, I would suggest we offer Mr. Peacock £50 to cover the unnecessary postage.

M. J. French,
Executive Director, Planning and Conservation.

MEMORANDUM

TO: Mike French - Executive Director, Planning and Conservation

FROM: Alun Phillips - Director of Legal Services

DATE: 25th January 2000

MY REF: dls/ag/082

Ombudsman Complaint - John Peacock Planning

I enclose a letter dated 24th January from the Ombudsman. I do not think we should pay. May I have your comments please.



PP Alun Phillips
Director of Legal Services

enc

24 January 2000



The Commission for
Local Administration in England

FIRST CLASS MAIL

Mr Alun Phillips
Director of Legal Services
The Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
LONDON W8 7NX

PA Thomas
Local Government Ombudsman

RA Harrison
Deputy Ombudsman

Your Ref: dls/ag/162
Our Ref: 97/C/2707/RAH/am



Dear Mr Phillips

I write in relation to the report published on 16 December 1998 into a complaint by John Peacock Planning on behalf of Eyton Developments (Suffolk) Ltd.

Following our telephone conversation on 14 December last year, I have talked at some length with the Local Government Ombudsman. The Ombudsman is grateful for your clarification of the Council's position in the light of the additional information we have obtained. I set out below the Ombudsman's understanding of the present position.

You will recall that the Ombudsman considered that there had been maladministration by the Council in failing to state formally that the requirements of Condition 15 had been met. That remains her view. I understand that your Council, whilst not happy with that conclusion, is nevertheless prepared to accept it. The difficulty throughout has lain in the identification of what injustice flowed from that maladministration. In her report, the Ombudsman essentially sought a response from the Council on three matters.

First, the Ombudsman looked to the Council for confirmation that the details which had been submitted by the complainant did indeed satisfy the terms of Condition 15. The Ombudsman is now satisfied that this has been done.

/... ..

Page 2
Mr Alun Phillips

Secondly, the Ombudsman looked to the Council to compensate the developers by a payment to cover abortive costs directly consequent upon the Council's failure to discharge the condition in November 1996. In her report, the Ombudsman identified those costs as amounting to £24,817. Subsequent correspondence from the complainant's accountants has suggested that a more appropriate figure would be around £14,000. I understand your Council's position to be that it doubts that these fees were incurred directly in consequence of delay caused by the issue of Condition 15. Nevertheless, the Ombudsman remains of the view that these fees would not have been incurred but for that delay, and it remains her position that she cannot be satisfied unless the Council is prepared to make such a payment to the complainant.

Thirdly, the Ombudsman looked for a payment from the Council reflecting the interest incurred by the complainant on his loan in respect of the property during that six month period. This sum was identified as £78,657. Following publication of the report, the Council pointed out that, during the same period, the complainant's property had appreciated in value by approximately 15% and that this factor should also be taken into consideration. The complainant disputes this, but has produced no arguments which would convince the Ombudsman not to take account of the Council's response.

In conclusion, therefore, the Ombudsman looks for no further response from the Council so far as the first and third issues are concerned. She cannot, however, be satisfied with the Council's response to her report if it is not prepared to reimburse the complainant in respect of abortive fees of approximately £14,000.

I hope that you will now be in a position to obtain a final view from your Council and let the Ombudsman know its final response to her report.

The Ombudsman is grateful for your help in this protracted matter, and hopes that it will now be resolved without too much further delay.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R A Harrison', followed by a long horizontal line extending to the right.

R A Harrison
Deputy Ombudsman

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
84 High Street
Needham Market
Ipswich
Suffolk
IP6 8AW

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361-2057
Facsimile: 0171-361-3463
Email: plndmt@rbkc.gov.uk
Mr.: D. Taylor

16th November 1999

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF/TP/9 Your reference: C541/JCP/SB Please ask for: Mr. French
4/0644

Dear Mr. Peacock,

Town and Country Planning Act 1990
4 St. Mary Abbot's Place, W.8

I write with reference to your earlier letters relating to the conditional planning permission for the redevelopment of the above property reference TP/94/0644.

I confirm that submitted drawings 6366 - 26E and 27C should be taken as the acceptable landscaping details pursuant to Condition 15 of this permission.

Yours sincerely,


M. J. French
Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
84 High Street
Needham Market
Ipswich
Suffolk
IP6 8AW

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361-2057
Facsimile: 0171-361-3463
Email: plndmt@rbkc.gov.uk
Mr.: D. Taylor

20th October 1999

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbot's Place, W.8

I write with reference to your letter dated 27th July 1999, and earlier letter of 10th May 1999, concerning matters pursuant to Condition 15 of the Planning Permission for the above property, ref. TP/94/0644. I understand that you seek clarification as to which of the various landscaping designs submitted are to be treated as the formally accepted plan for the site under Condition 15.

I confirm that submitted drawings 6366 - 26E and 27C should be taken as the acceptable landscaping details pursuant to this Condition.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

JOHN PEECOCK PLANNING

84 High Street, Needham Market, Ipswich, Suffolk IP6 8AW
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
email: John@jpp.keme.co.uk

Our Ref: C541/JCP/SB
Your Ref: EDPC/MJS/TP/94/0644

15th November 1999

M J French Esq
Executive Director of Planning and Conservation
Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
London
W8 7NX

RECEIVED BY PLANNING SERVICES							
EX DIA	HDC	N	C	SW	SE	ENF	AO ACK
57		16 NOV 1999					
EXPLS	IO	REC	ARB	FWD PLN	CON DES	FEES	

Dear Mr French

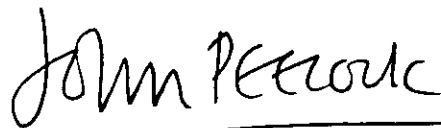
Town and Country Planning Act 1990, St Mary Abbot's Place, W8. Condition 15 of planning permission TP/94/0644

Your letter of the 22nd October has now been carefully considered and setting aside the obvious issue as to why my clients have had to wait 3 years for it, it does raise one point of concern and one inaccuracy which I assume is a typographical error.

Firstly, I have not been seeking "clarification as to which of the various landscaping designs ... is to be treated formerly accepted plan for the site under Condition 15." My client's position on this point has been made abundantly clear during the last three years in that the drawing hand delivered to the Town Hall by my client under cover of a note dated the 11th November 1996 (exactly three years ago), were drawing no's 6366-26E and 6366-27C. You will see from your files that these two plans of which you received six copies each, included the revised position of two betula jacquemontii and the plant sizes at installation, i.e. the "supplementary details" described in your letter of 4th October 1996.

Secondly, in your letter you confirm acceptance of two drawings numbers, 6366-26E which is correct, but then refer to 27E which should of course be 27C. I would be pleased to received your amended letter of confirmation by return referring to these two plans.

Yours sincerely



John Peacock

Memorandum

The Royal Borough of Kensington and Chelsea - Planning Services

To:	Director of Legal Services	From:	Executive Director, Planning and
of:		of:	Conservation
Room:	251/1	Room:	322B
		Ext:	2944

Your ref:	My Ref:	EDPC/MJF/TP/94/0644
-----------	---------	---------------------

cc:	Date:	<i>25 October 1999</i>
-----	-------	------------------------

Re: 4 St. Mary Abbots Terrace, W.8.

I have enclosed a copy of my letter releasing Mr. Peacock from any further involvement with Condition 15. As you know, the planning permission for the side addition has now been approved, and I have no outstanding matters.

Do we need to discuss anything still outstanding with the Ombudsman?

M. J. French,
Executive Director, Planning and Conservation.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. John Pecoock,
84 High Street,
Needham Market,
IPSWICH,
Suffolk, IP6 8AW.

Switchboard: 0171-937 5464
Extension: 2944
Direct Line: 0171-361-2944
Facsimile: 0171-361-3463

22 October 1999

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF/TP/ Your reference:
94/0644

Please ask for: Mr. French

Dear Mr. Pecoock,

Town and Country Planning Act 1990
St. Mary Abbots Place, W.8.

I write with reference to your earlier letters relating to the conditional planning permission for the redevelopment of the above property reference TP/94/0644. I understand that you now seek clarification as to which of the various landscaping designs submitted by you is to be treated as the formally accepted plan for the site under Condition 15.

As you are already aware, this condition was discharged in October 1996 and I would confirm that submitted drawings 6366-26E and 27E should be taken as the acceptable landscaping details pursuant to this condition.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

JOHN PEECOCK **PLANNING**

84 High Street, Needham Market, Ipswich, Suffolk IP6 8AW
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
email: John@jpp.keme.co.uk



Our Ref: C541/JCP
Your Ref: EEPK/MJS/TP/96/0644

27th July 1999

M J French Esq
Executive Director Planning and Conservation
The Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
London
W8 7NX

Dear Mr French

4 St Mary Abbots Place, W8

Please may I have a reply to my letter of 10th May 1999.

Thank you,
Yours sincerely,

John Peacock

RECEIVED BY PLANNING SERVICES							
EX	HDC	SW	SE	ENF	AO	ACK	
28 JUL 1999							
EX	HDC	SW	CON	PLN	DES	FEES	

MEMORANDUM

Date: 30 June 1999
To: Executive Director, Planning & Conservation
From: Derek Taylor.
RE: 4 St. Mary Abbot's Place

John Peacock is seeking a written, unequivocal confirmation from us that the landscaping Condition on the 1994 Planning Permission has been complied with.

I recall in a previous conversation that Alun Philips had concluded that, notwithstanding the caveats, our letter of 4th October 1996 did effectively confirm that the Condition had been complied with. Can we confirm this now? Or should we get a further view from Alun?

Derek

JOHN PEECOCK PLANNING

84 High Street, Needham Market, Ipswich, Suffolk IP6 8AW
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
email: John@jpp.keme.co.uk

Our Ref: C541/JCP/SB
Your Ref: EDPC/MJF/TP/96/0644

10th May 1999

M J French Esq
Executive Director Planning & Conservation
The Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
London
W8 7NX

Dear Mr French

4 St Mary Abbots Place, W.8.

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AC ACK
5X 11 MAY 1999							
EXPLS	TO	REC	ARB	FWD REN	CON BEG	FFES	

I refer to your two letters of the 7th May 1999 in connection with the above development.

You will know from very recent correspondence both to your department and to the Council Director of Legal Services, that work has again been suspended on the site pending the resolution of outstanding matters relating to condition 15. Therefore, it is entirely premature for you to suggest that any work constitutes "...unauthorised developments..."

Referring first to the rear boundary wall height, I have to express some surprise that you refer to its height "...above finish patio level..." as the patio level has not yet been established, that element having not been built. Secondly, please refer to my letter of 30th November 1998 which explains why there are "...greatly enlarged openings..." on the rear elevation of the dwelling. In any event you will of course not forget that you have already approved as a minor amendment to the original scheme enlarged window openings comprising French doors with large fan-lights above. Under these circumstances it would not be appropriate to make any planning applications as none are required.

In respect of landscaping, the scheme referred to arising in November 1997 was submitted to the Council on an informal basis to ascertain whether or not it could possibly form the basis of a revised scheme, in the event, we know the outcome which is set out in your letter of 28th November 1997.

What I am still anxious to obtain from you is formal and unequivocal confirmation in writing in relation to the scheme of landscaping referred to in your letters of the 4th October 1996, and 1st November 1996, my clients fax note to you dated the 6th November 1996 followed by a note of the same date together with drawing numbers 6366-26D and subsequently by a further note from my clients architects dated the 11th November 1996 (and delivered personally by Mr G Eyton-Jones) and including drawing numbers 6366-26E and -27C. The details included on those last two plans comply fully with the comments contained in the final paragraph of your letter dated the 6th November 1996 which states:-

"Once I have received further copies of the landscaping plans clearly indicating the integral raised planters and the two new trees, I should be able to issue a final letter confirming that condition no. 15 of the planning permission has been complied with. I recommend that the further drawings are delivered by bike without delay".

Once again, as I have been requesting for over two and a half years, please confirm these details are acceptable under the terms of condition 15. I understand that there should be no problem in this

respect as Mr Derek Taylor kindly confirmed at a recent meeting held with Mr G Eyton-Jones and myself on Wednesday 5th May, that in his opinion such approval had already been given.

A copy of this letter has been sent to the Ombudsman in view of there continuing interest in this case.

Yours sincerely

A handwritten signature in black ink that reads "John Peacock". The signature is written in a cursive style with a large initial 'J' and a long horizontal stroke at the end.

John Peacock

F
DT
PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. John Peacock,
John Peacock Planning,
84 High Street,
Needham Market,
Ipswich,
Suffolk, IP6 8AW.

Switchboard: 0171-937 5464
Extension: 2944
Direct Line: 0171-361-2944
Facsimile: 0171-361-3463

28 May 1999

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF/TP/ Your reference :
96/0644

Please ask for: Mr. French

Dear Mr. Peacock,

4 St. Mary Abbots Place, W.8.

I write to acknowledge receipt of your letter of 10 May and would confirm that the necessary action is now being taken. I would hope to be able to write further to you about the matter in the near future.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

How is progress going on this please

✓
28/5/

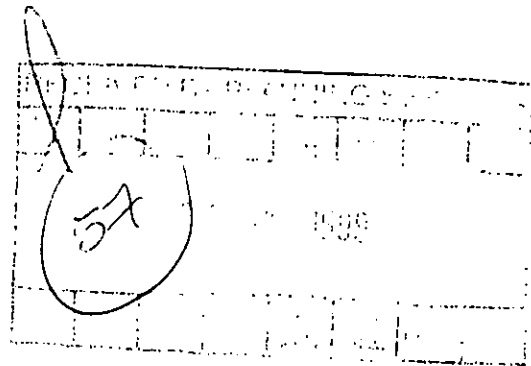
JOHN PEECOCK PLANNING

84 High Street, Needham Market, Ipswich, Suffolk IP6 8AW
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
email: John@jpp.keme.co.uk

Our Ref: C541/JCP/SB
Your Ref: EDPC/MJF/TP/96/0644

10th May 1999

M J French Esq
Executive Director Planning & Conservation
The Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
London
W8 7NX



Dear Mr French

4 St Mary Abbots Place, W.8.

I refer to your two letters of the 7th May 1999 in connection with the above development.

You will know from very recent correspondence both to your department and to the Council Director of Legal Services, that work has again been suspended on the site pending the resolution of outstanding matters relating to condition 15. Therefore, it is entirely premature for you to suggest that any work constitutes "...unauthorised developments..."

Referring first to the rear boundary wall height, I have to express some surprise that you refer to its height "...above finish patio level..." as the patio level has not yet been established, that element having not been built. Secondly, please refer to my letter of 30th November 1998 which explains why there are "...greatly enlarged openings..." on the rear elevation of the dwelling. In any event you will of course not forget that you have already approved as a minor amendment to the original scheme enlarged window openings comprising French doors with large fan-lights above. Under these circumstances it would not be appropriate to make any planning applications as none are required.

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What I am still anxious to obtain from you is formal and unequivocal confirmation in writing in relation to the scheme of landscaping referred to in your letters of the 4th October 1996, and 1st November 1996, my clients fax note to you dated the 6th November 1996 followed by a note of the same date together with drawing numbers 6366-26D and subsequently by a further note from my clients architects dated the 11th November 1996 (and delivered personally by Mr G Eyton-Jones) and including drawing numbers 6366-26E and -27C. The details included on those last two plans comply fully with the comments contained in the final paragraph of your letter dated the 6th November 1996 which states:-

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Once again, as I have been requesting for over two and a half years, please confirm these details are acceptable under the terms of condition 15. I understand that there should be no problem in this

Consultancy Services in Town Planning and Development

John Peacock, Dipl. EP, MRTPI (Chartered Town Planner)

VAT No: 571 4444 43

respect as Mr Derek Taylor kindly confirmed at a recent meeting held with Mr G Eyton-Jones and myself on Wednesday 5th May, that in his opinion such approval had already been given.

A copy of this letter has been sent to the Ombudsman in view of there continuing interest in this case.

Yours sincerely

John Peacock

John Peacock

Memorandum

The Royal Borough of Kensington and Chelsea - Planning Services

To:	Director of Legal Services	From:	Executive Director, Planning and
of:		of:	Conservation
Room:	251/1	Room:	322B
		Ext:	2944

Your ref:	My Ref:	EDPC/MJF/TP/99/0857
-----------	---------	---------------------

cc:	Date:	21 October 1999
-----	-------	------------------------

Re: 4 St. Mary Abbots Terrace, W.8.

I would inform you that conditional planning permission has now been granted for the latest proposal to erect an underground room at the above property. The decision will shortly be issued.

I also propose to send a further letter confirming that Condition 15 has been complied with and that the letter of October 1996 already agreed it.

I will let you you know when this matter has been resolved.



M. J. French,
Executive Director, Planning and Conservation.

DT

MEMORANDUM

Date: 30 June 1999
To: Executive Director, Planning & Conservation
From: Derek Taylor.
RE: 4 St. Mary Abbot's Place

John Peacock is seeking a written, unequivocal confirmation from us that the landscaping Condition on the 1994 Planning Permission has been complied with.

I recall in a previous conversation that Alun Philips had concluded that, notwithstanding the caveats, our letter of 4th October 1996 did effectively confirm that the Condition had been complied with. Can we confirm this now? Or should we get a further view from Alun?

Derek

I think we should confirm and
is done with it
/ Mike

Mike - I'm writing up the latest application on this for the next. Cmttee - shall I assume your advice here is still correct and issue a letter on the landscaping scheme? (I will need to refer to it in a Condition, ideally)

Derek
22/9

There has not been any communication from Mr Peecock or the developers since Peecock's letter of 7th September (already enclosed here)

The outstanding application is on the agenda for the PSC on 19th October..... with various conditions relating to trees and landscaping and including a reference to the infamous "landscaping plan Z6E".

Shall we confirm this plan as the approved scheme in a letter as Mr Peecock suggests?

Derek 30/9

MEMORANDUM

TO: Executive Director, Planning and Conservation

FROM: Alun Phillips - Director of Legal Services

DATE: 24th September 1999

MY REF: dls/ag/196

RECEIVED BY PLANNING SERVICES			
MR	POC	PLANNING	PLANNING
73		21 SEP 1999	
PLANNING		PLANNING	

Ombudsman Complaint - 4 St Mary Abbots Place

Further to the above matter you may like to know that Peacock and the contractors have not replied to the Ombudsman's letters. In order to keep the pressure up perhaps you would be good enough to send me the latest correspondence. I have obtained an extension to the report being considered by Council by 1st December next. I intend to make the point in due course that this should be the last extension and if the contractors and the claimant do not reply then by consent the Ombudsman's recommendation originally made last year should be rejected.

Alun Phillips

Alun Phillips
Director of Legal Services

DT.

*Derek,
Can you update me
on where we are,
please
Alun
29/9*

Memorandum

The Royal Borough of Kensington and Chelsea - Planning Services

To:	Director of Legal Services	From:	Executive Director, Planning and
of:		of:	Conservation
Room:	251/1	Room:	322B
		Ext:	2944

Your ref:	My Ref:	EDPC/MJF/TP/99/0857
-----------	---------	---------------------

cc:	Date:	<i>21 October 1999</i>
-----	-------	------------------------

Re: 4 St. Mary Abbots Terrace, W.8.

I would inform you that conditional planning permission has now been granted for the latest proposal to erect an underground room at the above property. The decision will shortly be issued.

I also propose to send a further letter confirming that Condition 15 has been complied with and that the letter of October 1996 already agreed it.

I will let you you know when this matter has been resolved.

M. J. French,
Executive Director, Planning and Conservation.

28 September 1999



The Commission for
Local Administration in England

FIRST CLASS MAIL

Mr Alun Phillips
Director of Legal Services
The Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
LONDON W8 7NX

P A Thomas
Local Government Ombudsman

R A Harrison
Deputy Ombudsman

Your Ref: dls/ag/241
Our Ref: 97/C/2707/RAH/am

Dear Mr Phillips

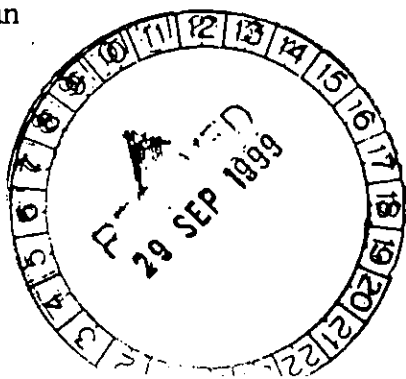
Thank you for your letter of 24 September about the complaint from Mr Peacock. The Local Government Ombudsman is prepared to grant an extension of time until 1 December 1999, to enable the Council to consider the position.

I note the steps you are taking.

The contractor to whom I wrote has acknowledged receipt of my earlier letter, but informed us that it would take some time to recover their file from archives. I will be in touch with you again as soon as I have further information.

Yours sincerely

R A Harrison
Deputy Ombudsman



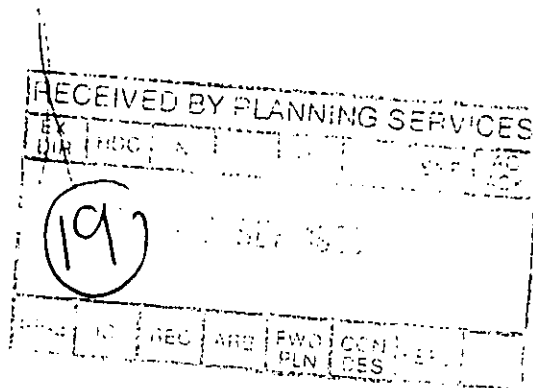
JOHN PEECOCK PLANNING

84 High Street, Needham Market, Ipswich, Suffolk IP6 8AW
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
email: John@jpp.keme.co.uk

Our reference: C849/JCP
Your reference: EDPC/MJF/PP/99/0857

7th September 1999

M.J. French, Esq.,
Executive Director, Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX



Dear Mr. French,

**Basement and alterations to part front elevation,
4 St. Mary Abbot's Place, Kensington. W8**

I have carefully considered your letter of 23rd August in connection with the above application submitted five months ago, i.e. 20th March 1999.

May I take it from comments made in your letter that the Council now accept that the "landscaping works" have now in fact been accepted under the terms of Condition 15 of planning permission TP/96/0644? There have, after all, only been two plans submitted for approval, i.e. drawing nos. 6366-26E and -27C which do not cover "part" of the site but the whole site.

Your arboriculturalist's suggestion that 1 metre depth of soil is required is of course at variance with what has been achieved elsewhere on the site of the existing basement, but in order to bring this matter to a speedy and successful conclusion, I confirm that the area of proposed basement, as outlined in red on the attached plan extract, will be lowered by 1 metre to facilitate your request. This is without prejudice to my clients' contention that the lowering of this area is unnecessary.

Yours sincerely,

John Peacock

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. John Peacock,
John Peacock Planning,
84 High Street,
Needham Market,
iPSWICH,
Suffolk, IP6 8AW.

Switchboard: 0171-937 5464
Extension: 2944
Direct Line: 0171-361-2944
Facsimile: 0171-361-3463

23 August 1999

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF/
PP/99/0857

Your reference:

Please ask for: Mr. French

Dear Mr. Peacock,

4 St. Mary Abbots Place, W.8.

I write with reference to your outstanding planning application for development on the northern side of the existing building. As part of our consideration of this application, consultations took place with the Arboriculturist and he informs me that, given the proposed shallowness of soil cover, it will not be possible to carry out the landscaping works as already approved for this part of the site. In order to provide some meaningful landscaping, it would be necessary to have a minimum soil depth of 1m.

Before proceeding further with your application, I would welcome your comments on this suggestion.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

RBKC ARBORICULTURAL OBSERVATIONS

Address	Application No.	DC Officer	Date of Obs
4 St. Mary Abbots Place, W4	PP/99/00857	DT	18/8/99
Development		Obj.	No Obj.
basement accommodation			
Status of Tree(s):			
C.A. No.(if any)	T.P.O. No. & Details (if any)	Tree Work Applications	
No.8			
Comments :			

The proposed planning application is to construct a basement room beneath an area of land adjacent to the main property.

I note that drawing No. 1044-301A, section AA shows a 'landscape zone' 500mm in depth. Grass, herbaceous plants and smaller shrubs may be grown in this depth of soil if irrigation is provided. However it is likely that to grow trees successfully on the site a minimum soil depth of 1 metre will be required. Given the available rooting area it is considered that a soil depth of less than 1 metre may render any trees planted on the site liable to 'windthrow' and drought stress during periods of dry weather.

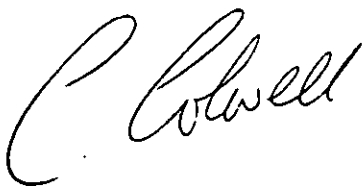
I also note that no landscaping plans have been provided.

I therefore recommend that planning permission, should it be granted, is subject to the following conditions.

1. The surface of the basement should be covered with a minimum depth of 1 metre of top soil to the approved British Standard.

2. Condition C16a for reasons R17

Signed:



Date: 18/8/99.

MJF FOR INFO.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director MJ French FRICS DipTP MRTPI Cert TS

Mr. J. Peacock
John Peacock Planning
84 High Street
Needham Market
Ipswich
SUFFOLK

Switchboard: 0171-937 5464
Extension: 2004
Direct Line: 0171-361 2004
Facsimile: 0171 361 3463

13 August 1999

My reference: EDPC/HDC/PP/99/
0857/LAWJ/AMJ Your reference:

Please ask for: Lesley Jones

Dear Mr. Peacock

**Town and Country Planning Act 1990
4 St. Mary Abbot's Place, Kensington, W8**

Further to our telephone conversation earlier this week, I am writing firstly to confirm that Mr. French, the Executive Director, is away from the office on leave until Monday, 16th August, and that on his return I will pass on to him your extreme concern that you have not received a response from the Department following the Ombudsman's report.

Secondly, with regard to your current planning application, I confirm that in Mr. Taylor's absence the observations of the Council's Arboricultural Section are being sought in respect of the case. I have received already comments from the Conservation and Design Officer which raise no objection. There are Planning Services Committees on 2nd and 16th September, I anticipate that your case will be considered at one of these meetings, hopefully the first.

Yours sincerely



LESLEY JONES
Head of Development Control
for the Executive Director, Planning and Conservation

JOHN PEECOCK
PLANNING

84 High Street, Needham Market, Ipswich, Suffolk IP6 5AW
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
email: John@jppkeme.co.uk

Our Ref: C849/JCP/SB
Your Ref: VPS/DCC/PP/99/00857

12th August 1999

M J French Esq
Executive Director of Planning and Conservation
The Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
London
W8 7NX

NR.
COPY TO
DCC J
62

Dear Sir

Basement and alterations to part front elevation, 4 St Mary Abbots Place, Kensington, W8

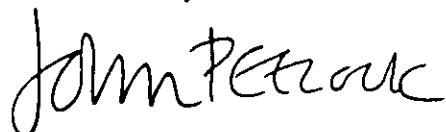
The above application was submitted to your Council on the 30th April 1999 and acknowledged 8 days later. Since then, the only contact that I have had with your Department has been because of efforts that I have made to contact the Case Officer, Mr D Taylor, finally being successful in this respect by telephone on 29th June 1999, according to my records. I understood at that time that because of third party representations, the application was due to be considered by Committee in July, and that various points had been raised concerning the possibility of "plant or associated equipment" being installed in the proposed basement; my letter of 29th June 1999 refers.

In the final sentence of my letter of that date, I asked to be told when the application was due to be considered at Committee and for a copy of the Committee Report. Up to 12th August, I have heard absolutely nothing from you.

Three phone calls later, on 10th August, I was able to speak to your Lesley Jones who explained to me your Departments house keeping problems and undertook to ensure that any remaining loose-ends in terms of consultations were resolved. I further understand that the item may or may not reach a Committee on the 2nd September, or, as seems more likely, the 16th September. Once again, please let me know which Committee the item is due to be considered at and supply a copy of your Report when available before the relevant meeting.

I have to record that my clients simply cannot understand why there should be any delay whatsoever in dealing with what is a relatively minor proposal, neighbour comments or not.

Yours faithfully



John Peacock

JOHN PEECOCK
PLANNING

84 High Street, Needham Market, Ipswich, Suffolk IP6 8AW
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
email: John@jpp.keme.co.uk

Our Ref: C541/JCP/SB
Your Ref: EEPC/MJS/TP/96/0644

12th August 1999

M J French Esq
Executive Director of Planning and Conservation
The Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
London
W8 7NX

Dear Mr French

4 St Mary Abbots Place, W8

Please may I have a reply to my letter of 10th May 1999 subject of a reminder to you on the 27th July.

Thank you,
Yours sincerely



John Peacock

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. John Peacock,
John Peacock Planning,
84 High Street,
Needham Market,
Ipswich,
Suffolk, IP6 8AW.

Switchboard: 0171-937 5464
Extension: 2944
Direct Line: 0171-361-2944
Facsimile: 0171-361-3463

28 May 1999

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF/TP/ Your reference :
96/0644

Please ask for: Mr. French

Dear Mr. Peacock,

4 St. Mary Abbots Place, W.8.

I write to acknowledge receipt of your letter of 10 May and would confirm that the necessary action is now being taken. I would hope to be able to write further to you about the matter in the near future.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

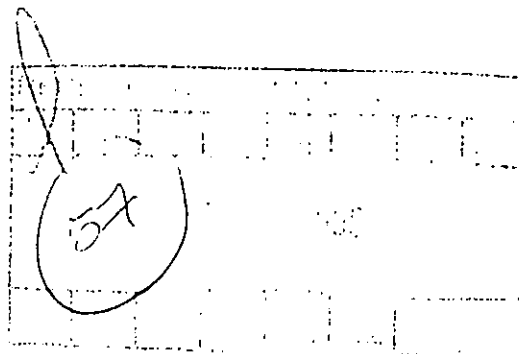
JOHN PEECOCK PLANNING

84 High Street, Needham Market, Ipswich, Suffolk IP6 8AW
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
email: John@jpp.keme.co.uk

Our Ref: C541/JCP/SB
Your Ref: EDPC/MJF/TP/96/0644

10th May 1999

M J French Esq
Executive Director Planning & Conservation
The Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
London
W8 7NX



Dear Mr French

4 St Mary Abbots Place, W.8.

I refer to your two letters of the 7th May 1999 in connection with the above development.

You will know from very recent correspondence both to your department and to the Council Director of Legal Services, that work has again been suspended on the site pending the resolution of outstanding matters relating to condition 15. Therefore, it is entirely premature for you to suggest that any work constitutes "...unauthorised developments..."

Referring first to the rear boundary wall height, I have to express some surprise that you refer to its height "...above finish patio level..." as the patio level has not yet been established, that element having not been built. Secondly, please refer to my letter of 30th November 1998 which explains why there are "...greatly enlarged openings..." on the rear elevation of the dwelling. In any event you will of course not forget that you have already approved as a minor amendment to the original scheme enlarged window openings comprising French doors with large fan-lights above. Under these circumstances it would not be appropriate to make any planning applications as none are required.

In respect of landscaping, the scheme referred to arising in November 1997 was submitted to the Council on an informal basis to ascertain whether or not it could possibly form the basis of a revised scheme. In the event, we know the outcome which is set out in your letter of 28th November 1997.

What I am still anxious to obtain from you is formal and unequivocal confirmation in writing in relation to the scheme of landscaping referred to in your letters of the 4th October 1996, and 1st November 1996, my clients fax note to you dated the 6th November 1996 followed by a note of the same date together with drawing numbers 6366-26D and subsequently by a further note from my clients architects dated the 11th November 1996 (and delivered personally by Mr G Eyton-Jones) and including drawing numbers 6366-26E and -27C. The details included on those last two plans comply fully with the comments contained in the final paragraph of your letter dated the 6th November 1996 which states:-


"Once I have received further copies of the landscaping plans clearly indicating the integral raised planters and the two new trees, I should be able to issue a final letter confirming that condition no. 15 of the planning permission has been complied with. I recommend that the further drawings are delivered by bike without delay".

Once again, as I have been requesting for over two and a half years, please confirm these details are acceptable under the terms of condition 15. I understand that there should be no problem in this

respect as Mr Derek Taylor kindly confirmed at a recent meeting held with Mr G Eyton-Jones and myself on Wednesday 5th May, that in his opinion such approval had already been given.

A copy of this letter has been sent to the Ombudsman in view of there continuing interest in this case.

Yours sincerely

A handwritten signature in cursive script that reads "John Peacock". The signature is written in black ink and is positioned above a horizontal line.

John Peacock

K

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS



Mr. John Peacock,
John Peacock Planning,
105 High Street,
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IPSWICH,
Suffolk, IP6 8DQ.

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Direct Line: 0171-361-2944
Facsimile: 0171-361-3463

**KENSINGTON
AND CHELSEA**

07 May 1999

My reference: EDPC/MJF/TP/ 94/0644 Your reference:

Please ask for: Mr. French

Dear Mr. Peacock,

4 St. Mary Abbots Place, W.8.

You will, I know, be aware that we have now met with the Local Government Ombudsman to review the case, and it was agreed that I would write to you with regard to the details of the species and size of the trees to be planted at the rear of the site, I do not appear to have as yet received the formal application which I sought in November 1997. You will recall that in that letter I did confirm that, in the event of your submitting a revised scheme, as shown on your plans 636-26F and 27D, I would be in a position to approve these final details. Perhaps you would now be kind enough to make this formal submission so that this outstanding approval can be given.

I would confirm that the Director of Legal Services will be writing to you separately with regard to the scrutiny of professional invoices.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

F

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. John Peacock,
John Peacock Planning,
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07 May 1999

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF/TP/ Your reference:
94/0644

Please ask for: Mr. French

Dear Mr. Peacock,

4 St. Mary Abbots Place, W.8.

I am advised, and this has been confirmed on site, that whilst a number of non-material changes to the approved scheme have been agreed, there are two outstanding matters which clearly require formal agreement as they are considered to be material changes. I refer of course to the rear boundary wall which has been built at only 2.15m. in height above finished patio level, as opposed to the 2.5m. in height on the approved drawings, and to the two rear first floor windows at the northern end of the property which have been built with greatly enlarged openings. If it is your client's intention to seek to either retain or regularise these unauthorised developments, I would welcome the necessary planning applications before considering whether further action should be taken.

Finally, I have now received a further application from you for the construction of an underground room at the northern end of the site. Whilst I cannot prejudge the Committee's decision on this application, I would emphasise to you and your client that, should planning permission be granted, you will be unable, as far as the additional tree planting is concerned, to execute the landscaping design for this part of the site, and a new application will be required for the revised details pursuant to Condition 15.

I would welcome your attention to these matters, and to receive the necessary application at your convenience.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

WITH THE COMPLIMENTS OF THE
DIRECTOR OF LEGAL SERVICES

THE TOWN HALL
HORNTON STREET
LONDON W8 7NX

Telephone: 0171-361 2152
Fax: 0171-361 3488

DX: 84015 Kensington High Street 2

CHIEF EXECUTIVE AND TOWN CLERK

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Chief Executive and Town Clerk ALAN TAYLOR LLB



Ms Pat Thomas
The Commission for Local Administration
in England

Direct Line: 0171-361 2299
Facsimile: 0171-361 2764
Email: tclat@rbkc.gov.uk

DX 65201 York 1

**KENSINGTON
AND CHELSEA**

05 May 1999

My reference: ce/dls/ag

Your reference:

Please ask for: Mr Taylor

Dear Ms Thomas,

St Mary Abbots Place

I thought it might be useful to summarise the actions we are taking following the very helpful meeting last week.

First, we are obtaining advice about comparable land values within the Royal Borough since October 1996. Secondly, Mr Ferguson is being contacted to obtain a statement, sworn if appropriate, about his conversation with the developer concerning the reasons for work stopping on site. Thirdly, the Executive Director of Planning and Conservation is writing to Mr Peacock on the basis that if a formal application is made on the basis of the scheme put to the Council in November 1997, then approval would be given. Fourthly, the Director of Legal Services will write to Mr Peacock to check that the professional services invoices were incurred in relation to work required to deal with the "absence" of a Condition 15 approval.

I will write again in the next three weeks with that information. If there are any other matters that should be addressed please do not hesitate to contact me.

Yours sincerely

Alan Taylor
Chief Executive and Town Clerk

RECEIVED BY PLANNING SERVICES							
EX DIF	HDC	N	C	SW	ST	ENF	AO ACK
- 7 MAY 1999							(77)
APPEALS	IO	REC	REF	FWD PLN	CON DES	FEES	

① At last year's Hearing (dismissed) into an extension over this land, I advised that the enlarged windows would be unacceptable

② Isn't it just revised details pursuant to Condition 15?

Derek
5/5

Printed from : PLNMJF / Inbasket / Opened 6.May.1999 13:40

Sent by : Taylor, Alan 6.May.1999 12:33

Subject : Peeacock

I have spoken to Alun about the draft letter and he will discuss the detail with you . I think that it should mention that we have met the Ombudsman and said that we are happy to formally approve what we sought in 1997 if he submits it. The rest is ok except that you need to tone down your irritation !!

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

CS-EDPC

DT.

WITH THE COMPLIMENTS OF THE
**EXECUTIVE DIRECTOR OF
PLANNING AND CONSERVATION**

Anything you want to add

[Handwritten signature]

[Handwritten initials]

THE TOWN HALL
HORNTON STREET
LONDON W8 7NX

TEL: 0171 - 937 5464
FAX: 0171 - 361 3463

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. John Peacock,
John Peacock Planning,
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Suffolk, IP6 8DQ.

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Direct Line: 0171-361-2944
Facsimile: 0171-361-3463



KENSINGTON
AND CHELSEA

05 May 1999

My reference: EDPC/MJF/TP/ 94/0644 Your reference:

Please ask for: Mr. French

Dear Mr. Peacock,

DEAR ONLY

4 St. Mary Abbots Place, W.8.

I write with reference to earlier correspondence and discussions relating to the development at the above site. It would be helpful to the Council if a number of outstanding matters could be taken forward and, where possible, resolved.

Firstly, with regard to the details of the species and size of the trees to be planted at the rear of the site, I do not appear to have as yet received the formal application which I sought in November 1997. You will recall that in that letter I did confirm that, in the event of your submitting a revised scheme, as shown on your plans 636-26F and 27D, I would be in a position to approve these final details. Perhaps you would now be kind enough to make this formal submission so that this matter can be resolved.

Secondly, I am advised, and this has been confirmed on site, that whilst a number of non-material changes to the approved scheme have been agreed, there are two outstanding matters which clearly require formal agreement as they are considered to be material changes. I refer of course to the rear boundary wall which has been built at only 2.15m. in height above finished patio level, as opposed to the 2.5m. in height on the approved drawings, and to the two rear first floor windows at the northern end of the property which have been built with greatly enlarged openings. If it is your client's intention to seek to either retain or regularise these unauthorised developments, I would welcome the necessary planning applications before considering what further action should be taken. ①

Thirdly, and finally, I have now received a further application from you for the construction of an underground room at the northern end of the site. Whilst I cannot prejudge the Committee's decision on this application, it must be emphasised to you and your client that, should planning permission be granted, you will be unable to execute the landscaping design for this part of the site, as already approved under Condition 15 of the July 1995 planning permission, and a revised application will be required. ②

I would welcome your attention to all of these matters, and to receive the necessary applications at your convenience.

Yours sincerely,

M. J. French, Executive Director, Planning and Conservation.

- 1 Wall not at correct height.
 - 2 Windows wrong ~~at~~ near
-

Cannot get enlarged Parent room - is in a position
here we have agreed for 3 new trees to be
planted - - 20th April

- 1 Builder stopping ~~work~~ work
 - 2 Affidavit from Jorgensen.
- Oct '96
-

3 unacceptance in 96/97 - Percock Ltd

~~4~~ Scheme - in '97 - verbal discussion

~~5~~ Scheme - informal scheme in ~~April '98~~
wrote an office to submit - Nov '97

1 Letter to Mr. Percock if you submit
details we will approve.

Memorandum

To: Alun Phillips, Director of Legal Services
CC: Mike French, Executive Director, Planning & Conservation
From: Derek Taylor, Area Planning Officer
Date: 20 January 1999
Re: 4 ST. MARY ABBOT'S PLACE

I provide below a list of outstanding deviations from the permitted scheme at the above property. A number of "non-material" amendments have been approved since the 1995 Planning Permission, however the following have not been covered by such amendments and are, in any case, too significant to be regarded as "non-material". Two sketches are appended for illustrative purposes.

At the time of writing this, work appears to have ceased again on site and although the building is weathertight it is far from complete.

1) Rear boundary walls

The rear boundary walls, on the West and South facing boundaries to the site, have not been completed according to the details depicted on approved drawings 10D (West elevation) and 12C (South elevation). The walls have been finished, including their coping, but have been "under-implemented" to a lower height than approved.

The approved drawings show that the rear boundary wall should reach to a height of 2.5m above the finished patio level of the partly completed development. As presently completed, the wall only reaches to 2.35m above the patio level. The patio level has not been finished; when it is, the finished level will probably be at least 200mm above the present level, which would reduce the height of the boundary wall to only 2.15m above the finished patio level.

The height of the rear boundary wall in relation to the rear patio, and the ground floor doors/windows, was carefully fixed to minimise overlooking from 4 St. Mary Abbots Place to the properties of Warwick Gardens to the rear. A height of only 2.15m from finished patio level is, in my opinion, a material deviation from the approved plans, and not one that would be acceptable as an amendment if such an amendment was applied for.

Sketches "A" and "B" attached illustrate this. The point applies to the entirety of the rear boundary wall. Ironically, it had, until recently, been completed in part to the approved height, but very recently it has actually been lowered to its present height.

2) **First Floor Windows**

The approved plans included two rear first floor windows at the northern end of the property, one single window and one double width window. Two greatly enlarged openings have been constructed instead. Attached "Sketch C" illustrates the openings, superimposed in red upon the approved windows.

In my view, the unauthorised windows are far too large, and unacceptable on both design and amenity grounds. The developers have already been advised of this. I have been told that their client had "already changed his mind" about the bigger windows, and that they were likely to be removed, but they are still there at the time of writing.

3) **Other matters**

There are other matters, namely a chimney that has not been provided although on the approved plans, and a sloping roof erected at rear ground floor instead of a flat one. Arguably, the sloping roof is an improvement over the approved flat one. In my opinion, it is likely that these would both be acceptable as "non-material" amendments.

Derek Taylor

F

Memorandum

The Royal Borough of Kensington and Chelsea - Planning Services

To:	Ian Doolan,	From:	Executive Director, Planning and
of:	Borough Valuer	of:	Conservation
Room:		Room:	322B
		Ext:	2944

Your ref:	My Ref: EDPC/MJF
-----------	------------------

cc:	Date: 06 May 1999
-----	--------------------------

Re: 4 St. Mary Abbots Place

You may be aware of the on-going Ombudsman investigation relating to a condition attaching to a planning permission for development at the above site. One of the grounds which the owner is seeking to show is that he lost money when work was stopped on site pending clarification of a minor condition. One of my arguments has been that, in a Borough such as this, land values and property prices are always rising and by delaying the completion, he has increased the value. It now remains for you to be able to prove this!

Basically, the site is about 0.043 hectares and has a planning permission granted in July 1995 to erect two houses. One house comprises basement swimming pool and fitness room; ground floor hall, kitchen, reception rooms and double garage; and three bedrooms with ensuite facilities and a separate dressing room at first floor level. The second house comprises kitchen, reception room, two ensuite bedrooms plus off-street parking.

I know that the site was on the market in August 1995 for £1.8m., copy of particulars attached. The site was acquired by the present owner either late 1995 or early 1996, and the work commenced around March 1996. In February 1997, work ceased and the builders left the site, allegedly because the condition was not clarified; however, I do know that the builders were not paid and new builders came in subsequently. Work recommenced in November 1997 but subsequently ceased in December 1998, and has still not recommenced.

What I would like from you is an estimate of the likely increase in the value of the houses between February 1997 and November 1997.

I would be happy to discuss this further with you if it helps.

M. J. French,
Executive Director, Planning and Conservation.

① PC ② DT
+
CB

John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

✓ W/a
2

27th August 1998

M.J. French, Esq.,
Executive Director, Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES									
EX DIR	HDC	N	C	OW	SE	ENF	AG	JAPK	
20		- 2 SET 1998							
APCS	IO	REG	PLN	PWD	CON	PREP			

Dear Sir,

Development at 4 St. Mary Abbots Place, W8

I refer to my letter and drawing No. 1044-123/B which accompanied it. I should be grateful for a response as soon as possible as my clients are anxious to resolve the matter raised therein.

Thank you,
Yours faithfully,

John Peacock

MEMORANDUM

TO: Alun Phillips, Director of Legal Services

FROM: LeVerne Parker

DATE: 5 January, 1999

MY REF: dls/ag/lp2

PRIVATE AND CONFIDENTIAL

Ombudsman Report - 4 St Mary Abbot's Place

I have now had the opportunity to read the report and discuss its contents with Derek Taylor.

Whilst I think it must be accepted that there was delay amounting to maladministration, in my view it has not been established that the delay in approving the landscaping details has led to the financial loss claimed. Even if it can be established that there is a link between the delay in approving the details and the period during which no work was carried out, I do not think that the payment recommended by the ombudsman has been properly justified.

Link between maladministration and work stopping on site

There may be other reasons why the building works were delayed, namely:-

1. The delays were not due to the Council's inaction but to the action of third parties (paragraph 28 of the report). It is not clear from the report how long the dispute lasted, for example when did the arbitrator find in the developer's favour?
2. Mr Fergusson (Mr Green) has told Derek that he was told by the developer or his agent that they were not concerned about the delay because the value of residential land in the area was going up. Mr Fergusson has said that he would provide an affidavit to this effect although he has also said that if landscaping details are approved as submitted pursuant to Condition 15 he will himself complain to the Ombudsman.
3. The developer's own changing ideas for the site may also be a reason for the delay. I attach a copy of the Inspector's decision dated 20th November 1998 in respect of an amended scheme for the site. Builders on site also advised Derek that they have had to change the internal layout of the building at the client's request.

Amounts claimed

I am not sure whether the Council has actually been given an opportunity to comment upon the particular amounts claimed. Paragraph 41 refers to the developer claiming £108,000 which had to be paid to have the ground works completed when the original contractors left the site because of delays caused by neighbours preventing access. This sum does not form part of the Ombudsman's recommendation, however, she does recommend the payment of the bank interest charges while the site was idle in the sum of £78,657, ie, the whole amount claimed under this head by the developer with no deduction for the delays caused by the neighbours.

I hope that the above is helpful. Derek and I are happy to meet with you and Mike to discuss the Council's formal response before the report is made public.

LeVerne Parker

cc Mike French - Executive Director of Planning and Conservation
Derek Taylor - Planning and Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Ferguson
15 Warwick Gardens
London
W14 8PH

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Direct Line: 0171-361-2057
Facsimile: 0171-361-3463
Email: plndmt@rbkc.gov.uk
Mr.: D. Taylor

6th January 1999

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990 4 St. Mary Abbot's Place W.8

I refer to your letters dated December 1st and December 21st 1998, concerning the height of the rear wall to the above property, in particular the part abutting your own property. I apologise for the delay in this reply, however I did not want to write to you until I had again measured the dimensions on site, and compared those readings with the approved drawings.

By the "approved drawings" I mean those approved under Planning Permission TP/94/0644, in particular to drawings 10D (West elevation) and 12C (South elevation).

Before discussing what exists on site at present, I will confirm in words what is indicated on the approved drawings. Allowance must be made for the fact that the approved drawings are at scale 1:100.

Drawing 12C shows your garage roof at a height of 2.5m from pavement level in front of it. The top of the West boundary wall to the patio of no.4 St. Mary Abbots Place is shown as being 0.05m below your garage roof, and 2.45m above the rear patio of 4 St. Mary Abbot's Place. The top of the West wall is shown to be some 0.35m lower than the top of the window lintel to the rear ground floor room at that end of the property.

Drawing 10D does not show your garage roof, but shows the South boundary wall reaching to a height of 2.6m above the rear patio of no.4, to a point level with the top of the window lintel/fascia to the rear ground floor room. There is a slight discrepancy here between the two drawings; the West boundary wall is shown to be 0.15m lower than the South wall, and the top of the lintel is shown as 2.8m from patio level on 12C but 2.7m on 10D.

As I mention above, at a scale of 1:100 some leeway must be allowed, however that could not easily account for a difference in height between the West and South walls of 0.15m. Two conclusions could be reached; either that the two walls were originally intended to be of slightly different height, or that it would be fair to suggest a compromise at 2.5m to be common to both walls. Whichever of these solutions is chosen, at its lowest the South wall, forming the boundary with your garden, should be a **minimum** of 2.5m from the finished patio level within no.4, or 0.05m (5cm) below the flat garage roof.

I confirm that the South wall was measured today as reaching to a total height (including its coping) of 2.350 above the patio level. The patio is not finished either; I would anticipate the finished floor level

R

of the patio being some 200mm above its present level, which would result in the South wall ending up reaching to a height of 2.15m above the patio level. As such, it would be 0.35m short of the approved height of 2.5m. If the finished patio level is 300mm higher than at present, then the wall would be only 2.05m above the patio.

I understand that the South wall had in fact been built up to a greater height until recently, when it appears that 13 courses of brick were removed. As such, it had been completed originally to a height slightly in excess of the approved height, but has now been reduced back to approximately 0.35m under it.

I hope that this information is clear. Condition 6 of the Planning Permission provides for minor variations to the detail of the approved scheme to be agreed, where appropriate, in writing by the local planning authority, however no such approval has been granted in this case. The construction of the wall to only part of its approved height is, in my opinion, in breach of this Condition. I will shortly be writing to the developers on this matter.

The developer will probably dispute the matter, and I would anticipate that he will simply say that the height of the building has been taken from the datum line and that the building has been completed accordingly. Nevertheless, even if he takes this line the fact remains that the constructed building does vary from the approved plans in that the distance from the patio to the top of the wall, and the relationship between the wall and the fixed points such as the pavement and garage, is not as shown on those plans. Although the door lintel/fascia is not such a good point of reference as it has anyway been completed to a different form, with a sloping roof, the pavement and garage remain constant throughout and are, therefore, useful as points of reference.

I will let you know as soon as I have a response from the developer.

Yours faithfully,

Derek Taylor
Area Planning Officer
for
Executive Director, Planning & Conservation

cc. Adrian Betham, Betham Associates

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Ferguson
15 Warwick Gardens
London
W14 8PH

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Facsimile: 0171-361-3463
Email: plndmt@rbkc.gov.uk
Mr.: D. Taylor

6th January 1999

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbot's Place W.8

I refer to your letters dated December 1st and December 21st 1998, concerning the height of the rear wall to the above property, in particular the part abutting your own property. I apologise for the delay in this reply, however I did not want to write to you until I had again measured the dimensions on site, and compared those readings with the approved drawings.

By the "approved drawings" I mean those approved under Planning Permission TP/94/0644, in particular to drawings 10D (West elevation) and 12C (South elevation).

Before discussing what exists on site at present, I will confirm in words what is indicated on the approved drawings. Allowance must be made for the fact that the approved drawings are at scale 1:100.

Drawing 12C shows your garage roof at a height of 2.5m from pavement level in front of it. The top of the West boundary wall to the patio of no.4 St. Mary Abbots Place is shown as being 0.05m below your garage roof, and 2.45m above the rear patio of 4 St. Mary Abbot's Place. The top of the West wall is shown to be some 0.35m lower than the top of the window lintel to the rear ground floor room at that end of the property.

Drawing 10D does not show your garage roof, but shows the South boundary wall reaching to a height of 2.6m above the rear patio of no.4, to a point level with the top of the window lintel/fascia to the rear ground floor room. There is a slight discrepancy here between the two drawings; the West boundary wall is shown to be 0.15m lower than the South wall, and the top of the lintel is shown as 2.8m from patio level on 12C but 2.7m on 10D.

As I mention above, at a scale of 1:100 some leeway must be allowed, however that could not easily account for a difference in height between the West and South walls of 0.15m. Two conclusions could be reached; either that the two walls were originally intended to be of slightly different height, or that it would be fair to suggest a compromise at 2.5m to be common to both walls. Whichever of these solutions is chosen, at its lowest the South wall, forming the boundary with your garden, should be a **minimum** of 2.5m from the finished patio level within no.4, or 0.05m (5cm) below the flat garage roof.

I confirm that the South wall was measured today as reaching to a total height (including its coping) of 2.350 above the patio level. The patio is not finished either; I would anticipate the finished floor level

of the patio being some 200mm above its present level, which would result in the South wall ending up reaching to a height of 2.15m above the patio level. As such, it would be 0.35m short of the approved height of 2.5m. If the finished patio level is 300mm higher than at present, then the wall would be only 2.05m above the patio.

I understand that the South wall had in fact been built up to a greater height until recently, when it appears that 13 courses of brick were removed. As such, it had been completed originally to a height slightly in excess of the approved height, but has now been reduced back to approximately 0.35m under it.

I hope that this information is clear. Condition 6 of the Planning Permission provides for minor variations to the detail of the approved scheme to be agreed, where appropriate, in writing by the local planning authority, however no such approval has been granted in this case. The construction of the wall to only part of its approved height is, in my opinion, in breach of this Condition. I will shortly be writing to the developers on this matter.

The developer will probably dispute the matter, and I would anticipate that he will simply say that the height of the building has been taken from the datum line and that the building has been completed accordingly. Nevertheless, even if he takes this line the fact remains that the constructed building does vary from the approved plans in that the distance from the patio to the top of the wall, and the relationship between the wall and the fixed points such as the pavement and garage, is not as shown on those plans. Although the door lintel/fascia is not such a good point of reference as it has anyway been completed to a different form, with a sloping roof, the pavement and garage remain constant throughout and are, therefore, useful as points of reference.

I will let you know as soon as I have a response from the developer.

Yours faithfully,

Derek Taylor
Area Planning Officer
for
Executive Director, Planning & Conservation

cc. Adrian Betham, Betham Associates



The Commission for
Local Administration in England

Report

on an Investigation into
Complaint No 97/C/2707 against
The Royal Borough of Kensington
and Chelsea

December 1998

**Investigation into Complaint No 97/C/2707
Against The Royal Borough of Kensington and Chelsea**

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Key to names used

Mr Griffin	Developer's agent
Mr Green	Local resident
Officer A	Planning officer
Councillor X	Chairman of Planning Committee

Report Summary

Subject

The complaint concerns unreasonable delay by the Council in confirming the fulfilment of a condition attached to a planning permission for a development, with the result that the developers incurred significant financial loss.

Finding

The requirements of the condition, which related to landscaping and particularly tree planting, were met in November 1996. The Council has still not formally agreed that its requirements are met. That failure is maladministration causing injustice to the complainants.

Recommended remedy

The Council should meet the abortive costs of the developer.

Introduction

1. Mr Griffin, as agent for a firm of property developers, complains on their behalf that the Council has unreasonably delayed confirming that the developers have supplied sufficient details to fulfill a condition attached to the planning permission for a development. Mr Griffin claims that, as a result of the delay, the developers have been unable to place contracts for completion of the development and have suffered considerable financial losses.
2. The law generally requires me to report without naming or identifying the complainant or other individuals. The names used in this report are therefore not the real names of the people and places involved.
3. An officer of the Commission has talked with the developer's agent and with officers of the Council. She has also talked with the ex-Chairman of the Planning Committee (Councillor X) and with a local resident (Mr Green). The same officer has examined the Council's records.
4. An opportunity has been given for the complainant and the Council to comment on a draft of this report prior to the addition of the conclusion.
5. I may not normally investigate a complaint where a right of appeal is available, except where I consider it unreasonable for the complainant to make that appeal¹. In the light of what Mr Griffin has told me (see paragraph 27 below) I have exercised my discretion to investigate this complaint despite the availability of an appeal to the Secretary of State (see paragraph 8).

Legal and Administrative Background

6. Councils may impose conditions in granting planning permission for development.
7. If development takes place without complying with conditions imposed on a planning permission, a council may serve a breach of condition notice on the developer. The notice must specify the conditions concerned and the steps which the council considers should be taken to secure compliance².

¹ The Local Government Act 1974, Section 26(6)(b)

² Town and Country Planning Act 1990, S. 186 (as amended by the Planning and Compensation Act 1991)

8. Where a council refuses an application for any agreement required by a condition imposed on a grant of planning permission or fails to give notice of a decision on such an application, the applicant may appeal to the Secretary of State³.

Investigation

Approval of the Planning Application

9. On 1 May 1995 the Council's Planning and Conservation Committee considered an application for the erection of two dwelling houses on land in the heart of the historic borough of Kensington and Chelsea. The Council says that there was considerable local opposition from nearby residents to the granting of planning permission. In particular residents of the properties to the west of the development site had lobbied local members about the landscaping proposed in the planning application.

10. The Council says that the Committee concluded that the most appropriate way to mitigate a perceived overlooking problem would be to ensure that trees were provided at the boundary between the proposed houses and existing properties to their rear. The minutes of the meeting which granted planning permission recorded:-

“The Committee asked that an additional condition, the precise wording of which to be agreed with the Chairman, be imposed requiring the applicant to undertake some appropriate tree planting at the rear of the new buildings.”

11. Planning permission was granted on the casting vote of the Chairman, Councillor X. On 12 May Councillor X wrote to Mr Green (one of the residents):-

“I will see that (the Director of Planning) runs the wording of the Planning Permission over with you before it is issued.”

12. On 11 July the decision notice granting planning permission was issued to the developer. The additional condition (Condition 15) read:-

“Full particulars of the following shall be submitted to and approved in writing by the local planning authority before the

³

Ibid., S.78 (1) (b)

development hereby permitted commences and the development shall not be carried out otherwise than in accordance with the details so approved:

the treatment of the open land within the site including hard and soft landscaping.”

Mr Griffin points out that this is a standard landscaping condition and did not impose the very specific requirements which Council officers later sought to achieve; nor does it appear clearly to reflect the requirements of the Planning and Conservation Committee (paragraph 10).

13. Mr Green continued to write to the Director of Planning and to the Chairman of the Committee about his concerns over the landscaping details. On 26 July Councillor X wrote to Mr Green:-

“On the question of the screen of trees I can assure you that the best form of concealmentwill be discussed and agreed fully with you when the application on such detail is submitted.”

14. Councillor X says that he used the word “agree” colloquially rather than legalistically in assuring Mr Green that the landscaping scheme would be agreed with him; he did not believe that he was promising him any more than the Committee had agreed. He denies that he was offering the local residents the right of veto over the landscaping details and says that he did not in any event have the authority to do so.

Submission of Details for Condition 15

15. The property developers for whom Mr Griffin is acting bought the development site. In May 1996 they submitted the first draft of a landscaping scheme to fulfill Condition 15. Planning officers met with the developers and their architect in July to discuss the details further and, as a result, more drawings were submitted by the developers. The architect wrote to the Council in August indicating that ground works were due to start.
16. On 4 October Officer A, the planning officer who handled the details of the application, wrote to the developers approving the start of works. His letter states that he considered the developers were now proposing an appropriate species of tree for the landscaping scheme and continues:-

“Therefore, I accept that the landscaping details as depicted on (the drawings) can be taken as a satisfactory scheme for the purposes of Condition 15....As such, I can advise that a start on site can now be made without conflict with the aims and terms of this Condition. However, I permit this under the terms of Condition 15 subject to a number of points which still need to be confirmed.”

Officer A added that two further sets of details had to be submitted before the development could be completed. He indicated that the developers should submit a letter setting out the various tree sizes, to be agreed by the Council; he also requested a further plan showing the positioning of two new trees.

17. On 21 October the developers met Officer A and the Council’s arboriculturalist to discuss the species of trees which should be planted to meet the requirements of Condition 15. On 1 November the arboriculturalist wrote to the developers with specific details of the trees to be planted and added the requirement that large integral raised planters should be used for at least some of the planting. The arboriculturalist’s letter specified the nursery at which trees of the heights and varieties specified could be purchased.
18. On 5 November Officer A also wrote to the developers. He pointed out that the details requested in his letter of 4 October had not yet been received, and added:-

“I consider it perfectly clear that if these two requirements have not been properly discharged, with written confirmation from myself that they have been so discharged, then the requirement of Condition 15 of the Planning Permission cannot itself have been fully met.”

He said that in order for him to issue a statement that Condition 15 had been fulfilled, he needed confirmation that the minimum tree sizes specified were acceptable and would be installed, a drawing indicating the appearance of the landscaping scheme at installation, agreement of the position and type of the two trees on the northern boundary of the site and confirmation of the details of the raised planters. He sent a copy of this letter to Mr Green.

19. On 6 November the developers wrote to Officer A. They confirmed that they would install trees of the varieties and sizes specified by the arboriculturalist and

that they would use planters of the type recommended. They also enclosed drawings showing the inclusion of the two new trees.

20. Officer A replied on the same day welcoming the confirmation of the details. He added :-

“the Chairman of the Planning Services Committee that approved the scheme has asked me to consider prosecution for breach of Condition unless these matters are resolved forthwith. Once I have received further copies of the landscaping plans clearly including the raised integral planters and the two new trees, I should be able to issue a final letter confirming that Condition no. 15 of the Planning Permission has been complied with.”

21. On 7 November Mr Green wrote to Officer A commenting on the details submitted by the developers. He indicated that the tree screen heights at installation must conceal the first floor windows of the new dwellings from windows opposite. He concluded that he looked forward to agreeing to the proposals before anything was finalised “as promised by the Chairman of the Planning Committee. Until then, Condition 15 cannot be met.”

22. On 11 November the developers submitted revised landscaping plans as requested, showing the planters and the two new trees, indicating plant sizes at installation. The Council’s arboriculturalist confirms that the elevational drawings indicating the tree sizes at planting were essentially those which his office had drawn up and given to the developers. His assistant noted in a memo entitled “arboricultural observations” that both the arboriculturalist and himself felt that a satisfactory conclusion had been reached. On 14 November Mr Griffin, who had now taken over the role of agent for the developers, wrote to the Council about the delay in approving Condition 15. His letter concluded:-

“I understand that you now have all of the detail that you require to enable you to confirm complete compliance with Condition 15.”

The Council's Failure to Discharge Condition 15

23. Officer A has viewed the landscaping drawings, submitted by the developers on 11 November and received by the Council on 13 November, in the presence of one of the Commission's officers . He agrees that all the details which he had requested the developers to provide to comply with Condition 15 were included in those drawings. He says that the reason why he did not then issue a statement agreeing that Condition 15 was fulfilled was because he was under pressure from Councillor X, by then no longer Chairman of the Planning Committee, and from the Director of Planning to see if he could get more concessions out of the developers to placate local residents and in particular Mr Green. The Council says that it was evident that the size of trees recommended by the arboriculturalist would take some time to provide protection against overlooking.
24. Officer A says that he never had any intention of recommending to the Planning Committee that the Council should serve a Breach of Condition Notice on the developers, contrary to his letter of 6 November. He says that he was very careful to word his letter to the developers in such a way that it was clear that this was something which the former Chairman of the Committee was considering rather than the Planning Department. Mr Griffin says that, as far as he was concerned, the letter was a letter from the Council threatening action and it did not matter what the writer's intentions were.
25. On 16 December, in the absence of a reply to his earlier letter, Mr Griffin wrote again to the Council about the fulfilment of Condition 15. He pointed out that a recent conversation with Officer A had revealed that the Director of Planning had sought the advice of the Council's Legal Department on how far the Council could go in requesting more details. He went on:-
- "Furthermore, I understand that this situation appears to have been brought about by the fact that the Chairman of your Planning Committee appears to have written to interested neighbours in a way which perhaps gives them more encouragement as to the implications of condition 15 than is actually legally the case."
26. Councillor X says that he wrote only to Mr Green.

27. Mr Griffin says he did not receive any reply to his letter. He says that he sought Counsel's advice about whether to appeal to the Secretary of State about the failure of the Council to give a final decision on whether Condition 15 had been fulfilled. He says that Counsel's advice was that the terms of the Council's letter of 4 October advising that the landscaping scheme satisfied the terms of Condition 15 implied that there was no adverse decision which could be the subject of an appeal. In addition he points out that at the time the developer would have waited between nine months and a year before an appeal could have been heard and the costs of the delay would, therefore, have been greater than would have been incurred by stopping work on site.
28. Mr Griffin wrote again to the Council on 8 January and 6 February 1997 requesting a reply to his letters. He says that work ceased on site in February because the developers were taking action against their contractors for breaking the time clause in the contract as a result of the delays in the approval of Condition 15. (The contractors had been prevented from working on site by the actions of local residents who interpreted the Council's letter of 5 November to the developer to mean that planning permission had not fully been granted. The neighbours claimed that as their Party Wall Agreement was dependent on the planning permission being obtained first, they were entitled not to allow access on to their land. A third party arbitrator eventually found in the developer's favour and the Metropolitan Police were required to escort the contractors on site). Mr Griffin says that the developers could not place the second phase of the contract until they were certain that Condition 15 would be approved.
29. On 14 February Officer A replied to Mr Griffin, apologising for the delay in replying and for the inconvenience to Mr Griffin's client. He concluded:-

“Nevertheless, as you are aware the matter is a sensitive one, with a number of third parties remaining concerned that the requirements of Condition 15 have still not been met. Discussions are taking place on this at the moment.”

On 19 February Mr Griffin wrote back to Officer A indicating that it was for the Council, not third parties, to say whether the details submitted were acceptable or not.

30. On 21 February two local residents, one of whom was Mr Green, met their ward Councillor and the Director of Planning to discuss their concerns about the landscaping plans submitted by the developers. In a note which he made of the meeting, Mr Green indicated that the Director of Planning said that Councillor X had had no right to assure Mr Green that the tree screen would be fully agreed with him, as only the Council could decide such a matter.
31. On 29 April, in the light of the Council's failure to reply to his further letter of 19 March, Mr Griffin wrote to Officer A pointing out that he had now received Counsel's advice that approval had been granted in respect of Condition 15. He did not receive a reply to this letter. On 18 June he complained to me that the Council's delay in approving Condition 15 was preventing his client from placing the contracts for the second phase of the development. He said that any such contract would contain a time-break clause which would cost his client dearly in compensation if the works could not be completed within the specified contract time. He said that until the Council approved the fulfilment of Condition 15 there was no prospect of completing the development.

The Council's Response

32. Officer A says that, in his view, the scheme which was submitted by the developer in November 1996 satisfied Condition 15 and he indicated as much to local residents. He says that the approval of Condition 15 was complicated by local residents' continued opposition to the scheme, which they conveyed to Councillor X as former Chairman of the Planning Committee, and the letter which Councillor X had written to Mr Green in July 1995 which residents took as giving them a right of veto over the details of the landscaping scheme.
33. The Director of Planning says that in his view it was perfectly reasonable to consult closely with local residents over the landscaping details of the development, particularly in view of the considerable opposition to the grant of planning permission. He says that, while officers were at pains to ensure that residents were happy with what was being proposed by the developers, he does not think that residents had the right of veto over the scheme. He says that the Council has always been clear that final approval of the landscaping scheme could only come from the Council. He accepts, however, that the reason why Condition 15 has not been discharged is because of local residents' unhappiness with all of the schemes so far put forward.

34. The Council's arboriculturalist, who has since left the Council, says that officers were pressurised by local residents on a daily basis to ensure that any landscaping scheme which was accepted met with their approval. He says that this vociferous group of residents, led by Mr Green, was also putting considerable personal pressure on Councillor X to prevent the scheme being approved in the form which the developers were presenting. The arboriculturalist says that he suggested to the developers that it would be helpful to submit with their revised drawings an elevational drawing demonstrating tree sizes at planting: to assist the process, his own assistant drew up such an impression which the developer submitted without change.
35. In its comments on the complaint in response to my enquiries, the Council says that its officers have sought to resolve the situation through negotiation rather than through conflict. The Council adds that if Condition 15 itself was thought to be unreasonable, the developers should have lodged an appeal against its imposition. (Mr Griffin says they have no objection in principle to Condition 15 itself). The Council says that, as it has never taken any action to stop the works on site, it is wrong for Mr Griffin to claim that the delay in resolving the problems with Condition 15 has caused work to cease.

Events Since September 1997

36. A further meeting was held between Officer A and Mr Griffin in September 1997 at which further landscaping details were discussed. On 17 and 22 September Mr Griffin wrote to the Council with further drawings for consideration. Between 22 October and 1 December Mr Griffin telephoned Officer A's office on ten occasions to speak to him about the revised drawings. Officer A was not available at any time and did not return Mr Griffin's calls.
37. The Council's records show that Officer A submitted the further drawings to Mr Green for his consideration. On 27 October Mr Green replied:-
- "What is presented here is...merely an adjustment to the previous landscaping scheme.....We therefore find it unacceptable."
38. On 19 November Officer A wrote to Mr Green in detail about the objections he had made to the latest scheme. He concluded:-

"I believe that a reasonable landscaping scheme has now been produced."

39. On 28 November Officer A wrote to Mr Griffin. He confirmed his understanding that Mr Griffin had not as yet formally submitted the latest drawings for approval, but was asking rather whether they would be approved if they were formally submitted. Officer A concluded that once he had received Mr Griffin's formal application for acceptance of the drawings, he could issue a letter confirming that the requirements of Condition 15 had been met.
40. Mr Griffin replied to Officer A on 15 December. He advised Officer A to look again at his own (Officer A's) letters of 4 October and 1 November 1996 requiring submission of details of tree sizes, species and location. He concluded:-

"As you are quite aware, those details were submitted to you over 13 months ago in November 1996 following recommendations from your own officers and completely in accordance with their wishes."

Officer A says that as he has not received an application for agreement of Condition 15 from Mr Griffin based on the most recent drawings, he cannot confirm Condition 15 has been met.

41. Mr Griffin says that work has now recommenced on site because it has become marginally more in the developers' favour, after this length of time, to risk paying compensation in respect of completion clauses than to continue paying the interest costs on an idle site. He says that, in his view, the costs to his client of the Council's delay in agreeing that Condition 15 has been fulfilled amount to £220,000. He says that £108,000 had to be paid to have the groundworks completed when the original contractors left the site because of the delays caused by neighbours preventing their access to the site (paragraph 27); £24,817 was paid after November 1996 in additional professional fees to the architect, to planning consultants, to the site agents and in getting Counsel's advice on the fulfilment of the planning condition; £78,657 was paid solely in bank interest charges on the site during the period 14 February 1997 to 13 October 1997. He says that in his view

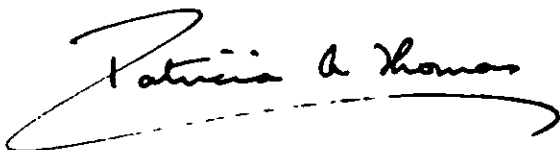
the Council should also pay the £17,895.00 which the original contractors are claiming from the developer for their inability to complete their contract because of their difficulties in gaining access to the site.

Conclusion

42. The two key questions in determining the outcome of this complaint are firstly, whether the terms of Condition 15 have been met, and secondly, if they have been met, when did that happen?
43. All the items which the Council had specified should be included in the landscaping scheme were submitted by the developer on revised drawings to the Council. The developer had not only agreed to obtain trees of the varieties and sizes specified by the Council, from the supplier specified by the Council, but had even resubmitted the elevational drawings put to him by the Council's officers in an effort to ensure that the revised scheme could be approved. Officer A, the planning officer handling the details of the case, accepts that Condition 15 was met in November 1996. I therefore see no reason to dispute the complainant's view that Condition 15 was effectively met and furthermore was met as long ago as 13 November 1996.
44. Why was no agreement issued by the Council that Condition 15 was fulfilled in November 1996? The answer given by both Officer A and by the Director of Planning is that local residents were unhappy with the details. It seems perfectly clear to me that, contrary to what the Council says, residents were in effect given the right to approve or reject the plans submitted by the developer, in other words a veto, despite the denials that that was so.
45. I acknowledge the Council's efforts, particularly in the case of such a contentious application, to take residents' wishes into consideration. In principle that is to be applauded. Nevertheless, the Council had a duty to take its own decisions on the agreement of the conditions attached to the planning permission, which it has singularly failed to do. Eighteen months after the submission of the details which the Council had requested to fulfill the terms of Condition 15 - and which its officers acknowledge were submitted as requested - it still has not formally issued a statement agreeing that the requirements of Condition 15 have been met. I regard that failure as maladministration.
46. I am concerned by the way in which the Council has suggested that the developers should have appealed against Condition 15 if they thought it unreasonable, and also

that it threatened to serve a breach of condition notice which it had no intention of serving. The developers however did not consider Condition 15 to be unreasonable: their argument is that the terms of Condition 15 have long since been satisfied. Had the Council served a breach of condition notice, the developers would have had the opportunity to argue that point on appeal. The developers however could have appealed against the failure of the Council to determine the matter. They chose not to do so because of the advice they had received that such an appeal was likely to be time consuming and unsuccessful, given the terms of the Council's letter of 4 October that Condition 15 was satisfied and that they themselves had no objection in principle to Condition 15, which they believed to be a standard condition.

47. The consequence of the maladministration for the developers has been considerable financial loss. The Council should now compensate the developers by a payment sufficient to cover their abortive costs directly consequent on the Council's failure to discharge the condition in November 1996. I have identified those costs as the professional fees paid (£24,817) and the bank interest charges while the site was idle (£78,657): the Council should therefore now make a payment to the complainant of £103,464. The Council should also now promptly confirm approval of the details submitted as satisfying the terms of Condition 15.



Mrs P A Thomas
Local Government Ombudsman
Beverley House
17 Shipton Road
York
YO30 5FZ

16 December 1998

Re: Warwick Gdns & St Mary Abbot's Place 9603 22/12/1998
Telephone to Derek Taylor, Planning

1/ Eaves:

A proposed amendment has been indicated cutting back both sides of the southern gable to the east elevation. This would not leave a rogue barge board overhanging the public highway and visible from the west as had been suggested on site. The feeling is that it will be acceptable from a planning point of view although not yet with the benefit of south or west elevations to show the full effect. The submission is not formal for consultation, but I shall be able to inspect but not photocopy it tomorrow.

2/ Garden wall heights:

He indicated that any excess height above planning approval drawings was "inches" at the most. The reduction in height by 13 courses (0.975m or 3'-3") must bring it well below the approved height which is to be complied with in accordance with Condition 6 of the consent.

3/ As a result, checking the file, I have found:

Consent was granted on the understanding that being "carried out exactly and only in accordance with the drawings..." to render the proposals acceptable and safeguard amenities of the area including to "avoid any overlooking from the ground floor of the property". Heights of garden walls required to comply with the condition can be taken variously as:-

- As measured by the planning officer report (4.40) 2.5m either in height above surrounding finishes OR, as implied, above ground floor finish level;

- From the only "datum" shown on garden elevation approval drawings, that is one course (0.075m or 3") below the top of the rear wall of the garage in the garden of 15 Warwick Gardens;

- In relation to the new building shown on the planning application drawings:

either: 3.65m below top of parapet as measured off both west and south elevations IF the top of parapet is as built,

or: 0.35m above window head height or 2.35m above ground floor level as shown on the appropriate west elevation.

These figures $3.65 + 2.35 = 6.00$ metres as on the Section A-A attached to the Award.

The height of the patio paving is not consistently shown in relation to other fixed heights, but shown variously as being from 0.35m (almost 14") below to level with internal floor finish.

4/ Conclusion:

The most consistent height now measured is 2.35m above ground floor finish level. The Planning Officer Report may have allowed the external paving to be the usual 0.15m (6") below internal floor level making the 2.5m quoted, although the Report reads as if the 2.5m is above internal floor level.

The Awards specify 2.4m height which, above finished floor level, approximates to drawings and planning consent. Had the Building Owners not wished to build to this height necessary to comply with the planning consent, then Adjoining Owners could have served counter notices to implement the balance of the height allowed by the planning consent,

Adrian Betham

Copies to: Mr & Mrs A Fergusson (15), Mr & Mrs P Mullins (11),
D Taylor, RBK&C

*SITE VISIT 23/12/98 - BUILDERS PROPOSE TOP OF GARDEN WALL
1.65m ABOVE FFL (2.35 SCALE DRAWING) + 2.00 ABOVE EXTERNAL
PAVING.*

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

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Mr.: D. Taylor

22 December 1998

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Development at 4 St. Mary Abbot's Place, W.8

I write with reference to your letter and enclosure dated 5th October 1998, proposing an amendment to the detail of the rear elevation of the above development as approved under Planning Permission ref. TP/94/0644. The proposed amendment, depicted on the un-numbered part West elevation at 1:50 appended to your letter, involves the deletion of two rear first floor windows, and the introduction of fan light details effectively forming upwards extensions to the rear ground floor French doors. I apologise for the delay in this reply.

Whilst such features would not normally be considered appropriate on the relatively simple Georgian and Victorian rear elevations that predominate in the locality, the development in question is new build and unique in its architecture and I consider that in this case the proposed can be treated as an acceptable amendment to the approved development. Given that the glass inserts would be coloured/opaque, I do not consider that there are any new implications for the privacy of neighbouring properties.

I draw your attention to Condition 12 of the Planning Permission, which required submission of samples of the majority of the facing materials for the elevations, as numbered on the drawings thereby approved. As these fanlights were not on those drawings clearly they have no number, however in the spirit of that Condition I would ask you to submit samples of the proposed fanlight glazing for written confirmation by this authority.

Subject to the samples, I approve the introduction of these fanlights to the rear elevation pursuant to Condition 6 attached to the Planning Permission.

I apologise again for the delay in this reply.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

R

① PC + LB

② DT

John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C615/JCP
Your reference: DPF/DCC/TP/94/0644

✓ U10
1-10

5th October 1998

M.J. French, Esq.,
Executive Director, Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

PLANNING SERVICES
C
- 7 OCT 1998
C
REG. ARD. PL. D. CON. FEES
DES. DES.

For the attention of D. Taylor, Esq.

Dear Sir,

Development at 4 St. Mary Abbot's Place, W8

I refer to your letter of 22nd September in relation to the part west elevation treatment of this development. Further thought has been given to this matter and I am now able to enclose a scheme which effectively omits windows from the first floor, replacing them with a "fan light" detail incorporating the use of coloured glass inserts with opaque glazing to the main fan light.

My view is that this is potentially an excellent conclusion to a difficult storey which cannot possibly raise any sustainable or realistic objections from neighbours whilst giving the Council the comfort that first floor overlooking from the elevation of the second dwelling is indeed impossible.

I would appreciate your comments and acceptance of this plan as a minor revision to the approved details.

Yours faithfully,



John Peacock

**DEVELOPMENT AT
4 ST. MARY ABBOTS PLACE,
KENSINGTON**



**PART WEST ELEVATION
SCALE 1.50**

John Peacock Planning

Consultancy Services in Town Planning and Development

105 High Street, Needham Market, Ipswich, Suffolk IP6 8DQ

Tel: (01449) 722008 Fax/Answerphone: (01449) 722234

From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8 PH
Tel: 0171-603 7900 Fax: 4114

① PC+LB
② DT for reply

Mr Derek Taylor,
Planning & Conservation,
Town Hall,
Hornton Street W8 7NX

December 21, 1998

Dear Mr Taylor,

4 St Mary Abbot's Place W 8

I wrote to you on December 1 urgently requesting your written confirmation that my party fence wall should be built to the full height depicted in elevation Drawing 12C of February 1 1995, to which the planning consent referred; and further asking you to require the developer as soon as possible to implement the drawing in that respect.

Will you please send me that confirmation forthwith, and assure me that you are so instructing the developer? Eyton-Jones, who does not answer letters either, has sent his workers over the wall, without notice or permission, to operate again on my side; and chunks of concrete now litter a part of my garden. His party wall surveyor has so far declined my invitation to inspect the wall in company with mine, so that discussion is impossible.

May I hear from you fully and by return?

Yours sincerely,

Adam Fergusson

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	O	SW	SE	ENF	AO ACK
				2	DEC	1998	(104)
FEES	IO	REC	ARB	FWD PLN	CON DES	FEES	

LM
24-12

From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8 PH

① PC + LR

② DT

✓
12-12
2-12

RECEIVED 1998 Fax: 4114
PLANNING SERVICES
DEC 2 1998 (53)
December 1, 1998

DIR	HDC	N	Q	SW	SE	ENF	AD ACK
TRANS	IO	REC	ARB	FWD PLN	CON DES	FRES	

Mr Derek Taylor,
Planning & Conservation,
Town Hall,
Hornton Street W8 7N

Dear Mr Taylor,

4 St Mary Abbot's Place W 8

This is to inform you that at 8 a.m on Saturday morning, November 28, and in the absence of my wife and myself, the builders on this site demolished 13 courses of the party fence wall between us. That was done without notice, and in spite of my having warned the site manager two days before that the party wall was at the height stipulated in the planning consent and that, being my property, it could not now be legitimately reduced without my agreement. The site manager knew that my party wall surveyor intended to inspect the wall yesterday (November 30), and gave me his assurance that in any case nothing would be done to the wall before today's date.

I should be grateful if you would confirm to me in writing what you have said on site and and the telephone, that my party fence wall should be built to the full height depicted in elevation Drawing 12C of February 1 1995, to which the planning consent referred. And I request you to require the developer as soon as possible to implement the drawing in that respect.

Part of our garden has now been inside the building site for more than two years. We have been blighted by the development, as you know, for more than four. Until the wall is completed, and we know what trees are to be installed on the far side of it, we can make no plans for the restoration of our garden. I enclose for your information my letter to the Local Government Ombudsman urging him to speed up a favourable decision. At that point I hope, with other adjoining owners, to be able to resume consultations with your department about what will constitute an adequate tree screen. With the building nearly finished, our need for it is even more evident than we feared.

There are other outstanding problems between us and the developer. Now that the scaffolding and hoarding have come down, we find that the reinforced concrete base of the party wall protrudes some distance into our garden in contravention of the party wall agreement. At the front of the house, an eave and gutter have been built overhanging our property without our consent. We would hope to have the Council's support in having these further intrusions quickly put right.

Your sincerely,

Adam Fergusson.

DPC x LB
@DT

BETHAM ASSOCIATES, ARCHITECTS 105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

✓
CY
3-12

Our ref: 9603
Your ref: DPS/DCC/TP/94/0645

30th November 1998

Attention Mr D Taylor
Planning and Conservation
Kensington & Chelsea
Town Hall
Horton Street
London W8 7NX

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	✓	SW	SE	ENF	AD LACK
- 3 DEC 1998							81
APPS	IO	REC	ARB	FWD FLN	CON DES	FEES	

Dear Sirs

Re: St Mary Abbots Place, London W8

Thank you for your letter of 16th November 1998. While writing can I please ask you to send me by post or facsimile a copy of the Certificate B you refer to as signed by the applicants to the effect that they had notified all owners of land to which the application related?

Moving on, officers, members and consultees dealing with the application were all of course entitled to rely on the Certificate which you say was wrongly signed. Adjoining Owners notified will may not be as skilled at interpreting drawings as officers who presumably also missed the error. Furthermore the adjoining owner will have looked at the rear West Elevation which fails to illustrate the projecting eaves from where it can be seen. Lastly, adjoining owners will have checked the boundary by way of the ground floor plan which fails to illustrate the projection above.

The fact that owners had not been notified as implied by the applicants' Certificate and had, together with the Planning Authority, been misled only became apparent in your letter of 16th November. The timetable for judicial review or reference to the ombudsman would start now.

Drawings referred to in the Party Wall Award comprise only a vertical section through the parapet wall detail and an extract of the Ground Floor Plan: neither indicates any projecting eaves or roof. It may be unfortunate that the copy of planning approval drawings which were sent to me at my request were printed so as to omit the projection even on the front East Elevation drawing (extract of copy as received enclosed). The West Elevation as I have said omits any projection seen from the rear.

You were kind enough to agree to let me see a copy of the proposed amendment submitted together with an indication of the Council's own response. It is of course important that this amendment proposed to correct errors in the original application is properly available for consultation in accordance with the Council's policies: I recall in another case as applicants' agent I myself had to wait the full consultation period for decision on an amendment proposed. We have also spoken of the need for any amendment to include visible elements to be shown on all elevations.

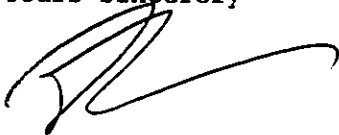
While writing of the rear and side West and South Elevations, these do show the height of the garden walls in relation to the constant fixed height of the garage in No.15 Warwick Gardens. The Officer Report recommending approval (4.40) relied on a minimum height of 2.5 metres to avoid any overlooking from the ground floor. The approval was conditional (No.6) upon being "carried out exactly and only in accordance with the drawings...".

I understand that you have inspected the garden wall as built to No.15 Warwick Gardens and agreed that it was of the height (subject to a brick-on-edge coping) required to meet this condition.

Unfortunately, and without Notice being given, the top of this wall was demolished over the weekend so as to reduce the height by a further 13 courses, 0.975 metres or over 3 feet. The Adjoining Owners obviously look to your authority to enforce compliance with the condition in this respect along the garden walls to all of the Warwick Gardens houses.

Can you please confirm that this will be done?

Yours sincerely



ADRIAN BETHAM
Betham Associates, Architects

R

Copies to:-

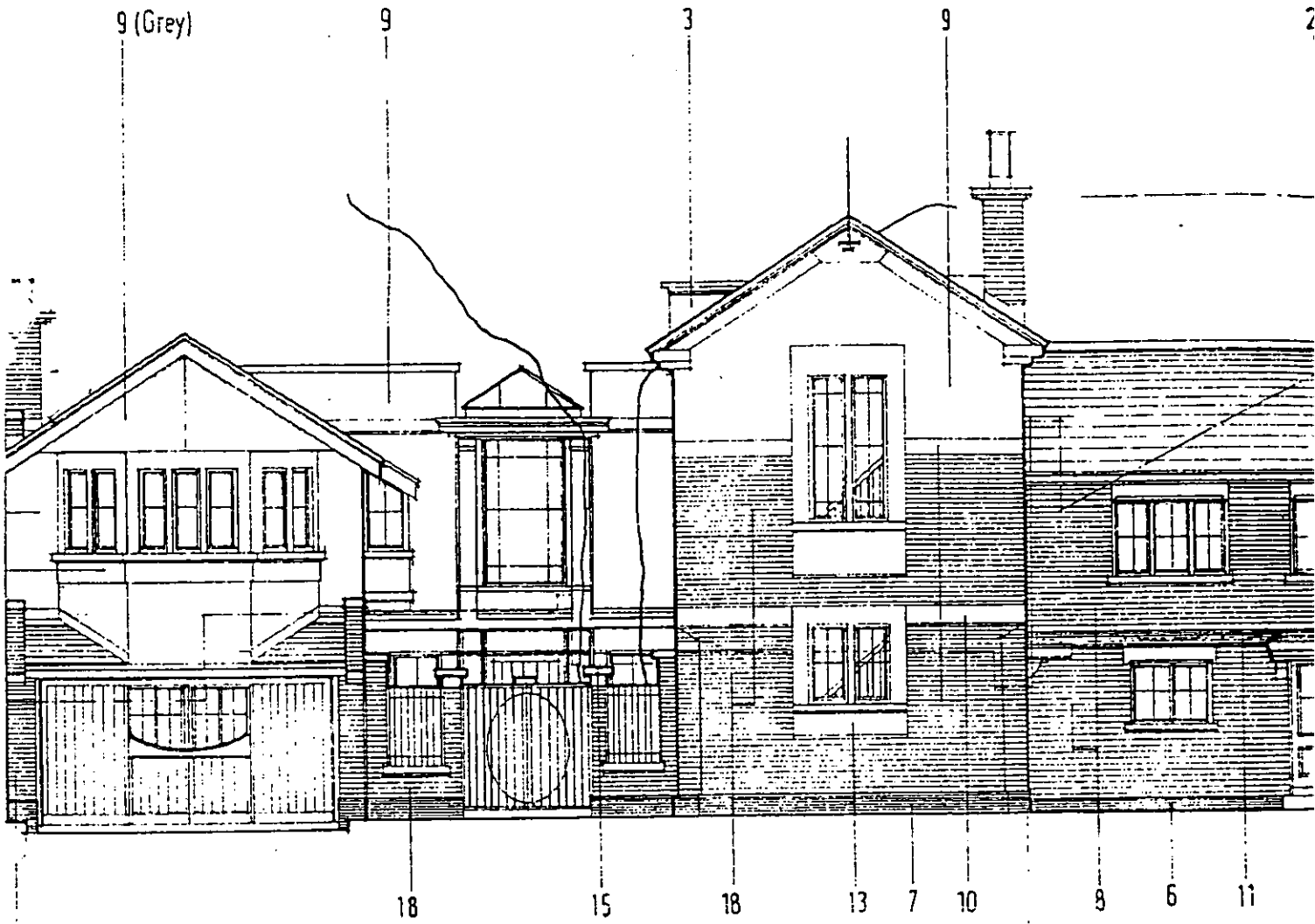
Mr & Mrs A Fergusson

Mr & Mrs P Mullins

R.B.K. & C.
TOWN PLANNING

- 3 DEC 1998

RECEIVED



St Mary Abbots Place.

Existing garages to be demolished

Nº 4

Existing building to be demolished

SEE DWG Nº L/---100 FOR KEY TO MATERIALS

From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8 PH
Tel: 0171-603 7900 Fax: 4114

Mr Christopher Cobley
Office of the Local Government Ombudsman,
Beverley House,
17 Shipton Road, YO 30 5FZ

December 1, 1998

Reference 97/C/2707

Dear Mr Cobley,

Development at 4 St Mary Abbot's Place W 8

My garden has now been forcibly part of the building site of this development for more than two years. A principal reason for the long period of distress caused to me and my neighbours is the developer's refusal to provide the landscaping scheme - notably an adequate screen of trees to protect our privacy - which the council stipulated when planning consent was given, and which is the subject of an investigation by you.

This continuing delay has added significantly to our unhappiness. I enclose a copy of a letter I wrote to Kensington Council when your inquiry started, and which I hope was duly forwarded to you. The developer, who has constantly tried to alter the configuration of his property, inside and out, has given his builder no instructions or plans whatever about the open spaces on his property. My party fence wall which was at last built up to the planning-consent height several weeks ago was partly demolished again two days ago, without my agreement and without notice - and we are a building site once more. No end of the disturbance seems to be in prospect.

I am therefore writing to urge you to complete your report without delay, and to insist that the wishes of the Planning Committee who gave the consent are fully respected. I would remind you once more that the developer (Mr Eyton-Jones), before building began, was fully aware of the Council's contingent condition of a tree screen as part of the planning consent. The firm from whom he purchased the site with planning permission no doubt deliberately kept him ignorant of that supplementary condition before he completed his purchase. However, that means only that he may have a quarrel with that firm - not, I would suppose, with the Council. (I am sure you will have taken evidence from the firm in question).

It is hard to know who is to blame for what is happening to us. The Council could scarcely have given us clearer assurances about preserving our privacy by sympathetic landscaping. Its Planning Department told us two-and-a-half years ago that the omission of the detail from the official consent was normal procedure - but we nonetheless made sure that, first, the original applicant and, second, the present developer were fully informed about what was required. If, therefore, your investigation should find that the Council were at fault in respect of the appellant, it would follow that it has been even more at fault in its dealing with me and other adjoining owners. Of course, that would be for a further investigation.

ends

4 St. Mary Abbot's Place

End wall to 15 Warwick Gardens

According to approved drawings 10D and 12C;

- The wall should be 2.5 m from courtyard FFL to top of coping stone
- The wall should be level with top of window headstone, 100mm below the top of the keystone
- 15/20cm below the height of the garage to 15 Warwick Gardens



From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8 PH

TELEPHONE 01753 7900 - Fax: 4114
PLANNING SERVICES

DB	MDC	N	SW	SE	ENF	AO ACK
DEC 1 1998						(S3)
7NX248	ID	REQ	ARO	FWD PLN	CON ORS	PREP

4/PC+UB
4 DT

(DT)

Mr Derek Taylor,
Planning & Conservation,
Town Hall,
Hornton Street W8

December 1, 1998

Dear Mr Taylor,

✓ CM 12
3-12

4 St Mary Abbot's Place W 8

This is to inform you that at 8 a.m on Saturday morning, November 28, and in the absence of my wife and myself, the builders on this site demolished 13 courses of the party fence wall between us. That was done without notice, and in spite of my having warned the site manager two days before that the party wall was at the height stipulated in the planning consent and that, being my property, it could not now be legitimately reduced without my agreement. The site manager knew that my party wall surveyor intended to inspect the wall yesterday (November 30), and gave me his assurance that in any case nothing would be done to the wall before today's date.

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Part of our garden has now been inside the building site for more than two years. We have been blighted by the development, as you know, for more than four. Until the wall is completed, and we know what trees are to be installed on the far side of it, we can make no plans for the restoration of our garden. I enclose for your information my letter to the Local Government Ombudsman urging him to speed up a favourable decision. At that point I hope, with other adjoining owners, to be able to resume consultations with your department about what will constitute an adequate tree screen. With the building nearly finished, our need for it is even more evident than we feared.

There are other outstanding problems between us and the developer. Now that the scaffolding and hoarding have come down, we find that the reinforced concrete base of the party wall protrudes some distance into our garden in contravention of the party wall agreement. At the front of the house, an eave and gutter have been built overhanging our property without our consent. We would hope to have the Council's support in having these further intrusions quickly put right.

Your sincerely,

Adam Fergusson.

From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8 PH
Tel: 0171-603 7900 Fax: 4114

Mr Christopher Cobley
Office of the Local Government Ombudsman,
Beverley House,
17 Shipton Road, YO 30 5FZ

December 1, 1998

Reference 97/C/2707

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I am therefore writing to urge you to complete your report without delay, and to insist that the wishes of the Planning Committee who gave the consent are fully respected. I would remind you once more that the developer (Mr Eyton-Jones), before building began, was fully aware of the Council's contingent condition of a tree screen as part of the planning consent. The firm from whom he purchased the site with planning permission no doubt deliberately kept him ignorant of that supplementary condition before he completed his purchase. However, that means only that he may have a quarrel with that firm - not, I would suppose, with the Council. (I am sure you will have taken evidence from the firm in question).

It is hard to know who is to blame for what is happening to us. The Council could scarcely have given us clearer assurances about preserving our privacy by sympathetic landscaping. Its Planning Department told us two-and-a-half years ago that the omission of the detail from the official consent was normal procedure - but we nonetheless made sure that, first, the original applicant and, second, the present developer were fully informed about what was required. If, therefore, your investigation should find that the Council were at fault in respect of the appellant, it would follow that it has been even more at fault in its dealing with me and other adjoining owners. Of course, that would be for a further investigation.

(end)

JOHN PEECOCK PLANNING

① PC & LB
② DIB

84 High Street, Needham Market, Ipswich, Suffolk IP6 8AW
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
email: John@jpp.keme.co.uk

Our ref C/541/JCP/SB
Your ref TP/94/0644

30th November 1998

Michael J. French Esq.
Executive Director of Planning and Conservation
The Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
London
W8 7NX

✓ 04
3-12

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
						3 DE 1998	23
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES	

For the attention of Mr. D. Taylor

Dear Sir

4 St. Mary Abbot's Place, London W8

I am instructed to inform you that pending resolution of a number of outstanding issues relating to the above development - including landscaping and fenestration - my clients are imposing a temporary shut-down of work on the site. This will involve securing the building as existing, including some works which appear to have excited neighbours.

This is the second temporary shut-down having to be implemented by my client pending resolution of details due entirely to the tardiness of the Council in responding to minor and simple requests. For information, a copy of this letter is being sent to the Local Government Ombudsman.

Yours faithfully

John Peacock

John Peacock

Consultancy Services in Town Planning and Development

John Peacock, Dipl. EP, MRTPI (Chartered Town Planner)

VAT No: 571 4444 43

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adrian Betham
Betham Associates
105-111 Euston Street
London
NW1 2EW

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361-2057
Facsimile: 0171-361-3463
Email: plndmt@rbkc.gov.uk
Mr.: D. Taylor

16 November 1998

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0645

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place and 15 Warwick Gardens, W8

I refer to your letter dated 20th October 1998, and apologise for the delay in this reply. Your letter concerns the projecting eave belonging to the new house at 4 St. Mary Abbots Place, that projects over your clients garage at the rear of no.15 Warwick Gardens.

The eave appears clearly on approved drawing no.9D, the elevation to St. Mary Abbots Place. I enclose a copy of this. As such, there can be no question that this is a detail that did form part of the approved design.

The planning application form dated 31st March 1998, was accompanied not by a signed Certificate A, but by Certificate B. As you are aware, this is a statement that the applicant had given the "requisite notice to all persons who, 20 days before the date of the accompanying application, were owners of any part of the land to which the application relates". If they did not notify your client, this was presumably because they did not consider that your client owned any part of the land to which the application related. As the eave does project over your clients land, they were probably wrong in coming to that conclusion. In any event, to my mind the matter should have been picked up in relation to the Party Wall discussions that took place on behalf of your client; furthermore, the overhanging eave was clearly shown on the planning submissions which were separately drawn to your clients attention by means of notification by the planning authority.

If you had believed that the set procedures had not been correctly followed, then the proper course would have been to seek to judicially review the decision, within 6 months of the granting of planning permission. However, I have discussed this point with the Borough Solicitor, who is of the opinion that as the Council had anyway notified your client of the application, there would have been no practical implication to your client of the failure of the then applicants to do so, and such an application to the courts would in all likelihood have been unsuccessful in consequence. _

I advise that the only practical option for your client would be to negotiate directly with the present owners of the new property, to seek to agree on a suitable modification to the eave.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Derek Taylor', with a long horizontal flourish extending to the right.

Derek Taylor
Area Team Leader
for
Executive Director, Planning & Conservation

BETHAM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

① PC ② DT for reply

Our ref: 9603:15
Your ref: DPS/PV/TP/94/0644/G/18/2195

✓ JJ 23-10

Derek Taylor
Planning Department
Kensington & Chelsea Town Hall
Hornton Street
London W 8 7NX

20th October 1998

RECEIVED BY PLANNING SERVICES							
EX	HDC	N	S	SW	SE	ENF	AO
DIR							LACK
23 OCT 1998						(25)	
APPL	REV	REC	APPR	PLN	CON	FEES	
				FLN	DES		

Dear Mr Taylor

Re: 15 Warwick Gardens & 4 St Mary Abbot's Place, London W8

I understand that you have visited site and seen that an element of the roof fronting St Mary Abbots Place extends over my appointing owners' land at 15 Warwick Gardens and is, indeed, visible from his house to the west. I understand that no notice had been received and that no right or easement exists to allow this intrusion.

On the copies I have of the planning approval drawings the element only appears on the roof plan which does not show boundaries. It does not appear on the lower plans or on the west elevation from where it can be seen. It may have been shown on the original east elevation, but not on the copy passed to me by the Building Owners' surveyor.

I am left to conclude that either the element is not covered by the planning approval or, alternatively, that approval was granted to an application to which one of the Certificates under Section 66 of the Act had been misleadingly issued. Certificate A cannot apply where another was owner of part of the land to which the application related. Certificates B or C cannot apply as the other owner was not notified. Certificate D cannot apply.

Consent was approved for a scheme which cannot be "carried out exactly and only in accordance with the drawings" as required by condition by virtue of a matter where the application drawings and Certificates may have been misleading.

Can you please let me know the Council's position and intention?

Yours sincerely

ADRIAN BETHAM
Betham Associates, Architects

R

PS: While writing, I am pleased to learn that a reason for your visit was to ensure that the garden walls are to built adequately high, ie to at least the 2.5m taken in the officer report to avoid any overlooking from the ground floor of the development.

AJB

Copy to Mr & Mrs Fergusson
15 Warwick Gardens,
London W14 8PH

BETHAM ASSOCIATES, ARCHITECTS

① PC

② DT

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

Our ref: 9603:11&15
Your ref: DPS/PV/TP/94/0644/G/18/2195

14th October 1998

Derek Taylor
Planning Department
Kensington & Chelsea Town Hall
Hornton Street
London W 8 7NX

✓ 01-10
15-10

RECEIVED BY PLANNING SERVICES							
EX	HDC	N	9	SW	SE	ENF	AO
DIB							ACK
76				15 OCT 1998			
APPEALS	IO	REC	ARB	FWD	CON	FEE	
				PLN	DCS		

Dear Mr Taylor

Re: 4 St Mary Abbot's Place, London W8

I note from my files that I have received from you a reply to the second of my two letters dated 26th June 1998 but no other acknowledgement to the first.

This I take to have signified your agreement to my understanding of the situation set out in my letter (further copy attached) as we had previously discussed.

Yours sincerely



ADRIAN BETHAM
Betham Associates, Architects

Encl

Copy

Our ref: 9603:11 & 15

Your ref: DPS/PV/TP/94/0644/G/18/2195

26th June 1998

Attention Derek Taylor
Planning Department
Kensington & Chelsea Town Hall
Hornton Street
LONDON W8 7NX

Dear Mr Taylor

Re: 11 & 15 Warwick Gardens W14 8PH & St Mary Abbot's Place, London W8 6LS

Further to our telephone conversation this week, I understand that the developer is resisting the requirement under Condition 6 that the development "shall be carried exactly and only in accordance with the drawings..." with regard, in particular, to:-

- (1) height of the rear boundary wall. The officer report to committee indicated that the wall "would be 2.5m in height and will avoid any overlooking from the ground floor of the property". The approval drawings 10d and 12d indicate that it would be approximately to the height of the existing garage on the boundary to the south.
- (2) change to a single house, contrary to "erection of two semi-detached single family dwelling houses..." specified in the Approval Schedule and shown on the approval drawings.

I also understand that neighbours will be addressing your tree officer about the large London Plane tree in the centre of the site which has apparently failed to come properly into leaf despite being "in fine condition" at commencement of the works and being protected by consent conditions.

The boundary walls are as I believe you know Party Walls, so that works could be completed by those who are in current terms the "adjoining owners". My understanding is that raising the boundary walls to the heights indicated above would be covered by the existing consent which, as it has been implemented, may now be completed at any time and by others than the original applicant.

Can you please confirm that this understanding is correct?

Yours sincerely

ADRIAN BETHAM
Betham Associates, Architects

R

Copies to:

Mr and Mrs P Mullins
Mr and Mrs A Fergusson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQ

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

22nd September 1998

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbot's Place, W.8

I write with reference to your letter and enclosures dated (incorrectly?) 28th July 1998, received by this department on 14th August, and to our telephone conversation of 15th September 1998. Your letter responded to mine of 6th August. I apologise for not replying earlier, however I was away on leave in August and returned to work on 2nd September.

Whilst in my letter of 6th August I did not accept the amendments depicted on drawing no. 1044/123/A, you have now pointed out that, in addition to the deeper window dimensions shown on that drawing, a further elevational alteration is proposed in that a third rooflight has been added at the centre of the building. This has been indicated in a further version of the drawing, no. 123/B. I note that this rooflight has already been inserted within the roof, without the consent of this authority. Nevertheless, I do not consider that this rooflight presents any implications or considerations other than those already pertinent to the design of the property, and I accept the rooflight as shown on drawing 123/B as a non-material amendment to the approved scheme.

I have noted your comments relating to the hierarchy of the windows on the rear elevation. I still consider that the larger, deepened windows are inappropriate here and harmful to the elevation, so on this point we must disagree.

Design aside, amenity concerns remain. I am unconvinced by your offer to introduce a void behind these windows, using a planning Obligation, as it offers little security from overlooking in the long term. I do not see any lack of consistency between this concern and my suggestion that obscured glazing could be included on the other windows of the rear elevation and secured by a Unilateral Undertaking; whilst both situations offer little security after five years, the essential difference between them is that the latter suggestion was made in an attempt to break the apparent deadlock over the landscaping Condition and safeguarding of privacy, as it could have led to a much reduced landscaping scheme for your clients. The two situations are different, as in the case of the latest proposed amendment I do not see that there is such an impasse to break.

The drawings accompanying the present appeal still show the windows in their smaller form, as originally approved. It might be that, with this Council's agreement, the Inspector would allow them to be replaced by drawings showing the deepened windows and thus considered under the appeal. If that

were to be the case then I would need your agreement to a slight delay in producing the Council's Statement to allow the statement to reflect the concerns relating to these windows.

Yours faithfully,

Derek Taylor
Area Planning Officer
for
Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQ

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463

22nd September 1998

My reference: DPS/DCC/TP/94/ Your reference:
0644

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I have noted your comments relating to the hierarchy of the windows on the rear elevation. I still consider that the larger, deepened windows are inappropriate here and harmful to the elevation, so on this point we must disagree.

Design aside, amenity concerns remain. I am unconvinced by your offer to introduce a void behind these windows, using a planning Obligation, as it offers little security from overlooking in the long term. I do not see any lack of consistency between this concern and my suggestion that obscured glazing could be included on the other windows of the rear elevation and secured by a Unilateral Undertaking; whilst both situations offer little security after five years, the essential difference between them is that the latter suggestion was made in an attempt to break the apparent deadlock over the landscaping Condition and safeguarding of privacy, as it could have led to a much reduced landscaping scheme for your clients. The two situations are different, as in the case of the latest proposed amendment I do not see that there is such an impasse to break.

The drawings accompanying the present appeal still show the windows in their smaller form, as originally approved. It might be that, with this Council's agreement, the Inspector would allow them to be replaced by drawings showing the deepened windows and thus considered under the appeal. If that

R

were to be the case then I would need your agreement to a slight delay in producing the Council's Statement to allow the statement to reflect the concerns relating to these windows.

Yours faithfully,



Derek Taylor
Area Planning Officer
for
Executive Director, Planning & Conservation

① PC ② DT

John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

28th July 1998

M.J. French, Esq.,
Executive Director, Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London. W8 7NX

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO LACK
14 Aug 1998 (37)							
APPEL	IO	REL	ARB	PWD	COM	FEES	
				PLN	DEB		

Dear Sir,

Development at 4 St. Mary Abbots Place, W8

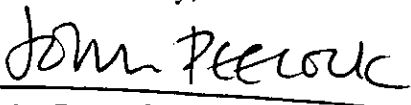
I refer to and thank you for your letter of 6th August in connection with the above, and note your acceptance of various minor amendments to the development apart from drawing 123A. In respect of that drawing, whilst I note your comments concerning the proposed revision to the two windows on the north end of the elevation, the plan also included the omission of a small chimney over the central staircase area which I trust you will be able to agree with as a separate matter but on that plan? There is in fact one further minor revision in relation to the west elevation which involves the insertion of a third roof light as indicated on the enclosed plan, again marked with a red asterisk. (Drawing No. 1044 -123/B)

My clients are naturally disappointed that you felt unable to accept the revised window detail on the west elevation (north end). I have to say that I do not concur with your comments concerning the "hierarchy of windows" being disrupted by the proposed change. I find the aesthetics of the proposal more comfortable on the eye and I would ask again that you reconsider your position bearing in mind the following points.

The lower third portion of the windows would be "blanked off" inside as part of a special interior design feature. This would barely be evident from outside. Secondly, I repeat that my clients would be prepared, and indeed I am instructed, to draft a Unilateral Obligation to ensure the maintenance of the void as previously described. I have to say that I find it rather difficult to understand your reticence in accepting it for this point but recommending it in relation to the possibility of obscure glazing being applied to rear windows? It is a serious offer by my client to overcome any reservations that you may have on this point.

Together with the interior feature described above, as well as the void, then I suggest that it would be virtually impossible for any interested person to secure a view into adjacent properties, especially as the existence of a large tree already obscures the outlook. Your further comments and hopefully acceptance of these proposed window revisions as described, subject of course to receipt by the Council of my client's Unilateral Obligation, would be very much appreciated as soon as possible.

Yours faithfully,


John Peacock

Handwritten initials and scribbles, possibly 'R' and '14/8/98'.



PART
WEST ELEVATION

B.B.K.&C.
TOWN PLANNING
14 AUG 1998
RECEIVED

- Patrick Allen RIBA -
11 Truman Close Ipswich IP1 6SY
Tel & Fax 01473 745728
Mobile 0850 911054

PROPOSED RESIDENTIAL UNIT
ST. MARY ABBOTS PLACE, KENSINGTON
for
EYTON DEVELOPMENTS (IPSWICH) LTD

Scheme Design Feb 98 1:50

Dwg no. 1044 - 123/B

4 St. Mary A. Pl

Phone call 15/9/98 - John Peacock
— If we don't like the proposal for the
dropped window cills, would we accept
the deeper windows if they had white
opaque glass in their upper section?
This could avoid overlooking and yet
could be an interesting feature from
without and within?

- ① Check Plans
- ② Check with Helena?
- ③ Check outstanding letters
- ④ Phone John Peacock
- ⑤ Reply to letters anyway !!



15/9

Re St Mary Abbots Place. Tel from Peter Mullins 02/09/1998

Variations as built from planning approval

Patio now lower than shown, so that wall is height as Award but not as planning approval drawings.

Another bough cut from principal plane tree to be accommodated which has hardly come into leaf.

Is roof within heights of approval drawings?

3no roof windows approx 5ft x 2'-6" and lower, allowing overlooking, instead of 2no 2'-6" approx high level.

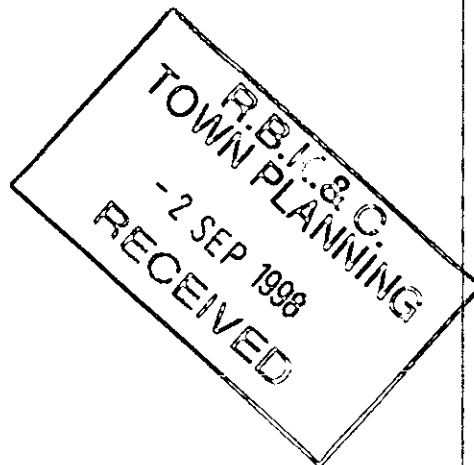
Decorative stone features omitted from rear elevation.

Built as a single house as later application and contrary to assurances at time of original approval that there would always be two separate houses.

North end rear windows wider than approval drawings.

Adrian Betham
Tel/fax 0171-387 0451

Copy attn Derek Taylor 0171-361 3463



C.C. D TAYLOR

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

H. Randell & Son Ltd
68/72 Webbs Road
London
SW11 6SE

Switchboard: 0171-361 2605
Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643

20/07/98

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

My reference: dps/arb/po98/nb

Your reference:

Please ask for: Mr Bentley

Dear Sirs,

**London Plane Tree; 4 St Mary Abbots Place, London, W8
Town and Country Planning Act 1990. TP/94/0644: Condition No 4.**

Thank you for your fax dated 17/7/98 describing pruning works required to the London Plane tree at the above site.

I confirm that removing the first two secondary branches from the northerly primary branch is acceptable.

Yours sincerely,

M.J.French
Executive Director of Planning & Conservation

ST MARY ABBOTTS PLACE
off KENSINGTON HIGH STREET
LONDON
W8 8NX
TEL/FAX NO: 0171 602 4839


RANDELL
H RANDELL & SON LIMITED
68-72 WEBBS ROAD
LONDON SW11 6SE
TELEPHONE 0171-223 5448
FACSIMILE 0171-924 3628
A JOHN PAUL
GROUP COMPANY

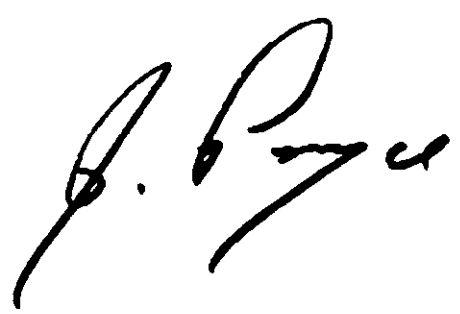
R.B.K. & C.
TOWN PLANNING
FAX TRANSMISSION
17 JUL 1998
RECEIVED

TO: NICK BENTLEY FROM: JOE PRYCE
COMPANY: TREE SECTION PHONE: 602 4839
FAX NO: 361 3463 DATE: 17 7 98
PAGES TO FOLLOW: 1
(incl. this page)

RE: CONFIRMATION OF MEETING

I CONFIRM MY CONVERSATION WITH YOUR
SELF ON SITE WEDNESDAY 15.7.98.

THAT WE REQUIRE SOME TREE SURGERY
WORK TO THE MOST NORTHERLY PRIMARY
BRANCH WE WOULD LIKE TO REMOVE THE
TWO LOWER SECONDARY BRANCHES



REGISTERED IN LONDON NO. 493473



CHARTERED
BUILDING
COMPANY.
FOUNDED 1848



D.T. For Info.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

H. Randell & Son Ltd
68/72 Webbs Road
London
SW11 6SE

Switchboard: 0171-361 2605
Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643

06/08/98

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

My reference: dps/arb/po98/nb Your reference:

Please ask for: Mr Bentley

Dear Sirs,

**London Plane Tree; 4 St Mary Abbots Place, London, W8
Town and Country Planning Act 1990. TP/94/0644: Condition No 4.**

Thank you for your fax dated 05/08/98 describing pruning works required to the London Plane tree at the above site.

I confirm that removing the first northernmost primary branch back to the trunk is permissible and that where the first north eastern primary branch divides, the northern secondary branch may be removed to the fork.

Whilst working on constructing the roof it will also be permissible to remove minor branches up to a diameter of 50mm where this is absolutely necessary.

I understand that all due care is being taken by your foreman on site in removing branches to avoid tearing below a pruning cut. However, close to completion of roofing works, it will be necessary to ensure that all branch stubs are correctly target pruned by a competent tree surgeon.

Yours sincerely,

M.J.French
Executive Director of Planning & Conservation

FAX FROM

NAME: Derech Taylor

THE DIRECTORATE OF PLANNING SERVICES

DATE: 15/7/98

MAIN TELEPHONE NUMBER: 0171 937 5464

DIRECT LINE: 0171 361 2057

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

FAX NUMBER (if different from below): _____

TO

NAME: Mr Pryce

OF: _____

ADDRESS: _____

_____ POSTAL CODE _____

FAX NUMBER: 602 4839

NUMBER OF PAGES TO FOLLOW: 1

COMMENTS AND/OR INSTRUCTIONS (if any)

St. Mary Abbot's Place

OUR FAX NUMBER IS: 071 361 3463

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQ

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463

7th July 1998

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
New residential building at 4 St. Mary Abbot's Place, W.8

Further to Condition 12 of the Planning Permission ref. TP/94/0644, I confirm that I have received slate samples for the roof of the property, for approval pursuant to that Condition.

The submitted samples are a Penrhyn "Heather Blue" natural blue-black County Grade slate, and a Ffestiniog blue-grey Capital Grade slate. Although it has not been specified, I assume that the Penryhyn has been selected for the main roof, and the Ffestiniog for the smaller building. If this is not the case, please let me know.

Subject to confirmation that the slates are to be used as above, I accept these slates pursuant to Condition 12.

Yours faithfully,

M. J. French, Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQ

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463

22nd July 1998

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
New residential building at 4 St. Mary Abbot's Place, W.8

Further to Condition 12 of the Planning Permission ref. TP/94/0644, my letter of 7th July and yours of 16th July, I confirm that the proposed Penrhyn "Heather Blue" natural blue-black County Grade slate, and a Ffestiniog blue-grey slate, are acceptable in "Capital Grade".

Yours faithfully,

M. J. French, Executive Director, Planning & Conservation

R

John Peacock Planning

Consultancy Services in Town Planning and Development

✓ CM
22-7

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

16th July 1998

M.J. French, Esq.,
Executive Director, Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICE
EX. DIR. HODGKINSON
20 JUL 1998
PLANNING SERVICE
RECEIVED BY PLANNING SERVICE
EX. DIR. HODGKINSON
20 JUL 1998
PLANNING SERVICE

PC → DT

Dear Sir,

**Town and Country Planning Act 1990 - Condition 12 of Planning
Permission TP/94/0644, relating to 4 St. Mary Abbots Place, W8**

I refer to your letter of 7th July in connection with the above matter, and in particular to the slate samples left with you for consideration and approval.

I note that both the submitted samples left with you are acceptable but I would wish to point out that both types will be **Capital Grade** and not as suggested in your letter with the Penrhyn "Heather Blue" being in County Grade. Both samples were meant to indicate the colour contrast only, not the size. Please confirm acceptance of this minor point immediately as the slates are on order.

Yours faithfully,

John Peacock

John Peacock

John Peacock, Dipl.E.P., M.R.T.P.I.,
(Chartered Town Planner)

105 High Street, Needham Market, Ipswich, Suffolk IP6 8DQ
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
VAT Reg. No. 571 4444 43

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQ

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463

7th July 1998

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
New residential building at 4 St. Mary Abbot's Place, W.8

Further to Condition 12 of the Planning Permission ref. TP/94/0644, I confirm that I have received slate samples for the roof of the property, for approval pursuant to that Condition.

The submitted samples are a Penrhyn "Heather Blue" natural blue-black County Grade slate, and a Ffestiniog blue-grey Capital Grade slate. Although it has not been specified, I assume that the Penrhyn has been selected for the main roof, and the Ffestiniog for the smaller building. If this is not the case, please let me know.

Subject to confirmation that the slates are to be used as above, I accept these slates pursuant to Condition 12.

Yours faithfully,

M. J. French, Executive Director, Planning & Conservation

R

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adrian Betham
Betham Associates
105-111 Euston Street
London NW1 2EW

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463



KENSINGTON
AND CHELSEA

01 July 1998

My reference: DPS/DCC/TP/94/ 0644/DT Your reference: 9603: 11 & 15 Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbot's Place W8


I write with reference to the second of your two letters dated 26th June 1998, concerning the matters of tree planting and the rear boundary wall of the above property.

Firstly, I can advise that the Ombudsman's decision is still awaited and for the time being the opinion of the Council is that Condition 15 of Planning Permission TP/94/0644 has not been complied with. The Council's position is that the drawings submitted to date do not satisfy the requirements of the Condition, whilst the developers' position is that the drawings submitted satisfy the requirements of the Condition by any reasonable interpretation, and that the Council has asked unreasonably, incurring significant cost to the developer, in continuing to withhold confirmation that the Condition has been complied with. You are correct that, in the event that the Ombudsman supports the 'developers' complaint, the Council would be in a difficult position if it continued to refuse to agree discharge of the Condition. I'm afraid that for the present I can say little more on this, and must await the Ombudsman's decision.

In the event that the development is completed without sufficient tree screening in whatever circumstances, it is clearly an understandable exercise for your clients to consider other options that may achieve the desired result.

An irony here is that adjoining owners do not require planning permission, to plant trees of any size, no matter how much light they take away, from neighbouring properties, yet planning permission is required to add just a metre of trellis to a two metre high boundary wall.

An application for planning permission to erect a trellis would be assessed in the context of the Unitary Development Plan policies, and any other material considerations. Such a consideration will be the desire of adjoining owners to maintain their privacy and amenity at reasonable levels. Notwithstanding this, a further material consideration must be the levels of amenity that occupants of the residential property under construction should reasonably expect to enjoy. If it were concluded that a tall trellis would significantly reduce the amenity of the new property, either in terms of loss of light or increased sense of enclosure, then the planning policies of this Council would dictate that such an application should normally be refused. The particular history to this is of course "material" too, but I am sure you will understand the duty upon this Authority to apply its development control policies evenly and fairly.



I hope that this is helpful.

Yours faithfully,

Derek Taylor
Area Planning Officer
for
Executive Director, Planning & Conservation

① PC + L.B ② DJ

BETHAM ASSOCIATES, ARCHITECTS

105-111 EUSTON STREET, LONDON NW1 2EW
Telephone and facsimile 0171-387 0451

Our ref: 9603:11 & 15
Your ref: DPS/PV/TP/94/0644/G/18/2195

26th June 1998 (2nd letter)

Attention Derek Taylor
Planning Department
Kensington & Chelsea Town Hall
Hornton Street
LONDON W8 7NX

RECEIVED BY PLANNING SERVICES							
X DIR	HDC	N	A	SW	SE	ENF	AO ACK
40		29 JUN 1998					
APPEALS	IO	REC	ARB	FWD P-N	CON DES	FEES	

✓
CJ
29-6

Dear Mr Taylor

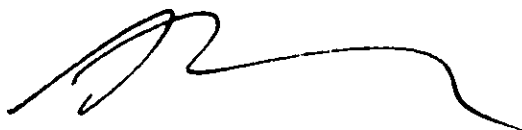
Re: Warwick Gardens W14 8PH & St Mary Abbot's Place, London W8 6LS

I understand that measures are still in abeyance, pending the Ombudsman's decision, to meet the requirement for a screen of trees subject to which members agreed approval of the application. Clearly, the Council could be in an unfortunate position if the decision is unfavourable as there would presumably be a strong argument that it was through maladministration that the screening relied upon had not been secured.

In the perhaps unlikely event that the trees are not provided by the developer, adjoining owners have been considering the next best way of providing the screening intended at the time approval was granted. This appears to be by erecting a trellis on top of the party-fence boundary walls able to carry thick climbing plants and/or espalier trees up to the equivalent height, ie to screen overlooking from upper floor windows. To the south, the wall could instead be raised in brickwork extending the flank wall of the new house.

I understand that planning permission would be required to erect even trellis above the height of walls permitted and required by the current approval. However I understand that consent is unlikely to be refused where the need for screening has been established as crucial to the current approval, but where it has not been provided.

Yours sincerely



ADRIAN BETHAM
Betham Associates, Architects

Copies to:

Mr and Mrs P Mullins
11 Warwick Gardens
London W14 8PH

Mr and Mrs A Fergusson
15 Warwick Gardens
London W14 8PH

**RESPONSE TO DRAFT REPORT ON INVESTIGATION BY
OMBUDSMAN COMPLAINT NO. 97/C/2707**

4 ST.MARY ABBOTS PLACE, W.8

General Comment

The Council considers it important for the Ombudsman to bear in mind that all of its actions, from the time that the planning application was first considered by Officers and then Committee, through to the present, have been designed to meet the planning objective of preventing any significant reduction in the levels of amenity (in particular, privacy) enjoyed by residents of neighbouring property.

Specific Comments

Para. 23 The letter to the developers dated 5th November 1996 is clear on the point that the requirement of Condition 15 should not be taken as discharged until written confirmation of that had been issued. As described in Para. 23 the developers agreed in writing (11th November) to the details set out by the Council's Arboriculturist. These details were based upon the availability of trees of the specified types and specified sizes. However, it became evident that size of the trees at installation was only part of the picture in terms of achieving a planting scheme that would reduce overlooking effectively; the growth rates of these trees was also considered an important factor. The sizes of trees specified by the Arboriculturist would be likely to provide protection against overlooking in time, but not in the short term. It was considered that if faster growing trees could not be installed, then further trees might be required. Adequate protection of residential amenity could not otherwise be ensured. For this reason, the Case Officer was asked to continue discussions with the developers. Confirmation that the terms set out in the letter of 4th October had been discharged was, consequently, not issued at this time.

Para.24 The Council never threatened to issue a Breach of Condition Notice. The letter from the Council of 6th November was clear in its statement that Officers had been asked to consider whether such action would be appropriate. No statement, in writing or orally, was ever issued to the developers to indicate that such action was either imminent, being formally prepared, or likely to be. Members and Officers of the Council were still confident that a planting scheme could be achieved that would be satisfactory to both the Council and the developers, and for this reason sought to continue discussions.

Para. 32 No "right of veto" was conferred upon any third party. The Council, and the developers, have always been clear that final approval of the

landscaping scheme could only come from the Council as local planning authority. However, the Council considers that the process of active consultation and discussion with representatives of the residents whose amenity it was aiming to protect was, and should remain, a proper and important part of this type of process.

Para.38 As clear from the Council's letter of 28th November, this latest scheme was considered to be acceptable by the Council. The Council concluded that this scheme would offer a satisfactory level of protection for local residential amenity. Unfortunately, the developers instructed that this scheme should not be formally considered as a submission pursuant to Condition 15.

Para.40 Despite continuing works on site, the Council has not taken any action to either stop or delay such works as it has appeared that agreement between the Council and developers as to a satisfactory landscaping scheme could not be far away.

**RESPONSE TO DRAFT REPORT ON INVESTIGATION BY
OMBUDSMAN COMPLAINT NO. 97/C/2707**

4 ST.MARY ABBOTS PLACE, W.8

General Comment

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Para.40 Despite continuing works on site, the Council has not taken any action to either stop or delay such works as it has appeared that agreement between the Council and developers as to a satisfactory landscaping scheme could not be far away.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Patrick Allen
11 Taunton Close
Ipswich
IP1 6SX

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361-2057
Facsimile: 0171-361-3463
Email: plndmt@rbke.gov.uk
Mr.: D. Taylor

12 February 1998

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644/DT

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbot's Place, W.8

I write in reference to your fax letter of 12th February 1998 and our subsequent telephone conversation, with regard to the Westbrick Blue and Cheddar Red, smooth faced, plinth brick samples submitted on 5th February.

I confirm that these bricks will be acceptable as plinth bricks for the development currently under construction, pursuant to Planning Permission TP/94/0644, at the above site.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

R

Patrick Allen RIBA

11 Taunton Close Ipswich IP1 6SX

Tel & Fax 01473 745728

Mobile 0850 911054

To: PLANNING & CONSERVATION
 THE ROYAL BOROUGH OF KENSINGTON
 & CHELSEA
 THE TOWN HALL
 THORNTON STREET
 LONDON W6 7NX
 F.A.O DEREK TAYLOR

Date: 12.2.98

Our reference: 1044

Your reference: DP/PV/TP/94/0644/R/18/2195

Fax no: 0171 361 3463

Pages: 1

Project: LAND ON & ADJACENT TO NO4, ST MARYABOTS PLACE, KENSINGTON

DEAR SIRS

COULD YOU PLEASE CONFIRM (AS A MATTER OF URGENCY) THAT THE PLINTH BRICKS FOR THE ABOVE, SUBMITTED TO YOU ON 5th FEB 98 ARE ACCEPTABLE.

R.B.K. & C.
 TOWN PLANNING
 12 FEB 1998
 RECEIVED

Telephoned 12/2
5-30 pm — Ok

YOURS FAITHFULLY

Patrick Allen

Patrick Allen RIBA

Copies:

D.T. per Inyo.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Randell
68 - 72 Webbs Road
London
SW11 6SE

Switchboard: 0171-937 5464
Extension: 2767
Direct Line: 0171-361 2767

Facsimile: 0171-361 3463

19th January 1998

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

My reference: **DPS/ARB/D1/S** Your reference:

Please ask for: **Mr Bentley**

F.A.O. S.R. Mallett

Dear Sir,

Re. 4 St Mary Abbots Place, London, W8

I have had explained to me by your site foreman Mr Pryce of the requirement, according to the plans he is working to, to create a void under the floor of the property being built. Whilst I am in agreement as to the desirability in allowing the free passage of air under the building, I see no advantage in causing unnecessary disturbance to levels where this is likely to affect roots.

I therefore confirm that the maintenance of a minimum depth of void is preferable in order to reduce root disturbance.

Yours faithfully,

CHRIS COLWELL
Senior Arboricultural Officer
for the Executive Director of Planning and Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

**KENSINGTON
AND CHELSEA**

Randell
68 - 72 Webbs Road
London
SW11 6SE

Switchboard: 0171-937 5464

Extension: 2767

Direct Line: 0171-361 2767

Facsimile: 0171-361 3463

19th January 1998

My reference: DPS/ARB/D1/S Your reference:

Please ask for: Mr Bentley

F.A.O. S.R. Mallett

Dear Sir,

Re, 4 St Mary Abbots Place, London, W8

Further to my letter to you of the 23rd October 1997, I write again as I am aware that the development is reaching a critical stage with regard to the construction of foundations.

I have taken advice from Consulting Engineers at Ridd Wood & Partners and been advised that the depth of excavations for ground beam construction can be significantly reduced in comparison to the current proposals. This information has been copied to the developers agent Mr Peacock.

You will no doubt be aware that my assistant has had several conversations with your site foreman and that this Council's concerns are to avoid the severance of large roots of the London Plane tree that are likely to be encountered in excavating trenches for ground beams of approximately 900mm depth.

The tree is protected by Tree Preservation Order Kensington 14, 1954. Any breach of that Order, including where roots of the tree are harmed, will be vigorously pursued and may result in criminal proceedings.

As I have written previously, do not hesitate to contact the arboricultural section if you are in any doubt about construction matters that will or appear likely to affect the tree.

Yours faithfully,

CHRIS COLWELL*Senior Arboricultural Officer**for the Executive Director of Planning and Conservation*

O.T.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk
IP6 8DQ

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Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643

19/01/98

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference: C541/JCP
0644

Please ask for: Mr N. Bentley

Dear Sir,

Town and Country Planning Act 1990
London Plane Tree, 4 St Mary Abbots Place, W8.
Tree Preservation Order Kensington 14, 1954.

I write in response to your letter of the 12th January 1998, and with reference to the matter of foundation design and its effect on the London Plane tree at the above site.

The Council has presented to you information that would enable the construction of foundations such that the impact on the London Plane tree, in particular on its roots, would be dramatically reduced in comparison to the method due to be employed.

I reconfirm that the London Plane tree is subject to the provisions of Tree Preservation Order Kensington 14, 1954 a copy of which is in your possession. Any breach of that Order, including where roots of the tree are harmed, will be vigorously pursued and may result in criminal proceedings.

I believe it to be the responsibility of all those involved in exercising the planning permission to ensure the well being and survival of the London Plane tree. However it would not be appropriate for the Council to make a contribution to the developer to assist him in carrying out those responsibilities.

Yours sincerely

M.J.French
Executive Director of Planning and Conservation

John Peacock Planning

Consultancy Services in Town Planning and Development

14/1/98 ① PC ✓
② Copy Nick Bentley
③ Copy Cestry Jones
④ JTV ✓

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

12th January 1998

M.J. French, Esq.,
Executive Director, Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	SW	SE	ENF	AO ACK	
							14 JAN 1998 (22)
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES	

Dear Sir,

4 St. Mary Abbot's Place, London, W8

My clients have now been able to give preliminary consideration to the contents of your letter of 24th December 1997 in respect of foundation details.

Amendments to the design and construction of the ground beam as suggested in your letter will add costs to this project. These will be incurred through engineers' time, submission of revised proposals for approval under the Building Regulations, as well as time incurred in discussing and re-negotiating the work with contractors. I am instructed that additional materials, especially in the form of reinforcing steel will be required. Finally, there has been my time in addressing this point.

I am instructed to enquire as to whether the Council would be prepared to meet the additional costs in this matter, and in view of the imminent nature of the work, I would appreciate a response as soon as possible.

Yours faithfully,



John Peacock

AM 8/1/98. ① PC + CB
② Copy Nick Bentley ✓ om 8/1/98.
③ DT

John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

5th January 1998

M.J. French, Esq.,
Executive Director, Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
JB 6 8 JAN 1998							
REALS	IO	REC	ARB	FWD PLN	CON DES	FEEES	

cc N. Bentley.

Dear Sir,

4 St. Mary Abbots Place, London W8

I refer to your letter dated 24th December, posted on 29th and received here on 30th December 1997.

Your comments concerning the foundation details are presently being considered by my clients, but I would again point out to you that my advice to my clients is that they are under no obligation by way of planning conditions to supply to the Council as **Local Planning Authority** any additional information in this respect.

I should be very grateful if you would now deal promptly with the other points raised in my letter of 15th December.

Yours faithfully,

John Peacock

John Peacock

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
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Suffolk IP6 8DQ

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Facsimile: 0171-361 3463

24th December 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
London Plane Tree, 4 St. Mary Abbot's Place, W.8

I write with reference to your letter of 15th December 1997, which concerns a number of matters concerning the large Plane tree at the above site.

I have noted your comments in relation to your clients Search of 1995. The TPO, even if it was not disclosed on the local land charges search, does of course remain in force and effective. Any further correspondence on this matter should be directed to the Council's Director of Legal Services. However, I would point out that the Plane tree is in that part of the garden of no.11 Warwick Gardens subsequently transferred to your clients and now forming part of the land including 4 St. Mary Abbot's Place, and the TPO is registered under the 11 Warwick Gardens address applicable at that time. Furthermore, I do not see that the alleged non-disclosure of the TPO has any relevance at all to the current complaint to the Ombudsman.

Turning to the matter of foundations, I seek to assure you that the Council is not seeking conflict on this point; our recent discussions have purely been aimed at ensuring that your clients can implement their planning permission without any undue harm to the Plane tree. In granting Planning Permission, nobody was under any illusions about the fact that the tree would inevitably suffer some loss of roots, but not such that would endanger the future health and stability of the tree. The Council's present concern follows inspections on site which have indicated that the loss of roots that has occurred, and, in particular, may be about to occur, is of a degree that goes beyond what would be necessary to implement your clients permission. Samples of live Plane root taken from the site indicate significant root damage already, and the Council is concerned that working practices on site are such that further root loss is minimised to what is absolutely necessary. I am sure that you, and your clients, share this objective.

The Council considers that the proposed reinforced concrete ground beam, in the vicinity of the tree, can be modified and repositioned to prevent damage to the roots of the London Plane tree. The matter has been discussed in detail with the Council's engineers, the Ridd Wood Partnership, and they have discussed the matter with your clients' engineers, Scott-White & Hookins.

R

It is reasonable to assume that significant roots from the tree are likely to exist 200 to 300mm below the surface. The site survey indicates the existing ground level in the vicinity of the tree to be 6.2m above datum. The architects drawings show the finished floor level inside the property to be 6.7m above datum. When these levels are added to the edge beam detail provided by Scott-White & Hookins, the underside of the ground beam close to the tree is 400mm below ground level. There are no anti-heave precautions beneath the soffit of the beam.

The Council considers that by raising the ground beam so that the top of it is tight to the underside of the precast concrete ground floor units, and reducing the depth of the ground beam by 75 - 100mm, the penetration of the ground beam would be reduced to between 225 and 250mm. The void beneath the floor could be vented by inserting air bricks beneath the floor beams as there would be a gap of approximately 50mm between the underside of the beams and the underside of the infill blocks. Scott-White & Hookins saw no reason why the construction of the foundations could not be modified in this manner, and are awaiting instruction from your client. I consider the approach outlined above to be consistent with the approved planning drawings.

I hope that you find the above advice is helpful. I am sure you will agree that it represents a sensible and reasonable approach, which reconciles the need to avoid unnecessary harm to this protected tree with your clients objective of implementing their permission.

Yours faithfully,

M. J. French, Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
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Suffolk IP6 8DQ

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Facsimile: 0171-361 3463

24th December 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
London Plane Tree, 4 St. Mary Abbot's Place, W.8

I write with reference to your letter of 15th December 1997, which concerns a number of matters concerning the large Plane tree at the above site.

I have noted your comments in relation to your clients Search of 1995. The TPO, even if it was not disclosed on the local land charges search, does of course remain in force and effective. Any further correspondence on this matter should be directed to the Council's Director of Legal Services. However, I would point out that the Plane tree is in that part of the garden of no.11 Warwick Gardens subsequently transferred to your clients and now forming part of the land including 4 St. Mary Abbot's Place, and the TPO is registered under the 11 Warwick Gardens address applicable at that time. Furthermore, I do not see that the alleged non-disclosure of the TPO has any relevance at all to the current complaint to the Ombudsman.

Turning to the matter of foundations, I seek to assure you that the Council is not seeking conflict on this point; our recent discussions have purely been aimed at ensuring that your clients can implement their planning permission without any undue harm to the Plane tree. In granting Planning Permission, nobody was under any illusions about the fact that the tree would inevitably suffer some loss of roots, but not such that would endanger the future health and stability of the tree. The Council's present concern follows inspections on site which have indicated that the loss of roots that has occurred, and, in particular, may be about to occur, is of a degree that goes beyond what would be necessary to implement your clients permission. Samples of live Plane root taken from the site indicate significant root damage already, and the Council is concerned that working practices on site are such that further root loss is minimised to what is absolutely necessary. I am sure that you, and your clients, share this objective.

The Council considers that the proposed reinforced concrete ground beam, in the vicinity of the tree, can be modified and repositioned to prevent damage to the roots of the London Plane tree. The matter has been discussed in detail with the Council's engineers, the Ridd Wood Partnership, and they have discussed the matter with your clients' engineers, Scott-White & Hookins.

It is reasonable to assume that significant roots from the tree are likely to exist 200 to 300mm below the surface. The site survey indicates the existing ground level in the vicinity of the tree to be 6.2m above datum. The architects drawings show the finished floor level inside the property to be 6.7m above datum. When these levels are added to the edge beam detail provided by Scott-White & Hookins, the underside of the ground beam close to the tree is 400mm below ground level. There are no anti-heave precautions beneath the soffit of the beam.

The Council considers that by raising the ground beam so that the top of it is tight to the underside of the precast concrete ground floor units, and reducing the depth of the ground beam by 75 - 100mm, the penetration of the ground beam would be reduced to between 225 and 250mm. The void beneath the floor could be vented by inserting air bricks beneath the floor beams as there would be a gap of approximately 50mm between the underside of the beams and the underside of the infill blocks. Scott-White & Hookins saw no reason why the construction of the foundations could not be modified in this manner, and are awaiting instruction from your client. I consider the approach outlined above to be consistent with the approved planning drawings.

I hope that you find the above advice is helpful. I am sure you will agree that it represents a sensible and reasonable approach, which reconciles the need to avoid unnecessary harm to this protected tree with your clients objective of implementing their permission.

Yours faithfully,

M. J. French, Executive Director, Planning & Conservation

John Peacock Planning

Consultancy Services in Town Planning and Development

① PC ✓ ② Copy to Nick Bentley
18/12 OM
③ DT

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

15th December 1997

M.J. French, Esq.,
Executive Director Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AD ACK
18 DEC 1997 32							
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES	

Dear Sir,

4 St. Mary Abbot's Place, London W8: London Plane Tree

On 3rd December 1997, I received from you two letters dated 27th and 28th November respectively (post-marked 2nd December) concerning the above. Your letters have now been widely circulated and I feel obliged to comment on various points raised.

Firstly, you have not responded to the various points raised in my letter of 25th November, especially in connection with the plans clearly approved by your Council and the way in which you must have briefed your Committee before consent was granted.

You should know that the issue of the Tree Preservation Order has come as a complete surprise to all parties on the developers side. Your letter of 17th November is the first reference that we have had stating that the plane tree was covered by a TPO although it is, I understand, of a very long-standing nature having been made and confirmed in 1954. I note also that the issue of the TPO is not covered at all in the Committee report in respect of the original application, although it ran to some 21 pages. Surprisingly, the planning permission document itself makes no reference to the existence of a TPO and it has never featured in any correspondence from you until 17th November 1997.

To compound this serious error, you may wish to know that my clients' Official Certificate of Search (submitted by solicitors and returned dated 10th November 1995) makes no mention of the TPO and, furthermore, under the Standard Enquiries Section, the Council have answered "no" to the question as to whether or not the Council has resolved to make any Tree Preservation Orders affecting the site.

Further enquiries on the issue of trees were made by my clients' solicitors in November 1995 and in a reply dated 17th November 1995 your Council's letter was again quite silent on the issue of any TPOs.

There are obviously serious legal implications attached to the non-disclosure of what must be a Registered Land Charge and I have no doubt that the Council will be hearing further on behalf of my clients on this matter.

Now turning to your recent letters. Firstly, the question of Condition 15. I would ask you to revisit your letters of 4th October 1996 and 1st November 1996. In particular, your letter of 4th October accepted the scheme put forward at that time under drawing no. 6366-26C and 27B - you described it as a "satisfactory scheme for the purpose of Condition 15". You required two points to be addressed, namely the "various tree sizes" which had to be submitted to you "before this development is completed", and the question of the positioning of "two new trees" to replace the two sycamores felled with the Council's knowledge and consent. As you are quite aware, those details were submitted to you over 13 months ago in November 1996 following recommendations from your own officers and completely in accordance with their wishes. I would therefore be grateful if you would deal with this matter **immediately** by confirming acceptance of those details.

I now turn to the question of the London plane tree and details contained in your letter of 27th November. I would like to remind you that my clients were not the applicants when the original proposal was submitted, they did not commission the plans, and not surprisingly, did not attend the Committee meetings when this matter was discussed.

Under these circumstances, I am sure that you will wish to concur with my view that the most interesting cross section details submitted with your letter had not been seen by them before, and is evidently not one of those approved drawings referred to in the decision notice. It would appear that its status is one of a sketch detail presented by the then applicants in support of their proposal at the Committee meeting which took place in 1995.


The detail does, of course, bear little relationship to the approved drawings which show quite a different detail including a ground beam that happens to be just that, in the ground rather than airborne. I trust that you realise that the description "mini-pile" does not relate to the dimensions of the pile but simply the type of machinery used to install them. The impression that such piles can be "threaded through root systems" is, I am sure you will agree, subject to limitations.

Please look again at the approved drawings and in particular any references to foundation details. Please also look at your planning permission document and point out to me where there is any requirement for my clients to have submitted any further details to you as **Local Planning Authority** in respect of foundation works.

I have to say that I am amazed by the final paragraph of your letter of 27th November. For you to suggest that tree protection details have "still not been submitted or approved" flies completely in the face of correspondence exchanged with you. You have all of the details of how the "tree is to be protected". By way of confirmation, I should add that it is Counsel's opinion that the terms of two letters sent to my clients or their agents dated 9th October and 1st November 1996 respectively, when read together, constitute approval relating to Condition 3.

I await your early reply, and please note that for information purposes, a copy of all future correspondence will be sent to the Ombudsman's office for information.

Your faithfully,



John Peacock

Re : Letter from John Peacock Planning, 4 St Mary's Abbot's Place

The TPO, even if it was not disclosed on the local land charges search, does of course remain in force and effective. Any further correspondence on this matter should be addressed to the Council's Director of Legal Services. However, I would point out the plane tree is in that part of the garden of 11 Warwick Gardens, which has subsequently been transferred to your clients and now forms part of 4 St Mary's Abbot's Place. The issue of the alleged non disclosure of the TPO does not however have any relevance at all to the Ombudsman investigation.



RIDD WOOD PARTNERSHIP
CONSULTING STRUCTURAL AND CIVIL ENGINEERS

Market House, 19/21 Market Place, Wokingham, Berkshire RG40 1AP
 Telephone: 0118 978 7930 Facsimile 0118 977 4689

P. Graham Ridd CEng MStructE
 John A. Wood BSc CEng MICE

Alan M. Dow CEng MStructE
 Graham L. Charlesworth
 Geoffrey Scott CEng MStructE

Partnership Secretary: Jean M. Price

Our ref: GS/AMS/S1006

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

11th December 1997

Attention: Mr N Bentley

RECEIVED BY PLANNING SERVICES							
EX DIR	HDB	N	C	SW	SE	ENF	AO ACK
156		15 DEC 1997					
APPEALS	IO	REC	AFB	FWD PLN	CON DES	FEEES	

Dear Sirs

re: 4-8 ST MARY ABBOTS PLACE, LONDON W8

With reference to our meeting in your offices on the 8th December 1997 I consider the proposed reinforced concrete ground beam, in the vicinity of the tree, can be modified and repositioned to prevent damage to the roots of the London Plane tree.

I gather from our meeting that roots from the tree are likely to exist 200 to 300mm below the surface. The site survey you have in your possession reveals the existing ground level in the vicinity of the tree is 6.2 metres above datum. The Architect's drawings show the finished floor level inside the property is 6.7 metres above datum. When these levels are added to the edge beam detail provided by the Engineers, Scott-White & Hookins, the underside of the ground beam close to the tree is 400mm below ground level. There are no anti-heave precautions beneath the soffit of the beam. We believe by raising the ground beam so that the top of it is tight to the underside of the precast concrete ground floor units and reducing the depth of the ground beam by 75-100mm, the penetration of the ground beam would be reduced to between 225 and 250mm. The void beneath the floor could be vented by inserting air bricks between the floor beams as there is a gap of approximately 50mm between the underside of the beams and the underside of the infill blocks.

We have discussed the above proposals with the Project Engineer, Mr D J Westwell of Scott-White & Hookins and he appeared to be very sympathetic to these proposals and he is to approach his clients on this problem.

Yours faithfully
 RIDD WOOD PARTNERSHIP

G Scott CEng MStructE

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Richardsons Botanical Identifications
The Innoovation Centre
University of Reading
Whiteknights
Reading
RG6 6BX

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Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643

02/12/97

F

**THE ROYAL
BOROUGH OF****KENSINGTON
AND CHELSEA**

My reference: **DPS/ARB/DI/S** Your reference:

Please ask for: **Nick Bentley**

Dear Sir/Madam.

Tree Root Identification.

Please find enclosed a single root sample for which we require your opinion and report as to genus, species if possible and whether it is alive or dead.

I have today raised an internal order for your services which should be with you shortly.

Yours faithfully

Chris Colwell
Senior Arboricultural Officer
for the Executive Director of Planning and Conservation



N.B.

Richardson's Botanical Identifications

Root identification
Vegetation surveys
Tree/Building investigations
Plant taxonomy

Dr Ian B K Richardson
BSc, PhD, CBiol, MIBiol, MIHort, FLS

Royal Borough of Kensington and Chelsea
Planning & Conservation
The Town Hall
Hornton Street
LONDON W8 7NX

The Innovation Centre
The University of Reading

Whiteknights
Reading RG6 6BX

Tel: (0118) 986 9552 (Direct line)

Fax: (0118) 986 9553

Tel: (0118) 986 1361 (Innovation Centre)

18-DEC-97

Your ref: DPS/ARB/DI/8

Our ref: 46/1501

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
19				19 DEC 1997			
				APPEALS	IO	REC	ARB

Dear Sirs,

Root Identificaton - O/N PAR0000195

The root you sent in relation to the above on 02-DEC-97 has been examined microscopically for identification by comparative anatomical methods. Its structure was referable to that of *PLATANUS* (Plane).

Iodine test: alive. [The iodine test is a test for starch, stored in some cells of living tree roots, but which is more or less rapidly broken down by micro-organisms upon the death of a root in the soil.]

I trust this is of help. Please contact us if we can be of further assistance, but meanwhile I enclose an Invoice.

Yours faithfully,

Dr Ian B. K. Richardson.

12-97 11-30am approx: Met with site foreman

line of north street pile west of tree much shorter than hole.

Piling on site Berg Urban Piling 0181 666 9994.

Piling due to commence on east side of tree no limit
ht.: The soil (foreman) would make analysis available also
said 'No roots east up by crane.' I pushed up sample of
soil before on spot.

Appears no intention of doing - excavating dig before any piling.

Pile also much further from tree directly on north side.

Watched piling in being operated by Berg Urban working around
man preparing to work in an area where no limit but due to
to the east of tree at east end of road west piling run.

Examined spot - looked for roots: found on spot: Send for analysis.

Further discussion site foreman still intends to install
ground beam until he instructed otherwise: go developer.

RBK&C ARBORICULTURAL OBSERVATIONS

Address New Build.	Appl. No. /	DC Officer / D.T.	Date of Obs. 12/12/97
Development 4 St. Mary Abbots		Obj. For Info.	
Status of Tree(s): 1) C.A. YES/NO		2) T.P.O. YES/NO (If yes, give details)	

Comments

Further to your Connect message of 9/12/97 I would consider that on satisfactory attendance to the items below these conditions 3 can be discharged:

- 1) Installation of protective hoarding to Linden Plane tree.
- 2) Laying of concrete hard surface to protect tree roots.
- 3) Confirmation ~~the~~ of foundation details particularly with regard to amended ground beam proposals.
- 4) Method statement regarding how stem water collection system will be installed.
- 5) Adequate notice will be given (approx 2 weeks) where tree pruning is required and that this will be carried out by a competent arborist.
- 6) Confirmation on foundation details and a method statement ~~such that~~ for re-building of west boundary wall in the context of ensuring maximum protection to trees in neighbouring gardens.
- 7) Adequate notice and agreed method by which hard surfacing within the courtyard will be removed prior to final surface installation.
- 8) Description of how and where all service runs, sewer connections, roadways and ^{all} other activities involving trench excavation will be carried out.

Signed: Nick Bentley.....

Arboricultural Officer (print name): Nick Bentley.....

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

WITH THE COMPLIMENTS OF THE
DIRECTOR OF ENVIRONMENTAL HEALTH

COUNCIL OFFICES
37 PEMBROKE ROAD
LONDON W8 6PW

SWITCHBOARD: 0171-937 5464
DIRECT LINE: 0171-341

ENVIRONMENTAL SERVICES

COUNCIL OFFICES PEMBROKE ROAD LONDON W8 6PW

Executive Director MICHAEL STROUD BSc DipTE CEng FICE FIHT FIMgt

Director of Environmental Health PAUL MORSE MSc MCIEH

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

Mr Peter Mullins
11, Warwick Gardens
London W14 8PH

Switchboard: 0171-937 5464
Extension: 5690
Direct Line: 0171-341-5690
Facsimile: 0171-341-5234
Email: dehrjd@rbkc.gov.uk

15 December 1997

My reference: 653921/97.rjd

Your reference:

Please ask for: Mr. R. D. Frow

RECEIVED BY PLANNING SERVICE							
EX DIR	HDC	N	C	SW	SE	ENF	ACK
19 DEC 1997							(106)
APPEALS	IO	REC	CON DES	FEEB			

Dear Mr Mullins

4, St. Mary Abbots Place W.14
Noise from construction site
Control of Pollution Act 1974 Section 60

I refer to your letter, dated 1st December, to the Executive Director of Planning and Conservation, Mr French, concerning the above site and specifically to your complaint of noise from the use of a pump.

The first complaint received by this department, concerning the pump, was made on 20th November by your neighbour, Mr Ferguson. I responded the same day and visited the site to discover that the pump had broken down. I informed Mr Ferguson and asked him to use the call out service if it was repaired that night.

I revisited the site the following day and agreed a procedure with the site foreman to provide a possible remedy. I again spoke to Mr Ferguson and asked him to use the call out service if there was no improvement.

No further contact was made until you rang the call out service on the 30th November when Mr Sutherland informed you he was unable to visit that day due to other commitments but that he would refer the matter to the case officer.

I spoke to you on Tuesday 2nd December and arranged for the call out officer to visit that night. As you know, there was no need for that visit as the pump had been permanently switched off which I confirmed during my visit on 3rd December.

I would add that, as a result of a further complaint by Mr Ferguson on 12th December regarding noise from work early in the morning, the above notice is to be served which limits the hours of work when noise can be heard at the boundary of the site to the following hours :

Monday - Friday 8.00am - 6.30pm
Saturday 8.00am - 1.00pm
All other times on Sundays and Public Holidays

I, therefore, believe that your complaint was dealt with properly and the matter has now been resolved.

If, however, you wish to make any further complaints with respect to noise I would ask you to contact me at the above address in order that they can be investigated

Yours sincerely

Richard Drew
Assistant Team Manager - Noise and Nuisance

cc Cllr Miss Christmas
Cllr Desmond Harney
Mr A. Fergusson 15, Warwick Road W8
Mr. M. Stroud, Executive Director of Environmental Services
Mr. M. French Executive Director of Planning and Conservation

① Pg ② Copy Nick Bentley (Trees)

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACP
15, Warwick Gardens, London W 14 8 PH				41 / 28 NOV 1997			
Tel: 0171-603 7900		Fax: 4114		REC	ARB	FWD PLN	CON DES

③ DT

Mr Derek Taylor,
 Planning & Conservation,
 Town Hall,
 Hornton Street W8 7NX

Reference: DPS/DCC/TP/94/0644/DT

November 27 1997

Dear Mr Taylor,

4 St Mary Abbot's Place W 8

Thank you for your letter of November 19. We have today spoken on the telephone.

I confirm that, so far as this property is concerned, I do not regard the latest scheme as meeting our fundamental requirement for a tree screen to protect our privacy - either in our garden or in our house - when the development is completed. It thus does not meet the explicit promise made to me by the Chairman of the Planning Committee that a tree screen would be installed and "the best form of concealment" (his words) would be agreed fully with us. Nor does it meet the demand made by Mr French to the developer that the landscaping proposals "must include a screen of trees along the rear boundary of Nos 9, 11, 13 and 15 Warwick Gardens".

I am dissatisfied on two counts. The first is that the trees proposed will be too small on installation. You have previously agreed that this could permanently vitiate their purpose if the owners chose to lop, fell or replace them. It is also precisely contrary to the opinion you reported from your previous tree officer that trees of immediate operational height could be planted satisfactorily. I am sure I speak for my neighbours in this regard. So far as the developers are concerned, this will rob their windows of no more light than will be available when the trees are high enough.

The second is that my own house and garden will remain unprotected from overlooking from the first floor window of the development at very close quarters. The amenity of my property was expressly included in the letter explaining Condition 15. Unless and until the proposed holm oak in the south-west corner of the site is allowed to grow high and bushy enough to provide cover, that window will look almost directly into my drawing room. My garden, however, will be permanently overlooked: the three proposed junipers along the wall will be decorative at best, however high they grow. There has still been no elevation shown from this property.

Therefore I ask you once more to reject this scheme; to insist that the developer contrives to install trees of adequate size from the start - notably in the south-west corner; and in particular to implement the Council's promise of a genuine tree screen alongside my own property.

You rightly make much of what people living in an urban area like Kensington should reasonably expect to enjoy by way of privacy. It is, I think, reasonable for us to expect the Council to honour assurances which could scarcely have been more categorical.

Yours sincerely,

A handwritten signature in cursive script that reads "Adam Fergusson". The signature is written in black ink and is positioned above the printed name.

Adam Fergusson

cc to Councillor Elizabeth Christmas

• DS called Engineer 9/12/97

→ Mr Westwell (Engineer)
Scott/White/Hobbs

- Agreed 900mm bench not necessary
- Agreed that with no anti-heave precautions 600mm should be the most they would need, including ventilators.

Wait day or two for Mr Westwell to speak to his client, and then we should send a letter confirming our advice to Eyston Jones - may as well tie it all in with Condition 3....

DS

Notes on meeting with Geoff Scott, Pidel Wood & Plus.

8/12/97. Ken T.H. re 4 St. Mary Abbots Place

Present N-BENTLEY ARB RBKC D-Teepler D.C. RBKC.

General discussion about planning history.

② NB. Concerned about excavation to a ^{depth} of 900mm, within 1.0 to 1.5m of tree. This was the proposed depth of excavation for ground beam as described by site preman.

③ NB explained that in excavating this trench it is highly likely that major structural roots from tree would be encountered. Were there to be severed the short term stability and long term health of tree would be compromised.
Question: Can the foundation be designed where depth of excavation required is lessened?

④ G.S. A. Yes - but the piles have to have a ground beam to tie them in.

Floor level of room 6700. Ground level above @ 6200. Eliminate engineering brick (Makes casting with accuracy more critical with ventilation elsewhere & reduce depth of ground beam. This gives depth below gl to underside of g-beam of between 250 and 300mm. Under this further excavation of 150mm required for clay board however where roots are found in this region clay board can be cut to shape around.

⑤ Action G.S. telephone Developers engineers then write with synopsis of meeting, advice + telephone conversations. D.T to write to Developer.

NB 8/12/97

Deech. Taylor.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr Peter Mullins
11 Warwick Gardens
London
W14 8PH

Switchboard: 0171-361 2605
Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643



**KENSINGTON
AND CHELSEA**

04/12/97

My reference: DPS/ARB/D1/S

Your reference:

Please ask for: Mr Bentley

Dear Mr Mullins,

Re. 4 St Mary Abbots Place, W8.

Thank you for your letter of the 1st of December 1997.

My officers have been monitoring the situation on site very closely over the last two weeks and are due to meet with a consulting engineer to discuss foundations for the building early in the week commencing the 8th December 1997. This meeting is integral to the case that the council is building, afterwards I shall be in a position to respond to your letter of the 1st in more detail.

I note that you have experienced problems with regard to noise on site. Legislation dealing with this is administered by Environmental Health Officers who I am sure will be dealing with this matter appropriately.

Yours sincerely

M.J.French
Executive Director of Planning and Conservation.

cc. Cllr Miss Christmas
Cllr Desmond Harney
Mr M.Stroud, Executive Director Environmental Services

PETER MULLINS

11 WARWICK GARDENS, KENSINGTON, LONDON W14 8PH
TEL: 0171 603 8514/FAX:0171 602 0624

1 December 1997

Mr M J French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

DT.

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	<input checked="" type="checkbox"/>	SW	SE	ENF	AO ACK
81 - 3 DEC 1997							
APPEALS	IO	REC	ABB	FWD PLN	CON DES	FEEES	

Dear Mr French

RE: 4 ST MARY ABBOTS PLACE, KENSINGTON, W.8

You will recall that planning consent was granted for the above development after many deferments and strong objections from local residents. Permission was finally given based on certain conditions, the strongest of which was the *safeguard* and *total preservation* of the plane tree on the site.

The Developer/Architects' drawings, presentations and letters confirm the vulnerability of the tree, by including mini-piles, irrigation, and a floating platform to suspend the main structure above the tree's root system. The above was used as a forceful argument to the committee in order to achieve their aims.

All this becomes a nonsense if the actions of the present contractors working on the site are allowed to continue! They must have full knowledge of the existing planning conditions and awards and therefore should not be:

1. Removing any of the 8' x 4" ply sheet protection from around the base and trunk of the tree.
2. Using the exposed space next to the tree for storage.
3. Continuously using heavy machinery and digging equipment close to the tree trunk so compressing the root system.
4. Drilling 10" diameter (approx.) Holes/piling close to the tree so endangering the root system - mini-piles were stipulated in the conditions and shown on the presentation drawings at committee meetings.
5. Digging a 6' x 8' hole some 6' deep adjacent to the tree base which must contribute to the drying out of finer roots.

PSMullins

Pg 2

The site foreman has stated that he can not carry out his construction programme as required by the architects drawings without damaging the roots of the tree and that he would have to partially remove the protection screen from around the tree to continue this work.

Further more, he could not guarantee that the tree will survive these works. Also, he said that he foresaw that the fig tree in my garden and the sycamore tree in the garden of No.9 Warwick Gardens may be affected in the completion of the project. Deadlines and penalty clauses would seem to be the important factor here!

If the protected plane tree is being put at high risk specifically by the actions of the contractors who have knowledge of the conditions which apply and the tree is not afforded the protection stipulated, surely the condition is broken and the permission must be considered invalid.

The agreed working periods have also been broken by the use of pump which has been operating 24 hours a day for the last week or so. We have complained to the Environment Department about this noise at night and the weekends without success.

Will you please give this matter your urgent attention and keep us informed.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Peter S Mullins', written over a horizontal line.

Peter S Mullins

cc: Cllr Miss Christmas

Cllr Desmond Harney

Principal Arboricultural Officer

Derek Taylor

Adam Fergusson

Other Interested Parties

PETER MULLINS

11 WARWICK GARDENS, KENSINGTON, LONDON W14 8PH
TEL: 0171 603 8514/FAX:0171 602 0624

COPY

1 December 1997

Mr M J French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
80 - 3 DEC 1997							
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES	

Copy sent to
ARB -

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Yours sincerely,



Peter S Mullins

cc: Cllr Miss Christmas

Cllr Desmond Harney

Principal Arboricultural Officer

Derek Taylor

Adam Fergusson

Other Interested Parties

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
(96)		23 NOV 1987					
PLN	CON	DES	FEL	ARB	FWD PLN	CON DES	FEL



What happens during and after the investigation

The Commission for
Local Administration in England

1. The Local Government Ombudsman has decided to investigate a complaint. What happens during the investigation will depend upon the circumstances of the complaint, but the following notes will give you some idea of what may happen.
2. During the investigation an investigator acting for the Ombudsman will usually examine the council's records and talk to the complainant, officers and councillors who were involved or who can explain the council's policies and procedures. The Ombudsman has powers similar to those of the Courts to obtain evidence.
3. We may be asking to see you either because you were directly involved in the complaint or because you can explain or are responsible for the council's procedures and policies.
4. If you wish you may have a friend with you to support you and protect your interests at the interview, but he or she cannot give evidence. Our investigator will need to ensure that the friend has no conflict of interest (eg is not your manager or the council's solicitor).
5. The files will be available for you to refer to. Please refresh your memory before your interview so that you can give our investigator as much information as possible. If you have any notes you made at the time of the events under investigation, these may help the investigator. The investigator will ask you questions, but you will have an opportunity of commenting or asking questions too. The investigator is impartial.
6. Interviews are:
 - formal and on the record - anything you say may be noted by the investigator and passed to the Ombudsman.
 - in private - do not talk about the complaint or the interview until a draft report is issued, or the investigation has been finished.
7. The investigator will have a timetable and will try to keep to it; sometimes interviews overrun.
8. At any point during an investigation the Ombudsman may decide that he need not pursue it (eg if it becomes clear that there has been no maladministration, or if the council settles the complaint); if so he will write to the complainant explaining why, and a copy of this letter will be sent to the council's chief executive.



PLANNING AND CONSERVATIONTHE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF****Executive Director** M J FRENCH FRICS Dip TP MRTPI Cert TS

**KENSINGTON
AND CHELSEA**

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQSwitchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 346328th November 1997

My reference: **DPS/DCC/TP/94/** Your reference:
0644Please ask for: **Mr D. Taylor**

Dear Sir,

Town and Country Planning Act 1990
Landscaping Condition, 4 St. Mary Abbot's Place, W.8

I write with reference to your letter of 22nd September 1997, and the meeting held at the Town Hall on 4th September 1997.

With your letter you enclosed copies of drawings nos. 6366-26F and 27D, which detail trees, shrubs, planters, and a landscaping scheme generally, pursuant to the requirements of Condition 15 of the Planning Permission ref. TP/94/0644. I have noted the various points mentioned in your letter, including your last paragraph in which you do not actually ask the Council to confirm that this revised scheme meets the requirements of Condition 15, but purely ask whether the revisions comprise a scheme which would satisfy the requirements of Condition 15 if, indeed, it was formally submitted. You confirmed this understanding on the telephone.

The Planning Services Committee asked for a screen of trees to be incorporated in the landscaping scheme to serve the dual roles of protecting the amenity of the properties to the rear by limiting overlooking to acceptable levels, and "softening" the visual aspect of the development. In my letter to you of 4th October 1996, I confirmed the purpose of the Condition, and the requirements that flowed from it. It was always going to be a matter of balancing the purpose of the Condition with the restrictions of the site, and the fact that the denser the planting screen became the better the amenity of the adjacent property would be protected, but the more the amenity of the proposed house would suffer.

In my view the revised scheme now achieves as much that can reasonably be expected given the need to balance all the relevant considerations. From the neighbouring properties' point of view it will not provide a total screen and will not totally remove overlooking, and from the occupants of the proposed houses' point of view it will require care and effort to maintain. However, I believe that it does reduce overlooking to levels that are not unreasonable in a built up environment, and I believe that it is a scheme which can be maintained without an undue burden upon the new property.

Therefore, I confirm that, if you would agree to formally submitting the revised scheme depicted in plans 6366-26F and 27D, then I can see no reason why they should not be accepted as meeting the requirement of Condition 15. Once I receive your written advice, with two further copies of the relevant drawings, I can issue a letter confirming that the requirements of the Condition have been satisfied.

R

I await your instruction in this regard.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

PLANNING AND CONSERVATIONTHE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

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AND CHELSEA**

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R

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M. J. French
Executive Director, Planning & Conservation

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Nich - How's this for a landscaping (and screening) screen?

Deceh

P.S Don't worry about the means in his letter!

John Peacock Planning

Consultancy Services in Town Planning and Development

① PC
② JT

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

22nd September 1997

M.J. French, Esq.,
Executive Director, Planning & Conservation,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES

DC N	DC S	DC S	E	Ao Ack
23 SEP 1997				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Office	Forward Plan	Head DC

✓ ST

For the attention of D. Taylor, Esq.

WITHOUT PREJUDICE

Dear Sir,

Town and Country Planning Act 1990 - erection of two semi-detached single family dwelling houses with associated off-street parking and external amenity space, land on and adjacent to 4 St. Mary Abbots Place, Kensington, W8, Register No. TP/94/0644 - Eyton Developments (Suffolk) Ltd. - Condition 15 - landscaping

This letter and the submission of further details follows a meeting which took place at the Borough Council's offices on 4th September 1997 between your Messrs. D. Taylor and N. Bentley, and with my client, Mr. G. Eyton-Jones, his architect, Mr. Patrick Allen and myself in attendance.

I have already written to you separately concerning changes to the rear elevations of the approved dwellings, this letter addresses comments made by your officers concerning landscaping issues.

Please note that the details put to you in this letter and on the enclosed plans are submitted completely without prejudice to those details already submitted to the Council under cover of a note dated 11th November 1996. The present details are being submitted at this stage in order for your officers to comment on whether or not they would form the basis of a scheme acceptable at least to the Council.

I would again wish to record my client's complete surprise that the meeting which took place with the Ward Councillor and neighbouring property owners on 21st February 1997 was unbeknown to him until our meeting on 4th September. Furthermore, the Council's position *vis a vis* landscaping appears to have a fundamental shift away from the letters that were received from you dated 4th October 1996, 1st November 1996 (x 2) and 6th November 1996.

It would appear that third party interests succeeded in diverting the Council from a course of action which had, we believed, reached a conclusion in November last year. We were therefore somewhat surprised to be faced with critical comments raised against our November 1996 plans

John Peacock, Dipl.E.P., M.R.T.P.I.,
(Chartered Town Planner)

105 High Street, Needham Market, Ipswich, Suffolk IP6 8DQ
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
VAT Reg. No. 571 4444 43


which had so clearly been negotiated on the suggestions and requirements of your officers and in particular Messrs. Taylor and Austin.

Please find enclosed two drawings Nos. 6366-26F and 27D which now include species and heights of trees on planting in accordance with your requirements which were passed on to us by your officers.

We feel that the Council, in requesting changes to the November 1996 scheme, have failed to take a proper balanced view as to the impact of the planting. It would appear that the scheme has been devised to accommodate the wishes of third party interests without appropriate consideration having been given to the future outlook and amenity of residents of the new dwellings. In particular, little account appears to have been given to the fact that the rear (west) amenity areas is in places only between 2.5 and 3 metres in depth. Do you appreciate the likely impact on, for example, the light and outlook from the living area of the "small house" of the proposed *Ilex aquifolium*? I enclose an extract from drawing no. 6366-18 indicating how little of the rear amenity area will actually be usable following planting, and demonstrating the proximity of the main living room window to the trees.

Would you please let me know as soon as possible whether or not the revised plans 6366-26F and 27D form, as far as the Council is concerned, a scheme which would satisfy the requirements of Condition 15?

Yours faithfully,



John Peacock

Memorandum

To: Derek Taylor

From: Arboriculture

c.c:

My Ref: DPS/ARB/NB/D1

Your Ref:

Room No. 317

Please Ask For: Nick Bentley

Ext. 3249

Date: 27th November 1997

4 St Mary Abbots Place, W8

Letter from John Peacock Planning 25th November 1997.

I am please to note that Mr Peacock's clients through their contractors will be exercising the utmost care to the best of their ability to protect the London Plane Tree.

However I am gravely concerned that the intention in implementing the planning permission of constructing a ground beam requiring a trench excavation up to 900mm deep within 1 metre of the tree will result in severe if not terminal harm to the tree where roots may be cut for the purposes of installing the beam.

Since this intention was explained to me by the contractor on site and reiterated to me by Mr Peacock during my meeting with him of the 20th November 1997, I have received no assurance that works will not proceed in a manner that will cause severe harm to the tree as stated above.

I have met with John Gale in the District Surveyors Office and explained the basics of the foundations proposed and why I am concerned. He gave me his opinion that it would be possible to design and implement foundations that would not require a trench for a ground beam so close to the tree.

In the third from last paragraph of his letter Mr Peacock seems to be informing the Council that a ground beam will be installed and that the consequences of doing so will rest with the Council via the consent granted.

The Council must be able to rely on Condition 3 to ensure the protection of the tree from the potential consequences of installing a ground beam so close and at such depth to it. I consider it critically important that this matter is resolved before irreparable harm is done. So far my confidence has not been achieved.


Nick Bentley

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQ

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

28th November 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Plane Tree, 4 St. Mary Abbot's Place, W.8


I write with reference to your letter of 22nd September 1997, and the meeting held at the Town Hall on 4th September 1997.

With your letter you enclosed copies of drawings nos. 6366-26F and 27D, which detail trees, shrubs, planters, and a landscaping scheme generally, pursuant to the requirements of Condition 15 of the Planning Permission ref. TP/94/0644. I have noted the various points mentioned in your letter, including your last paragraph in which you do not actually ask the Council to confirm that this revised scheme meets the requirements of Condition 15, but purely ask whether the revisions comprise a scheme which would satisfy the requirements of Condition 15 if, indeed, it was formally submitted. You confirmed this understanding on the telephone.

The Planning Services Committee asked for a screen of trees to be incorporated in the landscaping scheme to serve the dual roles of protecting the amenity of the properties to the rear by limiting overlooking to acceptable levels, and "softening" the visual aspect of the development. In my letter to you of 4th October 1996, I confirmed the purpose of the Condition, and the requirements that flowed from it. It was always going to be a matter of balancing the purpose of the Condition with the restrictions of the site, and the fact that the denser the planting screen became the better the amenity of the adjacent property would be protected, but the more the amenity of the proposed house would suffer.

In my view the revised scheme now achieves as much that can reasonably be expected given the need to balance all the relevant considerations. From the neighbouring properties' point of view it will not provide a total screen and will not totally remove overlooking, and from the occupants of the proposed houses' point of view it will require care and effort to maintain. However, I believe that it does reduce overlooking to levels that are not unreasonable in a built up environment, and I believe that it is a scheme which can be maintained without an undue burden upon the new property.

Therefore, I confirm that, if you would agree to formally submitting the revised scheme depicted in plans 6366-26F and 27D, then I can see no reason why they should not be accepted as meeting the requirement of Condition 15. Once I receive your written advice, with two further copies of the relevant drawings, I can issue a letter confirming that the requirements of the Condition have been satisfied.



I await your instruction in this regard.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQ

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463

28th November 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Plane Tree, 4 St. Mary Abbot's Place, W.8

I write with reference to your letter of 22nd September 1997, and the meeting held at the Town Hall on 4th September 1997.

With your letter you enclosed copies of drawings nos. 6366-26F and 27D, which detail trees, shrubs, planters, and a landscaping scheme generally, pursuant to the requirements of Condition 15 of the Planning Permission ref. TP/94/0644. I have noted the various points mentioned in your letter, including your last paragraph in which you do not actually ask the Council to confirm that this revised scheme meets the requirements of Condition 15, but purely ask whether the revisions comprise a scheme which would satisfy the requirements of Condition 15 if, indeed, it was formally submitted. You confirmed this understanding on the telephone.

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Therefore, I confirm that, if you would agree to formally submitting the revised scheme depicted in plans 6366-26F and 27D, then I can see no reason why they should not be accepted as meeting the requirement of Condition 15. Once I receive your written advice, with two further copies of the relevant drawings, I can issue a letter confirming that the requirements of the Condition have been satisfied.



I await your instruction in this regard.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

① PZ
26/11 ✓ OM
② DT

John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP
Your reference: TP/94/0644

25th November 1997

Michael J. French, Esq.,
Executive Director of Planning and Conservation,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
26		27 NOV 1997					
		APPEALS	IO	REC	ARB	FWD PLN	CON DES

CJP

For the attention of Mr. D. Taylor and Mr. N. Bentley

cc N. Bentley

Dear Sir,

4 St. Mary Abbot's Place, London W8: Protection of London Plane Tree

I refer to your letters dated 23rd October and 17th November 1997 to H. Randell & Son Ltd., and to my subsequent meeting on site with Mr. N. Bentley and his Assistant on Thursday, 20th November 1997.

I believe it is appropriate for me quickly to recap on my client's interest and involvement in this site. The scheme approved by the Council by planning permission dated 11th July 1995 was conceived by Messrs. Roger Carpenter, Kerr and O'Hara, Architects, who submitted at that time a series of drawings to scale 1:100 as listed in the Schedule contained on the first sheet of the planning permission document. As I understand it, those drawings were the only ones available to your officers in presenting the application to Committee for consideration.

That being the case, I would particularly draw your attention to the following drawings which dealt with the issue of the tree and its proximity to the new building.

Drawing No. L(--)-02.D - Basement Plan

This drawing has on it a detail of the basement plan and a hatched line indicating the position of the foundations of the building closest to St. Mary Abbot's Place road. The hatched line is notated;

"Line of mini pile foundations and suspended ground floor construction over to avoid severing of tree roots + maintain adequate supply of oxygen."

There is no indication on that plan precisely the location of any pile or other "foundations" detail such as a ground beam.

Drawing No. L(--) 01.D - Ground Floor Plan

This drawing quite clearly includes details of the London plane tree and its proximity to the proposed building which is, at best, **1 metre** to the north elevation (from the northern face of the trunk to the closest part of the construction work giving access to the kitchen).

Drawing No. L(--) 03.D - First Floor Plan

This plan again clearly demonstrates that the first floor balcony is within **950mm** of the northern face of the tree trunk.

Drawing No. L(--) 06.D - Section A/Elevations

I note that this drawing includes sketch details of a pile at least 325mm and probably 350mm in diameter together with part of a ground beam which measures some 700mm in width and over 500mm below what is described as "ground level". That plan also includes the note;

"8-9m ground clearance after permissible crown raising to existing plane tree - primary boughs retained."

It also contains a note;

"Mini-pile foundations threaded through plane tree roots" - the details of which show the ground beam at least 750mm wide and piles of varying diameters.

Once again I have considered carefully the conditions appended to planning permission TP/94/0644 and in particular to correspondence which took place with the Council last year in respect of "tree protection". I should also like to record that this matter has been the subject of Advice obtained from Counsel who is of the opinion that your letters dated 9th October and 1st November 1996 respectively, when read together, constitute approval relating to Condition 3 of the permission.

I would further wish to comment that there is no requirement in the planning permission for any further details of the proposed foundation works to be submitted and approved to the Council as **Local Planning Authority**.

In reaching a decision on this matter, no doubt your officers **briefed** your Committee on the question of TPO14 made in 1954, to **British Standard 5837 of 1991**, of **Tree Preservation Orders - A Guide to the Law and Good Practice** published by the Department of the Environment in October 1994, to **DoE Circular 36/78**, and to **Sections 197 - 210** inclusive of the **Town and Country Planning Act 1990**.

Having of course given very careful consideration to all of these material considerations, the Committee granted planning permission for the development which is presently being implemented by my clients. It must have been the case that all those concerned in the decision-making process were fully aware of the possible consequences of allowing development to take place as proposed on the submitted plans.

Under these circumstances, I have to record that my clients are therefore concerned to be threatened by the Council as set out in recent correspondence. This is not to say that they will not seek to ensure to the best of their ability via their contractors that the utmost care and attention will be given to protecting the tree as required by condition, and as would be commensurate with the building of the house as approved by the Council.

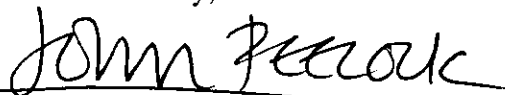
Mr. Bentley will know that it would be impossible for my clients' contractors to work on the super-structure of the house without amending the position of the existing hoarding protecting the tree trunk. A working space of at least 1.2 metres will be required to enable a working scaffolding area to be erected which will mean repositioning the hoarding at least back to the front (north) face of the tree trunk. The temporary hard surface will, of course, be retained during construction works under the scaffolding and within the working area.

As regards the piles and ground beam installation, you will know that the contractors have undertaken to dig by hand, down to a depth of approximately 1 metre over the positions of the mini piles required as indicated on the enclosed plan. Within reason, you will note that there is some leeway for the installation of the piles should major tree roots be encountered within the trial holes. As regards the ground beam, however, you will know that a construction trench of some 900mm in depth will be required to pick up the pile caps. It seems to me that this work must have already been considered in some detail by the Council in looking at the original drawings and, I repeat, the potential consequences of this work on the tree must have been assessed before planning permission was granted.

My clients and I know their contractors have wholly taken into account the protection of the plane tree to the best of their ability. However, I note that the Council have threatened action, including the service of a Stop Notice in this case, and I would like to place on record that in the event of such action by the Council, my client will seek to pursue his case in open public forum, i.e. Public Inquiry and/or through the Courts as appropriate. Any liability incurred by my clients occasioned by the Council's action in this respect will, I am instructed, be vigorously pursued.

Mr. Bentley will again know that work is progressing rapidly on the ground works which are due for completion within the next few days.

Yours faithfully,

A handwritten signature in black ink that reads "John Peacock". The signature is written in a cursive style and is positioned above a horizontal line.

John Peacock

PLANNING AND CONSERVATIONTHE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Fergusson
15 Warwick Gardens
London
W14 8PH

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Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

19th November 1997

**THE ROYAL
BOROUGH OF****KENSINGTON
AND CHELSEA**

My reference: **DPS/DCC/TP/94/** Your reference:
/0644/DTPlease ask for: **Mr D. Taylor**

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

Further to your letter of 27th October 1997, I write to provide you with some comments in return following further discussion with the Council's Arboriculturist, Mr Bentley. I use your own numbering system for ease of reference.

1. Security of planting after installation is dependent, as are all parts of a planning permission, upon enforcement of Conditions in the normal manner. The planting scheme eventually agreed under Condition 15 would be no more, or no less, secure than any other part of the development (such as roof materials, fenestration, and so on).

Ilex (Holly) can grow with moderate speed. It will tolerate shallow soils and the shade cast by the tree in the adjoining garden. There is no reason why, with appropriate handling, that Ilex should not be established successfully.

Holm Oak is native to the Mediterranean and is well able to tolerate light and dry soils. It is not the case that it would be unlikely to succeed in the proposed irrigated planters.

2. The Holly to the rear of 9 Warwick Gardens is to be supplied at as large a size as is reasonable to transplant. To require an over large tree would result in greater transplanting stress, slow the establishment process, and reduce growth. Therefore, from your own point of view I believe it would actually be counter productive to require an "over large" tree.
3. There are no windows directly facing no.11 Warwick Gardens. It has always been accepted, and the applicants have been accordingly advised, that there is no requirement for significant foliage cover in this position. I remind you again that there is no planning requirement to achieve a situation of no overlooking, there is hardly a property in the Royal Borough for which it can be said there is no overlooking at all. For a local planning authority to insist on achieving a situation of no overlooking at all in a built up Borough would be entirely unreasonable; the duty of a local planning authority in such an environment is to ensure that overlooking is kept down to reasonable levels. I do not consider that a requirement to avoid any oblique overlooking is reasonable in this case; I do not that the occupants of no.11 will suffer any significant impact

R



upon their privacy and, consequently, I do not propose to require further trees at the rear of no.11 Warwick Gardens.

4. Juniperus virginia is capable of reaching heights of up to 5 metres in ten years. It is suitable for the container environment into which planting will take place. In my opinion they will, in conjunction with the other elements of the planting scheme, reduce overlooking at angles from the proposed house to acceptable levels.
5. Birch is a suitable species for the North end of the site. It is a rapidly growing tree. The advantage of planting at the size specified is that trees will provide initial impact whilst not being subject to high transplanting stress; therefore, they should grow strongly after planting.

I hope that the above information is helpful. Although it has taken a long time, I believe that a reasonable landscaping scheme has now been produced; one which satisfactorily answers the dual aims of safeguarding privacy and softening the visual impact of the proposed houses.

Yours faithfully,



Derek Taylor
Area Planning Officer
for
Executive Director, Planning & Conservation

cc. Councillor Miss Elizabeth M. Christmas OBE

RECEIVED BY PLANNING SERVICES							
EX	HDC	N	C	SW	SE	ENF	AC/ADIC
37		28 OCT 1997					
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES	

1. P. ACK 2. DT.
OM 28/10

15, Warwick Gardens,
London W 14 8 PH
Tel: 0171-603 7900 Fax: 4114

Mr Derek Taylor,
Planning & Conservation,
Town Hall,
Hornton Street W8 7NX

Reference: DPS/DCC/TP/94/0644

October 27 1997

Dear Mr Taylor,

4 St Mary Abbot's Place W 8

Thank you very much for your letter and the accompanying plans which I have discussed with my neighbour Peter Mullins. You asked for our comments.

What is presented here is - as you note - merely an adjustment to the previous landscaping scheme. As such, it may or may not have greater merits than before, but that is not material. It does not provide the promised tree screen on which planning permission was dependent and of which the applicants were fully notified by your department. We therefore find it unacceptable.

Our detailed objections are as follows.

1. Trees which on installation do not provide the protection required will not serve: they can be pruned or felled and replaced, so that the planning conditions need never be met.

According to my tree book, *Ilex* is "slow-growing", and "large plants transplant badly". *Quercus Ilex* (or holm oak), moreover, has a particular dislike of shallow soils - which is all a planter could provide. Therefore *illex* would be non-functional on installation, take years to provide a full screen, is unlikely to flourish, and would take as long to re-establish if it were cut down or pruned.

2. The *Ilex aquifolium* proposed behind No 9 Warwick Gardens would also be too low to protect its privacy on installation, and could be pruned or felled without immediate remedy. These trees (though a step in the right direction for No 9) would in any case affect no other house, and therefore we must reject what you say in your sixth paragraph about how the Ombudsman might react to their effect on the scheme as a whole.

3. No 11 Warwick Gardens would be as unprotected against oblique over-looking as previously, and would not be screened against the intrusion of the new building at all.

4. No 15 (my own house) would still be as overlooked as before: *Juniper Virginia* is described as "the narrowest of all conifers", reaches 6 feet after 10 years, and is always "a pencil". Three narrow junipers of indeterminate height and a holm oak too low on installation, and of dubious durability, would not provide my house or garden with any screen: the bedroom window would look into my drawing room and over my garden at close range. [Up to now, although asked for, no drawing at all has been supplied of the aspect from No 15's garden.]

5. No replacements are suggested for the sycamores at the north end of the site felled with insufficient authority. We require mature substitutes, though not necessarily of the same species.

6. The proposal to glaze all the first floor windows - including bedroom windows - "obscurely" and to fix them shut appears to us quite unrealistic. It is not our business whether a house could be sold with such a condition attached. But the Council - and the Ombudsman - should consider what would happen when the new owners ask the permission of their neighbours (or, say, one of the neighbours) to open or clear-glaze a bedroom window overlooking them.

We believe, whatever logic may say, that - rather like a glaucous eye - it would be as disturbing and intrusive to be overlooked by an obscure-glass window as by a clear one.

In any case, the planning permission granted did not demand obscure glazing. It firmly stipulated a tree screen. That is what we require the council to insist upon, and (as it promised) to agree with us for all four houses. We must repeat that we need trees which are functional as soon as they are planted. You assured us that this was both practical and possible. The applicants and their architect were fully aware of this condition; just as the current developers (to whom they sold it) knew of it before work started on the site.

Yours sincerely,



Adam Fergusson

cc Councillor Miss E M Christmas OBE
The Secretary of ESSA
Peter Mullins

File D.T.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Randell
F.A.O. S.R.Mallett
68-72 Webbs Road
London
SW11 6SE

Switchboard: 0171-361 2605
Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643

17/11/97

My reference: DPS/ARB/D1

Your reference:

Please ask for: Mr Bentley

Dear Sir,

4 St Mary Abbots Place London, W8: Protection of London Plane Tree

The London Plane tree on the above site is protected by Tree Preservation Order and by conditions pertaining to the planning consent that is being exercised.

I have been informed by a member of my Arboricultural staff that the tree is seriously threatened by the proposed construction of foundations as described to him by the site manager. More specifically the proposed pile and ground beam foundations are likely to sever major structural roots.

I take the matter of the protecting this tree extremely seriously and will not hesitate to instruct the serving of a stop notice where I consider your activities to pose a threat to its continued well-being. Were you to be in breach of Condition I would give strong consideration to the use of tree protection legislation as detailed in the Tree Preservation Order itself and the Town and Country Planning Act 1990. The maximum fine in a magistrates court for the destruction of a protected tree is £20 000.

Condition 3 specifically refers to the protection of the tree during building and other operations. A number of matters were discussed with the previous contractors, a crucial one of which appears to have been disregarded. A large hole has been dug to accommodate pumping machinery in an area designated as tree protection. This must be attended to with the complete reinstatement of levels to match the surrounding area finished with a layer of concrete to withstand vehicle and piling rig loadings.

Given the above concerns I would be pleased to receive your detailed proposals with regard to condition 3 of the Planning Permission which covered the safeguarding of the tree.

Your attention to these matters is required as a matter of urgency; please confirm how you intend to construct the foundations for the property without harming tree roots.

Your faithfully,

M.J.French
Executive Director of Planning & Conservation

cc. Mr J. Eyton Jones
Mr D. Taylor

PLUG DT.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Randell
68 - 72 Webbs Road
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SW11 6SE

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Extension: 2767
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Facsimile: 0171-361 3463

23 October 1997

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

My reference: **DPS/ARB/D1/S** Your reference:

Please ask for: **Mr Bentley**

F.A.O. S.R.Mallett

Dear Sir,

Re. 4 St Mary Abbots Place, London, W8

Thank you for your letter of the 17th October 1997, I note that you will be commencing excavations at the above address in due course.

Please be aware that the existing London Plane tree towards the centre of the site is being protected by both the hoarding erected around its trunk and by the concrete around its base. Neither of these are to be removed without the written authorisation of either myself or the planning case officer.

From time to time I or my staff will be visiting the site; however do not hesitate to contact the arboricultural section if you are in any doubt about construction matters that will or appear likely to affect the tree.

Yours faithfully,

CHRIS COLWELL
Senior Arboricultural Officer
for the Executive Director of Planning and Conservation

cc. D.Taylor, Development Control

PLANNING AND CONSERVATIONTHE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Randell
F.A.O. S.R.Mallett
68-72 Webbs Road
London
SW11 6SESwitchboard: 0171-361 2605
Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643**KENSINGTON
AND CHELSEA**

17/11/97

My reference: DPS/ARB/D1

Your reference:

Please ask for: Mr Bentley

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I have been informed by a member of my Arboricultural staff that the tree is seriously threatened by the proposed construction of foundations as described to him by the site manager. More specifically the proposed pile and ground beam foundations are likely to sever major structural roots.

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Given the above concerns I would be pleased to receive your detailed proposals with regard to condition 3 of the Planning Permission which covered the safeguarding of the tree.

Your attention to these matters is required as a matter of urgency; please confirm how you intend to construct the foundations for the property without harming tree roots.

Your faithfully,

M.J. French
Executive Director of Planning & Conservationcc. Mr J. Eyton Jones
Mr D. Taylor

MEMORANDUM
DIRECTORATE OF PLANNING AND CONSERVATION

To: Director of Legal Services **From:** Exec. Dir. Planning & Cons.
of: **of:**
c.c.:

My Ref: Derek Taylor **Your Ref:** dls/ag/ja
Room No: 251/1 **Room No:**

Ext: 2057 **Date:** 7 November 1997

RE: Ombudsman Complaint - John Pecoock Planning

I refer to your memorandum of 2nd October 1997, in connection with the complaint to the Ombudsman relating to 4 St. Mary Abbot's Place, W.8

The complaint relates to the perceived unreasonable delay on the part of this Council in confirming compliance with a Condition attached to Planning Permission for the site. A list of those involved with the complaint follows.

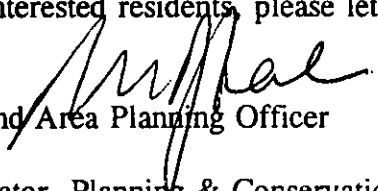
Derek Taylor - Case Officer

Cllr. Desmond Harney - Chairman of Planning Services Committee that imposed the Condition

Derek Austin - Council's Arboriculturist until recently; involved in discussions with applicants.

Nick Bentley - Arboriculturist who has picked the mater up recently following Mr Austin's departure

Several local residents, and Cllr. Miss Christmas, have also been involved, but I assume that the Ombudsman only wishes to approach the relevant Council Officers. If you need the details of the interested residents, please let me know.

PP Derek Taylor 
Case Officer and Area Planning Officer
for
Executive Director, Planning & Conservation

MEMORANDUM

To: Executive Director
Planning and Conservation

From: Director of Legal Services

My Ref: dls/ag/ja
Room No. 251/1

Your Ref:

Ext. 2257

Date: 2 October 1997

Ombudsman Complaint - John Peacock Planning on behalf of Eyton Developments (Suffolk) Ltd

I enclose a copy of a letter from the Ombudsman dated 29th September and should be grateful if you would let me have a list of those involved with the complaint, together with any further comments you may wish to make.

Thank you.

A.G. Gault

Alun Phillips
Director of Legal Services

PP

enc

DI
*Could I have a few
comments please*
Mike
3/10

JES
As tick
Con Des
Head DC

RECEIVED

30 SEP 1997

LEGAL SERVICES DEPT

AJS

29 September 1997



The Commission for
Local Administration in England

A Taylor Esq
Town Clerk & Chief Executive
Royal Borough of Kensington & Chelsea
DX 47207
KENSINGTON HIGH STREET

RECEIVED BY PLANNING SERVICES Local Government Ombudsman				
DC N	DC C	P J MacMahon Deputy Ombudsman	Ao Ack	
- 3 OCT. 1997				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

Your ref: dls/ag/jp

Our ref: 97/A/1063/AJS/jb

If telephoning contact: Ms O'Malley's PA on 0171 915 3295

Dear Mr Taylor

Thank you for your letter of 8 August about the complaint by John Peacock Planning. The Local Government Ombudsman has decided to conduct an investigation with the following terms of reference:

that the Council delayed unreasonably in confirming whether the reserved matters details submitted by the complainant on 13 November 1996 satisfied Condition 15, and failed to supply background information requested.

One of the Ombudsman's investigators will now help in the investigation and will be in touch with you shortly to make the necessary arrangements.

The Ombudsman may feel able to conclude the investigation without any interviews. If you believe that this would be inappropriate please let me know.

I should be grateful if you would send me a list of those involved with the complaint. It may prove necessary to interview some of those people - possibly by telephone. I enclose a note about our procedures. Please ensure that a copy of this note is supplied to each of those to be interviewed in good time before the interview.

/...

Page 2

29 September 1997

A Taylor Esq

If you wish to comment further on the complaint it would be helpful if you would do so within the next 15 working days.

As you know, the Local Government Ombudsman is always pleased if a Council is able to settle a complaint locally, even at this stage. Please let me know if you consider this to be a suitable complaint to be settled locally.

Yours sincerely

A handwritten signature in cursive script that reads "Jan O'Malley". A short horizontal line is drawn underneath the signature.

Jan O'Malley
Assistant Director

Enc: Note for Chief Executive
Note for Council Interviewees

15, Warwick Gardens,
London W 14 8 PH
Tel: 0171-603 7900 Fax: 4114

RECEIVED BY PLANNING SERVICES							
DIS C/R	HDC	N	S	SW	SE	ENF	AO ACK
99				24 NOV 1997			
4	DEALS	IO	REC	ARB	FWD PLN	CON DES	FEES

Mr Derek Taylor,
Planning & Conservation,
Town Hall,
Hornton Street W8 7NX

November 11 1997

Dear Mr Taylor,

4 St Mary Abbot's Place W 8

I understand that the Ombudsman is now investigating the circumstances of the planning permission given for this property, and in particular the outstanding issues between the Council and the developers. I am concerned - speaking for myself and for other neighbouring owners - that the Ombudsman should be aware of our very close interest in the case because of the severe threat to our privacy which the development represents,

In particular, we are anxious that the Ombudsman be informed of the following:

The proposed new development is on what has been commonly enjoyed garden space in a conservation area. Against strong objections from neighbouring owners and amenity societies, the Planning Committee narrowly granted planning permission (by the casting vote of its chairman) on the firm understanding that an adequate tree screen would be installed to protect the four neighbouring properties from overlooking and infringement of privacy. The applicant was left in no doubt about the need for the screen. Your Chief Planning Officer wrote to Meadowview Developments on October 4 1995 to remind him

"of the Conditions that still need to be satisfied before any development commences. Full details of landscaping proposals, which must include a screen of trees along the rear boundary of Nos 9, 11, 13 and 15 Warwick Gardens, must be submitted before development commences to comply with Condition 15"

The present developer, to whom the applicant sold the site with planning permission, was also made fully aware of this obligatory requirement before work could begin.

You will recall that I have a letter from the Chairman of the Planning Committee, date July 26 1995, assuring me that the installation of the tree screen (as "the best form of concealment") would be agreed fully with us - and telling me to

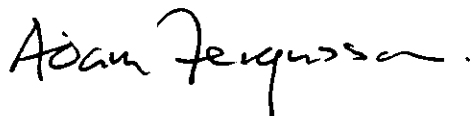
"have no doubt that the Planning Officers are aware of the Committee's Condition (not wish) that an agreed form of 'screen' must be provided and that the developer will be given our requirements".

That, for the neighbouring owners, was as specific as could be.

Although the developers have not yet received confirmation that the conditions of Planning Permission have been discharged, they began work on the site a year ago. As you know, they then dismantled our party walls and destroyed the most important part of my garden (which they still occupy), before ceasing work for nine months. They also felled two mature trees on the site without proper authority. The latest landscaping plans, which you sent me last month, do not indicate that the developers are prepared to comply with the Council's requirements in any satisfactory way.

We are grateful to your department for your efforts to safeguard our interests in this matter. We ask you again to insist that the promises made to us are honoured. I have relevant documents going back to the beginning of 1995, and would be happy to put them and myself at the disposal of the Ombudsman (to whom you are welcome to pass this letter) if that would help.

Yours sincerely,



Adam Fergusson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Fergusson
15 Warwick Gardens
London
W14 8PH

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

19th November 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
/0644/DT

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

Further to your letter of 27th October 1997, I write to provide you with some comments in return following further discussion with the Council's Arboriculturist, Mr Bentley. I use your own numbering system for ease of reference.

1. Security of planting after installation is dependent, as are all parts of a planning permission, upon enforcement of Conditions in the normal manner. The planting scheme eventually agreed under Condition 15 would be no more, or no less, secure than any other part of the development (such as roof materials, fenestration, and so on).

Ilex (Holly) can grow with moderate speed. It will tolerate shallow soils and the shade cast by the tree in the adjoining garden. There is no reason why, with appropriate handling, that Ilex should not be established successfully.

Holm Oak is native to the Mediterranean and is well able to tolerate light and dry soils. It is not the case that it would be unlikely to succeed in the proposed irrigated planters.

2. The Holly to the rear of 9 Warwick Gardens is to be supplied at as large a size as is reasonable to transplant. To require an over large tree would result in greater transplanting stress, slow the establishment process, and reduce growth. Therefore, from your own point of view I believe it would actually be counter productive to require an "over large" tree.
3. There are no windows directly facing no. 11 Warwick Gardens. It has always been accepted, and the applicants have been accordingly advised, that there is no requirement for significant foliage cover in this position. I remind you again that there is no planning requirement to achieve a situation of no overlooking, there is hardly a property in the Royal Borough for which it can be said there is no overlooking at all. For a local planning authority to insist on achieving a situation of no overlooking at all in a built up Borough would be entirely unreasonable; the duty of a local planning authority in such an environment is to ensure that overlooking is kept down to reasonable levels. I do not consider that a requirement to avoid any oblique overlooking is reasonable in this case; I do not that the occupants of no. 11 will suffer any significant impact

upon their privacy and, consequently, I do not propose to require further trees at the rear of no.11 Warwick Gardens.

4. Juniperus virginia is capable of reaching heights of up to 5 metres in ten years. It is suitable for the container environment into which planting will take place. In my opinion they will, in conjunction with the other elements of the planting scheme, reduce overlooking at angles from the proposed house to acceptable levels.
5. Birch is a suitable species for the North end of the site. It is a rapidly growing tree. The advantage of planting at the size specified is that trees will provide initial impact whilst not being subject to high transplanting stress; therefore, they should grow strongly after planting.

I hope that the above information is helpful. Although it has taken a long time, I believe that a reasonable landscaping scheme has now been produced; one which satisfactorily answers the dual aims of safeguarding privacy and softening the visual impact of the proposed houses.

Yours faithfully,

Derek Taylor
Area Planning Officer
for
Executive Director, Planning & Conservation

cc. Councillor Miss Elizabeth M. Christmas OBE

DT

PLANNING AND CONSERVATION

THE TOWN HALL, HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Randell
F.A.O. S.R.Mallett
68-72 Webbs Road
London
SW11 6SE

Switchboard: 0171-361 2605
Extension: 2767
Direct Line: 0171-361 2767
Facsimile: 0171-361 3643



**KENSINGTON
AND CHELSEA**

17/11/97

My reference: DPS/ARB/D1

Your reference:

Please ask for: Mr Bentley

Dear Sir,

4 St Mary Abbots Place London, W8: Protection of London Plane Tree

The London Plane tree on the above site is protected by Tree Preservation Order and by conditions pertaining to the planning consent that is being exercised.

I have been informed by a member of my Arboricultural staff that the tree is seriously threatened by the proposed construction of foundations as described to him by the site manager. More specifically the proposed pile and ground beam foundations are likely to sever major structural roots.

I take the matter of the protecting this tree extremely seriously and will not hesitate to instruct the serving of a stop notice where I consider your activities to pose a threat to its continued well-being. Were you to be in breach of Condition I would give strong consideration to the use of tree protection legislation as detailed in the Tree Preservation Order itself and the Town and Country Planning Act 1990. The maximum fine in a magistrates court for the destruction of a protected tree is £20 000.

Condition 3 specifically refers to the protection of the tree during building and other operations. A number of matters were discussed with the previous contractors, a crucial one of which appears to have been disregarded. A large hole has been dug to accommodate pumping machinery in an area designated as tree protection. This must be attended to with the complete reinstatement of levels to match the surrounding area finished with a layer of concrete to withstand vehicle and piling rig loadings.

Given the above concerns I would be pleased to receive your detailed proposals with regard to condition 3 of the Planning Permission which covered the safeguarding of the tree.

Your attention to these matters is required as a matter of urgency; please confirm how you intend to construct the foundations for the property without harming tree roots.

Your faithfully,

M.J.French
Executive Director of Planning & Conservation

cc. Mr J. Eyton Jones
Mr D. Taylor

Memorandum

To: Derek Taylor

From: Arboriculture

c.c.:

My Ref.: DPS/ARB/NB/D1

Your Ref.:

Room No. 317

Please Ask For: Nick Bentley

Ext. 3249

Date: 10th November 1997

4, St Mary Abbots Place, W 8

Re Letter from Adam Fergusson 27th October 1997.

As requested my comments on the above letters numbered paragraphs 1 to 5.

1. Security of planting after installation may be controlled by planning conditions.
Please advise.

Ilex (Holly) can grow with moderate speed. It will tolerate shallow soils and the shade cast by the tree in the adjoining garden. There is no reason why with appropriate care in preparation, handling and planting that Ilex could not be established successfully.

Holm Oak is native to the Mediterranean and is well able to tolerate light and dry soils. I disagree that it will not succeed in the irrigated planters.

2. The holly to the rear of 9 Warwick Gardens is to be supplied at as large a size as is reasonable to transplant. To require an over large tree would result in more transplanting stress and slow the establishment process and thus reduce growth. Re future retention see my comments in 1. above. I have no knowledge correspondence with the ombudsman in this context.
3. I have no knowledge of this except to say that planting has to mature into its final environment.
4. Juniperous virginiana is capable of reaching heights of up to 5 metres in ten years. It is suitable for the container environment into which planting will take place.
5. Birch is a suitable species for the north end of the site. It is a rapidly growing tree; the advantage of planting at the size specified is that trees will provide initial impact whilst not being subject to high transplanting stress. They will therefore grow strongly after planting.



Nick Bentley

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Randell
68 - 72 Webbs Road
London
SW11 6SE

Switchboard: 0171-937 5464

Extension: 2767

Direct Line: 0171-361 2767

Facsimile: 0171-361 3463

23 October 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/ARB/D1/S Your reference:

Please ask for: Mr Bentley

F.A.O. S.R.Mallett

Dear Sir,

Re, 4 St Mary Abbots Place, London, W8

Thank you for your letter of the 17th October 1997, I note that you will be commencing excavations at the above address in due course.

Please be aware that the existing London Plane tree towards the centre of the site is being protected by both the hoarding erected around its trunk and by the concrete around its base. Neither of these are to be removed without the written authorisation of either myself or the planning case officer.

From time to time I or my staff will be visiting the site; however do not hesitate to contact the arboricultural section if you are in any doubt about construction matters that will or appear likely to affect the tree.

Yours faithfully,

CHRIS COLWELL

Senior Arboricultural Officer

for the Executive Director of Planning and Conservation

✓ cc. D.Taylor, Development Control

MODE = TRANSMISSION

START=24-OCT 09:24

END=24-OCT 09:25

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG. NO.	PROGRAM NAME
001	OK		301719243628	001		

-RBYC PLANNING DEPT -

***** -

- ***** - 0171 361 3463- *****

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
20 OCT 1997 (176)							
APPEALS	IO	REC	ARB	COND PLN	CON DES	FEEES	



RANDELL

SINCE 1926

H RANDELL & SON LIMITED
68-72 WEBBS ROAD
LONDON SW11 6SE
TELEPHONE 0171-223 5448
FACSIMILE 0171-924 3628

Our Ref: SRM/PAS

The Council's Arboricultural Officer,
The Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London, W.8. 7NX

17th October, 1997.

RE: NO. 4 ST. MARY ABBOT'S PLACE, LONDON, W.8.

We write with reference to the above and your correspondence Ref: DPS/PV/TP/94/0644/G/18/2195 dated 11th July, 1995, Item No. 14 on Page 3 and hereby give notice of excavations due to re-commence.

We have been appointed as the Main Contractor adopting previously commenced excavations by others, and presume you have already been notified of those.

Should you have any queries please do not hesitate to contact the writer.

Yours faithfully,

S.R. Mallett
for
S.R. MALLETT
CONTRACTS MANAGER

Copy to:- K. Gill - Gill Associates



REGISTERED IN LONDON NO. 493493



A JOHN PAUL GROUP COMPANY

**CHARTERED
BUILDING
COMPANY.**

FOUNDER MEMBER



RBK&C ARBORICULTURAL OBSERVATIONS

Address <i>4 St Mary Abbots Place</i>	Appl. No. <i>94 / 0644 / DT.</i>	DC Officer	Date of Obs. <i>23-10-97</i>
Development <i>New Building - Landscaping</i>		Obj.	No Obj. <input checked="" type="checkbox"/>
Status of Tree(s): 1) C.A. YES/NO	2) T.P.O. YES/NO (If yes, give details)		

Comments

*Drawings 6366-18
6366-27 D
6366-26 F*

The landscaping proposals submitted in above referenced drawings appear satisfactory. I note two birch trees and would consider them to be an appropriate selection to replace trees in this location.

Signed: *N. Bentley*.....

Arboricultural Officer (print name): *N. BENTLEY*.....

MEMORANDUM

To: Executive Director
Planning and Conservation

From: Director of Legal Services

My Ref: dls/ag/ja
Room No. 251/1

Your Ref:

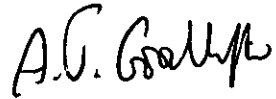
Ext. 2257

Date: 2 October 1997

Ombudsman Complaint - John Peacock Planning on behalf of Eyton Developments (Suffolk) Ltd

I enclose a copy of a letter from the Ombudsman dated 29th September and should be grateful if you would let me have a list of those involved with the complaint, together with any further comments you may wish to make.

Thank you.



Alun Phillips
Director of Legal Services

PP

enc.

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
- 3 OCT 1997 16				
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

RECEIVED

30 SEP 1997

LEGAL SERVICES DEPT

AJLS

29 September 1997



The Commission for
Local Administration in England

A Taylor Esq
Town Clerk & Chief Executive
Royal Borough of Kensington & Chelsea
DX 47207
KENSINGTON HIGH STREET

RECEIVED BY BGC Osmotherly, CB Local Government Ombudsman				
DC N	DC C	PJ MacMahon Deputy Ombudsman	Ao Ack	
- 3 OCT 1997				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

Your ref: dls/ag/jp

Our ref: 97/A/1063/AJS/jb

If telephoning contact: Ms O'Malley's PA on 0171 915 3295

Dear Mr Taylor

Thank you for your letter of 8 August about the complaint by John Peacock Planning. The Local Government Ombudsman has decided to conduct an investigation with the following terms of reference:

that the Council delayed unreasonably in confirming whether the reserved matters details submitted by the complainant on 13 November 1996 satisfied Condition 15, and failed to supply background information requested.

One of the Ombudsman's investigators will now help in the investigation and will be in touch with you shortly to make the necessary arrangements.

The Ombudsman may feel able to conclude the investigation without any interviews. If you believe that this would be inappropriate please let me know.

I should be grateful if you would send me a list of those involved with the complaint. It may prove necessary to interview some of those people - possibly by telephone. I enclose a note about our procedures. Please ensure that a copy of this note is supplied to each of those to be interviewed in good time before the interview.

/...

Page 2

29 September 1997

A Taylor Esq

If you wish to comment further on the complaint it would be helpful if you would do so within the next 15 working days.

As you know, the Local Government Ombudsman is always pleased if a Council is able to settle a complaint locally, even at this stage. Please let me know if you consider this to be a suitable complaint to be settled locally.

Yours sincerely

A handwritten signature in cursive script that reads "Jan O'Malley". A short horizontal line is drawn underneath the signature.

Jan O'Malley
Assistant Director

Enc: Note for Chief Executive
Note for Council Interviewees



The Commission for
Local Administration in England

What happens during and after the investigation

1. The Local Government Ombudsman has decided to investigate a complaint. What happens during the investigation will depend upon the circumstances of the complaint, but the following notes will give you some idea of what may happen.
2. During the investigation an investigator acting for the Ombudsman will usually examine the council's records and talk to the complainant, officers and councillors who were involved or who can explain the council's policies and procedures. The Ombudsman has powers similar to those of the Courts to obtain evidence.
3. We may be asking to see you either because you were directly involved in the complaint or because you can explain or are responsible for the council's procedures and policies.
4. If you wish you may have a friend with you to support you and protect your interests at the interview, but he or she cannot give evidence. Our investigator will need to ensure that the friend has no conflict of interest (eg is not your manager or the council's solicitor).
5. The files will be available for you to refer to. Please refresh your memory before your interview so that you can give our investigator as much information as possible. If you have any notes you made at the time of the events under investigation, these may help the investigator. The investigator will ask you questions, but you will have an opportunity of commenting or asking questions too. The investigator is impartial.
6. Interviews are:
 - formal and on the record - anything you say may be noted by the investigator and passed to the Ombudsman.
 - in private - do not talk about the complaint or the interview until a draft report is issued, or the investigation has been finished.
7. The investigator will have a timetable and will try to keep to it; sometimes interviews overrun.
8. At any point during an investigation the Ombudsman may decide that he need not pursue it (eg if it becomes clear that there has been no maladministration, or if the council settles the complaint); if so he will write to the complainant explaining why, and a copy of this letter will be sent to the council's chief executive.

John Peacock Planning

Consultancy Services in Town Planning and Development

① PC

② DT

③ Copy
Nick Bentley

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

17th September 1997

M.J. French, Esq.,
Executive Director, Planning and Conservation,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

✓ 05/9
1/2/9

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
19 SEP 1997				47
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Feas Office	Forward Plan	Head DC

For the attention of D. Taylor, Esq.

Dear Sir,

Town and Country Planning Act 1990 - erection of two semi-detached, single family dwelling-houses, with associated off-street parking and external amenity space, land on and adjacent to 4 St. Mary Abbot's Place, Kensington, W8, Register No. TP/94/0644-Eyton Developments (Suffolk) Ltd.

I refer to the meeting which took place on 4th September 1997 in your offices. Those present at the meeting included Messrs. D. Taylor and N. Bentley, representing the Council, and Mr. G. Eyton-Jones, the site owner and developer, his architect, Mr. Patrick Allen, and myself.

We learnt, for the first time at the meeting, that discussions had taken place on 21st February 1997 involving both the Ward Councillor and neighbouring property owners, apparently to discuss the landscaping plans delivered to your offices by hand in November 1996. Unfortunately, we had no knowledge of this meeting and were not told of its conclusions until our meeting with your officers on 4th September 1997.

We were told that neighbours found the landscaping plans to be unsatisfactory to the extent that alleged overlooking from first floor windows on the rear elevations of the approved scheme would occur because, amongst other things, there would be too much reliance on the existing sycamore tree which is deciduous, the eucalyptus trees were "not thick enough to provide an effective screen", the junipers were "not wide enough to provide a screen", and the growth rates of some of the plants, especially the prunus, would mean that such planting would not be effective for "five to six years" based on the assumption that the plants would be 3 metres in height at purchase.

In view of your comments in relation to potential overlooking, Mr. Taylor confirmed that the glazing of the first floor west elevation windows with obscured glass with the whole units fixed shut, would offer a solution to the alleged problem. Please find enclosed one copy of Drawing No. 6366-22A which clearly shows the first floor west elevation windows treated in the manner described above. I would appreciate your comments in writing on this particular issue.

You should of course appreciate that my client's scheme would be significantly and adversely affected if these first floor windows were to be glazed with obscured glass and fixed shut. This

John Peacock, Dipl.E.P., M.R.T.P.I.,
(Chartered Town Planner)

105 High Street, Needham Market, Ipswich, Suffolk IP6 8DQ
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
VAT Reg. No. 571 4444 43

would result in reduced amenity for future occupants and would be a point reflected in the development valuation.

Would you also please confirm my understanding that if the work to the first floor windows were to be implemented, that it would obviate the need to change in any way the landscaping details submitted to you in November 1996?

I look forward to your early reply.

Yours faithfully,

A handwritten signature in cursive script that reads "John Peacock". The signature is written in black ink and is positioned above a horizontal line.

John Peacock

Site:	4 St. Mary Abbot's Place	File reference:
Subject:	Condition 15 etc / trees	
R.B.K. & C Planning Services		Site <input type="checkbox"/> Office <input checked="" type="checkbox"/>
NOTES OF MEETING		Date:

Names of persons attending:

Officers
D.M. Taylor
N. Bentley


Applicant/Agent/Resident
Patrick Allen
John Peacock
Mr J. Euston Jones

Matters discussed:

DT explained/resumed how we are at the present position. Explained Cmtee's original reasons for imposing condition. Confirmed that the Comil's objective is not, and has not been, the avoidance of any overlooking at all. Such an objective is unreasonable and unrealistic. Our objective is to achieve a planting scheme, through the Condition, that reduces the amenity (overlooking) impact of the scheme to reasonable levels. Explained that we were very nearly there, and that a few extra trees opposite no. 11, and of 4m min. height at planting, should do the trick. They will confirm details for new trees in areas D and E.

The 'landscaping' scheme, as it stands, would achieve the visual softening of the proposed building. Further work on it should reduce overlooking to acceptable levels. Obsured glazing to all first floor windows, fixed shut, would immediately produce a zero-overlooking situation — why don't they just do this and the matter will be resolved?
They will get back to us!

Signatures:

 4/9/97

- Area D
Europa say that 3m prunus are hard enough to obtain - only on advance order

4m tree needed - Prunus / (John Ode)

5 plants along W b to B

Area E

The existing sycamore in garden of 9 is dead and of little use in according overhanging
- hollies of 4m transplanted to this position

Problem of spread of canopy - would need pruning to allow planting v. close to wall - NB comments that it should be able to take it without serious harm, as it would reduce transpirational rate. Ever may be odd in residential garden.

2/3 plants in this position.

MEMORANDUM
DIRECTORATE OF PLANNING AND CONSERVATION

To: Alun Phillips, Dir. Legal Services
of: **From:** Exec. Dir. Planning & Cons.
c.c.: **of:**

My Ref: Derek Taylor
Room No: 325

Your Ref:
Room No:

Ext: 2057

Date: 4 August 1997

RE: Ombudsman Complaint by John Peacock, in connection with land adjacent to 4 St. Mary Abbot's Place, W.8

Further to your memorandum of 2nd July 1997, please find enclosed a response to the questions raised in connection with this complaint. I apologise for the delay in this response.

Derek Taylor
for
Executive Director, Planning & Conservation

LAND ADJACENT TO 4 ST. MARY ABBOT'S PLACE, KENSINGTON, W.8

OMBUDSMAN COMPLAINT BY JOHN PEECOCK PLANNING

Summary of Complaint

That the Council acted unreasonably by delaying dealing with applications relating to planning Conditions attached to a Planning Permission, and failed to supply information requested.

Requirements

- (1) General Response to complaint
- (2) A description of what was envisaged by Conditions 3 and 15
- (3) A chronology of what was requested, when it was requested, and when provided
- (4) Why did the Council consider prosecution if Condition 15 was met bar two minor issues which did not have a time scale attached
- (5) Copies of the letters sent by the Planning Department and Chairman of the Planning Committee to "interested neighbours" about the terms of Condition 15

(1) GENERAL RESPONSE TO COMPLAINT

- 1.1 The root of the complaint to the Ombudsman is that the Council have not confirmed that the requirements set by the Council under Condition 15 have been fully discharged. The simple reason why such confirmation has not been forthcoming is that those requirements have not yet been fully discharged. When they are, then the Council would be pleased to issue appropriate confirmation.
- 1.2 Planning permission was granted on 11th July, 1995, for the construction of two houses on land adjacent to no.4 St. Mary Abbots Place. A total of 15 Conditions were attached to the Permission; a number of these were conditions precedent whereby certain requirements were laid down that would need to be discharged before development commenced.
- 1.3 The three Conditions requiring submission of details were numbered (3), (12), and (15). Matters relating to each of these Conditions are set out in Section 3 of this Statement which provides a chronology of what was asked for and provided, and when.

1.4 The wording of these Conditions is as follows:

Condition (3)

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 development commences and maintained for the duration of building and other operations on the site

Condition (12)

Samples of materials 1, 2, 6, 7, 8, 11, 12, 14, and 18 on drawing L(--)100B shall be submitted to and approved in writing by the Executive Director, Planning & Conservation before development commences

Condition (15)

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 treatment of the open land within the site including hard and soft landscaping.**

(2) A description of what was envisaged by Conditions 3 and 15

2.1 The reason given for the imposition of Condition 3 was:

To ensure that the trees are adequately protected and to safeguard the amenities of the area

2.2 The reason given for the imposition of Condition 15 was:

The particulars 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.

2.3 Condition 3 is a standard Condition, commonly imposed where the Council is concerned that operations on site pursuant to a planning permission may seriously harm important trees. In the case of St. Mary Abbot's Place, the Council was particularly concerned for the well being of a mature Plane tree located at the centre of the site. Exhaustive negotiations had taken place, prior to the granting of planning permission, between the Council's arboriculturists and the arboricultural consultant acting for the applicants, with regard to the safety of this Plane tree, and the development was finally approved on the basis that the approved building would sit on a raft with pile and beam foundations to protect the roots of the tree. It was evident that great care would need to be taken in the clearance of the site, in the sinking of piles, and in constructing the raft and building above.

2.4 The onus is upon a developer to comply with a Condition. When the present complainants bought the site from the original applicants, with its Planning Permission, the onus was upon the present complainants to approach the Council with details of the measures necessary to comply with Condition (3). In the event, details were agreed but these details had to be amended once work commenced on site, in response to the particular circumstances of the site. A letter confirming compliance with Condition (3) was not issued whilst

the detailed requirements on site were being reassessed in the light of events on site in the early stages.

- 2.5 In terms of Condition (3), the Council considers that, by continuing to advise on site when problems occurred including root loss, rather than simply require work to cease, far from in any way acting unreasonably towards the developers/contractors the Council applied a significant degree of discretion and practicality in using its enforcement powers.
- 2.6 A chronology of events in relation to Condition (3) is provided below.
- 2.7 Turning to the matter of what was envisaged in imposing Condition (15), it can be very simply stated that same requirement, i.e that the matters pursuant to the Condition should have been agreed and discharged prior to commencement of works, fell to the developers under Condition (15) as it did (3). Again, what was envisaged under this Condition proved to be rather different to the sequence of events that unfurled in reality.
- 2.8 A detailed chronology is provided below, however to look at what was envisaged in Condition 15 it is also necessary to go back to the time when planning permission was granted, in 1995.
- 2.9 The planning application was first presented to the Planning Services Committee, comprising 7 Councillors, on 11th January 1995. The Committee heard objectors and the applicants speak for and against the application, and a decision was deferred. The application was then presented to the Planning Services Committee on 4th April 1995, and again a decision was deferred. Finally, the application was considered by the full Planning & Conservation Committee (comprising 12 Councillors) on 1st May 1995, and this Committee granted planning permission.
- 2.10 The Planning & Conservation Committee considered and debated the application at great length, with the discussion ranging from the principle of using the site for housing, to the architectural detail of the proposed buildings, and to the resultant impact that the development may have upon the levels of amenity enjoyed by occupants of neighbouring property. On the last point, the Committee were receptive to objections from residents to the rear (West) of the property, who amongst other things were concerned that the proposed houses would overlook their gardens and houses. The Committee concluded that the most appropriate way to mitigate the overlooking problem would be to ensure that trees were provided at the boundary between the proposed houses and the properties to their rear.
- 2.11 The Minutes of the Meeting for the 1st May Committee recorded that:
- "The Committee asked that an additional Condition, the precise wording of which to be agreed with the Chairman, be imposed requiring the applicant to undertake some appropriate tree planting at the rear of the new buildings."**
- 2.12 A Condition was duly added to the draft Planning Permission, to become known as Condition 15 attached to the issued Planning Permission.
- 2.13 The Council envisaged, in imposing this Condition, that a process of negotiation would then ensue which would lead to the applicants installing sufficient trees at the rear of the property to avoid any significant overlooking of nearby property. The detail of the landscaping scheme, to be approved before works commenced on site, were deliberately not specified in the Condition, as it was clear that there might be any number of acceptable mixes

of tree species that could meet the objectives of the Condition. Trees differ widely in their growth rates, foliage density, duration of foliage cover, and rooting requirements, and the exact detail of the trees was left to negotiation.

(3) A chronology of what was requested, when it was requested, and when provided

Condition (15) relating to the soft landscaping and new trees

- 1/5/95 Planning & Conservation Committee added a Condition to the list of then draft Conditions, in order that the applicant should undertake some appropriate tree planting at the rear of the new buildings [1].
- 11/7/95 Planning Permission issued, with Condition (15) attached [2]
- 25/7/95 Letter sent to developers reminding them the requirements of Condition (15), [3] specifying that:
- "As part of the landscaping proposals, a screen of tree planting will be required to the rear boundary with 9, 11, and (13) Warwick Gardens"**
- 26/7/95 Letter sent by Chairman of the Planning & Conservation Committee, Cllr. Desmond Harney OBE, to neighbouring resident at rear of site, advising that there would be various alternatives in terms of trees to satisfy Condition 15, and that the residents would be fully consulted in the process [4]
- 11/9/95 Letter sent from Council to neighbouring resident, paragraphs 3 and 4 being those most relevant to this Ombudsman complaint [5]
- 4/10/95 Letter sent to developers, again reminding them of the need to provide a screen of trees along the rear boundary of the site. [6]
- 20/11/95 Meeting held at Town Hall with C. P. Barrow of Meadview Developments, concerning boundary details but not specifically Conditions (3) or (15). This was to be the last meeting with Meadview Developments.
- 24/1/96 First communication from Ashton Allen Design, on behalf of Eyton Developments (Suffolk) Ltd., who appeared to be new owners of the site. [7]
- 7/2/96 Reply from Council to letter of 24th January. [8]
- 3/4/96 Letter from neighbouring resident received, stressing concern that Condition 15 still appeared to be outstanding. [9]
- 21/5/96 Receipt of complainants first attempt at devising a landscaping scheme including trees at the rear [10] Several further sets of plans followed over the next few weeks, adjusting the planting scheme and adding several extra trees. In terms of respecting the existing levels of amenity enjoyed by residents to the rear of the property the landscaping scheme was improving with these amendments, although there was some remaining concern particularly regarding the size of the trees at installation. Residents were understandably concerned that the trees

may only begin to offer screening of any worthwhile nature after many years growth.

- 3/10/96 Letter sent to neighbouring residents, advising them of progress relating to the discussions on tree size at installation, and growth rates. [11].
- 4/10/96 Whilst the matter of purchase/installation size was still being examined by Council Officers, the developers advised the Council that they were aiming to start on site on 7th October 1996, and that the Council should issue a letter before that date to approve the landscaping. Letter received 8th October 1996 from Birketts Solicitors, advising that their clients were fully geared up for an imminent start on site. The letter advised the Council that a delay would incur unnecessary expense on the part of their clients, for which they would seek compensation. [12]
- 4/10/96 Letter sent from Council to developers (faxed 7/10/96 and crossed in post with Birketts letter of 4th October) explaining that the Condition 12 had now been complied with subject to final approval of the brick type. The letter also advised that the Landscaping scheme was now satisfactory and that a start could be made on site with two provisos. One proviso was that two new trees should be added to replace two removed sycamores, and the other was that the size of the proposed trees along the rear boundary, at installation, should be agreed, as slower growing varieties would need to be installed at a larger size in order to provide effective screening. [13]
- 22/10/96 Site visit by three Council Officers in response to urgent complaints by local residents - work was found to be proceeding apace on site but adequate tree protection had not been installed.
- 25/10/96 Letter from Council to developers regarding protection for the Plane tree. [14]
- 1/11/96 Letter sent from Council to neighbouring residents, updating them on the position with regard to Condition 15 and the two outstanding provisos. [15]
- 1/11/96 Letter sent from Council (Arboriculturist) to developers specifying minimum tree sizes at installation. [16]
- 1/11/96 Letter sent from Council to developers reminding them of requirements Condition 15, as established in letter of 4th October 1996. [17]
- 1/11/96 Letter sent from Council to on site contractors specifying tree protection measures needed. [18]
- 6/11/96 Fax received from Ashton Allen Design, on behalf of developers, agreeing to install trees of the sizes set out in Council's letter of 1st November. [19]
- 6/11/96 Letter from Council to developers, requesting revised drawings before a final letter could be issued confirming that Condition no.15 had been discharged. [20]
- 8/11/96 Revised copy of drawing 6366-26/D received. Plant sizes still not shown.

- 13/11/96 Revised rear elevation 6366-27/C received, showing plant sizes at installation. Further revisions to 6366-26/D received, in the form of 26/E.
- 14/11/96 First letter received from John Peacock Planning [21]. Letter requested confirmation of discharge of Conditions (3) and (15).
- 15/11/96 Letter from neighbouring resident to Council, advising that the proposed tree screen was still unsatisfactory. [22]
- 16/12/96 Further letter from John Peacock Planning, chasing confirmation of Conditions. [23]
- 6/2/97 Further letter from John Peacock Planning. [24]
- 14/2/97 Letter from Council to John Peacock Planning. [25]
- 19/2/97 Reply from John Peacock Planning. [26]
- Work on site ceased at around this time.
- 4/3/97 Letter from Council to John Peacock Planning. [27]
- 12/3/97 Letter from Council to John Peacock Planning. [28]
- 21/3/97 Letter from Council to neighbouring resident. [29]
- 29/4/97 Letter from John Peacock Planning to Council, threatening to start on site again "within 7 days". [30]
- 15/7/97 Letter from Council to neighbouring resident [31]

Condition (3) relating to tree protection

- 12/9/96 Meeting held on site to agree necessary measures for protection of Plane tree. The erection of a protective crib, plus retention of garage bases to prevent impaction, was agreed.
- 9/10/96 Letter from Council to contractors, confirming the agreed works to protect the Plane tree. [32]
- A letter was not sent formally discharging Condition (3), as work started on site soon afterwards and immediately generated concern, and complaint, that the Plane tree was not adequately protected.
- 22/10/96 Urgent site meeting in response to complaints from neighbouring residents that heavy machinery on site was damaging tree roots. Three Council Officers attended the site meeting, and found that the piling rig under the tree was doing lots of manoeuvring and churning soil and badly damaging roots. Instructions were given to cease work, and lay a concrete slab before restarting work, to prevent this damage continuing.
- 29/10/96 Further site visit by Council's senior Arboriculturist

- 1/11/96 Letter sent to contractors specifying re-assessed precautions, including laying of concrete slab. [18]
- 14/11/96 Letter received from John Peacock Planning, requesting discharge of Conditions (3) and (15). [21]

Condition (3) could not be discharged at that time because the concrete protection slab had not yet been laid to the required dimensions.

(4) Why did the Council consider prosecution if Condition 15 was met bar two minor issues which did not have a time scale attached

4.1 The Council's letter of 6th November 1996 stated that "the Chairman of the Planning Committee that approved the scheme has asked me to consider prosecution for breach of condition unless these matters are resolved forthwith" The letter also stated that recent agreements were "most welcome" and it is was evident that the question of formal action for breach of condition would not be appropriate as long as negotiations seemed to be moving towards an acceptable solution to the matters in question. The matter of prosecution for breach of condition was never formally considered by the Planning Services Committee.

4.2 It is not correct to say that there was no time scale attached. The Council's letter of 4th October 1996 to the developers clearly advised that the details of tree sizes should be submitted and agreed in writing **before the development is completed**. It further advises that the necessary discussions should **proceed as soon as possible**. [paragraph 7 of the letter]

(5) Copies of the letters sent by the Planning Department and Chairman of the Planning Committee to "interested neighbours" about the terms of Condition 15

5.1 Enclosed with bundle of numbered documents.

(6) Further Observations

6.1 The situation as it now stands is frustrating, to say the least, for all concerned. The requirements under Condition (15) were very close to being met when negotiations ceased. A lot of progress was made last year in negotiating a tree planting scheme that would provide the neighbouring residents with the privacy and amenity that they desired, and that the Planning Services Committee sought in imposing Condition 15, whilst at the same time providing the developers with a suitable landscaping scheme and discharge of the requirements of the Condition. The Council Officers have sought to achieve a solution to the matter through negotiation, not through conflict. The Council have shown themselves to have acted reasonably in, for example, using their discretion in allowing the developers to make a start on site under the letter of 4th October 1996, despite the fact that the requirements of the Condition had not yet been fully met and the amenity of neighbouring property still not safeguarded.

6.2

The Council does not consider that the process of negotiation that took place last year was either (a) unreasonable or (b) has involved the developer in significant extra expense. The Council allowed the developer to start on site with some matters outstanding pursuant to Conditions (3) and (15). In so doing, the health of the Plane tree suffered, and so did the Council's relationship with its local residents. For the most part, negotiations took place whilst work was progressing on site. The indications appear to be that the developer in fact had some disagreement with the contractors, which is why work ceased on site. The Council does not have any evidence that the negotiating process pursuant to the various Conditions has involved the developers in any significant extra expense that would be beyond what might reasonably be expected to be incurred in dealing with such a Condition. If the Condition itself was felt to be unreasonable, then it might seem odd that no appeal was lodged against the Condition when it was imposed.

6.3

The Council would hope that one further meeting with the developers, perhaps with one local resident present as a representative of residents interests, could well resolve the problem.

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MEMORANDUM

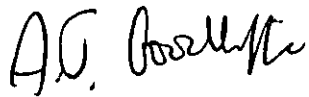
TO: Mike French, Executive Director Planning and Conservation

FROM: Alun Phillips, Director of Legal Services

DATE: 2nd July 1997

RE: Ombudsman Complaint by John Peacock Planning on behalf of Eyton Developments (Suffolk) Ltd, of 105 High Street, Needham Market, Ipswich.

I enclose a copy of a letter I have received from the Ombudsman dated 27th June and should be grateful to have your comments on the complaint as soon as possible.



AP Alun Phillips
Director of Legal Services

cc r DCS

2 JUL 1997

27 June 1997



The Commission for
Local Administration in England

A Taylor Esq
Town Clerk & Chief Executive
Royal Borough of Kensington & Chelsea
DX 47207
KENSINGTON HIGH STREET

E B C Osmotherly CB
Local Government Ombudsman
J J Bash OBE
Director & Solicitor to the Commission

Our ref: 97/A/1063/AJS/kjg

If telephoning contact: Mrs Scott's secretary on 0171 915 3290

Dear Mr Taylor

The Local Government Ombudsman has received a complaint by John Peacock Planning on behalf of Eyton Developments (Suffolk) Ltd, of 105 High Street, Needham Market, Ipswich. I enclose details of the complaint.

As I understand it the complaint can be summarised in the following statement:

that the Council delayed dealing with applications relating to planning conditions attached to an approval, and failed to supply information requested.

I should be grateful if you would send me your comments on the complaint within 15 working days of receiving this letter. In addition to your general comments it would be helpful to receive the following information:

- (1) what was envisaged by conditions 3 and 15;
- (2) a chronology of what was requested, when it was requested, and when provided;
- (3) as the letter of 4 October said that condition 15 was met bar two minor issues but did not attach a timescale to the provision of those, why did the Council consider prosecution;
- (4) copies of the letters sent by the Planning Department and the Chairman of the Planning Committee to "interested neighbours" about the terms of Condition 15.

Page 2
27 June 1997
A Taylor Esq

Please bear in mind that your comments and any accompanying documents will usually be shown to the complainant.

The Ombudsman welcomes it if a Council is able to settle a complaint locally. Please let me know if you feel that this might be possible in this case.

If it is decided to pursue the complaint I will ask you whether your Council has any comments to add to those you have already submitted.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A J Scott'.

A J Scott (Mrs)
Investigator

Enc: form and letter of complaint

Complaint form

COMMISSION FOR
LOCAL ADMINISTRATION
RECEIVED
19 JUN 1997



Please continue your answers on a separate sheet if there is not enough space on this form.

When you have filled in this form, either send it direct to the Local Government Ombudsman or ask a councillor on the council complained against to send it for you.

- 1 Mr Mrs Ms Your name (BLOCK CAPITALS) Eyton Developments (Suffolk) Ltd.

- 2 Your address c/o John Peacock Planning, 105 High Street, Needham Market,
Town Ipswich Postcode IP6 8DQ

- 3 Your telephone number: daytime (01449) 722008 evening _____

- 4 Name of council complained against The Royal Borough of Kensington & Chelsea

- 5 What do you think the council did wrong or did not do? Failed to respond to requests
to confirm acceptance of details in respect of conditions and failed to
supply background information.

- 6 How have you been affected by the council's actions? Delays and expense

7 What should the council do to put things right? Respond immediately. Apologise and explain why there has been a delay. Meet all my clients' expenses. Confirm acceptance of, and liability for, any other expenses incurred by the delay. Supply information requested.

8 On what date were you first aware of the matter you are complaining about? See correspondence

Please tick the circles as appropriate

9 Have you complained to the council? YES NO

If so: (a) to which person did you complain?

(b) on what date did you complain?

(c) was your complaint in writing? YES NO

(d) have you received a written reply? YES NO

(If the answer to (d) is 'yes', please enclose a copy of the reply with this form.)

10 Have you complained in writing to a councillor? YES NO

If so: (a) to which person did you complain?

(b) on what date did you complain?

Only answer question 11 if your complaint is more than 12 months old.

11 Is it more than 12 months since you first knew of the matter you are complaining about? Or was it more than 12 months before you wrote to a councillor about it? If so, what are the reasons for the delay?

If you have any documents to support your complaint, for example letters from the council, please send these to the Ombudsman with this form. Please tick the circle if you would like them returned to you.

To be signed by the person making the complaint

Signed John Peacock Date 18th June 1997

You can now send this complaint form direct to the Local Government Ombudsman, or you can ask a councillor to send it for you. If you ask a councillor to send it for you, he or she should print his or her name here and then sign below

Councillor's signature

Date

Please send this complaint to the Local Government Ombudsman for the area where you live. The addresses are on page 6 of the leaflet.

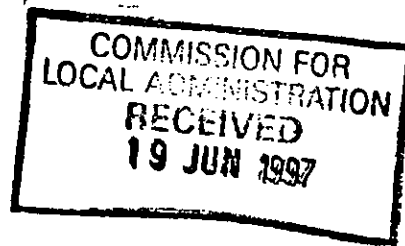
John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP

18th June 1997

E.B.C. Osmotherly, Esq., CB,
Local Government Ombudsman,
21 Queen Anne's Gate,
London.
SW1 H 9BU



Dear Sir,

Complaint against The Royal Borough of Kensington and Chelsea in relation to a planning matter affecting 4 St. Mary Abbot's Place, Kensington

I act as Planning Consultant to Eyton Developments (Suffolk) Limited who are owners and present developers of the above site. My clients have experienced considerable difficulties in resolving matters relating to planning conditions affecting the development and I personally have been unable to persuade the Council to deal adequately with my requests contained in correspondence and via telephone calls.

Eyton Developments (Suffolk) Limited therefore wish to complain of maladministration by the Council resulting in injustice causing unnecessary delays and expense incurred by their actions and inaction.

The complaints are twofold. Firstly, in relation to the Council's complete inability to adequately respond in relation to details submitted pursuant to a planning condition, and secondly, to have ignored requests to supply relevant background information available to my clients under the provisions of the Local Government Act 1972 (as revised). The following points explain the position that my clients find themselves in today.

Document Bundle 1

1. On 11th July 1995, planning permission was granted by The Royal Borough of Kensington and Chelsea under their reference TP/94/0644 allowing the development of the above site for the erection of two semi-detached single family dwellings with associated works, subject to 15 specific conditions.
2. My clients acquired the site post-decision and have commenced development involving very substantial ground works and construction of pile foundations. Planning permission TP/24/0644 is subject to certain conditions which need to be at least partly complied with before development commenced on the site. Two conditions in particular, namely 3 and 15, were of concern to my client.

Document Bundle 2

3. Condition 15 had been the subject of submissions to the Council which commenced on 21st May 1996, with the first formal response from the Council following a meeting on

9th July 1996 attended by my client and his architect. Further correspondence took place with the Council on 19th July when revised plans were submitted with the Council responding on 14th August 1996 suggesting that the Council were "still considering" drawings submitted (letter of 14th August 1996 attached).

4. Nothing was heard in response and on 29th August 1996, my client's architect sent a faxed note to the Council informing them that ground works were to commence in the "very near future".
5. A series of 9 further faxed notes were sent to the Council during the period 4th September to 3rd October 1996 during which period two telephone calls from a Council officer, Mr. D. Taylor, resulted in a further amendment to the landscaping plan. Two further faxes were sent to the Council on 4th October 1996, one of which confirmed yet more alterations to the plan on the suggestion of the planning officer.

Document Bundle 3

6. My personal involvement commenced in October 1996 and is referred to in the bundle of correspondence attached in chronological order. The most important letter in that bundle is that dated 4th October 1996 from the Council in that the first paragraph of the second page of that letter appears to confirm acceptance of landscaping details pursuant to condition 15 of the planning permission. The letter does however go on to request further details to be submitted which were duly sent.
7. Throughout the correspondence, both my client's architect and myself have been trying to tempt the Council to specifically confirm that Conditions 3 & 15 have been satisfactorily complied with.
8. My letter of 14th November 1996 takes issue with the Executive Director of Planning Services concerning his apparent inability to formally accept details pursuant to Conditions 3 & 15. I trust that the letter is self-explanatory. I have since that time sent at least 7 letters to the Council requesting formal acceptance of details but to absolutely no avail apart from two rather irrelevant replies from the Council dated 14th February and 4th March 1997. Furthermore, requests for copies of background information off the Council's Case File have also been totally ignored.
9. Having been threatened with the service of a Breach of Condition Notice, which is a very serious proposition to contemplate, my client has been forced to take Counsel's opinion on the Council's inability to state conclusively that the conditions had been complied with. I have to record that Counsel's advice is positive in favour of my clients' position.
10. Even in the knowledge of Counsel's opinion, the Council have persisted in failing to respond to my further correspondence apart from by way of an acknowledgement postcard. My client still does not have the formal explicit consent of the Council in writing in respect of compliance of either of the two conditions and you will note from the extensive amount of correspondence sent to the Council have offered no explanation of their inability to act.
11. You should also note that my attempts to resolve this matter have included several telephones calls as listed below;
 - 1) 28.11.96 to Mr. D. Taylor who was unavailable

- 2) 29.11.96 to Mr. D. Taylor who was still unavailable as he was "moving house"
Two other names of officers were given to me namely Lesley Jones or Ann Docherty and two further telephone calls on that day failed to locate them for discussion.
 - 3) 2.12.96 (am) I find that Lesley Jones is part-time only (Tuesday/Friday), that Mr. D. Taylor is "on leave until Wednesday", and that Ann Docherty was "in a meeting until 12.30"
 - 4) 2.12.96 a telephone call received from Lesley Jones in the afternoon. She was ringing from home and will "investigate and respond to my letter".
 - 5) 5.12.96 Tried to contact Mr. D. Taylor - "in a meeting". Left message to return my call.
 - 6) 11.12.96 Spoke to both Lesley Jones and Mr. D. Taylor who was still attempting to resolve the situation.
12. My last two letters to the Council were dated 19th March and 29th April 1997. The first letter referred to suggests that I would be complaining to you if my letters remained unanswered. The second has attracted an acknowledgement postcard.

Conclusions

I hope that you will agree that there is a clear case of maladministration demonstrated in this case and that my clients have a very justifiable grievance to put to you. Furthermore, they have expended considerable sums of money in seeking both to comply with the Council's request in respect of many amendments to their plans, and by having to resort to third party advice and assistance in resolving the conundrum concerning the conditions. I would ask that you investigate this case and concur with my views and find the Council guilty of maladministration and order that they pay my client's reasonable costs in this affair. Furthermore, it will be helpful if you could point out to them that the Council's proper officer is duty bound to provide background information in relation to this matter.

I look forward to your speedy response to this case.

Yours faithfully,

John Peacock

LAND ADJACENT TO 4 ST. MARY ABBOT'S PLACE, KENSINGTON, W.8

OMBUDSMAN COMPLAINT BY JOHN PEECOCK PLANNING

Summary of Complaint

That the Council acted unreasonably by delaying dealing with applications relating to planning Conditions attached to a Planning Permission, and failed to supply information requested.

Requirements

- (1) General Response to complaint
- (2) A description of what was envisaged by Conditions 3 and 15
- (3) A chronology of what was requested, when it was requested, and when provided
- (4) Why did the Council consider prosecution if Condition 15 was met bar two minor issues which did not have a time scale attached
- (5) Copies of the letters sent by the Planning Department and Chairman of the Planning Committee to "interested neighbours" about the terms of Condition 15

(1) GENERAL RESPONSE TO COMPLAINT

- 1.1 The root of the complaint to the Ombudsman is that the Council have not confirmed that the requirements set by the Council under Condition 15 have been fully discharged. The simple reason why such confirmation has not been forthcoming is that those requirements have not yet been fully discharged. When they are, then the Council would be pleased to issue appropriate confirmation.
- 1.2 Planning permission was granted on 11th July, 1995, for the construction of two houses on land adjacent to no.4 St. Mary Abbots Place. A total of 15 Conditions were attached to the Permission; a number of these were conditions precedent whereby certain requirements were laid down that would need to be discharged before development commenced.
- 1.3 The three Conditions requiring submission of details were numbered (3), (12), and (15). Matters relating to each of these Conditions are set out in Section 3 of this Statement which provides a chronology of what was asked for and provided, and when.

1.4 The wording of these Conditions is as follows:

Condition (3)

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 development commences and maintained for the duration of building and other operations on the site

Condition (12)

Samples of materials 1, 2, 6, 7, 8, 11, 12, 14, and 18 on drawing L(--)100B shall be submitted to and approved in writing by the Executive Director, Planning & Conservation before development commences

Condition (15)

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 treatment of the open land within the site including hard and soft landscaping.

(2) A description of what was envisaged by Conditions 3 and 15

2.1 The reason given for the imposition of Condition 3 was:

To ensure that the trees are adequately protected and to safeguard the amenities of the area

2.2 The reason given for the imposition of Condition 15 was:

The particulars 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.

2.3 ✓ Condition 3 is a standard Condition, commonly imposed where the Council is concerned that operations on site pursuant to a planning permission may seriously harm important trees. In the case of St. Mary Abbot's Place, the Council was particularly concerned for the well being of a mature Plane tree located at the centre of the site. Exhaustive negotiations had taken place, prior to the granting of planning permission, between the Council's arboriculturists and the arboricultural consultant acting for the applicants, with regard to the safety of this Plane tree, and the development was finally approved on the basis that the approved building would sit on a raft with pile and beam foundations to protect the roots of the tree. It was evident that great care would need to be taken in the clearance of the site, in the sinking of piles, and in constructing the raft and building above.

2.4 The onus is upon a developer to comply with a Condition. When the present complainants bought the site from the original applicants, with its Planning Permission, they should have taken immediate steps to comply with Condition 3 if they wished to make an early start on implementing the development. In the event, they began works on site with adequate protection for the important Plane tree absent from the site and made no attempt to agree such protection until confronted by the Council's Arboricultural Officers. The failure of the developers to comply with Condition (3) before the commencement of work

on site led to a series of visits to the site at which the necessary protective measures were stipulated by the Council and agreed to (somewhat reluctantly) by the contractors. Unfortunately, this retrospective application of the requirements of the Condition was too late to prevent the severance of a number of important roots to the Plane tree, and the belated laying of a concrete slab around the base of the tree to spread weight and prevent compaction was also too late to prevent some suffering by the tree. The intention of the Condition was to prevent harm to the tree, however the retrospective manner in which the requirements of the Condition were met did not, unfortunately, satisfy this objective and contrasted very unfavourably with what the Council had envisaged in imposing this Condition.

- 2.5 In terms of Condition (3), the Council considers that, by continuing to advise on site rather than simply require work to cease, far from in any way acting unreasonably towards the developers/contractors the Council applied a significant degree of discretion and practicality in using its enforcement powers.
- 2.6 A chronology of events in relation to Condition (3) is provided below.
- 2.7 Turning to the matter of what was envisaged in imposing Condition (15), it can be very simply stated that same requirement, i.e that the matters pursuant to the Condition should have been agreed and discharged prior to commencement of works, fell to the developers under Condition (15) as it did (3). Again, what was envisaged under this Condition proved to be rather different to the sequence of events that unfurled in reality.
- 2.8 A detailed chronology is provided below, however to look at what was envisaged in Condition 15 it is also necessary to go back to the time when planning permission was granted, in 1995.
- 2.9 The planning application was first presented to the Planning Services Committee, comprising 7 Councillors, on 11th January 1995. The Committee heard objectors and the applicants speak for and against the application, and a decision was deferred. The application was then presented to the Planning Services Committee on 4th April 1995, and again a decision was deferred. Finally, the application was considered by the full Planning & Conservation Committee (comprising 12 Councillors) on 1st May 1995, and this Committee granted planning permission.
- 2.10 The Planning & Conservation Committee considered and debated the application at great length, with the discussion ranging from the principle of using the site for housing, to the architectural detail of the proposed buildings, and to the resultant impact that the development may have upon the levels of amenity enjoyed by occupants of neighbouring property. On the last point, the Committee were receptive to objections from residents to the rear (West) of the property, who amongst other things were concerned that the proposed houses would overlook their gardens and houses. The Committee concluded that the most appropriate way to mitigate the overlooking problem would be to ensure that trees were provided at the boundary between the proposed houses and the properties to their rear.
- 2.11 The Minutes of the Meeting for the 1st May Committee recorded that:
 - . "The Committee asked that an additional Condition, the precise wording of which to be agreed with the Chairman, be imposed requiring the applicant to undertake some appropriate tree planting at the rear of the new buildings."

2.12 A Condition was duly added to the draft Planning Permission, to become known as Condition 15 attached to the issued Planning Permission.

2.13 The Council envisaged, in imposing this Condition, that a process of negotiation would then ensue which would lead to the applicants installing sufficient trees at the rear of the property to avoid any significant overlooking of nearby property. The detail of the landscaping scheme, to be approved before works commenced on site, were deliberately not specified in the Condition, as it was clear that there might be any number of acceptable mixes of tree species that could meet the objectives of the Condition. Trees differ widely in their growth rates, foliage density, duration of foliage cover, and rooting requirements, and the exact detail of the trees was left to negotiation.

(3) A chronology of what was requested, when it was requested, and when provided

Condition (15) relating to the soft landscaping and new trees

1/5/95 Planning & Conservation Committee added a Condition to the list of then draft Conditions, in order that the applicant should undertake some appropriate tree planting at the rear of the new buildings [1].

~~11/7/95~~ Planning Permission issued, with Condition (15) attached [2]

~~25/7/95~~ Letter sent to developers reminding them the requirements of Condition (15), [3] specifying that:

"As part of the landscaping proposals, a screen of tree planting will be required to the rear boundary with 9, 11, and (13) Warwick Gardens"

~~26/7/95~~ Letter sent by Chairman of the Planning & Conservation Committee, Cllr. Desmond Harney OBE, to neighbouring resident at rear of site, advising that there would be various alternatives in terms of trees to satisfy Condition 15, and that the residents would be fully consulted in the process [4]

~~11/9/95~~ Letter sent from Council to neighbouring resident, paragraphs 3 and 4 being those most relevant to this Ombudsman complaint [5]

~~4/10/95~~ Letter sent to developers, again reminding them of the need to provide a screen of trees along the rear boundary of the site. [6]

20/11/95 Meeting held at Town Hall with C. P. Barrow of Meadview Developments, concerning boundary details but not specifically Conditions (3) or (15). This was to be the last meeting with Meadview Developments.

~~24/1/96~~ First communication from Ashton Allen Design, on behalf of Eyton Developments (Suffolk) Ltd., who appeared to be new owners of the site. [7]

~~7/2/96~~ Reply from Council to letter of 24th January. [8]

~~3/4/96~~ Letter from neighbouring resident received, stressing concern that Condition 15 still appeared to be outstanding. [9]

21/5/96

Receipt of complainants first attempt at devising a landscaping scheme including trees at the rear [10] Several further sets of plans followed over the next few weeks, adjusting the planting scheme and adding several extra trees. In terms of respecting the existing levels of amenity enjoyed by residents to the rear of the property the landscaping scheme was improving with these amendments, although there was some remaining concern particularly regarding the size of the trees at installation. Residents were understandably concerned that the trees may only begin to offer screening of any worthwhile nature after many years growth.

3/10/96

Letter sent to neighbouring residents, advising them of progress relating to the discussions on tree size at installation, and growth rates. [11].

4/10/96

Whilst the matter of purchase/installation size was still being examined by Council Officers, the developers advised the Council that they were aiming to start on site on 7th October 1996, and that the Council should issue a letter before that date to approve the landscaping. Letter received 8th October 1996 from Birketts Solicitors, advising that their clients were fully geared up for an imminent start on site. The letter advised the Council that a delay would incur unnecessary expense on the part of their clients, for which they would seek compensation. [12]

4/10/96

Letter sent from Council to developers (faxed 7/10/96 and crossed in post with Birketts letter of 4th October) explaining that the Condition 12 had now been complied with subject to final approval of the brick type. The letter also advised that the Landscaping scheme was now satisfactory and that a start could be made on site with two provisos. One proviso was that two new trees should be added to replace two removed sycamores, and the other was that the size of the proposed trees along the rear boundary, at installation, should be agreed, as slower growing varieties would need to be installed at a larger size in order to provide effective screening. [13]

22/10/96

Site visit by three Council Officers in response to urgent complaints by local residents - work was found to be proceeding apace on site but adequate tree protection had not been installed.

25/10/96

Letter from Council to developers regarding protection for the Plane tree. [14]

1/11/96

Letter sent from Council to neighbouring residents, updating them on the position with regard to Condition 15 and the two outstanding provisos. [15]

1/11/96

Letter sent from Council (Arboriculturist) to developers specifying minimum tree sizes at installation. [16]

1/11/96

Letter sent from Council to developers reminding them of requirements Condition 15, as established in letter of 4th October 1996. [17]

1/11/96

Letter sent from Council to on site contractors specifying tree protection measures needed. [18]

6/11/96

Fax received from Ashton Allen Design, on behalf of developers, agreeing to install trees of the sizes set out in Council's letter of 1st November. [19]

(4) Why did the Council consider prosecution if Condition 15 was met bar two minor issues which did not have a time scale attached

4.1 The Council's letter of 6th November 1996 stated that "the Chairman of the Planning Committee that approved the scheme has asked me to consider prosecution for breach of condition unless these matters are resolved forthwith" The letter also stated that recent agreements were "most welcome" and it is was evident that the question of formal action for breach of condition would not be appropriate as long as negotiations seemed to be moving towards an acceptable solution to the matters in question. The matter of prosecution for breach of condition was never formally considered by the Planning Services Committee.

4.2 It is not correct to say that there was no time scale attached. The Council's letter of 4th October 1996 to the developers clearly advised that the details of tree sizes should be submitted and agreed in writing **before the development is completed**. It further advises that the necessary discussions should **proceed as soon as possible**. [paragraph 7 of the letter]

(5) Copies of the letters sent by the Planning Department and Chairman of the Planning Committee to "interested neighbours" about the terms of Condition 15

5.1 Enclosed with bundle of numbered documents.

(6) Further Observations

6.1 The situation as it now stands is frustrating, to say the least, for all concerned. The requirements under Condition (15) were very close to being met when negotiations ceased. A lot of progress was made last year in negotiating a tree planting scheme that would provide the neighbouring residents with the privacy and amenity that they desired, and that the Planning Services Committee sought in imposing Condition 15, whilst at the same time providing the developers with a suitable landscaping scheme and discharge of the requirements of the Condition. The Council Officers have sought to achieve a solution to the matter through negotiation, not through conflict. The Council have shown themselves to have acted reasonably in, for example, using their discretion in allowing the developers to make a start on site under the letter of 4th October 1996, despite the fact that the requirements of the Condition had not yet been fully met and the amenity of neighbouring property still not safeguarded.

6.2 The Council does not consider that the process of negotiation that took place last year was either (a) unreasonable or (b) has involved the developer in significant extra expense. The Council allowed the developer to start on site with some matters outstanding pursuant to Conditions (3) and (15). In so doing, the health of the Plane tree suffered, and so did the Council's relationship with its local residents. For the most part, negotiations took place whilst work was progressing on site. The indications appear to be that the developer in fact had some disagreement with the contractors, which is why work ceased on site. The Council does not have any evidence that the negotiating process pursuant to the various Conditions has involved the developers in any significant extra expense that would be beyond what might reasonably be expected to be

incurred in dealing with such a Condition. If the Condition itself was felt to be unreasonable, then it might seem odd that no appeal was lodged against the Condition when it was imposed.

- 6.3** The Council would hope that one further meeting with the developers, perhaps with one local resident present as a representative of residents interests, could well resolve the problem.

- 6/11/96 Letter from Council to developers, requesting revised drawings before a final letter could be issued confirming that Condition no.15 had been discharged. [20]
- 8/11/96 Revised copy of drawing 6366-26/D received. Plant sizes still not shown.
- 13/11/96 Revised rear elevation 6366-27/C received, showing plant sizes at installation. Further revisions to 6366-26/D received, in the form of 26/E.
- 14/11/96 First letter received from John Peacock Planning [21]. Letter requested confirmation of discharge of Conditions (3) and (15).
- 15/11/96 Letter from neighbouring resident to Council, advising that the proposed tree screen was still unsatisfactory. [22]
- 16/12/96 Further letter from John Peacock Planning, chasing confirmation of Conditions. [23]
- 6/2/97 Further letter from John Peacock Planning. [24]
- 14/2/97 Letter from Council to John Peacock Planning. [25]
- 19/2/97 Reply from John Peacock Planning. [26]
- Work on site ceased at around this time.
- 4/3/97 Letter from Council to John Peacock Planning. [27]
- 12/3/97 Letter from Council to John Peacock Planning. [28]
- 21/3/97 Letter from Council to neighbouring resident. [29]
- 29/4/97 Letter from John Peacock Planning to Council, threatening to start on site again "within 7 days". [30]
- 15/7/97 Letter from Council to neighbouring resident [31]

Condition (3) relating to tree protection

John Peacock Planning

Consultancy Services in Town Planning and Development

17/11/96

2/11/96 for reply

Our reference: C541/JCP

Your reference: DPS/DCC/TP/94/0644

14th November 1996

M.J. French, Esq.,
Director of Planning Services,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICE			
15	NOV	1996	41
ARB	IC	ARB	ARB
ARB	IC	ARB	ARB

Dear Sir,

Town and Country Planning Act 1990 - erection of two semi-detached, single family dwelling-houses with associated off-street parking and external amenity space, land on and adjacent to 4 St. Mary Abbots Place, Kensington, W8. Register No. TP/94/0644 - Eyton Developments (Suffolk) Ltd.

I act for Eyton Developments (Suffolk) Limited as adviser on planning matters relating to the above development. I now have on file *post* decision a considerable amount of correspondence concerning various matters relating to the development from both your Mr. D. Taylor and arboriculturalist, Mr. D. Austin. I have recently had long telephone conversations with both officers to enable me to gain a clear understanding of the Borough Council's present position concerning conditions appended to the planning permission, mainly in respect of landscaping and tree protection issues.

Before recapping on matters raised by you in recent letters, I would wish to record that my clients have acquired the site and commenced work based upon information as contained in the public record, i.e. the planning permission referred to above. It is that document which after all clearly sets out all of the parameters which the Council consider to be appropriate to control the development in this case and is the only document upon which the developers should and could rely in seeking to comply with the Council's conditions.

From reviewing the papers now handed to me by my clients, I have reached conclusions on various points and advised accordingly. There are however certain matters which have arisen as a result of letters received from you which are perhaps slightly ambiguous and require comment and clarification at this stage. There are also points relating specifically to conditions 3 and 15, apparently as yet unresolved.

Condition 3

It appears from correspondence that your Mr. D. Austin, the Principal Arboricultural Officer, is now in a position to confirm acceptance of my client's proposals and action in respect of tree protection. I note, in chronological order, the following points raised by Mr. Austin;

John Peacock, Dipl.E.P., M.R.T.P.I.,
(Chartered Town Planner)

105 High Street, Needham Market, Ipswich, Suffolk IP6 8DQ

Tel: (01449) 722008 Fax/Answerphone: (01449) 722234

VAT Reg. No. 571 4444 43

1. Letter of 9th October 1996 to Guardian Foundations and Construction Ltd;

"I can confirm that we were all agreed that:-

- 1) The tree protection set in place for the large London plain tree was satisfactory and of a higher standard than that usually required by the Local Planning Authority in similar circumstances.
- 2) The concrete hardstandings outside the footprint of the building are to be retained as long as possible to alleviate the effects of soil compaction on surface roots."

2. Letter dated 1st November 1996 to Guardian Foundations and Construction Ltd:-

- 1) "My colleagues and I are satisfied with the wooden "crib" that has been erected around the tree. On confined sites it is impossible to adhere strictly to the British Standard BS 5837 "Trees in relation to Construction", the contents of which are meant to be guidelines.
- 2) The concrete hardstandings outside the footprint of the building are to be retained until such a time that permission for their removal is given in writing by the LPA.
- 3) A temporary raft of reinforced concrete laid over the existing surface of the site (no excavations) of such a depth that it will withstand a loading of 7 tonnes, covering the area between the trees protective "crib" and the building line (in other words what will become the courtyard) must be laid immediately and remain in place until such a time that permission for its removal is given in writing by the LPA.
- 4) In view of the fact that some root severance is inevitable, a survey by Ground Penetrating Radar would be very useful to monitor the extent of such severance and ensure that it is kept within acceptable limits. I am not certain if the Pipehawk apparatus is capable of operation on rough terrain such as that on this site, but the urgent advice of the firm (EMRAD) must be sought."

All of the points detailed above have or are being complied with by the developer and constitute their tree protection measures to comply with Condition 3. In respect of No. 4 above, advice has been taken both on the practicalities of using and the benefits of commissioning a GPR report on the site. The firm conclusion is that it is both impracticable and of no help to employ such a machine on this site. There are a number of reasons for this. Firstly, the terrain is unsuitable, secondly, even if roots are "discovered" there is no way that any sensible calculation can be made of the effect on the tree should they be severed. In any event, the Council have approved the dwelling in a specific location and all of the underground engineering works have now been approved in specific detail. There is nothing to be gained from commissioning a survey by GPR and the developers cannot agree to this point.

Under the circumstances described above, and in the event that you have not already done so, would you please confirm acceptance of the developer's tree protection measures by return, without caveat.

Condition 15

On the question of landscaping, I would first enjoin you to consider your letter of 4th October 1996 addressed not to the applicants but Mr. George Eyton-Jones. The first paragraph of the second page of your letter confirms that the landscaping details, as depicted on submitted drawing nos. 6366-26C and 27B, are accepted and "...can be taken as a satisfactory scheme for the purposes of Condition 15..."

The second paragraph advises my clients that "...a start on site can now be made without conflict with the aims and terms of this condition..." Work has commenced on site with my client taking comfort from your express acceptance that a "start on site" could be made without conflict with the aims and terms of Condition 15. Your letter, of course, goes on to suggest that, notwithstanding your acceptance of submitted drawings as a satisfactory scheme for the purposes of Condition 15, further details should be supplied. These included the submission of details of the size of the proposed trees at their installation and notwithstanding your prior agreement to the removal of two sycamore trees (letter dated 5th March 1996) with no specific requirement that they be replaced, you nevertheless considered that "suitable landscaping" was required at "this end of the site" to take account of their loss. As you know, negotiations have taken place with the conclusion on this additional detail, although your letter of 4th October does not specify any firm time limit for the submission of this extra information.

Following this, I was therefore surprised to read the contents of your letter of 6th November 1996, third paragraph, in which you suggest that the Chairman of the Planning Services Committee, who "approved the scheme" (?) had asked you to consider prosecution for Breach of Condition unless certain landscaping matters were resolved forthwith. No doubt you have carefully appraised your Chairman of the fact that landscaping details have at least been confirmed in writing (and now on plan) and that there has been no undue delay at all on behalf of my clients in resolving this point. Furthermore, I am puzzled that "prosecution for breach of condition" should be on the agenda, bearing in mind your commitment contained in your letter of 4th October and in view of the fact that no Breach of Condition Notices have been threatened or served in this case.

I understand that you now have all of the detail that you require to enable you to confirm complete compliance with Condition 15. If you have not already done so, I would appreciate a copy of your letter of acceptance by return.

I can make no apologies for the length of this letter as I need to convey to you my client's growing concern at the rather regular appearance of what I can only describe as "new issues" when I firmly believe that such matters should have been clearly detailed in the decision notice on the original planning application as required now by the Town and Country Planning (General Development Procedure Order) 1995, Article 22.

Yours faithfully,



John Peacock

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Ferguson
15 Warwick Gardens
London
W14 8PH

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

15 July 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/H/ Your reference:
DT

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

Further to your recent correspondence enquiring as to the present state of affairs relating to the above site, I write to provide you with a short summary of the situation.

I apologise for not writing sooner, however there have been two reasons for this which I will now explain.

Firstly, since the contractors left the site several months ago there has been no movement in negotiations at all. It is not that discussions have been taking place without consulting you, it is simply that nothing has taken place. The owners of the site have not responded to enquiries as to whether they intend to continue with the development or not, and have not submitted any further documents or drawings relating to the detailed treatment of the site. It would appear that the last submitted drawing, of which you were sent a copy, is their final attempt at a negotiated solution, and that, at least for the present, they are not interested in returning to the table to re-open the matter.

Secondly, and no doubt the reason behind the above, the owners of the site have now taken the matter to the Ombudsman. The complaint to the Ombudsman is on the ground that the Council have acted unreasonably in delaying confirmation of acceptance of details in respect of Conditions attached to the Planning Permission. The Council is at present preparing a response to that complaint.

I will write again as soon as there are further developments.

Yours faithfully,

Derek Taylor
Area Planning Officer
for
Executive Director, Planning & Conservation

cc. Councillor Miss Elizabeth M. Christmas MBE

R

MEMORANDUM

To: DEREK TAYLOR

From: NICK BENTLEY

Our Ref:

Your Ref:

Date: 7/7/97

Subject: St. Mary Abbots Place.

I spoke to Adam Ferguson 603 7900 on 4/7/97 PM re the D.C. site behind his home. Cllr Christmas 937 0082 asked me to call him.

He believes there are a number of outstanding matters requiring attention on our part:

- ① He's written in on 27/3/97 and possibly 17/5/97. Some questions raised in there he feels have not met with a response. ie Tree screen and confirmation of minutes of meeting with MTF on I believe 3/4/97. (Possibly More too)
- ② Still awaiting assurance that 'tree-screen' will be fully functional on instalation.
- ③ Replacement trees for 2 Sycamore felled are of a good size.

He's also interested in the current status of the site + development. Cllr Christmas would like a copy of any written response to these points or at least to be kept informed, she is concerned about his expressions to take matters further.

Reply:

Date:

~~A~~ Please call me if I can assist in clarifying the tree/landscaping issues.

N.B. I am unsure if the concrete protection around tree's rootling area has been installed. Please liaise with me in this respect as & when you hear that things are moving again.

Many Thanks Nick Bentley

P.S I've told Cllr Christmas we'd respond to her & AF_u ^{by} which week this week - ... NB.

MEMORANDUM

From: NICK BOUTNEY

Our Ref:

Your Ref:

Date: 7/7/97

Subject: St. Mary Abbots Place.

I spoke to Adam Ferguson 603 7900 on 4/7/97 PM re the D.C. site behind his house. Mr Christian 937 0032 advised me to call him.

We believe there are a number of outstanding matters requiring attention on our part:

- ① His enquiries on 27/5/97 and possibly 17/5/97. Some questions raised in these letters have not yet been met with a response. In the evening and company of minutes of meeting with HSE on 1 June 3/4/97. (Possibly over too)
- ② Still awaiting assurance that 'tree-person' will be fully protected on installation.
- ③ Professional fees for 2 Superstore related are of a good size.

He is also interested in the current status of the site's development. Mr Christian would like a copy of any written response to the points set out above to be kept improved, he is concerned about his opportunities to visit the site further.

Reply:

Date:

Please call me if I can assist in dropping the tree! Hand-dropping issues.

N.B. I am unsure if the concrete protection around trees' rooting area has been installed. Please advise me in this regard as soon as you hear the diggers are moving again.

Many thanks Nick Boutney

P.S. I've left the site with a note re the HSE report and the work done. NB.

John Peacock Planning

Consultancy Services in Town Planning and Development

DT?
YBB-PC
65 2, DT

Our reference: C541/JCP
Your reference: EDPC/MJF/TP/94/0644

29th April 1997

M.J. French, Esq.,
Executive Director,
Planning and Conservation,
Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
30 APR 1997			56	
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Dear Mr. French,

4 St. Mary Abbots Place, Kensington, W8

My letter to you of 19th March 1997 remains unanswered, indeed, unacknowledged in any way even by postcard.

Advice has now been taken from Counsel on the question of compliance or otherwise with Conditions 3 & 15 of the planning permission dated 11th July 1995 in respect of the development. The Advice concludes that approval has been granted by the Council in respect of both conditions. Under these circumstances, please note that work will continue on site within 7 days. The consequences of any future delays brought about by the inaction or actions of the Council resulting in my clients being unable to instruct contractors to carry out further work will be pursued vigorously as necessary.

Yours sincerely,

John Peacock

• Peter

Wald shows us at 2.15m
high from public - the
wall should be 2.8m...

So that one cannot
see over wall - how
can this be lower if

Wald

MESSAGE FORM

To

WHILE YOU WERE OUT

M

of

Tel. No

CALLED TO SEE YOU		PLEASE RING	
TELEPHONED		PLEASE VISIT	
WANTS TO SEE YOU		WILL RING YOU	
URGENT		WILL CALL AGAIN	

re

Message

.....

.....

.....

.....

Signed

Date Time

Points from meeting between residents, Ward
Committee, and Exec. Dir.

- No trees at all to screen no. 9 windows
- Eucalyptus not thick enough
- juniper neither wide nor tall enough
- growth rates much too slow — 5 or 6 years before no. 15 adequately protected

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

Switchboard: 0171-937 5464

Extension: 2944

Direct Line: 0171-361 2944

Facsimile: 0171-361 3463

03 April 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF

Your reference:

Please ask for: Mr. French

Dear Mr. Fergusson,

St. Mary Abbots Place

Thank you for your letter of 27th March regarding the above site. I would apologise for not having replied to your earlier letter of 5th March, but unfortunately this was referred to the Arboriculture Section, and with all the upheaval of Mr. Austin's departure, it was not referred to me for my attention. I will of course go carefully through your minutes of our meeting and should there be any need for amendments, I will come back to you.

On the other matters which you have raised, I am still in discussion with both the developers and the Arboriculturists. I hope we will be able to resolve these matters amicably in the near future.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

c.c. Councillor Miss Elizabeth M. Christmas MBE

RECEIVED BY PLANNING SERVICE

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15 APR 1997			79	
Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

March 27, 1997

Dear Mr French,

St Mary Abbot's Place

Thank you for your letter of March 21 referring to our meeting on February 21. In it you do not acknowledge my letter and the memorandum of that meeting which I sent to you (copied to Miss Christmas) on March 5. I shall assume that you therefore accept that memorandum as accurate, and that it represents the present position and the events leading up to it as you and your department remember them.

I have shown your letter to Peter Mullins. We note that Mr Taylor is at some future time to discuss the question of tree screens. However, it is not clear to us why anything need delay your instructions to the developers to produce - as we have asked for many months - drawings that depict a tree screen running the full length of the four party walls and of fully functional height on installation. At that point, it will be possible to have with Mr Taylor the discussions and agreement that we were promised. Please will you tell me why this cannot be done? It should, we think, have been done long ago, and does not require the appointment of a tree officer..

Meanwhile, living indefinitely beside a vast crater with ugly boarding across our garden is at best an unpleasant experience for us. Nevertheless, we do not think works should be allowed to begin there again until the matter of the tree screen has been resolved to our satisfaction. We therefore once more ask you to take positive action on our behalf, and look forward to hearing very soon that that has been done.

Yours sincerely,

Adam Fergusson

Adam Fergusson

cc Councillor Miss E. Christmas
Mr Peter Mullins

From ADAM FERGUSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

DC		DC		E	
March 5, 1997					
10 MAR 1997 (36)					
Exec D.		Exec D.	AFB		
Appeals Office	10	Exec Office	Forward Plan		HR

Dear Mr French,

St Mary Abbot's Place: Tree Screen etc.

I am sending to you and to Miss Christmas a memorandum I made of our very useful meeting at the Town Hall on February 21. Peter Mullins has seen it and agreed it. Please would you read it and let me know if you find anything in it which you consider inaccurate - or tell me if I have left anything of importance out. As you will see, there were various matters raised which were not fully dealt with.

I understand that the reason for the suspension of work on the site, now more than two weeks old, is a dispute between developer and builder. There is apparently to be an on-site meeting between them tomorrow.

Peter Mullins and I hope that you will be able to give us the assurances we need on these outstanding planning issues very soon. We expect - to be specific - that the developers will at last be required to produce drawings that depict a tree screen of fully functional high on installation.

Yours sincerely,
Adam Fergusson
Adam Fergusson

copies to Cllr Miss Christmas
Cllr Desmond Harney
Peter Mullins

MEMORANDUM (by AF) of MEETING on FEB 21 1997 in TOWN HALL with Councillor Miss E Christmas, M French, P Mullins, A Fergusson

Miss Christmas asked me to run through the points at issue. I said that I had written to Mr Taylor on November 15, followed up by further letters on December 2 and December 20 and a further request for a substantial answer relayed through Councillor Harney. Mr French's short letter to me of February 6 had not addressed all the points and had been dismissive of the main one - hence today's meeting kindly arranged by Miss Christmas. I spoke on the lines of notes I had brought, drawing attention to two documents:

(1) Mr French's letter of Oct 4 1995 to Meadview Developments alerting them to the planning condition of a tree screen to protect all four neighbouring properties.

(2) The letter to me from Cllr Harney as Chairman of the Planning Committee dated July 26 1995, assuring me that "the best form of concealment (whether a line of Leylandii or a Beech hedge or single trees) will be discussed and agreed fully with you . . . But have no doubt that the Planning Officers are aware of the Council's Condition (not wish) that an agreed form of 'screen' must be provided and that the developer will be given our requirements"

As to (1), I said that, in spite of Cllr Harney's assurance that the developer would be informed, the present developer (Eyton-Jones) only learned of that condition from me through his party wall surveyor; and had dismissed it verbally, considering it did not apply because it was not on the permission he had seen. I asked Mr French what negotiations he or his department had had with the developer regarding the tree screen Condition (as opposed to the landscaping). [This question was not answered].

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Principal Arboriculturist is now satisfied with the proposed landscaping details including the rear screen of trees".

PM and I strongly made the point that the Arboriculturist's opinion had nothing to do with consultation; that his ignorance of what had been proposed for the site (specifically because he had not realised that the swimming's pool's continuous piling could not be penetrated by the plane's roots) made his knowledge and opinions in this case suspect; that he had never understood the purpose of the tree screen until we explained it to him; and that he had then personally advised us to ask for drawings of what the trees would look like from our gardens on the day of installation. When these drawings came, they proved the point.

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We said that works had been allowed to go ahead only under promise of agreement on the screen. Mr Taylor's letters to Eyton-Jones confirm this. We had maintained to Mr Taylor that inserting a swimming pool beside the party walls was inconsistent with an adequate tree screen. Mr Taylor, who fully understood the need for trees high enough on installation, had been assured by the Arboriculturist that trees already tall enough to shield the windows could be installed in planters on day one. We had questioned that repeatedly - one of the reasons why potted trees were abandoned in favour of ones in deeper, permanent troughs. Mr Taylor had checked and repeated the assurances he had been given - so we had to accept that it was true. Now (we pointed out) we had been told that the trees would have to grow to the right height after all. Mr French agreed that, if they were allowed to, this might take five or six years. He also noted that it might be difficult - not impossible - to enforce planting and replanting in the future.

Mr French confirmed that no formal agreement had been given that the requirement of Condition 15 (landscaping) had been fully met. I asked whether that would be given by the Council or Planning Committee, and noted again that the works should never have been allowed to start.

[Note: The start was provisional. The police said I would be breaching the peace if I tried to resist the builder's

entering my garden. Mr French's letter to me of November 1 said "the developers . . . must withhold such action until I have issue the necessary written confirmation". The action was not withheld.]

Miss Christmas asked if the assurance was on paper that trees already of adequate height could be planted. I said it was not; that Derek Taylor had discussed this several times with me and had passed on to us the positive opinion of the Arboriculturist; and that I had noted the point in letters and conversations with Mr French and Mr Taylor, which was never denied.

[Note: As long ago as July 10 1995, I wrote to Mr French: "I hope you may find a way to ensure that an evergreen tree screen remains a permanent and enforceable feature . . ." Mr Taylor has on several occasions confirmed that his department understood the need for a high enough screen]

There was further discussion about the two sycamores felled on the site by permission of the Arboriculturist - although Mr French had written to me that the Arboriculturist had no authority to give it. We objected to the Arboriculturist's approval given to replacing the mature trees with baby ones . I questioned why the Arboriculturist had decided (according to Mr French) that the use of a radar scan to protect the plan's roots would be "neither effective nor necessary", although he had written to the builder last November that it would be "very useful"

[Note: Mr French also alluded approvingly to the idea in his letter to me of October 25. The builder told me in January 1997 that no one had ever spoken to him about the scan]

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Mr French is to enquire and report on the recent cessation of all work on the site and the reason for it. The neighbouring owners may be faced with living next to a deep hole with the loss of their own garden amenity and flower beds for an indefinite time. This may be a chance to reinforce the application of Condition 15 with its requirements fully spelt out.

Mr French will further look into the question of why the sycamores were felled (illegally but with Mr Austin's approval) and of replacing them with mature trees to restore the view of the site from St Mary Abbot's Place and the High Street.

A.F.

DT

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS



Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

Switchboard: 0171-937 5464

Extension: 2944

Direct Line: 0171-361 2944

Facsimile: 0171-361 3463

**KENSINGTON
AND CHELSEA**

03 April 1997

My reference: EDPC/MJF

Your reference:

Please ask for: Mr. French

Dear Mr. Fergusson,

St. Mary Abbots Place

Thank you for your letter of 27th March regarding the above site. I would apologise for not having replied to your earlier letter of 5th March, but unfortunately this was referred to the Arboriculture Section, and with all the upheaval of Mr. Austin's departure, it was not referred to me for my attention. I will of course go carefully through your minutes of our meeting and should there be any need for amendments, I will come back to you.

On the other matters which you have raised, I am still in discussion with both the developers and the Arboriculturists. I hope we will be able to resolve these matters amicably in the near future.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

c.c. Councillor Miss Elizabeth M. Christmas MBE

RECEIVED BY PLANNING SERVICE

DC N	DC C	DC S	E	A. As
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From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax 4114

- 1 APR 1997

79

Mr	Records	ARB	Con Des
Appeals Officer	IO	Fees Officer	Forward Plan
			Head DC

M.J.French, Esq.,
 Executive Director, Planning & Conservation,
 The Town Hall, Kensington.

March 27, 1997

Dear Mr French,

St Mary Abbot's Place

Thank you for your letter of March 21 referring to our meeting on February 21. In it you do not acknowledge my letter and the memorandum of that meeting which I sent to you (copied to Miss Christmas) on March 5. I shall assume that you therefore accept that memorandum as accurate, and that it represents the present position and the events leading up to it as you and your department remember them.

I have shown your letter to Peter Mullins. We note that Mr Taylor is at some future time to discuss the question of tree screens. However, it is not clear to us why anything need delay your instructions to the developers to produce - as we have asked for many months - drawings that depict a tree screen running the full length of the four party walls and of fully functional height on installation. At that point, it will be possible to have with Mr Taylor the discussions and agreement that we were promised. Please will you tell me why this cannot be done? It should, we think, have been done long ago, and does not require the appointment of a tree officer..

Meanwhile, living indefinitely beside a vast crater with ugly boarding across our garden is at best an unpleasant experience for us. Nevertheless, we do not think works should be allowed to begin there again until the matter of the tree screen has been resolved to our satisfaction. We therefore once more ask you to take positive action on our behalf, and look forward to hearing very soon that that has been done.

Yours sincerely,

Adam Fergusson

cc Councillor Miss E. Christmas
 Mr Peter Mullins

From ADAM FERGUSON
 15 Warwick Gardens, London W 14 8PH
 Telephone: 0171-603 7900 Fax 4114

M.J.French, Esq.,
 Executive Director, Planning & Conservation,
 The Town Hall, Kensington.

RECEIVED			
PLANNING	PLANNING	PLANNING	PLANNING
March 5, 1997			
10 MAR 1997 (36)			
PLANNING	PLANNING	PLANNING	PLANNING
Appeals Office	10	PLANNING Office	PLANNING Office

Dear Mr French,

St Mary Abbot's Place: Tree Screen etc.

I am sending to you and to Miss Christmas a memorandum I made of our very useful meeting at the Town Hall on February 21. Peter Mullins has seen it and agreed it. Please would you read it and let me know if you find anything in it which you consider inaccurate - or tell me if I have left anything of importance out. As you will see, there were various matters raised which were not fully dealt with.

I understand that the reason for the suspension of work on the site, now more than two weeks old, is a dispute between developer and builder. There is apparently to be an on-site meeting between them tomorrow.

Peter Mullins and I hope that you will be able to give us the assurances we need on these outstanding planning issues very soon. We expect - to be specific - that the developers will at last be required to produce drawings that depict a tree screen of fully functional high on installation.

Yours sincerely,

Adam Fergusson
 Adam Fergusson

copies to Cllr Miss Christmas
 Cllr Desmond Harney
 Peter Mullins

MEMORANDUM (by AF) of MEETING on FEB 21 1997 in TOWN HALL with Councillor Miss E Christmas, M French, P Mullins, A Fergusson

Miss Christmas asked me to run through the points at issue. I said that I had written to Mr Taylor on November 15, followed up by further letters on December 2 and December 20 and a further request for a substantial answer relayed through Councillor Harney. Mr French's short letter to me of February 6 had not addressed all the points and had been dismissive of the main one - hence today's meeting kindly arranged by Miss Christmas. I spoke on the lines of notes I had brought, drawing attention to two documents:

(1) Mr French's letter of Oct 4 1995 to Meadview Developments alerting them to the planning condition of a tree screen to protect all four neighbouring properties.

(2) The letter to me from Cllr Harney as Chairman of the Planning Committee dated July 26 1995, assuring me that "the best form of concealment (whether a line of Leylandii or a Beech hedge or single trees) will be discussed and agreed fully with you . . . But have no doubt that the Planning Officers are aware of the Council's Condition (not wish) that an agreed form of 'screen' must be provided and that the developer will be given our requirements"

As to (1), I said that, in spite of Cllr Harney's assurance that the developer would be informed, the present developer (Eyton-Jones) only learned of that condition from me through his party wall surveyor; and had dismissed it verbally, considering it did not apply because it was not on the permission he had seen. I asked Mr French what negotiations he or his department had had with the developer regarding the tree screen Condition (as opposed to the landscaping). [This question was not answered].

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Principal Arboriculturist is now satisfied with the proposed landscaping details including the rear screen of trees".

PM and I strongly made the point that the Arboriculturist's opinion had nothing to do with consultation; that his ignorance of what had been proposed for the site (specifically because he had not realised that the swimming's pool's continuous piling could not be penetrated by the plane's roots) made his knowledge and opinions in this case suspect; that he had never understood the purpose of the tree screen until we explained it to him; and that he had then personally advised us to ask for drawings of what the trees would look like from our gardens on the day of installation. When these drawings came, they proved the point.

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There was further discussion about the two sycamores felled on the site by permission of the Arboriculturist - although Mr French had written to me that the Arboriculturist had no authority to give it. We objected to the Arboriculturist's approval given to replacing the mature trees with baby ones . I questioned why the Arboriculturist had decided (according to Mr French) that the use of a radar scan to protect the plan's roots would be "neither effective nor necessary", although he had written to the builder last November that it would be "very useful"

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A.F.

CHRONOLOGY

- 12-9-96 NB. Met Guardian Foundation + agreed: Tree Crib ~~Protection~~ plus retention of garage bases.
- 2-10-96 Above confirmed in writing to NB.
- 11-10-96 A.F. Letter: No Tree Protection: ^{as agreed?} works started. Cons of sycamores, Ground Penetrating Radar.
- 11-10-96 A.F. Letter: landscaping + sycamores.
- 25-10-96 D.A writes to Guardian. Requesting additional concrete fast protection
- 9-10-96 " " " " 1) Tree Protection OK. (Crib)
2) Leave handstandby.
3) Prune crown 20% to compensate.
- 25-10-96 MJF ⇒ A.F. Re felling Sycamores
Pruning NOT required.
- 1-11-96 DT. ⇒ G.E. Jones.
- 1-11-96 D.A ⇒ Guardian. Re-iteration. Pruning Not Required. GPR?!?
- 1-11-96 D.A ⇒ G.E. Jones. re landscaping.
- 1-11-96 Guardian ⇒ D.A. Re letter of DA on 25/10/97: passed on.
- 7-11-96 A.F. Replacing sycamores + landscaping

Thursday 17th Sept. 1996.

N.B. met with Bill Tebble & Duncan Grey of Guardian Foundations & Construction Ltd @ St. Mary Abbots Place.

- Discussing tree protection on site (London Plane) and agreed:
 - 1) positioning of hoarding around trees trunk to prevent damage. This to be done on ply on scaffold framework.
 - 2) Retention of concrete base to girders to prevent damage to roots.
 - 3) We discussed the method of piling / construction and concluded that as piling rig would be a tracked vehicle that no damage to tree roots were likely to occur. I focused on protection of trees crown + upper parts.

The above was confirmed by Duncan Grey of Guardian by fax on 2/10/96 - copy attached.

Subsequent visit to site with Derek Austin, Jane Dow & myself
(Date Not in my Diary. But refer to D.A.'s letter of 1/11/96)
22-10-96

I believe as we were all getting involved D.A. asked for team to attend site to assess works. Piling rig under tree was doing lots of manoeuvring and churning soil + damaging roots. Therefore 'we' requested laying of more concrete to prevent this.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. John Peacock,
John Peacock Planning,
105 High Street,
Needham Market,
IPSWICH,
Suffolk, IP6 8DQ.

Switchboard: 0171-937 5464.

Extension: 2944

Direct Line: 0171-361 2944

Facsimile: 0171-361 3463

04 March 1997

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF/TP/ Your reference:
94/0644

Please ask for: Mr. French

Dear Mr. Peacock,

4 St. Mary Abbots Place, W.8.

I write with reference to your letter of 19th February regarding the development at the above site. It would appear that work has now ceased on this site, and I would be grateful to know whether or not this is because the site is changing hands or for some other reason.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

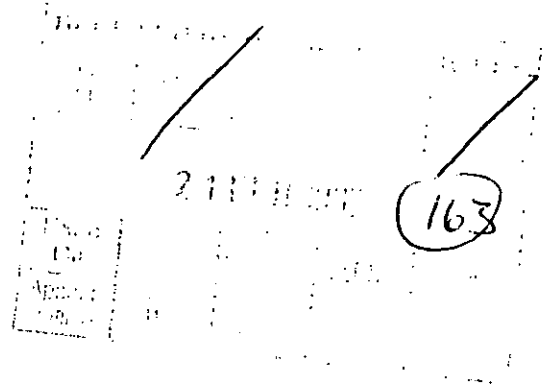
John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

19th February 1997

M.J. French, Esq.,
Director of Planning Services,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX



Dear Sir,

Town and Country Planning Act 1990 - Erection of two semi-detached, single family dwelling-houses with associated off-street parking and external amenity space, land on and adjacent to 4 St. Mary Abbots Place, Kensington, W8. Register No. TP/94/0644 - Eyton Developments (Suffolk) Ltd.

I refer to your quite unacceptable, incomplete and naive letter dated 14th February, obviously posted on the 17th and received here on the 19th. Firstly, my previous correspondence refers to Conditions 3 & 15 of planning permission TP/94/0644. Your letter does not address Condition 3. Why not?

Secondly, the Royal Borough of Kensington and Chelsea appears to be the first local planning authority that I have come across who delegates their decision making to "third parties". With whom are "discussions... taking place... at the moment"? It is for you, the Council, to say whether or not the details submitted in accordance with certain conditions are acceptable and not to delegate that responsibility elsewhere.

Either the details which have been submitted pursuant to the conditions are acceptable or they are not; you have now had them for well in excess of three months and, by now, an answer must be possible. It is wholly unacceptable that we may have to wait another "week or so" to find out. Please note that my clients hold the Council wholly responsible for the consequences of this delay in terms of any consequential loss, damage or any other circumstances which may arise.

I await your proper reply by return.

Yours faithfully,

John Peacock

21/2

2/DT

John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

19th February 1997

M.J. French, Esq.,
Director of Planning Services,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

FILED				APPROVED	
DC	10	10	10	10	10
21 FEB 1997			163		
Excc Dir		10	10	10	10
Approv Office	10	10	10	10	10

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John Peacock

Desek

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

Switchboard: 0171-937 5464
Extension: 2944
Direct Line: 0171-361 2944

Facsimile: 0171-361 3463

21 March 1997



**KENSINGTON
AND CHELSEA**

My reference: EDPC/MJF/TP/
94/0644

Your reference:

Please ask for: Mr. French

Dear Mr. Fergusson,

4 St. Mary Abbots Place

I write with reference to our recent meeting to inform you of the current position. Following our meeting, I wrote to the developer seeking confirmation as to whether or not they intended to proceed with the development. They subsequently replied asking me the purpose of my question. I have again written to them explaining why I need to know and their response is still awaited. I have asked Mr. Taylor to check the approved drawings as regards the height of the rear wall, and Mr. Mullins kindly sent me a copy of the drawings he had in his possession to help in this matter.

Finally, Mr. Taylor will be discussing the question of the tree screens, but at the present time this is put on hold as Mr. Austin has now left the Council's employ and his replacement has not yet been appointed.

I will keep you informed as further progress is made on these matters.

Yours sincerely,

M. J. French,
Executive Director, planning and Conservation.

c.c. Councillor Miss Elizabeth M. Christmas, MBE

John Peacock Planning

Consultancy Services in Town Planning and Development

DT
J Peacock
24/3

Our reference: C541/JCP
Your reference: EDPC/MJF/TP/94/0644

19th March 1997

M.J. French, Esq.,
Executive Director,
Planning & Conservation,
Royal Borough of Kensington & Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
24 MAR 1997			86	
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

Dear Mr. French,

4 St.Mary Abbots Place, W.8

Your letter of 12th March posted second class arrived here today, the 19th; yet again we are no further forward. Firstly, the answer to your question is 'no'.

Secondly, please would you explain to me why you are apparently still unable to confirm the point that I have been trying to prise out of you for several months now concerning Conditions 3 and 15. What is your problem?

Thirdly, please refer to my letter of 16th December 1996 and supply the information requested by return.

Your Department's apparent stunning ability to procrastinate has certainly impressed me; I strongly suspect that the Ombudsman will be also so impressed.

I should be grateful if you would respond comprehensively to this letter within 24 hours.

Yours sincerely,



John Peacock

DT

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS



Mr. John Peacock,
John Peacock Planning
105 High Street,
Needham Market,
Ipswich, Suffolk, IP6 8DQ.

Switchboard: 0171-937 5464
Extension: 2944
Direct Line: 0171-361 2944
Facsimile: 0171-361 3463

**KENSINGTON
AND CHELSEA**

12 March 1997

My reference: EDPC/MJF/TP/
94/0644

Your reference: C541/JCP

Please ask for: Mr. French

Dear Mr. Peacock,

Re: 4 St. Mary Abbots Place, W.8.

Thank you for your letter of 7th March. I would apologise for omitting your reference on my letter; I will ensure that it is included on further correspondence.

The reason for my letter of 4th March was that I had received reports from local residents that they had been informed that the site was in the process of changing hands and if that was the case, they wished to be assured that the conditions and details which had been negotiated with your clients would transfer automatically to any new developers. If there is to be no change, perhaps you could inform me so at least I can allay your concerns.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP
Your reference: EDPC/MJF/TP/94/0644

7th March 1997

M.J. French, Esq.,
Executive Director,
Planning and Conservation,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

M. J. FRENCH PLANNING SERVICES				
DC	LG	PL	TR	AV
11	6	3	1	1/2
10 MAR 1997				137
Exec Dir		Res. Dir	MRB	Non Des
Appeals Office	IO	Fee Office	Forward Plan	Head DC

Dear Mr. French,

4 St. Mary Abbots Place, W8

I refer to, and I am intrigued by, your letter of 4th March concerning the above site. Before I answer it, I should like to know why you need to know why work appears to have "...now ceased on this site".

I would, however, once again take the opportunity of reminding you that I am still waiting for a proper reply to my previous letters to you in respect of Conditions 3 and 15 of Planning Permission TP/94/0644.

Finally, I should be grateful if you would quote my reference in any future correspondence which greatly assists my administrative processes.

Yours sincerely,



John Peacock

4 SA. May Albino Blue

Mr. Foxworth
Mr. Mullins

CLK Miss Christmas.
MJF

Oct 1994 - 9/11/13/15 - ~~tree~~ screen
July 1995 - Screen to be agreed.

~~Trees not large enough~~

2

① Removal of pyramides → DA.

② Leaf Gardia in place - mixed - effect on screen

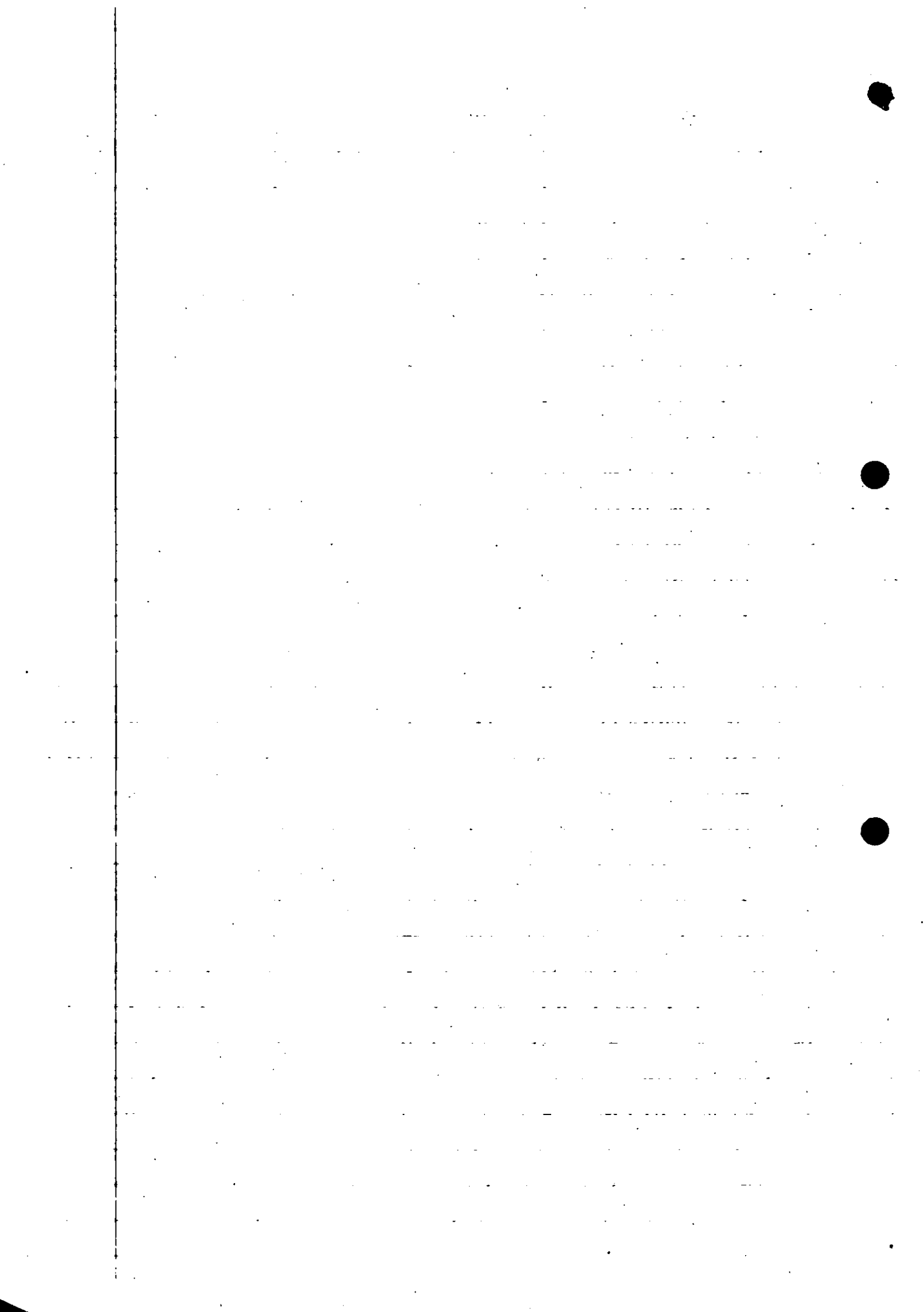
Garden of 199

① Find out the current position - ~~leaves~~ ^{leaves} _{5/3/97}

② Revisit screen ..

③ How far wall - approx 2.8 m ?

④ Pyramide - ~~refinement of trees~~



PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS



Mr. Peter S. Mullins,
11 Warwick Gardens,
Kensington,
LONDON, W14 8PH.

Switchboard: 0171-937 5464

Extension: 2944

Direct Line: 0171-361 2944

Facsimile: 0171-361 3463

**KENSINGTON
AND CHELSEA**

06 March 1997

My reference: EDPC/MJF/TP/ 94/0644 Your reference:

Please ask for: Mr. French

Dear Mr. Mullins,

4 St. Mary Abbots Place, W.8.

Thank you for your letter of 1st March to which you attached a copy of the revised rear elevation drawing. Following our meeting, I did ask the case officer to investigate those matters which we agreed should be looked into, and once I have received his report back, I will write again to you.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

Deeds

1) According to Peter K. the lot of rear approved was 2.8m. the cap its less.

2) One of the 2 pylons which were removed going to be replaced.

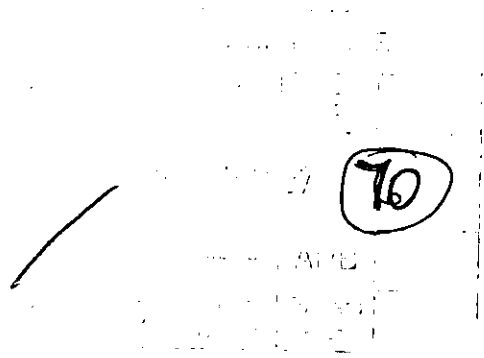
3) Apparently the N & the F. want something like Keylandri, which are fast moving etc or even mean what is more; height you can buy them in a tub. probably have to use Arch A.

PETER MULLINS

11 Warwick Gardens Kensington London England W14 8PH Tel: 011 603 8514 Fax: 011 602 0574

1 March 1997

Mr M J French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX



Dear Mr French

Further to our meeting, in your office with Miss Christmas and Mr Ferguson, I enclose a copy of a revised Rear Elevation Drawing (18 October 1994) which was in response to objections of overlooking/intrusion from myself and immediate adjoining homeowners.

You will note that the height of the Boundary Wall is level with the top of the main french windows which scales at 2.30meters (7' 6 1/2") from the new platform/patio, it can not be from our gardens' level which is some 2' 6" below the platform!

A later drawing from the developers illustrating the projected "Screen of Trees" shows the wall at the original height! Can you please check this and instruct the developers on the new agreed height. Of course the lower height could be a ploy by the developers to enhance the visual presentation of tree cover!

Thank you.

Yours sincerely,

Peter S. Mullins



ROYALBOROUGH OF KENSINGTON AND CHELSEA
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 Copyright (Material open to Public Inspection,
 Marketing of plans and Drawings) Order 1990

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 pursuant to section 47 of the above Act. Unless that Act provides a
 relevant exception to copyright, the copy must not be copied
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* ARRANGED BOUNDARY
 WALL HEIGHT

ORIGINAL WALL HEIGHT

SEE DWG N° L (---) 100 FOR KEY TO MATERIALS

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	
- 6 MAR 1997				
Exec Dir		Records	ARB	
Appeals Office	IO	Fees Officer	Forward Plan	

RECEIVED BY PLANNING SERVICES
 18 OCT 1994
 PLANNING SERVICES
 100

REVISED

Title	LOCATION DWG. WEST ELEVATION. ELEVATION.
Job	ST MARY ABBOTS PLACE W8.
Architects	ROGER CARPENTER KERR AND O'HARA 100 FULHAM ROAD LONDON SW3 8HS TEL 071 225 2541 2/3

Date	FEBRUARY 1994.
Client	MEADVIEW DEV LTD.
Scale	1:100.
Dwg by	GRK.
JOB NO.	92004.
DWG NO.	L (---) 10.6

TP/94/0644/B

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

John Peacock
John Peacock Planning
105 High Street
Needham Market
Ipswich
Suffolk IP6 8DQSwitchboard: 0171-937 5464
Extension: 3485
Direct Line: 0171-361 3485
Facsimile: 0171-361-3463**KENSINGTON
AND CHELSEA**

14 February 1997

My reference: TP/94/0644

Your reference:

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Land on and adjacent to 4 St. Mary Abbots Place, W.8

I refer to your letter dated 6th February 1997, and previous correspondence, relating to the matter of compliance with Condition no.15 attached to Planning Permission ref.TP/94/0644.

I apologise for the delay in relying, and for the inconvenience that this must be causing your client. Nevertheless, as you are aware the matter is a sensitive one, with a number of third parties remaining concerned that the requirements of Condition 15 have still not been met. Discussions are taking place on this at the moment, and I hope to write to you formally in the next week or so in order to finalise the question of compliance with the requirements under the Condition.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation


John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

6th February 1997

M.J. French, Esq.,
Director of Planning Services,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ac Ack
 10 FEB 1997				
Exec Dir		Records	ARB	Con De
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Dear Sir,

Town and Country Planning Act 1990 - Erection of two semi-detached, single family dwelling-houses with associated off-street parking and external amenity space, land on and adjacent to 4 St. Mary Abbots Place, Kensington, W8. Register No. TP/94/0644 - Eyton Developments (Suffolk) Ltd.

I refer to my letters of 14th November, 16th December 1996 and 8th January 1997. Please may I have a reply by return.

Yours faithfully,

Handwritten signature: John Peacock

John Peacock

Handwritten: HELP

Handwritten notes:
red 20/12/96 to HDC
red 9/1/97 to HDC
Please trace " " " " " "

Handwritten notes in a box:
LWS
Could you arrange a reply please
will file 12/2

Handwritten note:
Derek - could you please do a reply today.

Handwritten signature:
Thanks
Lesley

DT

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS



Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

Switchboard: 0171-937 5464

Extension: 2944

Direct Line: 0171-361 2944

Facsimile: 0171-361 3463

**KENSINGTON
AND CHELSEA**

06 February 1997

My reference: EDPC/MJF/TP/ 94/0644 Your reference:

Please ask for: Mr. French

Dear Mr. Fergusson,

Re: 4 St. Mary Abbots Place, W.8.

I write with reference to my earlier letter regarding the landscaping at the above site. I understand from the Principal Arboriculturist that he is now satisfied with the proposed landscaping details including the rear screen of trees. As you know, because of the need to plant the trees in the rear screen in planters, it is not possible to insist upon the largest nursery stock available. In the Arboriculturist's view, the trees now proposed will over a short period of time grow to provide a functional and aesthetically pleasing screen to the development.

In discussing the landscaping for this site, the developer's consultant did take advice on the possibility of a ground penetrating radar scan being carried out to cover the root system of the protected Plane tree. In the opinion of the Arboriculturist, he does not consider that it would be either effective or necessary, and he will continue to monitor the health of the tree throughout the development.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

c.c. Councillor Desmond Harney, OBE
Councillor Miss Elizabeth M. Christmas, MBE

CT/UK

PLANNING AND CONSERVATION

THE TOWN HALL, HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS



Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

Switchboard: 0171-937 5464

Extension: 2944

Direct Line: 0171-361 2944

Facsimile: 0171-361 3463

**KENSINGTON
AND CHELSEA**

30 December 1996

My reference: EDPC/MJF

Your reference:

Please ask for: Mr. French

Dear Mr. Fergusson,

4 St. Mary Abbots Place

Thank you for your letter of 20th December regarding the continuing difficulties which you appear to be experiencing with regard to the development at the above site. I have asked both the Arboriculturist and the Planning Officer to comment on the matters which you have raised.

I will write to you once I have received their detailed replies.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

*Could I have your
comments on the current
situation with regard to this
matter. Thank you
Mike,
31/12*

RECEIVED BY ADMINISTRATIVE SERVICES

DEC 23 1996	ARB	Gr D
Records	ARB	Gr D
Files Under	Forward Plan	Ident

511 23 DEC 1996 138

From ADAM FERGUSSON
 15, Warwick Gardens, London W 14 8PH
 Telephone: 0171-603 7900 Fax: 4114

Mr M.J.French,
 Executive Director, Planning & Conservation,
 Kensington & Chelsea

December 20, 1996

Dear Mr French,

*Copy DCC
Copy ARB*

Landscaping at 4 St Mary Abbots Place

I wrote to Mr Derek Taylor urgently on this matter on November 15. Having had no reply, I wrote again on December 2, reminding him of how disturbed we have become, and had only an acknowledgment of that second letter (with a second-class stamp) on December 12 - nothing else.

I do not know why it always takes so long to have an answer out of your department. Please would you now give your attention to insisting and agreeing on the fully satisfactory tree screen to protect the four houses neighbouring the site from overlooking, which was a condition for the planning permission? You must understand that, until this has been done, it is impossible for any of us to have comfortable relations with those who are working on, and in my case over, our boundaries.

On a related matter - since you assured me that your tree department was developing a strategy for the protection of the plane tree, which was to include a radar scan of the root system - would you tell me whether that scan has been effected, what the result was, and whether you will in consequence be requiring the repositioning of any of the piles which are supposed to support the protective "raft"? If the scan has not been done, would you tell me why?

Yours sincerely,

Adam Fergusson

Adam Fergusson

CC to Councillor Miss Christmas
 Councillor Harney

John Peacock Planning

Consultancy Services in Town Planning and Development

Our reference: C541/JCP

Your reference: DPS/DCC/TP/94/0644

16th December 1996

M.J. French, Esq.,
Director of Planning Services,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

RECEIVED		20 DEC 1996		32	
10	10	10	10	10	10
10	10	10	10	10	10
10	10	10	10	10	10
10	10	10	10	10	10

Dear Sir,

Town and Country Planning Act 1990 - Erection of two semi-detached, single family dwelling-houses with associated off-street parking and external amenity space, land on and adjacent to 4 St. Mary Abbots Place, Kensington, W8. Register No. TP/94/0644 - Eyton Developments (Suffolk) Ltd.

I wrote to you on 14th November with what I thought was a quite comprehensive letter in respect of Conditions 3 & 15 of the above-mentioned planning permission. Since my letter, I have made seven telephone calls to your officers to try and elicit a written response with one call being returned but proving to be inconclusive, and the seventh being a discussion with your Mr. D. Taylor and revealing a most surprising set of circumstances as to why a written reply had not yet been received.

I understand that you are presently awaiting your solicitor's advice on the implications of Condition 15 of planning permission TP/94/0644 as to "how far" you can go in requesting certain details. Furthermore, I understand that this situation has been brought about by the fact that the Chairman of your Planning Committee appears to have written to interested neighbours in a way which perhaps gives them more encouragement as to the implications of Condition 15 than is actually legally the case. Whilst this may be a most interesting situation for your Council and your Chairman, it is of really of no concern whatsoever to my clients as site developers.

You now have a full and final detailed set of plans concerning both the tree protection (Condition 3) and landscaping of the site (Condition 15) and you have had this information for a considerable period of time. My clients are entitled to know, in writing, that your Council accept these details.

I should be grateful if you would supply me with copies of all of the correspondence which has obviously taken place between your Department and your Chairman of the Planning Committee with neighbouring property owners. I believe that I am entitled to ask for copies under the provisions of the Access to Information Act incorporated within the Local Government Act of 1972. Please let me know what your reasonable charges are when supplying this information.

At this stage, I would wish to record that my clients will hold your Council entirely responsible for any action which in any way prejudices the contract now in place for the development of the

site as approved. I would also wish to repeat that my client is acting in full knowledge only of the requirements of the planning permission register no. TP/94/0644 in carrying out his development and not in the knowledge of any commitment or otherwise implied by your Council or Councillors to any third party interests to which we have no knowledge.

Yours faithfully,

A handwritten signature in black ink that reads "John Peacock". The signature is written in a cursive style with a horizontal line underneath the name.

John Peacock

①PC ②DT
+
LB
✓
15
9/12.

From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Mr Derek Taylor,
Assistant Planning Officer,
Kensington & Chelsea

December 2, 1996

Dear Mr Taylor,

Landscaping at 4 St Mary Abbots Place

I am much concerned that you have not responded to my letter to you of November 15 regarding the above.

Please would you give me assurance that your department has rejected, or is preparing to reject, the plans that you sent me; that it is requiring from the developers the full tree screen that was a condition of the planning permission; and that the trees, on installation, will provide the complete protection from overlooking that the neighbouring properties were promised.

I look forward to being shown a satisfactory revised plan as soon as possible. It is greatly disturbing us that this vital matter is being allowed to drag on so long.

Yours sincerely,



Adam Fergusson

RECEIVED AT PLANNING			
DC	DC	DC	DC
N	C	S	E
9 DEC 1996			
Exec Dir			
Appeals Office	10	Fens	

(Handwritten initials in a circle)

prunus and eucalyptus) can be provided which at installation will constitute the screen required. He thought - so you told me - that it would be possible and practicable for such trees to be put in tubs; but he has since recommended "integrated planters". Unaccountably (without discussion with me or my neighbours, and although he advised us to insist of seeing an elevation of what the trees would look like on installation) Mr Austin sent the developers a letter two weeks ago requiring too few trees and all with minimum sizes which do not meet the case. The elevation shows that on installation the prunuses (slow-growing, according to my tree book) would be three feet below the window they are supposed to conceal. That is far greater than any tolerance which might reasonably be agreed. The same applies to the eucalyptus. Effectively, by pruning or replanting at will, it would be open to the occupiers of the new house to arrange legitimately to maintain trees of low profile so that our properties would be permanently overlooked.

There is no elevation provided to show the effect from my own garden, No 15. I would want one. I have already told you and Mr Austin more than once that three junipers (described in my tree book as slow-growing "pencils") do not meet the requirement of Mr French's letter of October 4 1995. To judge by the two junipers depicted on the elevation provided they, also, would be far too short and far too thin to be any use.

I therefore cannot agree that either in intention or in detail these proposals meet the Condition laid down, and request that you insist on the real, immediate screen of trees that those who originally obtained planning permission, and who heard the councillors' question and request to the planning officers, well understood to be necessary. As I have pointed out since summer last year, the design of the development and the planters must clearly be arranged to accommodate the Condition fully.

Last - the replacement of mature sycamores by birches no more than 4 metres ^{high} is not an adequate restitution for what the amenity of the street lost (for reasons which are still unexplained). I hope that the Council will demand - and help to pay for if need be - mature trees of the size which Mr Austin said could be put there.

Yours sincerely,
Adam Ferguson -

copy to Peter Mathews, No 11.
et al.

① PC

② Copy J. Austin
- Arboriculturist

② DT

From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

✓
19/11

Mr Derek Taylor,
Assistant Planning Officer,
Kensington & Chelsea

November 15, 1996

Dear Mr Taylor

Landscaping at 4 St Mary Abbot's Place

I received today the latest plan and elevation for this scheme. As I have just explained to you on the telephone, I consider them highly inadequate in many respects - not the least of which is that they do not in any way meet the assurance which you have repeatedly given to me as to either the immediate or long-term adequacy of the tree screen stipulated by the Planning Committee last year to protect mine and neighbouring houses from intrusion and overlooking.

You will recall Mr French's letter of October 4 1995 to Meadowview Developments Ltd, which said unequivocally that landscaping proposals "must include a screen of trees along the rear boundary with nos. 9, 11, 13 and 15 Warwick Gardens" and that the details had to be submitted "before development commences". You will recall, too, that the Chairman of the Planning Committee assured me by letter of July 26 1995 that "the best form of concealment (whether a line of Leylandii, or a Beech hedge or single trees) will be discussed and fully agreed with you when the application on such detail is submitted". "Have no doubt", he went on, "that the Planning Officers are aware of the Committee's Condition (not wish) that an agreed form of 'screen' must be provided".

In the way of trees, the drawing for the elevation facing Nos 9 and 11 Warwick Garden shows 1) a single eucalyptus in the north-west corner where it gives no protection from overlooking whatever, and 2) two junipers neither of which, even at full height, will prevent any overlooking of Nos 9 and 11 from the cottage first-floor windows. The garden of No 9 is protected only by a climbing plant peeping over the wall. The Ligustrum aureum facing No 11 is merely decorative. In short, there is in no sense a tree screen proposed behind these two gardens, whose own single trees are deciduous. The eucalyptuses opposite No 7 are irrelevant.

The elevation opposite No 13 alone proposes trees which, if allowed to grow to their full height, would apparently provide the protection the Committee asked for. You have on several occasions given me the tree officer's assurance that trees (the

John Peacock Planning

Consultancy Services in Town Planning and Development

YBG - i) LB/PC
copy to Derek Austin
2/11 for reply

Our reference: C541/JCP
Your reference: DPS/DCC/TP/94/0644

14th November 1996

M.J. French, Esq.,
Director of Planning Services,
The Royal Borough of Kensington and Chelsea,
The Town Hall,
Hornton Street,
London.
W8 7NX

TOWN AND COUNTRY PLANNING SERVICE				
15 NOV 1996	ARB	ARB	ARB	ARB
15 NOV 1996	ARB	ARB	ARB	ARB
15 NOV 1996	ARB	ARB	ARB	ARB
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15 NOV 1996	ARB	ARB	ARB	ARB
15 NOV 1996	ARB	ARB	ARB	ARB
15 NOV 1996	ARB	ARB	ARB	ARB

Dear Sir,

Town and Country Planning Act 1990 - erection of two semi-detached, single family dwelling-houses with associated off-street parking and external amenity space, land on and adjacent to 4 St. Mary Abbots Place, Kensington, W8. Register No. TP/94/0644 - Eyton Developments (Suffolk) Ltd.

I act for Eyton Developments (Suffolk) Limited as adviser on planning matters relating to the above development. I now have on file *post* decision a considerable amount of correspondence concerning various matters relating to the development from both your Mr. D. Taylor and arboriculturalist, Mr. D. Austin. I have recently had long telephone conversations with both officers to enable me to gain a clear understanding of the Borough Council's present position concerning conditions appended to the planning permission, mainly in respect of landscaping and tree protection issues.

Before recapping on matters raised by you in recent letters, I would wish to record that my clients have acquired the site and commenced work based upon information as contained in the public record, i.e. the planning permission referred to above. It is that document which after all clearly sets out all of the parameters which the Council consider to be appropriate to control the development in this case and is the only document upon which the developers should and could rely in seeking to comply with the Council's conditions.

From reviewing the papers now handed to me by my clients, I have reached conclusions on various points and advised accordingly. There are however certain matters which have arisen as a result of letters received from you which are perhaps slightly ambiguous and require comment and clarification at this stage. There are also points relating specifically to conditions 3 and 15, apparently as yet unresolved.

Condition 3

It appears from correspondence that your Mr. D. Austin, the Principal Arboricultural Officer, is now in a position to confirm acceptance of my client's proposals and action in respect of tree protection. I note, in chronological order, the following points raised by Mr. Austin;

John Peacock, Dipl.E.P., M.R.T.P.I.,
(Chartered Town Planner)

105 High Street, Needham Market, Ipswich, Suffolk IP6 8DQ
Tel: (01449) 722008 Fax/Answerphone: (01449) 722234
VAT Reg. No. 571 4444 43

1. Letter of 9th October 1996 to Guardian Foundations and Construction Ltd;

"I can confirm that we were all agreed that:-

- 1) The tree protection set in place for the large London plain tree was satisfactory and of a higher standard than that usually required by the Local Planning Authority in similar circumstances.
- 2) The concrete hardstandings outside the footprint of the building are to be retained as long as possible to alleviate the effects of soil compaction on surface roots."

2. Letter dated 1st November 1996 to Guardian Foundations and Construction Ltd:-

- 1) "My colleagues and I are satisfied with the wooden "crib" that has been erected around the tree. On confined sites it is impossible to adhere strictly to the British Standard BS 5837 "Trees in relation to Construction", the contents of which are meant to be guidelines.
- 2) The concrete hardstandings outside the footprint of the building are to be retained until such a time that permission for their removal is given in writing by the LPA.
- 3) A temporary raft of reinforced concrete laid over the existing surface of the site (no excavations) of such a depth that it will withstand a loading of 7 tonnes, covering the area between the trees protective "crib" and the building line (in other words what will become the courtyard) must be laid immediately and remain in place until such a time that permission for its removal is given in writing by the LPA.
- 4) In view of the fact that some root severance is inevitable, a survey by Ground Penetrating Radar would be very useful to monitor the extent of such severance and ensure that it is kept within acceptable limits. I am not certain if the Pipehawk apparatus is capable of operation on rough terrain such as that on this site, but the urgent advice of the firm (EMRAD) must be sought."

All of the points detailed above have or are being complied with by the developer and constitute their tree protection measures to comply with Condition 3. In respect of No. 4 above, advice has been taken both on the practicalities of using and the benefits of commissioning a GPR report on the site. The firm conclusion is that it is both impracticable and of no help to employ such a machine on this site. There are a number of reasons for this. Firstly, the terrain is unsuitable, secondly, even if roots are "discovered" there is no way that any sensible calculation can be made of the effect on the tree should they be severed. In any event, the Council have approved the dwelling in a specific location and all of the underground engineering works have now been approved in specific detail. There is nothing to be gained from commissioning a survey by GPR and the developers cannot agree to this point.

Under the circumstances described above, and in the event that you have not already done so, would you please confirm acceptance of the developer's tree protection measures by return, without caveat.

Condition 15

On the question of landscaping, I would first enjoin you to consider your letter of 4th October 1996 addressed not to the applicants but Mr. George Eyton-Jones. The first paragraph of the second page of your letter confirms that the landscaping details, as depicted on submitted drawing nos. 6366-26C and 27B, are accepted and "...can be taken as a satisfactory scheme for the purposes of Condition 15..."

The second paragraph advises my clients that "...a start on site can now be made without conflict with the aims and terms of this condition..." Work has commenced on site with my client taking comfort from your express acceptance that a "start on site" could be made without conflict with the aims and terms of Condition 15. Your letter, of course, goes on to suggest that, notwithstanding your acceptance of submitted drawings as a satisfactory scheme for the purposes of Condition 15, further details should be supplied. These included the submission of details of the size of the proposed trees at their installation and notwithstanding your prior agreement to the removal of two sycamore trees (letter dated 5th March 1996) with no specific requirement that they be replaced, you nevertheless considered that "suitable landscaping" was required at "this end of the site" to take account of their loss. As you know, negotiations have taken place with the conclusion on this additional detail, although your letter of 4th October does not specify any firm time limit for the submission of this extra information.

Following this, I was therefore surprised to read the contents of your letter of 6th November 1996, third paragraph, in which you suggest that the Chairman of the Planning Services Committee, who "approved the scheme" (?) had asked you to consider prosecution for Breach of Condition unless certain landscaping matters were resolved forthwith. No doubt you have carefully appraised your Chairman of the fact that landscaping details have at least been confirmed in writing (and now on plan) and that there has been no undue delay at all on behalf of my clients in resolving this point. Furthermore, I am puzzled that "prosecution for breach of condition" should be on the agenda, bearing in mind your commitment contained in your letter of 4th October and in view of the fact that no Breach of Condition Notices have been threatened or served in this case.

I understand that you now have all of the detail that you require to enable you to confirm complete compliance with Condition 15. If you have not already done so, I would appreciate a copy of your letter of acceptance by return.

I can make no apologies for the length of this letter as I need to convey to you my client's growing concern at the rather regular appearance of what I can only describe as "new issues" when I firmly believe that such matters should have been clearly detailed in the decision notice on the original planning application as required now by the Town and Country Planning (General Development Procedure Order) 1995, Article 22.

Yours faithfully,



John Peacock



ASHTON ALLEN DESIGN LTD

① PC
② ST
✓

To PLANNING & CONSERVATION
THE ROYAL BOROUGH OF KENSINGTON
& CHELSEA

Date 11.11.96

Our Ref. 6366

THE TOWN HALL
HORNTON STREET
LONDON W6 7NX

Your Ref.
DPS/PV/TP/94/0644/Q/18/2195

PROJECT
LAND ON & ADJACENT TO NO4, ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR TAYLOR

DEAR SIRS

WE HAVE PLEASURE ENCLOSING 6 NO COPIES OF DWGS 6366 - 26 E
AN - 27C SHOWING: -

- * REVISED POSITION OF 2ND BETULA JACQUEMONTII
- * PLANT SIZES AT INSTALLATION

*Dr
Cons of plan to IO releas*

RECEIVED BY PLANNING SERVICES				
DC N	DC S	DC S	E	Ao Ack
(63)		13 NOV 1996		
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Signed *Patrick Allen*

for ASHTON ALLEN DESIGN LTD

1 Tide Mill Way, Quayside, Woodbridge, Suffolk IP12 1BY
Telephone: Woodbridge (01394) 388500. Facsimile: (01394) 388372
Registered Office: Kerr House, 19-23 Fore Street, Ipswich, Suffolk IP4 1JW
Registered in England No. 2890426

PLANNING AND CONSERVATIONTHE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

George Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3ST

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

06 November 1996

**THE ROYAL
BOROUGH OF****KENSINGTON
AND CHELSEA**

My reference: **DPS/DCC/TP/94/** Your reference:
0644Please ask for: **Mr D. Taylor****BY FAX AND POST**

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

I refer to the letter dated 6th November 1996, sent on your behalf by your agents Ashton Allen Design, which responds to my letter of 1st November and the various points contained therein. I also refer to the letter of the same date, from the Principal Arboricultural Officer, in which he sets out minimum height requirements for the trees to be installed on the site pursuant to the landscaping scheme for the site.

I note your confirmation that you will provide plants of the sizes specified in items A to F inclusive of the Arboriculturists letter, and that you will also install large integral raised planters as set out in the same letter. I also note that you will provide 2 *betula jacquemontii* (birch) trees in the northern garden area of the site, at planting sizes of 3.5m to 4.0m.

These confirmations are clearly most welcome in view of the evolving situation on site, and in view of the fact that the Chairman of the Planning Services Committee that approved the scheme has asked me to consider prosecution for breach of Condition unless these matters are resolved forthwith. Once I have received further copies of the landscaping plans clearly including the integral raised planters and the two new trees, I should be able to issue a final letter confirming that Condition no.15 of the Planning Permission has been complied with. I recommend that the further drawings are delivered by bike without delay.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

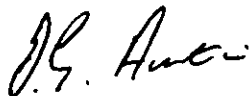
F. - Hedera helix 'Goldheart'
- purchase as climbing shrubs

Also Portuguese Laurel (*Prunus lusitanica*) currently available as 3 metre high, rootballed specimens, 3 times transplanted and bushy.

The specified nursery stock is available from Europlants Ltd on 01707 649996.

I trust that the above will assist.

Yours sincerely,



Derek Austin
Principal Arboricultural Officer
for the Executive Director of Planning and Conservation

c.c. Adam Ferguson

① DPC ② DT
C/S

0171 603 8514

PETER MULLINS

11, WARWICK GARDENS, LONDON W14
0171-603 8514

RECEIVED BY MAIL DIVISION SERVICES				
DC N	DC C	DC S	E	Acc. Act.
14			11 NOV 1996	118
Exec. Dir.		Records		
Approvs. Office	10	Fees Office	Fo	Pa

November 9, 1996

Mr Derek Taylor
Planning and Conservsation
Town Hall, Hornton Street, W8

Dear Mr Taylor,

St Mary Abbots Place

My neighbour Adam Fergusson has copied to me your exchange of letters on November 6 with Patrick Allen. I have also seen your arboriculturist's letter of November 1 to Mr Eyton Jones specifying certain tree species and heights.

Although neither Adam Fergusson nor I have seen, let alone approved, the final plans for the tree screen, the developers have now come through our party walls and are preparing to sink concrete piles below them. As you know, this sequence is in direct contradiction of the assurances we were given by the Chairman of the Planning Committee. It is your own opinion, ignored by the developers, that Condition 15 had not yet been fulfilled. We considered but decided against applying for an injunction to prevent them from entering our property prematurely, feeling confident that we could rely on your department now to ensure that the tree screen will be all it is meant to be.

It is good that planters rather than pots are to be used over the new swimming pool. However, I greatly doubt whether trees in the numbers and with the minimum heights suggested by Mr Austin will serve the purpose of concealing immediately the first floor windows of the house and the cottage from the Warwick Gardens side - for which 4.5 metre trees would appear to be the minimum, allowing 1 metre for the planters.. Until Adam Fergusson and I have seen the drawings you asked for in your letter to Mr Eyton-Jones of November 1, with an elevation of the tree scheme at installation, it will be impossible to judge. I therefore request that you issue no kind of letter of confirmation to Mr Eyton-Jones before you have consulted us.

Your sincerely,

①PC ②JT

**ASHTON
ALLEN
DESIGN**
ARCHITECTS &
BUILDING DESIGNERS

✓
LW
8/14

RECEIVED BY PLANNING SERVICES

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8 = NOV 1996 *77*

ASHTON ALLEN DESIGN LTD

Exec Dir		ARBords	ARB	Con Des
Appeals Office	10	Fee Officer	Forward Plan.	Head DC

To **PLANNING & CONSERVATION**
THE ROYAL BOROUGH OF KENSINGTON
& CHELSEA

THE TOWN HALL
 HORNTON STREET
 LONDON W6 7NX

Date 6.11.96

Our Ref. 6366

Your Ref. DPS/PV/TP/94/0644/R/18/2195

PROJECT
LAND ON & ADJACENT TO NO 4, ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR D. TAYLOR

DEAR SIRS

FURTHER TO YOUR FAXED LETTER TO MR EYTON JONES, DATED
6 NOVEMBER 1966 WE ENCLOSE 6 NO COPIES OF DWG 6366-26D
SHOWING INTEGRAL PLANTERS & 2ND BETULA JACQUEMONTII
AS REQUESTED

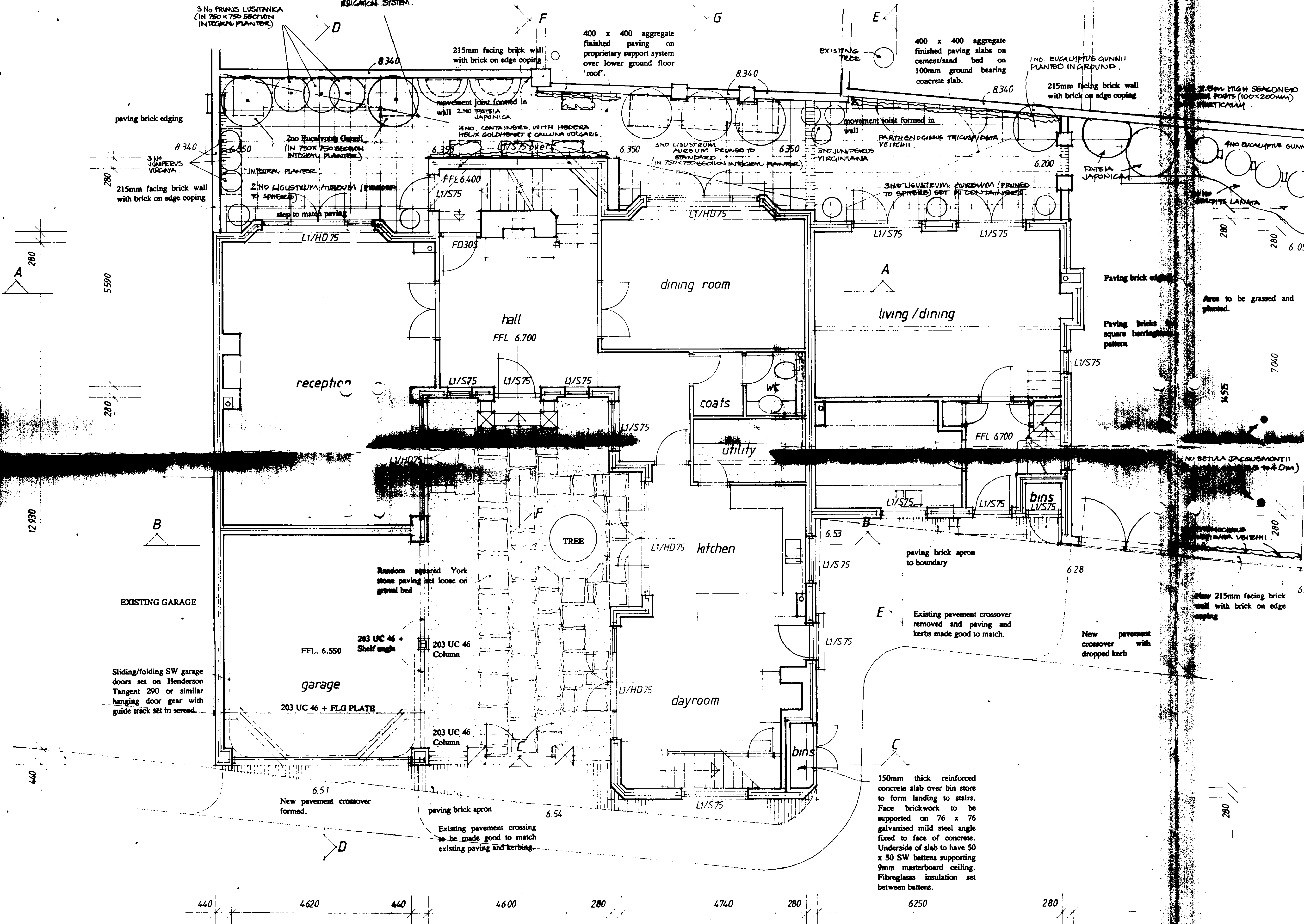
Signed *Patrick Allen*

for ASHTON ALLEN DESIGN LTD

1 Tide Mill Way, Quayside, Woodbridge, Suffolk IP12 1BY
 Telephone: Woodbridge (01394) 388500. Facsimile: (01394) 388372
 Registered Office: Kerr House, 19-23 Fore Street, Ipswich, Suffolk IP4 1JW
 Registered in England No. 2890426

This drawing and any design thereon is the copyright of this practice and must not be reproduced without written consent. Do not state from this drawing, use figured dimensions only. Any discrepancies must be reported to this company at once.

PLANTS IN THIS AREA OVER BASEMENT TO BE IN CONTAINERS. ALL CONTAINER PLANTS TO BE PROVIDED WITH AN IRRIGATION SYSTEM.



GROUND FLOOR PLAN

ST MARY ABBOTS PLACE
KENSINGTON
LONDON W8

Client
EYTON DEVELOPMENTS
(SUFFOLK) LTD

Detail
Ground Floor Plan Landscape
Scales
1 : 50

Date
Jan 96
Drawn
pa
Drwg no.
6366 - 26 B.B.D.

RECEIVED BY PLANNING			
DC	DC	DC	DC
N	S	E	W
8 - NOV 1996			
Exec. Dir/Arch	Planners	ARB	Con. Des.
Approved Office	10	Forward	DC
		Head	DC

REV. D. NOV 96 INCLUSION OF 2ND BEYOND SPECIALS MOUNTING + INTEGRAL PLANTERS
REV. C. OCT 96 (IND. EUCALYPTUS GUNNII ADDED)
REV. B. SEPT 96 (IND. JUNIPERUS VIRGINICA ADDED)
REV. A. JULY 96 PLANTING REVISED TO RECEPTION FANED AREA. JUNIPERUS ADDED.



ASHTON ALLEN DESIGN LTD
1 TIDE MILL WAY,
QUAYSIDE,
WOODBRIDGE,
SUFFOLK IP12 1BY
TELEPHONE (01394) 388500
FACSIMILE (01394) 388372

Ground Floor Plan

URGENT MESSAGE to
MR DEREK TAYLOR, Planning.

From ADAM FERGUSSON, 15 WATKICK Gdns.

Nov. 7 1996.

Thank you for your fax. It worries me because you have not told Syton-Jones that we must study and agree his proposals before accepting them. At present they appear inadequate and unacceptable.

- (1) The proposed replacements for the sycamores, at 4 metres, are obviously not mature trees and too small.
- (2) There is no sign of a tree screen properly to protect No 9 Watkick Gardens from overlooking.
- (3) I have to be certain that my own garden will be fully screened at adequate heights. Thuiper or Cupressus only 3.5 metres high^{ix} - and only 3 in number - may not serve the purpose - and I should like to see what the effect will be.
- (4) We are agreed, I think, that all tree-screen heights on installation must exceed the first floor windows of the new houses from windows opposite, and prevent overlooking of gardens. 3 metres is not high enough. We must see the drawings.

I therefore look forward to seeing and discussing the proposals with you before anything is finalized - and agreeing to them is provided by the Chairman of the Planning Committee. Until then, Condition 15 cannot be met. I hope you agree.

Yours sincerely,
Adam Fergusson.

*Mr Austin's letter of Nov 1.



ASHTON ALLEN DESIGN LTD

To PLANNING & CONSERVATION THE ROYAL BOROUGH OF KENSINGTON & CHELSEA THE TOWN HALL MORNTON STREET LONDON W6 7NX	Date 6.11.96 Our Ref. 6366 Your Ref. DPS/PV/TP/94/06A4/R/18/2195 FAX 0171 361 3463 (2 PAGES)
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PROJECT
 LAND ON & ADJACENT TO NO4, ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR D. TAYLOR

DEAR SIRS

FURTHER TO MR AUSTINS LETTER DATED 1 NOVEMBER 96 TO MR EYTON JONES REGARDING PLANT SIZES AT THE ABOVE SITE WE CONFIRM THAT OUR CLIENT WILL PROVIDE PLANS OF THE SIZES SET OUT IN ITEMS A TO F INC. OF THAT LETTER. OUR CLIENT ALSO AGREES TO ADOPT LARGE INTEGRAL RAISED PLANTERS AS SET OUT IN THE SAME LETTER.

REFERENCE THE FOURTH PARAGRAPH ON THE SECOND PAGE OF YOUR LETTER DATED 4 OCTOBER 96 TO MR EYTON JONES WE ATTACH AN EXTRACT OF THE SITE PLAN/LANDSCAPE DRAWING SHOWING THE INCLUSION OF 2NO BETULA JACQUEMONT II, PLANTING SIZE 3.5 TO 4.0 M HIGH.

WE LOOK FOR YOUR IMMEDIATE CONFIRMATION THAT THE ABOVE FULLY SATISFIES THE OUTSTANDING ITEMS ON LANDSCAPING AS RAISED IN YOUR LETTER DATED 4 OCTOBER 96.

Signed *Patrick Allen* for ASHTON ALLEN DESIGN LTD

1 Tide Mill Way, Quayside, Woodbridge, Suffolk IP12 1BY
 Telephone: Woodbridge (01394) 388500. Facsimile: (01394) 388372
 Registered Office: Kerr House, 19-23 Fore Street, Ipswich, Suffolk IP4 1JW
 Registered in England No. 2890426

Right
is on
on
brag

1 NO. EUCALYPTUS GUNNII
PLANTED IN GROUND.

215mm facing brick wall
with brick on edge coping

4 NO 2.5M HIGH SEASONED
TIMBER POSTS (100X200MM)
SET VERTICALLY.

8.340

4 NO EUCALYPTUS GUNNII

215mm f
with brick

FATSIA
JAPONICA

20 NO
STACHYS LANATA

7.890

6.200

6.05

Paving brick edging

Area to be grassed and
planted.

Paving bricks in
square herringbone
pattern

L1/575

7040

EXISTIN

14515

2 NO BETULA JACQUEMONTII
(PLANTING SIZE - 3.5 TO 4.0M)

PL 6700

hall

L1/575

L1/575

bins
L1/575

PAETHENOCISUS
TRILOBATA VIBIZHII

Flexible
existing

6.28

EXTRACT OF DRAWING 6366-26C

2.51

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

George Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3ST

t: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463

01 November 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

I write following a number of recent meetings between various party wall surveyors in connection with the above site, plus on site meetings between Council Officers and the contractors, and your meeting last week with the Council Arboriculturist. It has become evident that an amount of uncertainty exists as to the matter of compliance with the requirements of Condition no.15 attached to the Planning Permission for the above site, ref. TP/94/0644. I understand that your contractors wish to enter the adjoining land and carry out works on that land, and that the party wall agreement stipulates that they may only do this when the requirements of Condition no.15 have been met. Therefore, for your benefit and for the benefit of the other interested parties, I now write to clarify the position as it is at the time of writing.

My letter to you of 4th October advised that the landscaping scheme depicted on drawings 6366-26C and 27B, can be taken as satisfactory for the purposes of Condition 15. The letter then clearly states that a start on site could be permitted subject to two conditions that still needed to be satisfied.

I consider it perfectly clear that if these two requirements have not been properly discharged, with written confirmation from myself that they have been so discharged, then the requirement of Condition 15 of the Planning Permission cannot itself have been fully met.

At the time of writing, the two requirements presented in my letter of 4th October have not been discharged. Notwithstanding the fact that an amount of negotiation has taken place and it would seem that we are fairly close to agreeing to the requisite installation sizes for the trees, I cannot yet issue a statement that the provisions of Condition 15 have been fully complied with.

In order for me to issue such a statement, I need (a) confirmation from you that the minimum tree sizes stipulated are acceptable and will be installed and maintained accordingly, (b) a drawing depicting accurately, as a rear elevation, the appearance of the landscaping scheme at installation, and (c) agreement as to the position and type of the two replacement trees for the northern end of the site. It is also necessary for you to confirm the details of the planters with the arboriculturist, as I understand that there is concern that some of the planter sizes may be inadequate for the particular species and size of tree proposed, and a separate letter has been sent to you today in this regard.

F

I am copying this letter to the owners of the adjacent land. Until such time as I have issued a letter confirming that these matters have been satisfactorily dealt with, I will not be able to confirm that the requirements of Condition 15 have been fully met.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

THE TOWN HALL, HORNTON STREET, LONDON W8 7NN

Executive Director: M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr. Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3ST

Switchboard: 0171-937 5464

Extension: 3524

Direct Line: 0171-361 3524

Facsimile: 0171-361 3643

01 November 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/ARB/DGA Your reference:
/B1/MC

Please ask for: Derek Austin

Dear Mr. Eyton Jones,

Re: Landscape proposals, 4-8 St Mary Abbots Place W8

I write further to our recent meeting at Kensington Town Hall where drawings 6366-27B, 6366-26c and appropriate sizes of hardy nursery stock were discussed.

To reiterate, a general principle to be applied when executing this scheme is that of selection the most advanced stock available whilst planting into a container of such size that a 'root run' or a volume of compost for the trees to root into is available.

To this end it may be desirable to replace the free standing containers with large integral raised planters for at least some of the plantings, namely the three Golden Privets, the three Portuguese Laurels flanked by Eucalyptus (five trees in all) and the group of three Junipers at the south end of the terrace.

The specification for the nursery stock is as follows:-

- A. - Eucalyptus gunnii
- currently available at 3 metres high, container grown
- B. - Fatsia japonica
- currently available at 1.25 metres high, 1 metre wide in 25 litre container
- C. - Parthenocissus tricuspidata 'Veitchii'
- purchase as climbing shrubs
- D. - Juniperus virginiana
- currently unavailable as large plants. Nurseryman suggests Cupressus arizonica fastigiata as a substitute, currently available at 3.5 metres high in 50 L containers. This choice is acceptable to R.B.K.C. arboriculturists.
- E. - Ligustrum aureum
- currently available as L. Lucidum 'Excelsum Superbum'
A golden form 18/20 cm circumference at 1 metre from the ground with a 3.5 metre bole and a 1 metre diameter head.

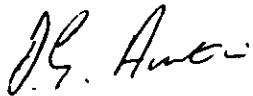
F. - Hedera helix 'Goldheart'
- purchase as climbing shrubs

Also Portuguese Laurel (*Prunus lusitanica*) currently available as 3 metre high, rootballed specimens, 3 times transplanted and bushy.

The specified nursery stock is available from Europlants Ltd on 01707 649996.

I trust that the above will assist.

Yours sincerely,



Derek Austin
Principal Arboricultural Officer
for the Executive Director of Planning and Conservation

c.c. Adam Ferguson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NN

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Mr W. S. Teakle
Director
Guardian Foundations and Construction Ltd.
11 Barretts Green Road
London
NW10 7AE

Switchboard: 0171-937 5464

Extension: 3524

Direct Line: 0171-361 3524

Facsimile: 0171-361 3643

01 November 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/ARB/DGA Your reference:
/D1/MC

Please ask for: Derek Austin

Dear Mr. Teakle,

Re: Protection of London Plane Tree, 4-8 St. Mary Abbots Place, London W8

I refer to my visit to the above site on Tuesday 29th October 1996 and to my earlier letters to Duncan Gray (wrongly addressed as Duncan Gram as I misread Mr. Gray's signature) dated 9th and 25th October 1996 (copies enclosed).

As you know the Royal Borough's arboriculturists may make any stipulations that they see fit to ensure the sustained well-being of the London Plane tree on the site as part of the conditions attached to the planning permission for development.

As we are anxious to ensure that conditions are complied with I now write to reiterate certain points raised in previous correspondence:-

1. My colleagues and I are satisfied with the wooden 'crib' that has been erected around the tree. On confined sites it is impossible to adhere strictly to the British Standard BS 5837 'Trees in Relation to Construction' the contents of which are meant to be guidelines.
2. The concrete hardstandings outside the footprint of the building are to be retained until such a time that permission for their removal is given in writing by the L.P.A.
3. A temporary raft of reinforced concrete laid over the existing surface of the site (no excavations) of such a depth that it will withstand a loading of seven tons, covering the area between the tree's protective 'crib' and the building line (in other words what will become the courtyard) must be laid immediately and remain in place until such a time that permission for its removal is given in writing by the L.P.A..
4. After a conference on site, the arboricultural team members are agreed that further pruning of the London Plane tree may compromise the assurances given to residents that the upper crown of the tree will be highly visible above the upper extremities of the building from both Kensington High Street and properties in Warwick Gardens. Russell Mathew has explained that it is possible to manoeuvre the beam of the piling machinery between branches in the lower crown and this is preferable to further pruning. If the tree makes any deadwood following development this may be removed without the consent of the Local Planning Authority.

5. In view of the fact that some root severance is inevitable, a survey by Ground Penetrating Radar would be very useful to monitor the extent of such severance and ensure that it is kept within acceptable limits. I am not certain if the Pipehawk apparatus is capable of operation on rough terrain such as that on this site but the urgent advice of the firm (EMRAD) must be sought.

I trust that you will give these matters your urgent attention.

Yours sincerely,



Derek Austin
Principal Arboricultural Officer
for the Executive Director of Planning and Conservation

c.c. Mr. George Eyton-Jones
Mr. Russell Mathew
Mr. Adam Ferguson
Mr. Peter Mullins

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Ferguson
15 Warwick Gardens
London
W14 8PH

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

01 November 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

Following our recent meeting to discuss the matter of compliance with Condition no.15 attached to the Planning Permission for the above site, ref. TP/94/0644, I write to clarify the position as it is at the time of writing. You have a copy of my letter to the developers of 4th October 1996, which has also been copied to the various party wall surveyors involved, and it is evident that an amount of uncertainty, or misunderstanding, still exists.

My letter of 4th October advised the developers that the landscaping scheme depicted on drawings 6366-26C and 27B, can be taken as satisfactory for the purposes of Condition 15. The letter then clearly states that a start on site could be permitted subject to two conditions that still needed to be satisfied. I consider it perfectly clear that if these two requirements have not been properly discharged, with written confirmation from myself that they have been so discharged, then the requirement of Condition 15 of the Planning Permission cannot itself have been fully met.

I understand that your party wall agreement stipulates that the developers should not commence work upon your land until such time as Condition no.15 has been fully complied with. At the time of writing, the two requirements presented in my letter of 4th October have not been discharged. Notwithstanding the fact that an amount of negotiation has taken place and it would seem that we are fairly close to agreeing to the requisite installation sizes for the trees, I cannot yet provide you with a statement that the provisions of Condition 15 have been fully complied with.

In order for me to issue such a statement, I need (a) confirmation from the developers that the minimum tree sizes stipulated are acceptable and will be installed and maintained accordingly, (b) a drawing showing, as a rear elevation, the appearance of the landscaping scheme at installation, and (c) agreement as to the position and type of the two replacement trees for the northern end of the site.

I am sending these requirements by fax to the developers today, however it will clearly take some time for them to submit the information. Until such time as I have issued a letter confirming that these matters have been satisfactorily dealt with, I will not be able to confirm that the requirements of Condition 15 have been fully met.

I cannot comment as to the right of the developers to enter your land as the Town and Country Planning Act does not deal with this, however if your party wall award stipulates that the requirements of Condition 15 must be fully met before they can commence work upon, or enter, your property, then it would seem to me that they must withhold such action until I have issued the necessary written confirmation.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

From Adam Fergusson
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

For the attention of

Mr Derek Taylor,
Planning & Conservation,
Royal Borough of Kensington & Chelsea.

November 1, 1996

Dear Mr Taylor,

St Mary Abbott's Place

Below is a draft of the kind of letter (from you to me) which I might be able to pass to the developers' lawyer to some effect. I look forward to being able to despatch your final version in the middle of this afternoon.

I confirm to you that this Planning Authority does not consider that the developers have yet met the necessary conditions regarding agreement on the landscaping of the site to permit work formally to begin.

My letter to Mr Byton-Jones of October 4 provisionally permitted a start to be made, but expressly stated that permission was subject to confirmation as soon as possible of certain details still to be submitted.

I am aware that you have the assurance of the Chairman of the Planning Committee that no work would begin before the landscaping, including an effective tree screen, had been fully and satisfactorily agreed with you.

Yours sincerely,

Adam Fergusson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Ferguson
15 Warwick Gardens
London
W14 8PH

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

01 November 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbots Place, W.8

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Yours faithfully,

M. J. French
Executive Director, Planning & Conservation



ASHTON ALLEN DESIGN LTD

TO PLANNING & CONSERVATION
THE ROYAL BOROUGH OF KENSINGTON &
CHELSEA

THE TOWN HALL
HORNTON STREET
LONDON W6 7NX .

Date 18.10.96

Our Ref.

Your Ref.
DPS/PV/TP/94/0644/Q/18/2195
FAX 0171 361 3463

PROJECT
LAND ON & ADJACENT TO NO 4 ST MARK ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF DEREK TAYLOR .

DEAR SIRS

WE CONFIRM THAT OUR CLIENT, MR EYTON JONES WILL ATTEND
YOUR OFFICES A 2.30 PM ON MONDAY 21ST OCTOBER 96 TO
DISCUSS LANDSCAPING WITH YOU AND MR AUSTIN .

MR EYTON JONES WILL DELIVER 6 NO FURTHER COPIES OF
DRAWINGS 6366 . 26 C AND 27B .

Nick/Jane - our objective is to get
the trees in as big as possible, so they
can form a screen as soon as possible

Derek

Derek - I think that this scheme is
now O.K and have succeeded
with the 200k trees .

Derek 21/10/96

Signed Patrick Allen for ASHTON ALLEN DESIGN LTD

① PC ② DT

ASHTON ALLEN DESIGN

ARCHITECTS &
BUILDING DESIGNERS

ASHTON ALLEN DESIGN LTD

To PLANNING & CONSERVATION
THE ROYAL BOROUGH OF KENSINGTON
& CHELSEA

THE TOWN HALL
HORNTON STREET
LONDON W6 7NX

Date 16.10.96

Our Ref. _____

Your Ref. DPG/PV/TF/94/0644/R/18/2195

PROJECT
LAND ON & ADJACENT TO NO 4 ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR. D. TAYLOR.

DEAR SIRS

FURTHER TO YOUR LETTER DATED 4.10.96 WE ATTACH A SAMPLE OF
THE PROPOSED 1B STOCK LEICESTER RED BRICK.

RECEIVED BY PLANNING SERVICES				
DC N	DC S	DC S	E	As Act
57		17 OCT 1996		
Exec Dir		Records	APP	Con Des
Appeals Office	10	Fees Officer	Forward Evan	Head OO

01473
745728

Signed Patrick Allen for ASHTON ALLEN DESIGN LTD

● Adam Ferguson
✓ 603 4114

Patrick Allen
✓ 01394 388372

George Eytan Jones
~~✓~~ 01473 253020

MESSAGE FORM

To

WHILE YOU WERE OUT

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of

Tel. No

CALLED TO SEE YOU		PLEASE RING	
TELEPHONED		PLEASE VISIT	
WANTS TO SEE YOU		WILL RING YOU	
URGENT		WILL CALL AGAIN	

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Message

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Signed

Date Time

MODE = TRANSMISSION

START=06-NOV 17:54

END=06-NOV 18:02

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
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-RBKC PLANNING DEPT -

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- ***** - 0171 361 3463- *****

MODE = TRANSMISSION

START=06-NOV 17:33

END=06-NOV 17:35

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
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-RBKC PLANNING DEPT -

***** -

- ***** - 0171 361 3463- *****

MODE = TRANSMISSION

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END=06-NOV 17:32

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
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-RBKC PLANNING DEPT -

***** -

- ***** - 0171 361 3463- *****

FAX FROM

NAME: DEREK TAYLOR

THE DIRECTORATE OF PLANNING SERVICES

DATE: 6/11/96

MAIN TELEPHONE NUMBER: 0171 937 5464

DIRECT LINE: 0171 361

FAX NUMBER (if different from below) : _____

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

TO

NAME: George Eytan Jones

OF: _____

ADDRESS: _____

_____ POSTAL CODE _____

FAX NUMBER: 01473 253020

NUMBER OF PAGES TO FOLLOW: 1

COMMENTS AND/OR INSTRUCTIONS (if any)

OUR FAX NUMBER IS: 071 361 3463

FAX FROM

NAME: Derek TAYLOR

THE DIRECTORATE OF PLANNING SERVICES

DATE: 6/11/96

MAIN TELEPHONE NUMBER: 0171 937 5464

DIRECT LINE: 0171 361

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

FAX NUMBER (if different from below): _____

TO

NAME: PATRICK ALLEN

OF: _____

ADDRESS: _____

_____ POSTAL CODE _____

FAX NUMBER: 01394 388372

NUMBER OF PAGES TO FOLLOW: 1

COMMENTS AND/OR INSTRUCTIONS (if any)

OUR FAX NUMBER IS: 071 361 3463

FAX FROM

NAME: DEREK TAYLOR

THE DIRECTORATE OF PLANNING SERVICES

DATE: 6/11/96

MAIN TELEPHONE NUMBER: 0171 937 5464

DIRECT LINE: 0171 361

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

FAX NUMBER (if different from below): _____

TO

NAME: ADAM FERGUSON

OF: _____

ADDRESS: _____

_____ POSTAL CODE _____

FAX NUMBER: 603 4114

NUMBER OF PAGES TO FOLLOW: 3

COMMENTS AND/OR INSTRUCTIONS (if any)

OUR FAX NUMBER IS: 071 361 3463

Construction Department
Direct Fax: (01473) 218980

BIRKETTS

S O L I C I T O R S

Adam
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If you
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will

CE Cockburn
JDC Young
SRM Wilson
J Bristol

N. W. Turner
Annette Wainwright
M. Vardon
N. Easting

S. G. Gals

CONSULTANTS:
D. J. Goyder
J. F. W. Wain
Angela Sodenham
A. J. Bruce

30 October 1996

- 2 -

failure to observe the Party Wall Award.

Yours faithfully


BIRKETTS

cc: Eyton Developments (Suffolk) Limited

Date: 16/10/96
Ref: 96/434

REFERRAL TO THIRD SURVEYOR MARK LANYON FRICS OF
WINKWORTH SURVEYORS, 11 LEXHAM MEWS, LONDON W8

IN THE MATTER OF A DISPUTE BETWEEN

THE SURVEYOR FOR THE OWNER OF
4, 6 & 8 ST MARY ABBOT'S PLACE, LONDON W8 (BUILDING OWNER)

AND

THE SURVEYOR FOR THE OWNERS OF
11 WARWICK GARDENS, LONDON W14 &
15 WARWICK GARDENS, LONDON W14 (ADJOINING OWNERS)

BUILDING OWNER'S SURVEYOR: N M A LAMBARDE-SCOTT FRICS ESVA OF
SCOTT DAVIDSON LIMITED, 113 WESTBOURNE GROVE, LONDON W2 6LP

ADJOINING OWNERS' SURVEYOR: A BETHAM RIBA OF
BETHAM ASSOCIATES, 105-111 EUSTON STREET, LONDON NW1 2EW

GENERAL

In Party Wall Awards both published on 17 June 1996, I, Mark Lanyon FRICS of Winkworth Surveyors, was appointed the Third Surveyor to act in the event of dispute arising under the terms of the Awards. Since both surveyors signed the Awards, I take it that my appointment is approved by both surveyors.

Since there is clearly a matter of extreme urgency in the resolution of this dispute, I have taken evidence from both surveyors over the telephone, together with letters and documents faxed to me. I have not made a formal inspection of the site (although I have visited it briefly) since the dispute is on a matter of interpretation alone.

The following is my understanding of the dispute to which I invite both surveyors to comment pending my decision.

DETAIL

1. A substantial house is to be constructed on the site known as 4, 6 & 8 St Mary Abbot's Place which adjoins two properties known as 11 & 15 Warwick Gardens.

The development was given planning consent on 11 July 1995 subject to various conditions, one of which (No 15) states: "full particulars of the following shall be submitted to and approved in writing by the Local Planning Authority before the development hereby denoted commences and the development shall not be carried out otherwise than in accordance with the details so approved:

(a) the treatment of the open land within the site including ~~hard~~ and soft landscaping"

2. It is understood that this landscaping consists of the planting of trees, shrubs etc on the western party boundary in order to protect the amenity enjoyed by the owners of 11 and 15 Warwick Gardens.
3. In the Party Wall Award relating to 11 Warwick Gardens, it is stated in Section 7 "that prior approval will be obtained from the Local Planning Authority in accordance with the Planning Consent as to landscaping". This is repeated verbatim in the Award relating to 15 Warwick Gardens under Section 9.
4. Works were due to commence on Monday, 30 September 1996 (although they in fact started on the 7th October 1996). The building owners' surveyor, Mr Scott sent a letter to the adjoining owners' surveyor, Mr Betham, on 26 September enclosing a programme of works dated 23 September 1996 and Mr Betham acknowledged both by letter on 30 September 1996 (copies attached). I have a copy of a letter, dated 24 September 1996, from Guardian Foundations & Construction Ltd stating that "works on the site were due to commence on Monday, 30 September 1996 and giving a telephone number of the site agent in case of queries or complaints. It is not known to whom this was posted and it is regarded as hearsay evidence only (copy appended).
5. In Section 4(n) of the Award relating to 15 Warwick Gardens, it is stated that the building owner shall "erect screening on site parallel with party fence wall line, 1.5m in,

extending north to connect with party fence wall to No 13, and additionally as agreed on site to protect the wisteria and the garage roof. Screening to consist of 8' by 4' plyboarding supported on scaffolding poles". The adjoining owners' surveyor, Mr Betham, has requested an adjudication of what would constitute reasonable expense given to the owner of this property before the building owners' contractors enter the site in order to carry out this work.

- 6. In a letter, dated 4 October 1996, from Mr Derek Taylor of the Town Planning Department of the Royal Borough of Kensington & Chelsea to Mr George Eyton-Jones a number of details are expressed and Page 2 of this letter is appended. It will be referred to in the decision.

?
not
appended

Please read through this resume carefully and ring me to discuss it as soon as possible. I propose to charge £100 p.h. plus VAT for this work and will make an Award as to costs at the same time as my decision. I need confirmation from both surveyors that this is in order and my costs met.

Mark Lanyon FRICS

WINKWORTH SURVEYORS
Chartered Surveyors

16 October 1996

COMMENTS ON REPLY TO THE ABOVE FROM NICHOLAS LAMBARDE-SCOTT (NLS) AND ADRIAN BETHAM (AB) IN A LETTER FROM AB AND FAX FROM NLS, BOTH OF 17TH OCTOBER 1996.

AB LETTER OF 17/10/96 TO ME:

- 2 (a) The awards clearly do not "make allowance for trees". Since the planning phrase "hard and soft landscaping" (condition 15) will be defined by the planning department, I do not think specific reference to trees is required in the awards.
- 2 (b) I do not think there is any allegation that the building owner, his contractors or surveyor will do other than "take all reasonable precautions to retain the adjoining owner's land and buildings etc". I do not propose to adjudicate on this.
- 3. The significance of section 7 and section 9 in the awards is fully understood. Both surveyors agreed on it anyway by signing the awards.
- 4. Whether the contract programme provided by the contractors refers to the sub-structure contract or the works permitted by the awards, it was an indication (albeit provisional) of the programme of works and when they would start. The adjoining owners' surveyor would have known that the excavation for the basement would be almost the first item in the

programme. It would therefore be necessary to safeguard the bottom 1.5m of the gardens to 11 and 15 Warwick Gardens. As to the Guardian letter, I am assured that it was hand-delivered to all neighbouring properties but I have no easy way of checking this.

5. These items are clearly important but all have apparently been anticipated by both surveyors and all items are covered by the awards.
6. I have spoken to Derek Taylor, the planning officer, who said that whilst he was happy for the works to start on the site, the full and final detail of the landscaping was to be agreed as soon as possible and condition 15 to the planning consent was not fulfilled to the letter until that time.

The paragraph after item 6 assumes that reasonable notice had NOT been given. The definition of reasonable notice in this context will be part of my adjudication.

NLS FAX TO ROB:

It is accepted that the dispute is between the surveyors because they make the decisions as to the detail of the awards. The title page is therefore changed although it is to be hoped that both surveyors recognise the need for fair and equitable decisions because of their effect on the owners.

It is accepted that works to the party structure in question have not commenced. Work on the site commenced on the 7th October, about one week later than originally intended

DECISION

- A. My decision in the matter of what might be considered in this context reasonable notice to the adjoining owners is as follows:
 - (i) the awards envisage the building owner's contractors coming on to the site some time after the awards were published in June 1996 and after planning consent was granted in July 1996.
 - (ii) the owners of 11 and 15 Warwick Gardens would have copies of the awards and would therefore have been aware of item (i) above.
 - (iii) AB requested the programme of works for no other reason than to advise the adjoining owners when works would begin and therefore when it would be necessary to start moving shrubs etc.
 - (iv) the adjoining owners must have seen the contractors coming on to the site at the bottom of their gardens. Yet this still does not seem to have alerted them to the need for removal of their plants and shrubs.

I therefore decide that the adjoining owners had been given ample notice by reason of having effectively been aware since June with further reminders from their surveyor in September. All previous notice having been disregarded apparently, the adjoining owners might reasonably now be given two days' notice.

- B. In the matter of the interpretation of section 7 and section 9 "that prior approval will be obtained from the local planning authority in accordance with the planning consent as to landscaping" I find as follows:

- (i) Whilst it may be the case that the adjoining owners will have a say in the final detail of the landscaping in, for instance, consultation with the planning department, it is ultimately this department which will make the decision, not the building owner and not the adjoining owner. Therefore, to some degree, the wording in section 7 and section 9 of the awards cannot be judged by the party wall surveyors.
- (ii) In the letter, dated the 4th October 1996, from Derek Taylor, it is clearly stated that landscaping details are satisfactory for the purposes of fulfilling condition 15 of the planning consent. Even if the second paragraph of the second page slightly clouds the issue, I cannot just ignore the contents of the first paragraph and I do not accept that the building owner or his surveyor could be expected to reach any different conclusion, particularly in light of item (i) above.
- (iii) I have the impression that AB believes that the planning authority is happy for the work to start on the site pending full details to satisfy condition 15, but this does not give the building owner authority to start on the party wall line by reason of his interpretation of the wording of section 7 and section 9 in the awards. However, it seems to me that the building owner has clearly taken steps to satisfy the planning department, to the extent that their surveyors have confirmed this in writing.

Since the contract of works is likely to take between 6 and 9 months and it will not be possible to carry out the landscaping until almost the end of the contract, it is unreasonable to prevent works being carried out on the party wall line. I therefore find for the Building Owner's surveyor.

AWARD OF COSTS

In view of the fact that I find in favour of the building owner's surveyor on both points but consider that the wording of section 7 and section 9 to have been rather poorly drafted, I award 75% of the costs against the adjoining owners' surveyor and 25% of the costs against the building owner's surveyor. I have spent approximately 4 1/2 hours on this matter and enclosed bills in the sum of £112.50 plus VAT for the building owner and £337.50 plus VAT for the adjoining owners.

ENCLOSURES

The following are appended to this decision:

Letter to AB from NLS (26/9/96).

Provisional contract programme 23/9/96

Letter from AB to NLS (30/9/96)

Letter from Guardian Foundations and Construction Ltd (24/9/96).

Second page of letter from Derek Taylor, town planning department, for 10/96

Page 3 of planning consent showing condition 15.

Letter from AB to me (17/10/96)

Fax from NLS to me (17/10/96)

Mark Lanyon FRICS
for WINKWORTH SURVEYORS
(Chartered Surveyors)

21 October 1996

COPY. → MTC



DEREK
TAYLOR

D.C. Central.

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Duncan Gram Esq.
Guardian Foundations and Construction Ltd.
11 Barretts Green Road
London
NW10 7AE

Switchboard: 0171-937 5464
Extension: 3524
Direct Line: 0171-361 3524
Facsimile: 0171-361 3643

25 October 1996

My reference: EDPC/ARB/DGA Your reference:
/D1

Please ask for: Derek Austin

Dear Mr. Gram,

Re: 4-8 St. Mary Abbots Place, Kensington W8

I write further to the site visit by my team on Tuesday 22nd October 1996 and our discussion with Russell Mathew.

Whilst appreciating Russell's problems in negotiating a seven ton machine around a somewhat confined site we are concerned that the rooting area of the London Plane tree which falls within that area of the site which will form the courtyard is still not adequately protected from compaction damage due to the movement of site machinery.

Russell explained that the 'slewing' motion of the tracked piledrivers would rip up a surface such as Geoweb Cellular Confinement and we now feel that a temporary raft of reinforced concrete of such a depth that it will withstand a loading of seven tons, covering the area between the tree's protective 'crib' and the building line is required. This may be removed at the same time as the hardstandings for the garages which formerly stood on the site.

This would obviate the need for fencing and should ensure that the planning conditions relating to tree protection are fully complied with.

Should you wish to discuss this matter further please contact Mr. Bentley, Miss Dow or myself at my office.

Yours sincerely,

Derek Austin
Principal Arboricultural Officer
for the Executive Director of Planning and Conservation

① PC ② DT
+
Copy D. Austin ✓ RB
+
RB

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

S3

Derek Taylor, Esq.,
Acting Area Planning Officer,
Town Hall, Kensington

October 11, 1996

Dear Mr Taylor,

4 ST MARY ABBOTS PLACE

By the close of play today you had not yet let me have (I suppose because you have not had it yourself) the revised plan and elevation of the landscaping proposals on which I provisionally gave the agreement of Peter Mullins and myself that work should be on the site. You will recall that the Chairman of the Planning Committee promised me that the tree screen would be "agreed fully" with us before work started.

My party-wall surveyor, however, has sent me a copy of the letter you sent last week to Mr Eyton-Jones, permitting him to go ahead subject to various provisos.

There are two matters which I do not yet find satisfactory.

First, a single extra eucalyptus is by no means enough to provide an effective tree screen for No. 9. I understood you to say you had stipulated that it would run the length of his wall (also protecting No.11). I hope you will put this right.

Second, I do not agree that a single extra juniper (which my tree book describes as "a pencil") will be sufficient along my own wall: at a guess it will need six in all, if the indicative circumferences on the plan are correct. The important thing, of course, is not the number but their effectiveness.

I am also anxious to hear that the developer has accepted the obligation to insert two new trees where the sycamores fell (about which I have still not been written by Mr Austin). Thereafter we shall be able to make our agreement final and be willing to co-operate fully with the builders.

Yours sincerely,

Adam Fergusson

Adam Fergusson

//

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

George Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3ST

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463

04 October 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/96/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Land on and adjacent to 4 St. Mary Abbot's Place, W.8

I refer to our recent conversations, and submitted plans and samples, in connection with the discharge of Conditions nos 12 and 15, attached to Planning Permission ref. TP/94/0644, granted on 11th July 1995.

Condition no.12 required the submission and agreement of the materials for most parts of the exterior of the two proposed houses. I note that we have still not received a sample of the red Leicester for the front elevation, however I do understand it is on its way and I know that we have anyway agreed it verbally. I can confirm, therefore, that the requirement of this Condition has now been discharged, subject to final approval of the Leicester.

Condition no.15 requires approval of the details of the treatment of the open land within the site, including hard and soft landscaping. This Condition was imposed by the Planning Services Committee in approving the planning application, with the aim of limiting the impact of the proposal upon the levels of amenity presently enjoyed by the occupants of the residential houses immediately to the West of the site. The Committee made it clear on the night, and the Chairman of the Committee has subsequently reaffirmed in writing, that this landscaping scheme should include a satisfactory screen of trees along the rear boundary of the site, where it abuts the boundaries of the Warwick Gardens properties. The achievement of such a planting screen has not been easy, as many species of tree or shrub would not be suitable for this purpose.

The latest revisions to the landscaping scheme involve the addition of a further juniper to provide a more complete screen along the southern boundary wall with no.15 Warwick Gardens, two eucalyptus trees in line with the prunus lusitanica in the southern section of the site, and an extra eucalyptus to be planted in the ground near the boundary with no.9 Warwick Gardens. Following these further amendments to the boundaries with nos.9 and 15 Warwick Gardens, I consider that you are now proposing appropriate species, and that your latest landscaping scheme should satisfy the twin aims of providing visual relief to views of the two houses, and a significant element of screening to the windows at first floor level of the houses.

Therefore, I accept that the landscaping details, as depicted on drawings no. 6366-26C and 27B, can be taken as a satisfactory scheme for the purposes of Condition 15. I would be grateful for six further copies of these drawings for my records.

As such, I can advise that a start on site can now be made without conflict with the aims and terms of this Condition. However, I permit this under the terms of the Condition subject to a number of points which still need to be confirmed. Further details will need to be submitted to formalise these matters.

Firstly, I must require you to submit details as to the size of the proposed trees at their installation, as this is clearly crucial in determining how quickly the trees can form an effective screen. For example, the juniper trees proposed for the southern boundary of the site must be at least semi-mature specimens when they are installed. A letter setting out the various tree sizes must be submitted, and agreed by myself in writing as being suitable for their purpose, before this development is completed. I would advise that discussions relating to the size of the trees should proceed as soon as possible in order that it is not left as an outstanding matter until completion is near, and it must be understood that the written agreement on the size of the trees forms part of the requirement of the landscaping condition.

Secondly, the removal of the two sycamore trees from the northern part of the site was authorised by this Council by letter dated 5th March 1996, however their demise is still regretted by local residents who considered them an important local amenity. Furthermore, the Chairman of the Planning and Conservation Committee has written to local residents in the past stating that their future would be secure. The function of these trees in amenity terms was not so much as a screen, but more an amenity that could be seen from St. Mary Abbot's Place itself. Therefore, I consider that a suitable landscaping scheme should ensure that the planting at this end of the site should be increased to take account of their loss. Further trees at this end would not need to be sycamores, but agreement should, nevertheless, be reached as to their species and position. I recommend that they are deciduous and semi-mature trees for this purpose. Therefore, in order to complete the requirements of the landscaping condition, I would request that a further plan showing the positioning of two new trees, one of which should be seen from the street, should be submitted and approved in writing before the development is completed.

It must be understood that should any of the proposed trees fail to survive, or be determined by the Council as too sickly or otherwise unfit for their purpose, then they should be replaced with a further tree, perhaps of an alternative species as required. The future occupants of these properties should be under no illusions that the provisions of the agreed landscaping scheme will run with the land, and that the obligations will continue whenever the properties change hands.

Finally, I should remind you that any variation to the approved drawings, or the content of this letter, must also be applied for and approved by the Council in writing.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

George Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3ST

Switchboard: 0171-937 5464

Extension: 2057

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Facsimile: 0171-361 3463

04 October 1996

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BOROUGH OF



KENSINGTON
AND CHELSEA

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0644

Please ask for: Mr D. Taylor

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M. J. French
Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

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04 October 1996

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Condition no.15 requires approval of the details of the treatment of the open land within the site, including hard and soft landscaping. This Condition was imposed by the Planning Services Committee in approving the planning application, with the aim of limiting the impact of the proposal upon the levels of amenity presently enjoyed by the occupants of the residential houses immediately to the West of the site. The Committee made it clear on the night, and the Chairman of the Committee has subsequently reaffirmed in writing, that this landscaping scheme should include a satisfactory screen of trees along the rear boundary of the site, where it abuts the boundaries of the Warwick Gardens properties. The achievement of such a planting screen has not been easy, as many species of tree or shrub would not be suitable for this purpose.

The latest revisions to the landscaping scheme involve the addition of a further juniper to provide a more complete screen along the southern boundary wall with no.15 Warwick Gardens, two eucalyptus trees in line with the prunus lusitanica in the southern section of the site, and an extra eucalyptus to be planted in the ground near the boundary with no.9 Warwick Gardens. Following these further amendments to the boundaries with nos.9 and 15 Warwick Gardens, I consider that you are now proposing appropriate species, and that your latest landscaping scheme should satisfy the twin aims of providing visual relief to views of the two houses, and a significant element of screening to the windows at first floor level of the houses.

Therefore, I accept that the landscaping details, as depicted on drawings no. 6366-26C and 27B, can be taken as a satisfactory scheme for the purposes of Condition 15. I would be grateful for six further copies of these drawings for my records.

As such, I can advise that a start on site can now be made without conflict with the aims and terms of this Condition. However, I permit this under the terms of the Condition subject to a number of points which still need to be confirmed. Further details will need to be submitted to formalise these matters.

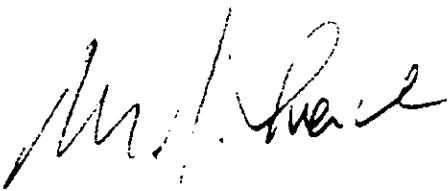
Firstly, I must require you to submit details as to the size of the proposed trees at their installation, as this is clearly crucial in determining how quickly the trees can form an effective screen. For example, the juniper trees proposed for the southern boundary of the site must be at least semi-mature specimens when they are installed. A letter setting out the various tree sizes must be submitted, and agreed by myself in writing as being suitable for their purpose, before this development is completed. I would advise that discussions relating to the size of the trees should proceed as soon as possible in order that it is not left as an outstanding matter until completion is near, and it must be understood that the written agreement on the size of the trees forms part of the requirement of the landscaping condition.

Secondly, the removal of the two sycamore trees from the northern part of the site was authorised by this Council by letter dated 5th March 1996, however their demise is still regretted by local residents who considered them an important local amenity. Furthermore, the Chairman of the Planning and Conservation Committee has written to local residents in the past stating that their future would be secure. The function of these trees in amenity terms was not so much as a screen, but more an amenity that could be seen from St. Mary Abbot's Place itself. Therefore, I consider that a suitable landscaping scheme should ensure that the planting at this end of the site should be increased to take account of their loss. Further trees at this end would not need to be sycamores, but agreement should, nevertheless, be reached as to their species and position. I recommend that they are deciduous and semi-mature trees for this purpose. Therefore, in order to complete the requirements of the landscaping condition, I would request that a further plan showing the positioning of two new trees, one of which should be seen from the street, should be submitted and approved in writing before the development is completed.

It must be understood that should any of the proposed trees fail to survive, or be determined by the Council as too sickly or otherwise unfit for their purpose, then they should be replaced with a further tree, perhaps of an alternative species as required. The future occupants of these properties should be under no illusions that the provisions of the agreed landscaping scheme will run with the land, and that the obligations will continue whenever the properties change hands.

Finally, I should remind you that any variation to the approved drawings, or the content of this letter, must also be applied for and approved by the Council in writing.

Yours faithfully,



M. J. French
Executive Director, Planning & Conservation

PLANNING AND CONSERVATIONTHE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF****KENSINGTON
AND CHELSEA**Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

George Eyton Jones
2 Park Road
Ipswich
Suffolk
IP1 3ST

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

04 October 1996

My reference: DPS/DCC/TP/96/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Land on and adjacent to 4 St. Mary Abbot's Place, W.8

I refer to our recent conversations, and submitted plans and samples, in connection with the discharge of Conditions nos 12 and 15, attached to Planning Permission ref. TP/94/0644, granted on 11th July 1995.

Condition no.12 required the submission and agreement of the materials for most parts of the exterior of the two proposed houses. I note that we have still not received a sample of the red Leicester for the front elevation, however I do understand it is on its way and I know that we have anyway agreed it verbally. I can confirm, therefore, that the requirement of this Condition has now been discharged, subject to final approval of the Leicester.

Condition no.15 requires approval of the details of the treatment of the open land within the site, including hard and soft landscaping. This Condition was imposed by the Planning Services Committee in approving the planning application, with the aim of limiting the impact of the proposal upon the levels of amenity presently enjoyed by the occupants of the residential houses immediately to the West of the site. The Committee made it clear on the night, and the Chairman of the Committee has subsequently reaffirmed in writing, that this landscaping scheme should include a satisfactory screen of trees along the rear boundary of the site, where it abuts the boundaries of the Warwick Gardens properties. The achievement of such a planting screen has not been easy, as many species of tree or shrub would not be suitable for this purpose.

The latest revisions to the landscaping scheme involve the addition of a further juniper to provide a more complete screen along the southern boundary wall with no.15 Warwick Gardens, two eucalyptus trees in line with the prunus lusitanica in the southern section of the site, and an extra eucalyptus to be planted in the ground near the boundary with no.9 Warwick Gardens. Following these further amendments to the boundaries with nos.9 and 15 Warwick Gardens, I consider that you are now proposing appropriate species, and that your latest landscaping scheme should satisfy the twin aims of providing visual relief to views of the two houses, and a significant element of screening to the windows at first floor level of the houses.

Therefore, I accept that the landscaping details, as depicted on drawings no. 6366-26C and 27B, can be taken as a satisfactory scheme for the purposes of Condition 15. I would be grateful for six further copies of these drawings for my records.

As such, I can advise that a start on site can now be made without conflict with the aims and terms of this Condition. However, I permit this under the terms of the Condition subject to a number of points which still need to be confirmed. Further details will need to be submitted to formalise these matters.

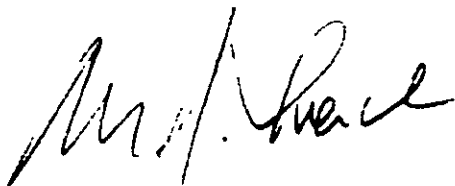
Firstly, I must require you to submit details as to the size of the proposed trees at their installation, as this is clearly crucial in determining how quickly the trees can form an effective screen. For example, the juniper trees proposed for the southern boundary of the site must be at least semi-mature specimens when they are installed. A letter setting out the various tree sizes must be submitted, and agreed by myself in writing as being suitable for their purpose, before this development is completed. I would advise that discussions relating to the size of the trees should proceed as soon as possible in order that it is not left as an outstanding matter until completion is near, and it must be understood that the written agreement on the size of the trees forms part of the requirement of the landscaping condition.

Secondly, the removal of the two sycamore trees from the northern part of the site was authorised by this Council by letter dated 5th March 1996, however their demise is still regretted by local residents who considered them an important local amenity. Furthermore, the Chairman of the Planning and Conservation Committee has written to local residents in the past stating that their future would be secure. The function of these trees in amenity terms was not so much as a screen, but more an amenity that could be seen from St. Mary Abbot's Place itself. Therefore, I consider that a suitable landscaping scheme should ensure that the planting at this end of the site should be increased to take account of their loss. Further trees at this end would not need to be sycamores, but agreement should, nevertheless, be reached as to their species and position. I recommend that they are deciduous and semi-mature trees for this purpose. Therefore, in order to complete the requirements of the landscaping condition, I would request that a further plan showing the positioning of two new trees, one of which should be seen from the street, should be submitted and approved in writing before the development is completed.

It must be understood that should any of the proposed trees fail to survive, or be determined by the Council as too sickly or otherwise unfit for their purpose, then they should be replaced with a further tree, perhaps of an alternative species as required. The future occupants of these properties should be under no illusions that the provisions of the agreed landscaping scheme will run with the land, and that the obligations will continue whenever the properties change hands.

Finally, I should remind you that any variation to the approved drawings, or the content of this letter, must also be applied for and approved by the Council in writing.

Yours faithfully,



M. J. French
Executive Director, Planning & Conservation

THREE PAGES.

From ADAM FERGUSSON
 15 Warwick Gardens, London W 14 8PH
 Telephone: 0171-603 7900 Fax: 4114

FAX to

Derek Taylor, Esq.,
 Acting Area Planning Officer,
 Town Hall, Kensington

October 4, 1996

Dear Mr Taylor,

ST MARY ABBOTS PLACE

As requested I am faxing you a copy of Councillor Harney's letter to me of last year.

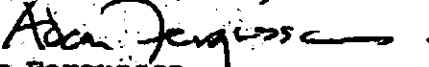
I have read your draft letter to Eyton-Jones. Peter Mullins and I, as you know, wish to see and approve the drawings 6366-26C and 27B to which it refers, which I take to be a plan and an elevation, before giving our agreement to what is proposed. We are still operating off elevation 6366-27 (July 23 96) and plan 6336-26B (October 2).

The wording of the third last paragraph in the letter makes me uncomfortable: it says that Eyton-Jones must submit details "setting out the various tree sizes" before the development is completed. I consider that those details must be determined now, before work begins, and to the specifications which we discussed. Your letter must be the appropriate means to prevent any argument later. I therefore attach also a memorandum of what Peter Mullins and I believe must be firmly agreed before work starts. I think the points, including the matter of access, are all consistent with what we discussed. Your letter does already address some of them.

Point 5 deals with what I said on the telephone about guaranteeing the replacement of the sycamores (which in fairness ought to be at the Council's expense). I therefore suggest that the second last sentence of your letter is mistaken: and that, whereas you cannot require Eyton-Jones to replace the trees because they should not have been felled, you can require him to plant comparable trees in the same places as part of the landscaping agreement.

One last thing: in drawing 6366-27 the design of the bedroom window has been changed from previously. Were you notified?

When we receive the revised plan and elevation, Peter Mullins and I will discuss them and let you have our comments at once.

Yours sincerely,

 Adam Fergusson

TWO PAGES FOLLOW

MEMORANDUM

1. As prunus and juniper are both slow-growing, mature trees rising to eave level must be installed so that the screen is immediately effective. Along the boundary walls of 15 and 13 especially, sufficient trees (and containers) to be supplied to provide a complete screen without gaps.
2. Eucalyptus gunnii to be inserted in south-west corner of site (at angle of walls of Nos 15 and 13) - planted if possible, rather than in a pot.
3. A screen of suitable trees of sufficient height to be planted (not in pots) on boundary of No 9, to protect No 9 directly, and No 11 obliquely, from overlooking from first-floor windows. The proposed junipers also to be planted, not potted.
4. No 11 boundary to have a juniper in addition to the ligustrum, placed to break up the shrub. The ligustrum to reach at least six feet above the wall - not "pruned to standard".
5. Mature deciduous trees of the same height, girth and spread as the two felled sycamores to be placed where they stood - the eastern-most one to have a spread covering the pavement as before and visible from the High Street. Species to be agreed. The cost if necessary to be borne by the Council.
6. There is a need to preserve in perpetuity right of way between the cottage [No 4] and the house [No 6] to allow for mature trees to replace any that die; and a need to establish that both the first and subsequent trees planted or potted as part of the agreed landscaping should be of a prescribed minimum height to serve their original purpose. There must be no doubt that these obligations will continue whenever the properties change hands.

PLANNING SERVICES				
DC N	DC S	E	Ao Ack	
- 8 OCT 1996 <i>60</i>				
Exec Dir	Records	AHB	Con Des	
Appeals	Fees Officer	Forward Plan	Head DC	

BIRKETTS

S o l i c i t o r s

24-26 Museum Street, Ipswich IP1 1HZ,
United Kingdom
Telephone: (01473) 232300
Fax: (01473) 230524/231781
Dx: 3206 Ipswich
MEMBER OF THE NORTH SEA GROUP OF LAWYERS

Mr. D. Taylor,
Planning Officer,
Planning & Conservation Dept.
Royal Borough of Kensington & Chelsea
Town Hall
Horton Street
LONDON W8 7NX

Our ref: **JWG/9203-62/CY**
Your ref:
Date: **4 October 1996**

By fax 0171 361 3463

Dear Sir

Re: DPS/PV/TP/94/0644/Q/18/2195
4, 6 AND 8 St. Mary Abbott's Place, London SW11

Our clients tell us that you promised to issue by fax by no later than yesterday formal approval for the reserved matter relating to landscaping. At the time of the dictation of this fax our clients have not received the Approval.

Our clients are fully geared up to commence work on site on Monday 7th October and if they do not receive the Approval today they will have to stop that work. In doing so they will incur expenditure, which we believe to be unnecessary. Our advice to our clients will be to look to the Council for compensation. All our clients rights are reserved in this respect.

Yours faithfully

Birketts

BIRKETTS

*Faxed
Monday 7th Oct.*

CE Cocksedge
JDC Young
SRM Wilson
J Bristol

JDB Cotton
PV Weir
NJW Tavener
Annette Whybrow

DF Hallett
RJ Wright
WJ Mabon
NC Farthing

JS Hall
Virginia French
CR Boscawen

J St J Austin
WDR Turner
Jane Pearse

RB Hayes
MMC Atkins
SD Oats

CONSULTANTS:
DG Goyder
JP Winn
Angela Sydenham
AJ Bryce

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Fergusson
15 Warwick Gardens
London W14 8PH

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

03 October 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
Land at 4 St. Mary Abbot's Place, W.8

Further to our meeting this morning, I write to confirm a number of matters raised by yourself or Mr. Mullins.

Firstly, on the matter of the two sycamore trees, I can confirm that written consent for their removal was issued on 5th March 1996, following a written request from the applicants according to the terms of Condition 4 of the Planning Permission. The correct channels were therefore used, however I realise that you want a much more detailed explanation as to why such consent was given, and I have asked the Arboriculturist to write to you separately in that regard.

Turning to the proposed landscaping scheme, I can confirm that I have received the developers agreement to replacing the two "carpentera" bushes near your boundary with two eucalyptus trees. These would provide much more screening than the carpenteras, which would be unlikely to achieve a height of more than 2m. I can also provide more detail on each of the other species, as follows.

Eucalyptus Gunni

These are rapid growing, with a potential growth rate of up to 2m a year, and even in containers they should achieve a height of at least 7m.

Prunus Lusitanica

These are hardy trees that should grow at a rate of about 500mm per year, and in containers should attain a height of 5 or 6m. Applying this to the West elevation of the proposed house, when standing in containers of 750mm in height themselves, the Prunus Lusitanicas should attain a height of over 6m which would take them above the proposed eaves level above the first floor windows. I understand that they can be purchased as container grown trees at up to 2.5m in height. I have not managed to find ones to view locally, but understand that many large garden centres should have container grown examples on display.

Fatsia

These should grow up to 4m in height, which again would allow them to rise well above the boundary wall.

Ligustrum

Again, these should reach up to 4m in height in containers, and would also rise well above the boundary wall. I understand that there is an example of these to the South of Kensington Palace, and another one in Wellington Square.

In my view the landscaping scheme as now proposed is a reasonable one, with a suitable grading of species, which should satisfy the twin objectives of helping to visually break up the rear elevation, and provide a significant element of screening in front of the windows of the proposed house to protect the privacy of the nearby Warwick Gardens properties. There are still some caveats necessary, for example the matter of how quickly an adequate screen of trees will be provided is dependant upon the maturity of the trees when they are installed. In particular, the junipers proposed for the southern boundary of their site will need to be at least semi-mature when placed in position, as they are relatively slow growing.

In view of the above, I must conclude that the developers have now largely satisfied the aims behind Condition no. 15 of the Planning Permission, at least to the extent that it would be unreasonable to prevent them commencing on site under the terms of that condition. However, any letter issued in confirmation of this will itself need to spell out the requirements that the developers, and subsequent occupiers of the houses, will need to observe and continue to observe. I will send you a copy of the letter to the developers before I issue it, for your final comment.

It is also important to note that simply enabling them to start work does not preclude the seeking of further amendments or improvements to the landscaping scheme. For example, I have explained that you are particularly aggrieved at the loss of the two sycamore trees, which you consider provided an amenity benefit, and the developer has agreed to consider adding two further trees at the northern end of the site although strictly speaking there is no obligation upon them to do so.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

FAX FROM

NAME: Derek Taylor

THE ROYAL
BOROUGH OF

THE DIRECTORATE OF PLANNING SERVICES

DATE: 3/10/96

MAIN TELEPHONE NUMBER: 0171 937 5464

DIRECT LINE: 0171 361



KENSINGTON
AND CHELSEA

FAX NUMBER (if different from below) : _____

TO

NAME: Patrick Allen

OF: Ashton Allen Design

ADDRESS: _____

_____ POSTAL CODE _____

FAX NUMBER: 01394-388372 01473-745728

NUMBER OF PAGES TO FOLLOW: _____

COMMENTS AND/OR INSTRUCTIONS (if any)

the following too?

Your fax received. Can you fax confirmation for
I enclose details of two further amendments
to be included on the final drawing -26c

① We have rather ignored the small horse; to
add just one tree (Eucalyptus?) in the position
shown (near spot height 6.200), and preferably
in the ground, is important

② One more juniper on southern boundary

OUR FAX NUMBER IS: 071 361 3463

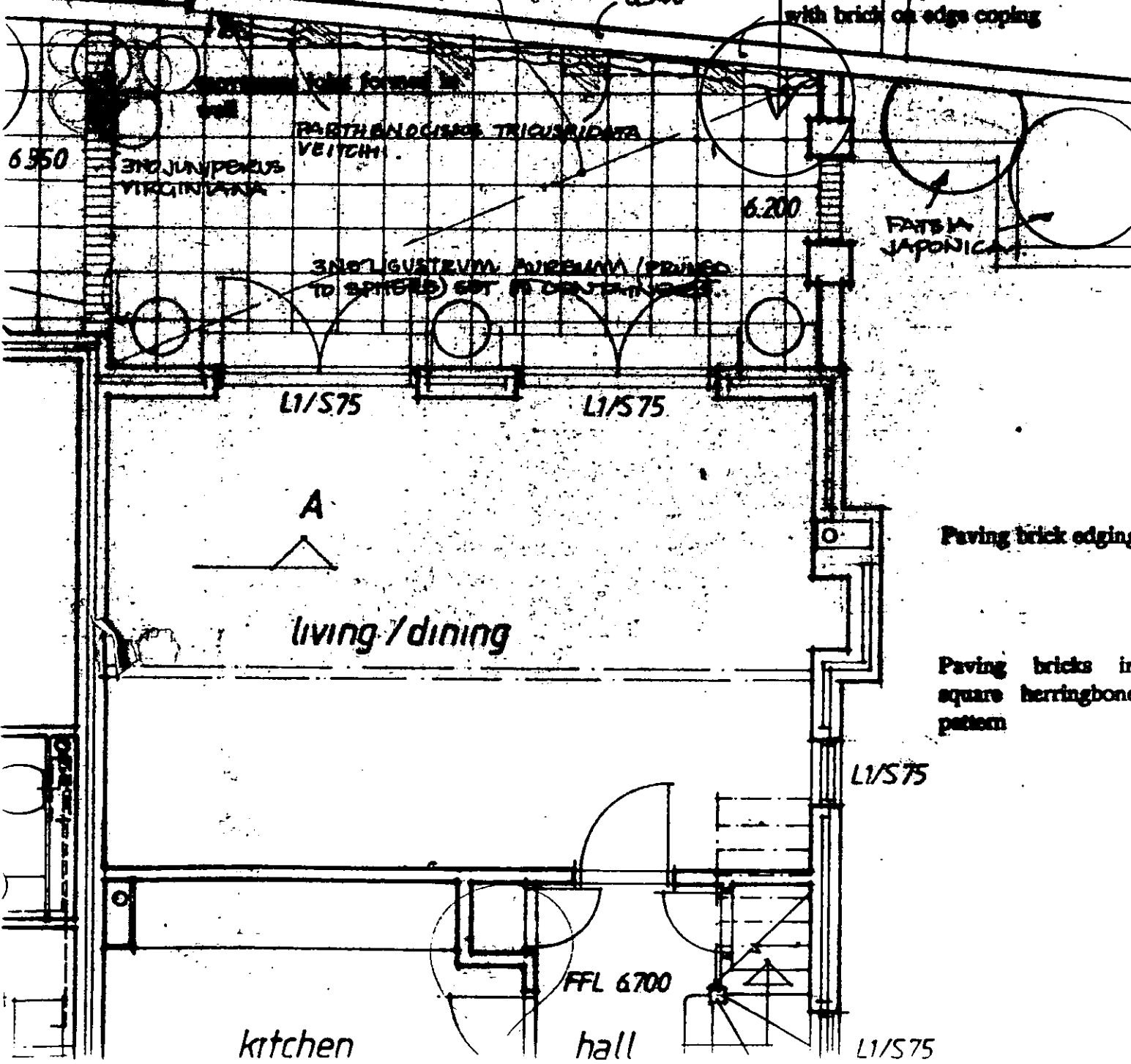
Add one further tree, preferably actually in the soil here - Eucalyptus

EXISTING TREE

400 x 400 aggregate finished paving slabs on cement/sand bed on 100mm gravel bearing concrete slab.

8340

215mm facing brick wall with brick on edge coping



6550

JUNIPERUS VIRGINIANA

PARthenocissus TRICUSPIDATA VEITCHI

6200

FATSIA JAPONICA

GUSTEVIA PURPUREA (PRUNED TO SPHERES) SET IN CENTER ISLAND

L1/S75

L1/S75

A

living/dining

Paving brick edging

Paving bricks in square herringbone pattern

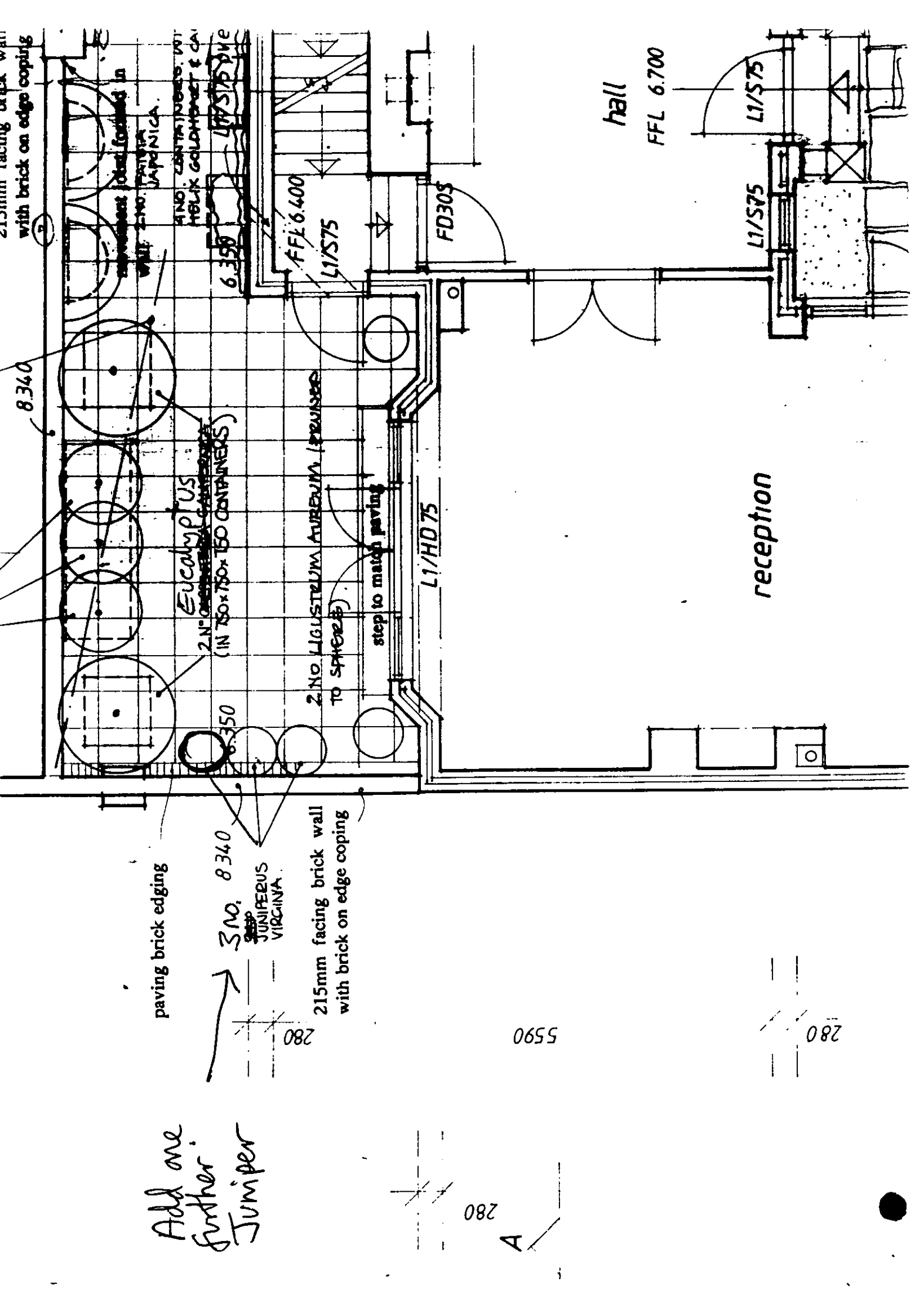
L1/S75

FFL 6700

kitchen

hall

L1/S75



MODE = TRANSMISSION

START=04-OCT 14:07

END=04-OCT 14:20

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK		901473745728	003		

-RBKC PLANNING DEPT -

***** -

- ***** - 0171 361 3463- *****



ASHTON ALLEN DESIGN LTD

To PLANNING & CONSERVATION THE ROYAL BOROUGH OF KENSINGTON & CHELSEA THE TOWN HALL HORNTON STREET LONDON W6 7NX	Date 4.10.96 Our Ref. Your Ref. DPS/PV/TP/94/0644/Q/18/2/95 FAX 0171 361 3463
--	--

PROJECT
 LAND ADJACENT TO NO 4 ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR D. TAYLOR

DEAR SIRS

WE CONFIRM, IN ACCORDANCE WITH YOUR FAX, TIME 14.18 OF 4.10.96, THE FOLLOWING :-

- ① THE INCLUSION OF 1 NO EUCALYPTUS GUNNII, PLANTED IN THE GROUND, IN THE SOUTH WEST CORNER OF THE YARD TO THE SMALLER HOUSE (AS SHOWN ON YOUR FAX)
- ② THE INCLUSION OF AN ADDITIONAL JUNIPERUS VIRGINIA (3 NO TOTAL) TO THE SOUTH EAST BOUNDARY OUTSIDE THE RECEPTION ROOM TO THE LARGER HOUSE (AS SHOWN ON YOUR FAX)

WE TRUST THAT YOU WILL BE ABLE TO IMMEDIATELY APPROVE SCHEME AND ISSUE BY FAX

YOURS FAITHFULLY

Patrick Allen

FOR ASHTON ALLEN DESIGN LTD

CC. CLIENT.

Signed

for ASHTON ALLEN DESIGN LTD

FAX FROM

NAME: Derek Taylor

THE ROYAL
BOROUGH OF

THE DIRECTORATE OF PLANNING SERVICES

DATE: _____

MAIN TELEPHONE NUMBER: 0171 937 5464

DIRECT LINE: 0171 361



KENSINGTON
AND CHELSEA

FAX NUMBER (if different from below) : _____

TO

NAME: Adam Fergusson

OF: _____

ADDRESS: _____

_____ POSTAL CODE _____

FAX NUMBER: 603 4114

NUMBER OF PAGES TO FOLLOW: 2

COMMENTS AND/OR INSTRUCTIONS (if any)

Copy of draft letter to
St. Mary Abbot's Place developers
= for your comment!

OUR FAX NUMBER IS: 071 361 3463

01473 253020

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS



George Eton Jones
2 Park Road
Ipswich
Suffolk IP9 3ST

Switchboard: 0171-937 5464
Extension: 2057
Direct Line: 0171-361 2057
Facsimile: 0171-361 3463

**KENSINGTON
AND CHELSEA**

03 October 1996

My reference: DPS/DCC/TP/96/ Your reference:
0644

Please ask for: Mr D. Taylor

DRAFT

Dear Sir,

Town and Country Planning Act 1990
Land on and adjacent to 4 St. Mary Abbot's Place, W.8

I refer to our recent conversations, and submitted plans and samples, in connection with the discharge of Conditions nos 12 and 15, attached to Planning Permission ref. TP/94/0644, granted on 11th July 1995.

Condition no.12 required the submission and agreement of the materials for most parts of the exterior of the two proposed houses. I note that we have still not received a sample of the red Leicester for the front elevation, however I do understand it is on its way and I know that we have anyway agreed it verbally. I can confirm, therefore, that the requirement of this Condition has now been discharged, subject to final approval of the Leicester.

Condition no.15 requires approval of the details of the treatment of the open land within the site, including hard and soft landscaping. This Condition was imposed by the Planning Services Committee in approving the planning application, with the aim of limiting the impact of the proposal upon the levels of amenity presently enjoyed by the occupants of the residential houses immediately to the West of the site. The Committee made it clear on the night, and the Chairman of the Committee has subsequently reaffirmed in writing, that this landscaping scheme should include a satisfactory screen of trees along the rear boundary of the site, where it abuts the boundaries of the Warwick Gardens properties. The achievement of such a planting screen has not been easy, as many species of tree or shrub would not be suitable for this purpose.

Following further amendments to the boundaries with nos.9 and 15 Warwick Gardens, I consider that you are now proposing appropriate species, and that your latest landscaping scheme should satisfy the twin aims of providing visual relief to views of the two houses, and a significant element of screening to the windows at first floor level of the houses.

Therefore, I accept that the landscaping details, as depicted on drawings no. 6366-26C and 27B, can be taken as a satisfactory scheme for the purposes of Condition 15. I would be grateful for four further copies of these drawings for my records.

As such, I can advise that a start on site can now be made without conflict with the aims and terms of this Condition. However, I permit this under the terms of the Condition subject to a number of points which still need to be confirmed. Further details will need to be submitted to formalise these matters.

Firstly, I must require you to submit details as to the size of the proposed trees at their installation, as this is clearly crucial in determining how quickly the trees can form an effective screen. For example, the juniper trees proposed for the southern boundary of the site must be at least semi-mature specimens when they are installed. A letter setting out the various tree sizes must be submitted, and agreed by myself in writing, before this development is completed.

Secondly, it must be understood that should any of the proposed trees fail to survive, or be determined by the Council as too sickly or otherwise unfit for their purpose, then they should be replaced with a further tree, perhaps of an alternative species as required. The future occupants of these properties should be under no illusions that the provisions of the agreed landscaping scheme will run with the land in this manner.

The removal of the two sycamore trees from the northern part of the site was authorised by this Council by letter dated 5th March 1996, however their demise is still regretted by local residents who considered them an important local amenity. Furthermore, the Chairman of the Planning and Conservation Committee has written to local residents in the past stating that their future would be secure. Whilst I cannot require you to replace these trees, I do consider that the planting at this end of the site should be increased to take account of their loss. Further trees at this end would not need to be sycamores, but agreement should, nevertheless, be reached as to their species and position.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

FAX FROM

NAME: Derek Taylor

THE DIRECTORATE OF PLANNING SERVICES

DATE: 7th October 1996

MAIN TELEPHONE NUMBER: 0171 937 5464

DIRECT LINE: 0171 361

FAX NUMBER (if different from below) : _____

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

TO

NAME: George Eytan Jones

OF: _____

ADDRESS: _____

POSTAL CODE _____

FAX NUMBER: 01473 253020

NUMBER OF PAGES TO FOLLOW: 2

COMMENTS AND/OR INSTRUCTIONS (if any)

As promised -!
I have also promised to copy the
letter to the Warwick Gdns. residents

JT.

OUR FAX NUMBER IS: 071 361 3463



ASHTON ALLEN DESIGN LTD

To	PLANNING & CONSERVATION THE ROYAL BOROUGH OF KENSINGTON & CHELSEA	Date	3.10.96
	THE TOWN HALL HORNTON STREET LONDON W6 7NX.	Our Ref.	6366/PA
		Your Ref.	DPS/PV/TP/94/0644/Q/18/2195
			FAX 0171 361 3463 (1 PAGE)

PROJECTLAND ON & ADJACENT TO NO4 ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR. D. TAYLOR

DEAR GRS

WE CONFIRM THE FOLLOWING ADJUSTMENT TO THE LANDSCAPE DESIGN (AS REQUESTED BY YOURSELVES BY TEL. AT 4.30PM, 3.10.96): -

TO SOUTH WEST CORNER OF SITE - SUBSTITUTION OF 2NO CARPENTERIA CALIFORNICA WITH 2NO EUCALYPTUS GUNNII.

WE NOTE YOUR CONFIRMATION THAT THE CONDITIONS OF THE PLANNING APPROVAL WILL BE FAXED TO EYTON DEVELOPMENTS (SUFFOLK) LTD ON THE MORNING OF 4.10.96.

COULD YOU PLEASE ALSO FAX A COPY TO GILW ASSOCIATES. 01473 214647 BY 11.00 AM ON FRIDAY 4.10.96.

YOURS FAITHFULLY

Patrick Allen

for ASHTON ALLEN DESIGN LTD.

Copy to CLIENT.

Signed

for ASHTON ALLEN DESIGN LTD

May 3/10/96

Res. Questions

- What height *Prunus wisitanica* (16ft) $1\frac{1}{2}$ ft pa
 very hardy per year
- How tall after 3 years? 5 years?
- Where can they see one? prob. in Tan Cedars. large garden, centre will have container grown PC's
- Need at least 2 more on South side

Fatsia → 15ft, *Eucalyptus* → 50ft *Cigrostium* → 12/15 ft in tubs
Carpenteria only 2m! Kewal Green cemetery → 6ft a year
(is one to Sth of Wellington Palace)

- Sycamores — have letter from Chairman saying that one, which was in poor health, may need to be replaced, but that the other was secure without a TPO

What application was made to fell?
 Who authorised, and how?
 Why no consultation?

→ question of the Sycamores referred to Arb.

FAX FROM

NAME: NICK BENTLEY

THE DIRECTORATE OF PLANNING SERVICES

DATE: 2/10/96

MAIN TELEPHONE NUMBER: 0171 937 5464

DIRECT LINE: 0171 361 2767

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

FAX NUMBER (if different from below):

TO

NAME: DUNCAN GRAY

OF: GUARDIAN FOUNDATIONS & CONSTRUCTION LTD

ADDRESS: 4, DRAGONS COURT, CROFT END ROAD, ST GEORGE,
BRISTOL

SENT TO POSTAL CODE BS5 7XX
FAX NUMBER: 0117 951 3942 (+0181 963 0567)

NUMBER OF PAGES TO FOLLOW:

COMMENTS AND/OR INSTRUCTIONS (if any)

RE 4+ ST MARY ABBOTS PLACE, LONDON.

PURSUANT TO CONDITION 3 OF THE P.P. PLEASE PROVIDE
DETAILS OF HOW TREE ROOT DAMAGE IS TO BE MINIMISED/
ELIMINATED THROUGHOUT CONSTRUCTION WITHIN THE
COURTYARD AREA.

YOURS SINCERELY

CC B.TEAKLE, GUARDIAN,

OUR FAX NUMBER IS: 071 361 3463

MODE = TRANSMISSION

START=02-OCT 15:16

END=02-OCT 15:17

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
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001	OK	8	901819630567	001		
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-RBKC PLANNING DEPT -

***** -

- ***** - 0171 361 3463- *****

MODE = TRANSMISSION

START=02-OCT 15:17

END=02-OCT 15:18

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
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-RBKC PLANNING DEPT -

***** -

- ***** - 0171 361 3463- *****

①PC ②ST

**ASHTON
ALLEN
DESIGN**

ARCHITECTS &
BUILDING DESIGNERS
ASHTON ALLEN DESIGN LTD

RECEIVED BY PLANNING OFFICE				
02 09 1996 23				
Exec Dir		Asst Dir	ARB	Con Des
Appeals Office	10	Fee Officer	Forward Plan	Head DC

✓ S-A
2/10

To
 PLANNING AND CONSERVATION
 THE ROYAL BOROUGH OF KENSINGTON AND
 CHELSEA.
 THE TOWN HALL
 HORNDON STREET
 LONDON W6 7NX.

Date 30.9.96.

Our Ref. 6366/KR.

Your Ref. DPS/PV/TP/94/0644/Q/18/2195.

PROJECT
LAND ON AND ADJACENT TO ST MARY ABBOTS PLACE, KENSINGTON.

FOR THE ATTENTION OF MR D.TAYLOR.

DEAR SIRs,

FURTHER TO OUR FAX DATED 26.9.96 PLEASE FIND ENCLOSED
4 NO COPIES EACH OF OUR AMENDED DRAWINGS 6366 - 26'B', 27'A'
FOR YOUR INFORMATION. (THE DRAWINGS HAVE HAD THE PLANTING
REVISED AS PER THE FAX.)

WE TRUST THE ABOVE IS IN ORDER BUT PLEASE DO NOT
HESITATE TO CONTACT THIS OFFICE SHOULD YOU HAVE ANY
QUERIES.

YOURS FAITHFULLY

KARL J REEVE.

Signed

for ASHTON ALLEN DESIGN LTD

① PC ② DT

BIRKETTS

S o l i c i t o r s

24-26 Museum Street, Ipswich IP1 1HZ,
United Kingdom
Telephone: (01473) 232300
Fax: (01473) 230524/231781
Dx: 3206 Ipswich
MEMBER OF THE NORTH SEA GROUP OF LAWYERS

Mr D Taylor
Planning Officer
Planning & Conservation Dept
Royal Borough of Kensington & Chelsea
Town Hall
Horton Street
LONDON W8 7NX

Our ref: JWG/HL/9203-62
Your ref:
Date: 25 September 1996

Dear Sir

Ref: DPS/PV/TP/94/0644/Q/18/2195
4,6 and 8 St Mary Abbot's Place, London SW11

RECEIVED BY PLANNING SERVICES				
DC N	DC E	DC S	E	Ao Ack
17 SEP 1996 77				
Exec Dir	Records	ARB	Con Des	
Appeals Office	10	Fees Officer	Forward Plan	Head DC

SWK
27/9

We act on behalf of Eyton Developments (Suffolk) Limited the owners of the above property.

You will, of course, be aware that our clients have a Planning Consent for the development of the property. The Consent is subject to reserved matters.

Our clients, through their Agents, have been negotiating with you over a very lengthy period with regard to the approval of the reserved matters and in particular the provision of landscaping. As a result our clients believe that they have satisfied all your requirements and that your formal approval of the reserved matters should be issued without any further delay.

Our clients wish to commence works on site and implement their Planning Consent on Monday 30th September. Understandably they do not wish to be in breach of the Conditions of the Planning Consent and in turn the provisions of the London Building Agreements. However if they delay the start of works this will mean that they incur considerable and unnecessary expense.

Can you please confirm that the reserved matters consent will be issued on or before 30th September? Alternatively, if you cannot yet give consent for the landscaping, please issue consent for those reserved matters which you can approve (and which presumably you have already accepted) and confirm that our clients may commence works and implement the Planning Consent notwithstanding that approval has not yet been given for the landscaping works.

CE Cocksedge
JDC Young
SRM Wilson
J Bristol

JDB Cotton
PV Weir
NJW Tavener
Annette Whybrow

DF Hallett
RJ Wright
WJ Mabon
NC Farthing

JS Hall
PR Hughes
Virginia French
CR Boscawen

J St J Austin
WDR Turner
Jane Pearse
RB Hayes

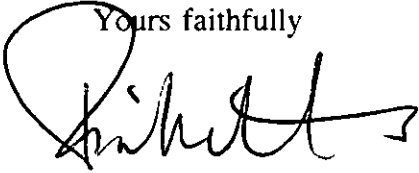
MMC Atkins

CONSULTANTS:
DG Goyder
JP Winn
Angela Sydenham
AJ Bryce

25 September 1996

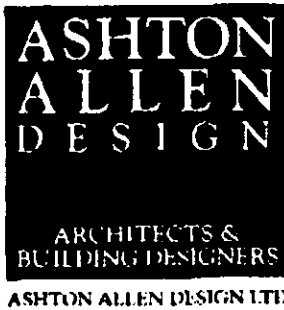
We look forward to hearing from you by return.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'Birketts', with a large loop at the start and a horizontal flourish at the end.

BIRKETTS

Sent by Fax



RECEIVED			
DC N	D C	1 S	1 S
27 SEP 1996 46			
Exec Dir	10	ARB	Con Des
Appeals Dir		Forward Dir	Head DC

3 PAGES

To PLANNING & CONSERVATION
THE ROYAL BOROUGH OF KENSINGTON
& CHELSEA
THE TOWN HALL
HOLKINTON STREET
LONDON W6 7NX

Date 26.9.96
Our Ref. 6366/PA
Your Ref. DR2/PV/TP/94/0644/Q/18/2195
FAX 0171 361 3463

PROJECT
LAND ON & ADJACENT TO NO 4 ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR. D. TAYLOR

DEAR SIRS

FURTHER TO OUR RECENT TELEPHONE CONVERSATION
PLEASE FIND ATTACHED OUR REVISED PROPOSALS FOR
LANDSCAPING AS AGREED WITH YOUR DEPARTMENT.

4 NO COPIES OF FULL DRAWINGS TO FOLLOW

COULD YOU PLEASE CONFIRM IN WRITING (AS A MATTER
OF URGENCY) THAT OUR CLIENT HAS DISCHARGED THE
RELEVANT CONDITIONS OF THE PLANNING ^{APPROVAL} INCLUDING
THAT RELATING TO THE EXTERNAL MATERIALS AND
THE ALTERATION TO THE FRONT WINDOW.

YOURS FAITHFULLY

Patrick Allen FOR ASHTON ALLEN DESIGN LTD

Signed

for ASHTON ALLEN DESIGN LTD

PLANTS IN THIS AREA OVER BASEMENT TO BE IN CONTAINERS

3 NO PRUNUS LUSITANICA (IN LARGE SINGLE CONTAINER.)

3 NO JUNIPERUS VIRGINIANA

215mm facing brick with brick on edge coping

8360

movement joint formed in wall 2 NO FATZIA JAPONICA

ing brick edging

2 NO JUNIPERUS VIRGINIA

3 NO CARPENTERIA CALIFORNIA (PRUNED TO STANDARD)

4 NO CONTAINERS HELIX GOLDHEART

2 NO CARPENTERIA CALIFORNICA

6350

6350

L1/S75

mm facing brick wall with brick on edge coping

2 NO LIGUSTRUM AUREUM (PRUNED TO SPHERE)

FFL 6.400

L1/S75

step to match paving

L1/HD75

FD305

hall

FFL 6.700

reception

L1/S75

L1/S75

L1/HD75

B



CARPENTERIA CALIFORNICA

Proposed London stock facing brick wall

3ND PRUNUS LUSITANICA

a - Eucalyptus Gunnii

b - Fatsia Japonica

c - Parthenocissus Tricuspidate Veitchii

d - Juniperus Virginiana

BIRKETTS

S o l i c i t o r s

24-26 Museum Street, Ipswich IP1 1HZ,
United Kingdom

Telephone: (01473) 232300

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Dx: 3206 Ipswich

MEMBER OF THE NORTH SEA GROUP OF LAWYERS

Mr D Taylor
Planning Officer
Planning & Conservation Dept
Royal Borough of Kensington & Chelsea
Town Hall
Horton Street
LONDON W8 7NX

Our ref: **JWG/HL/9203-62**

Your ref:

Date: **25 September 1996**

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Ref: DPS/PV/TP/94/0644/Q/18/2195
4,6 and 8 St Mary Abbot's Place, London SW11

We act on behalf of Eyton Developments (Suffolk) Limited the owners of the above property.

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SRM Wilson
J Bristol

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PV Weir
NJW Tavener
Aunette Whybrow

DF Hallett
RJ Wright
WJ Mabon
NC Farthing

JS Hall
PR Hughes
Virginia French
CR Boscawen

J St J Austin
WDR Turner
Jane Pearce
RB Hayes

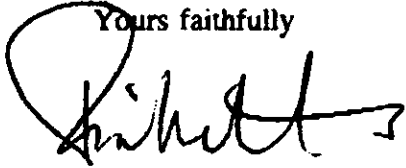
MMC Atkins

CONSULTANTS:
DG Gwyder
JP Winn
Angela Sydenham
AJ Bryce

25 September 1996

We look forward to hearing from you by return.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'Birketts', written over the typed name.

BIRKETTS

Sent by Fax



ASHTON ALLEN DESIGN LTD

TRANSMISSION

To:

PLANNING AND CONSERVATION.
THE ROYAL BOROUGH OF KENSINGTON
& CHELSEA

Date:

13.9.96

Our reference:

6366

Your reference:

DPL/P/17/94/244/R/13/2195.

Fax:

0171 361 3463

No. of pages

Project:

LAND ON & ADJACENT TO NO. 4 ST MARY ABBETS PLACE, KENSINGTON

FOR THE ATTENTION OF MR. P. TAYLOR

DEAR SIRS

MAY WE HAVE URGENT RESPONSE TO OUR FAX
DATED 13.9.96.

(I AM AVAILABLE ON 01473 745728 AFTER 2PM)

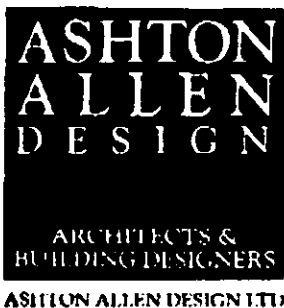
YOURS FAITHFULLY

Patrick Allen

FOR ASHTON ALLEN DESIGN LTD.

Copies to:

[Empty box for copies to]



RECEIVED BY PLAN				
DC N	DC C	DC S	E	...
27 SEP 1996				
Exec Dir		Records	AMB	Con Des
Appeals Office	10	Fees Office	Forward Man	Head DC

3 PAGES

To PLANNING & CONSERVATION
 THE ROYAL BOROUGH OF KENSINGTON & CHELSEA
 THE TOWN HALL
 HORTON STREET
 LONDON W6 7NX

Date 26.9.96
 Our Ref. 6366/PA
 Your Ref. DP2/PV/TP/94/0644/2/18/2195
 FAX 0171 361 3463

PROJECT
 LAND ON & ADJACENT TO NO 4 ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR. D. TAYLOR

DEAR SIRS

FURTHER TO OUR RECENT TELEPHONE CONVERSATION PLEASE FIND ATTACHED OUR REVISED PROPOSALS FOR LANDSCAPING AS AGREED WITH YOUR DEPARTMENT.

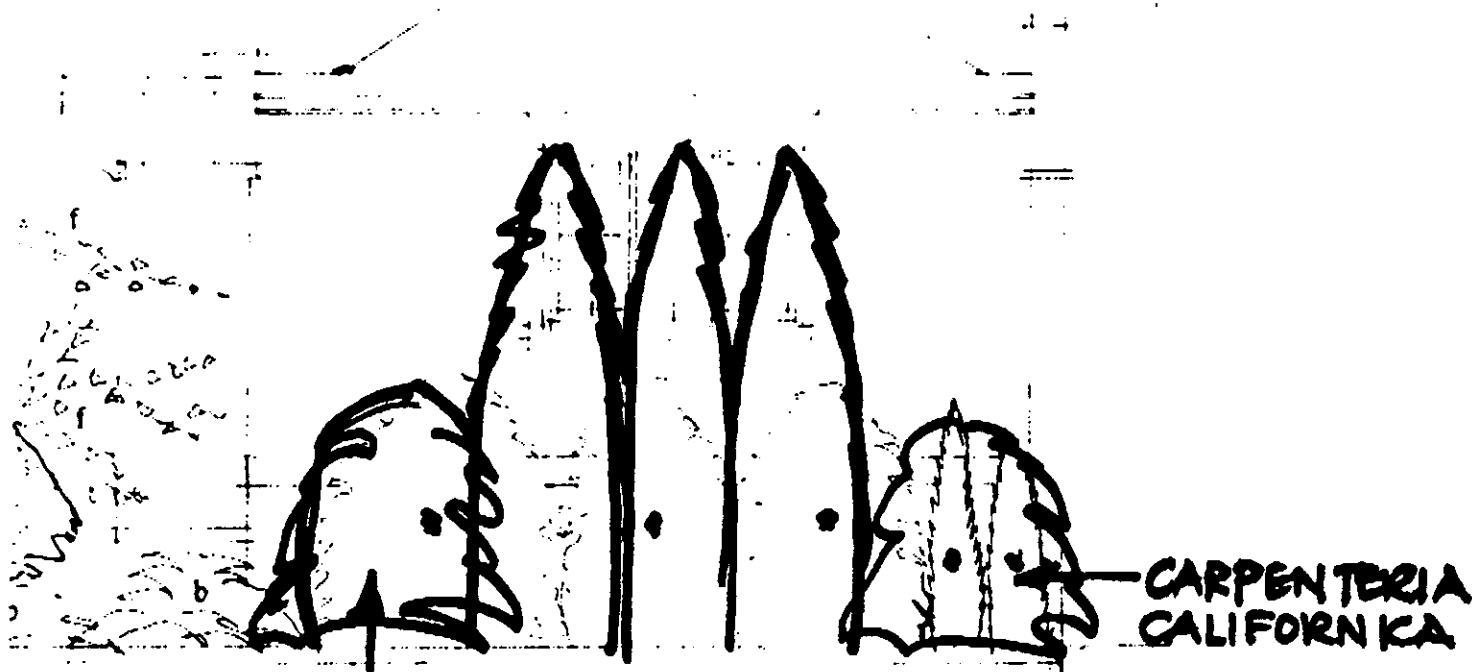
4 NO COPIES OF FULL DRAWINGS TO FOLLOW

COULD YOU PLEASE CONFIRM IN WRITING (AS A MATTER OF URGENCY) THAT OUR CLIENT HAS DISCHARGED THE RELEVANT CONDITIONS OF THE PLANNING APPROVAL, INCLUDING THAT RELATING TO THE EXTERNAL MATERIALS AND THE ALTERATION TO THE FRONT WINDOW.

YOURS FAITHFULLY

Patrick Allen FOR ASHTON ALLEN DESIGN LTD

Signed _____ for ASHTON ALLEN DESIGN LTD



CARPENTERIA CALIFORNICA

Proposed London stock facing brick wall

3N

CARPENTERIA CALIFORNICA

a - Eucalyptus Gunnii

b - Fatsia Japonica

c - Parthenocissus Tricuspidate Veitchii

d - Juniperus Virginiana

PLANTS IN THIS AREA OVER BASEMENT TO BE IN CONTAINERS

3 NO PRUNUS LUSITANICA (IN LARGE SINGLE CONTAINER.)

3 NO JUNIPERUS VIRGINIANA

215mm facing brick with brick on edge coping

8340

ing brick edging

2 NO JUNIPERUS VIRGINIA

movement joint formed in wall 2 NO FATZIA JAPONICA

3 NO CARPENTERIA CALIFORNICA (PRUNED TO STANDARD)

4 NO CONTAINERS HELIX GOLDHEART

2 NO CARPENTERIA CALIFORNICA

6.350

6.350

L1/S75

mm facing brick wall with brick on edge coping

2 NO LIGUSTRUM AUREUM (PRUNED TO SPHERE)

FFL 6.400

L1/S75

step to match paving

L1/HD75

FD305

hall

FFL 6.70

reception

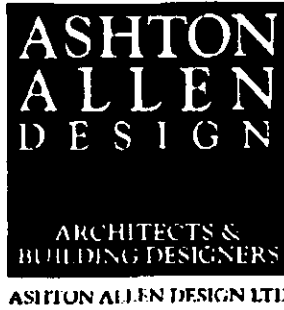
L1/S75

L1/S75

L1/HD75

B

Planch Motin Oak
 Arbutus
 Elm. Vus.
 Ganga
 Laurus.



3 PAGES.

To	PLANNING & CONSERVATION THE ROYAL BOROUGH OF KENSINGTON & CHELSEA	Date	13.9.96
	THE TOWN HALL HORNTON STREET LONDON W6 7NX	Our Ref.	6366/PA.
		Your Ref.	DPS/PV/TP/94/0644/Q/18/2195
		FAX	0171 361 3463

PROJECT
 LAND ON & ADJACENT TO NO 4 ST MARY ABBOTS PLACE, KENSINGTON

FOR THE ATTENTION OF MR. D. TAYLOR

DEAR SIR

FURTHER TO OUR RECENT TELEPHONE CONVERSATION PLEASE
 FIND ATTACHED OUR REVISED PROPOSAL FOR THE LANDSCAPING
 IN THE SOUTH WEST CORNER OF THE SITE.

IT IS IMPORTANT THAT WE RECEIVE THE LANDSCAPING CONDITION
 QUICKLY AS WE INTEND SETTING UP PLANT ON SITE FROM
 16TH SEPT 1996 WITH A VIEW TO COMMENCE WORK ON 30TH
 SEPT 1996.

YOURS FAITHFULLY

Patrick Allen for ASHTON ALLEN DESIGN LTD

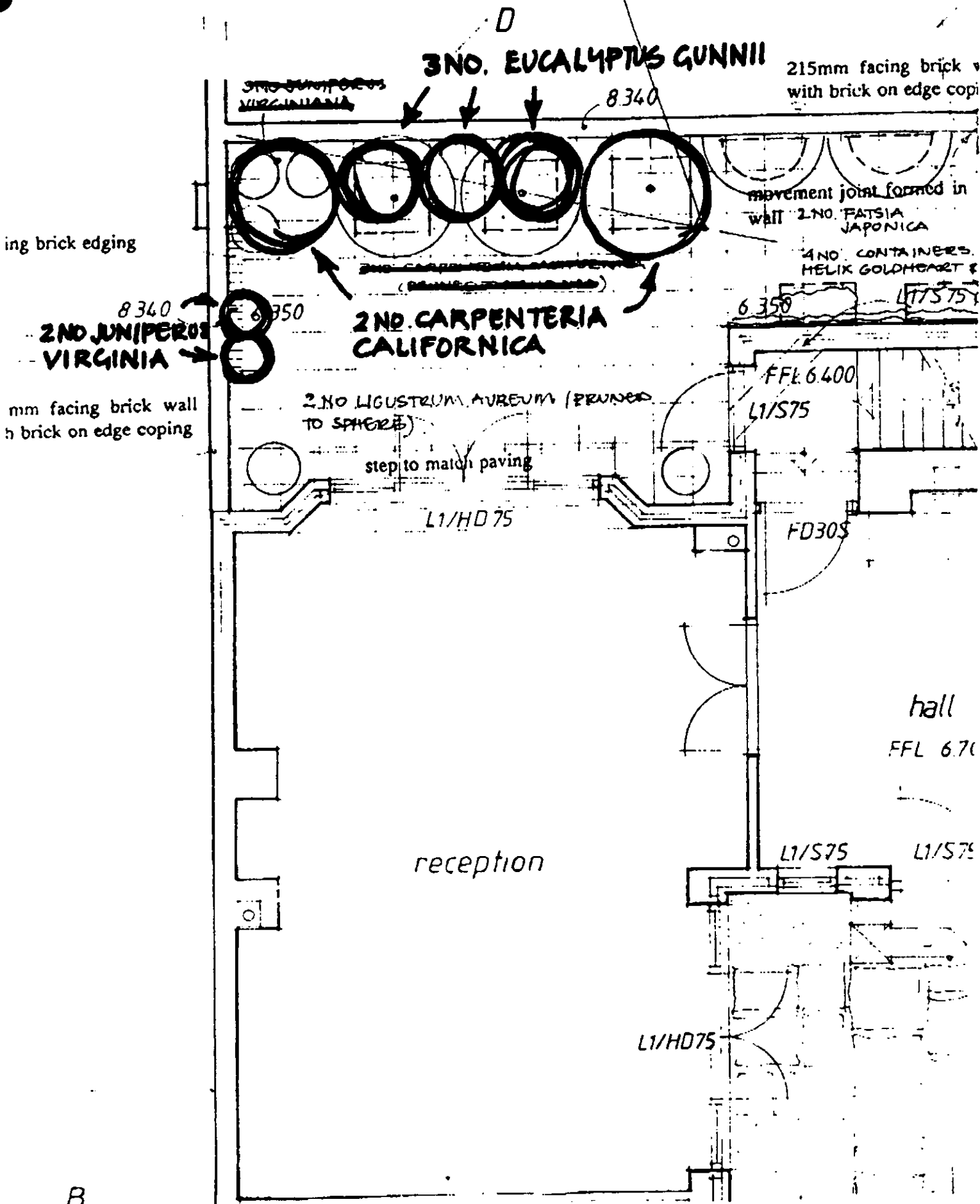
(PLEASE NOTE THAT MY CONTACT TELEPHONE NO IS 01473 745728)

Signed

for ASHTON ALLEN DESIGN LTD

1 Tide Mill Way, Quayside, Woodbridge, Suffolk IP12 1BY
 Telephone: Woodbridge (01394) 388500. Facsimile: (01394) 388372
 Registered Office: Kerr House, 19-23 Fore Street, Ipswich, Suffolk IP4 1JW
 Registered In England No. 2890426

PLANTS IN THIS AREA OVER BASEMENT TO BE IN CONTAINERS



ing brick edging

mm facing brick wall
h brick on edge coping

3 NO. EUCALYPTUS GUNNII

215mm facing brick wall
with brick on edge coping

~~3 NO. JUNIPERUS VIRGINIANA~~

movement joint formed in
wall 2 NO. FATSIA JAPONICA

4 NO. CONTAINERS
HELIX GOLDHEART &

2 NO. JUNIPERUS VIRGINIANA

2 NO. CARPENTERIA CALIFORNICA

2 NO. LIGUSTRUM AUREUM (PRUNED TO SPHERES)

step to match paving

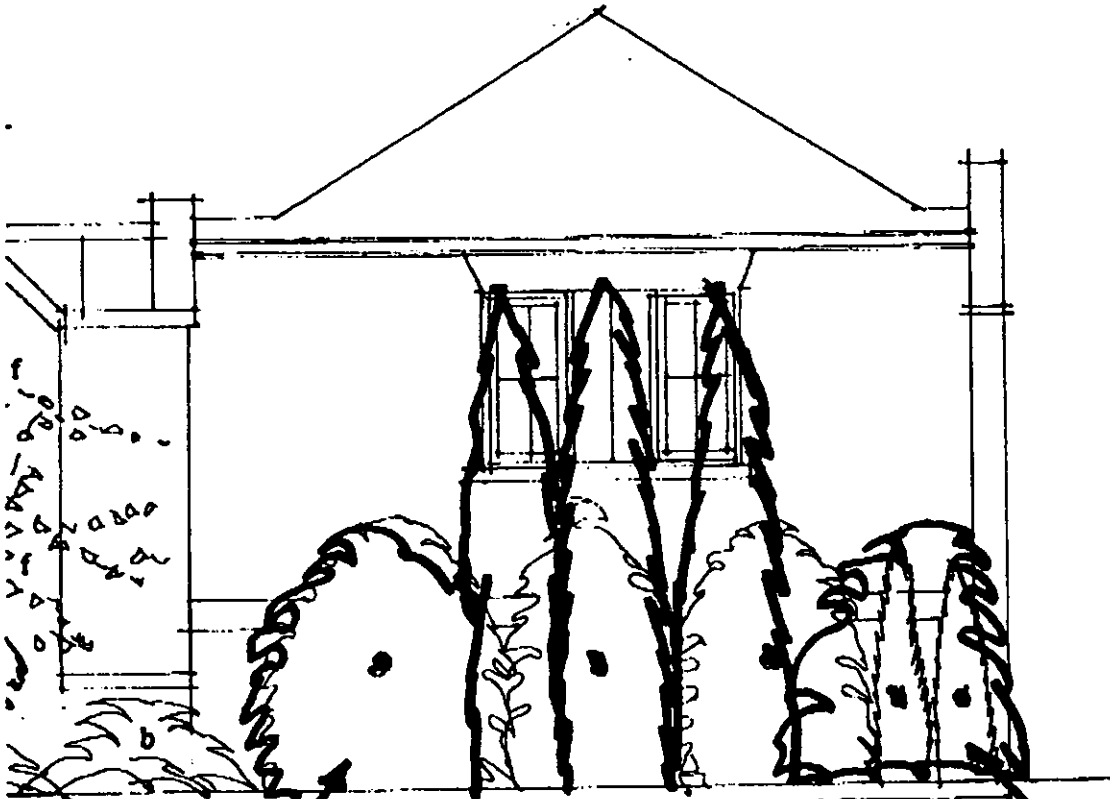
FFL 6.400

hall

FFL 6.70

reception

B



CARPENTERIA CALIFORNICA

Proposed London stock facing brick wall

3RD EUCALYPTUS GUNNII

CARPENTERIA CALIFORNICA

ELEVATION FROM REAR GARDENS OF WARWICK GARDENS

- a - Eucalyptus Gunnii
- b - Fatsia Japonica
- c - Parthenocissus Tricuspidate Veitchii
- d - Juniperus Virginiana



ASHTON ALLEN DESIGN LTD

To PLANNING & CONSERVATION THE ROYAL BOROUGH OF KENSINGTON & CHELSEA THE TOWN HALL HORNTON STREET LONDON W8 7NX	Date <u>6.9.96</u> Our Ref. 6366/PA Your Ref. DPS/PV/TP/94/0644/Q/18/2195 FAX NO: 0171 361 3463
---	--

PROJECT LAND ON & ADJACENT TO 4NO ST MARY ABBOTS PLACE, KENSINGTON

DEAR SIRS

Further to our discussion with your colleague at 11.20 this morning we confirm the following:-

- 1) We have a meeting with the ground works contractor this afternoon at which we wish to place their appointment. This is based on the fact that they have piling rigs available nearby that can be transferred to this site. If we are unable to make the appointment because of outstanding conditions on the planning approval we may lose both time and money in the delay.
- 2) We require your approval for us to immediately start site set up for the ground works equipment.
- 3) Once we have appointed a contractor we will be able to provide you with their detailed proposal for the protection of the tree prior to commencement of any excavation.

I confirm that I will be in the above referenced meeting from 2.30pm this afternoon and that I will take my mobile telephone No. 0850 911054 in order that you will be able to make contact.

Yours faithfully

Signed

Francis Allen

for ASHTON ALLEN DESIGN LTD

1 Tide Mill Way, Quayside, Woodbridge, Suffolk IP12 1BY
 Telephone: Woodbridge (01394) 388500. Facsimile: (01394) 388372
 Registered Office: Kerr House, 19-23 Fore Street, Ipswich, Suffolk IP4 1JW
 Registered in England No. 2890426

01473-
214646

Gill Associates

① PC ② ST



ASHTON ALLEN DESIGN LTD

✓
L1
3/9

To
PLANNING & CONSERVATION
THE ROYAL BOROUGH OF KENSINGTON
& CHELSEA

THE TOWN HALL
HORNTON STREET
LONDON W8 7NX

Date
29.8.96

Our Ref.
6366/PA.

Your Ref.
DPS/PV/TP/94/0644/Q/18/2195

FAX. 0171 361 3463

FOR THE ATTENTION OF MR. D. TAYLOR.

PROJECT LAND ON & ADJACENT TO NO 4 ST MARY ABBOTS PLACE, KENSINGTON

DEAR SIRS

WE ARE HOPING TO COMMENCE GROUND WORKS AT THE ABOVE SITE IN THE VERY NEAR FUTURE AND URGENTLY REQUIRE YOUR RESPONSE TO THE EXTERNAL LANDSCAPE, EXTERNAL MATERIALS AND FRONT WINDOW ALL AS SET OUT IN OUR LETTER DATED 19 JULY 96.

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
3 - SEP 1996			yt	
Exec Dir		Records	ARE	Gen Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Signed *Patrick Allen*

for ASHTON ALLEN DESIGN LTD

1 Tide Mill Way, Quayside, Woodbridge, Suffolk IP12 1BY
Telephone: Woodbridge (01394) 388500. Facsimile: (01394) 388372
Registered Office: Kerr House, 19-23 Fore Street, Ipswich, Suffolk IP4 1JW
Registered in England No. 2890426

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Adam Fergusson
15 Warwick Gardens
London
W14 8PH

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

14 August 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: DPS/DCC/TP/94/ Your reference:
0644

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
St. Mary Abbots Place

I enclose a copy of two further drawings produced by the architects now working on the follow up to the granting of permission for two houses to be built at the rear of your property. You will see that they have now included a rear elevation of the proposed trees.

I would appreciate your comments upon these, although I shall be on leave until 3rd September. In the meantime, you could call Derek Austin, the Council's Arboriculturist, on 361-2763 to discuss any matter relating to the proposed planting scheme.

Yours faithfully,

Derek Taylor
Acting Area Planning Officer
for
Executive Director, Planning & Conservation

R

① PC ② DT



✓
55

Our reference: 6366/PA/DAS

6th August 1996

Kensington & Chelsea Borough Council
 Planning Department
 The Town Hall
 Hornton Street
 LONDON
 W8 7NX

✓
WPA

For the Attention of Mr D Taylor

Dear Sirs

**4 - 8 ST MARY ABBOTS PLACE
 LONDON W8
 PLANNING APPLICATION REFERENCE:DPS/PV/TP/94/0644/G/18/2195**

Further to our recent meeting with regard to outstanding planning conditions we formally proposed the following bricks as described:-

Redland Wealdon London Multi Stock -
being the brick reference 8 on the drawing.

Redland Malton Blue Brindle - the brick to be
used for the blue soidier courses and plinths.

We have arranged for samples of these bricks to be sent to you direct from Redland.

We trust you find this satisfactory and will be able to give your approval in the near future.

Yours faithfully

PP Patrick Allen R. I. B. A.
FOR ASHTON ALLEN DESIGN LTD

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Councillor Mark Field,
16 Radley Mews,
LONDON, W8 6JP.

Switchboard: 0171-937 5464

Extension: 2944

Direct Line: 0171-361 2944

Facsimile: 0171-361 3463

15 July 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference: EDPC/MJF

Your reference:

Please ask for: Mr. French

Dear Councillor Field,

I write with reference to your letter of 14th June regarding three matters within your Ward. I would apologise for the delay in responding, but, as you will appreciate, I have had to consult with my colleagues on these matters.

With regard to the development at ~~4 St. Mary Abbots Place~~, I would inform you that a meeting was held last week with the new owners of the site to discuss the requirements of the various conditions attaching to the planning permission. Particular concern was drawn to the development in relation to the trees and the new owners are expected to submit landscape drawings within the next few days. Once these have been received, I will ensure that Mr. Fergusson is brought into the discussions and that his views are properly sought. I will keep you informed on these discussions.

The Prince Hakim restaurant in Marloes Road is already the subject of an enforcement complaint and the Enforcement Officer has been asked to give this priority and I would hope that, should a contravention be occurring, action will be taken without any unnecessary delay.

I have now had an opportunity to inspect the signage along Marloes Road and I have to admit that without local knowledge, it would be difficult for visitors to the area to be clear where Marloes Road ends and Wrights Lane and Cheniston Gardens begin. I have therefore asked my colleagues in Highways and Traffic to consider the provision of additional signs to clarify this matter. My only concern, of course, is that by adding further signs to the street, we do add to the perceived visual clutter, but I think in this case the signs could be provided without detriment.

I know that you would not want me to fail to respond to your opening sentence, and I would assure you that "delight" does not enter into it. After only such a short period on the Planning Committee, it is always regrettable when a Member moves to another Committee, and we have to start the learning curve again. However, given your future situation, I can quite understand why you would be unable to manage the heavy workload and paperwork involved in the planning arena.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.



THE TOWN HALL KENSINGTON W8 7NX 071-937 5464

14 June 1996

M.J. French Esq
Executive Director, Planning & Conservation
The Town Hall
Kensington
LONDON
W8 7NX

DC N	DC C	DC S	E	As Ack
60 JUN 1996				
Exec Dir	Asst Dir	Asst Dir	Asst Dir	Asst Dir
Asst Dir	IO	Form Office	Forward Plan.	Asst Dir

Dear Mr French,

You are no doubt delighted that I am no longer a bane in your life on Planning Services!

However, there are three local matters I wish to discuss with you just briefly:-

1. You are no doubt in receipt of a letter from Adam Fergusson (15 Warwick Gardens) dated 31 May in relation to his concerns about the enforcement over the retention of trees at the 4 St. Mary Abbott's Terrace development site. Please copy me into any further correspondence you have with Mr Fergusson whose point is, I believe, fairly well made.
2. A number of constituents in the Marloes Road/Scarsdale Villas area have expressed increasing concern that the Prince Hakim restaurant is staying open well beyond its 6pm licensing time. I understand from two local residents that this restaurant has been open as late as 8pm in the evening which is apparently directly contrary to the planning/licensing consents they have received.

Is the planning department aware of this and what steps have been taken?

3. I am not sure whether this is your domain, but residents in Marloes Road are concerned that the street sign designation is not clear at the junction of that road with Chemiston Gardens and Wrights Lane. In essence there seems to be no indication at the Abingdon Villas/Marloes Road junction to make it clear where Marloes Road begins.



THE TOWN HALL KENSINGTON W8 7NX 071-937 5464

This is a matter of some considerable confusion to tourists leaving local hotels, such as the Cophorne Tara and I suspect the entire problem would best be solved by the addition of a normal road sign (for Marloes Road) on the wall of Abingdon Lodge (which stands on the south-west corner of the junction of Abingdon Villas and Marloes Road).

I look forward to hearing from you.

With kind regards,

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Mark Field'.

MARK FIELD (Cllr)

cc: Miss Maryan Turner, 1 Rutland House, Marloes Road, London W8 5LE.

PLANNING AND CONSERVATIONTHE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Patrick Allen
Ashton Allen Design
1 Tide Mill Way
Quayside
Woodbridge
Suffolk IP12 1BY

Switchboard: 0171-937 5464

Extension: 2057

Direct Line: 0171-361 2057

Facsimile: 0171-361 3463

11 July 1996

**THE ROYAL
BOROUGH OF****KENSINGTON
AND CHELSEA**

My reference: DPS/DCC/TP/94/ Your reference: 6366/PA/DAS
0644/DT

Please ask for: Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4-8 St. Mary Abbots Place W.8

I refer to our meeting of 9th July 1996, and write to confirm a number of points in relation to the approval of materials as required by Condition no. 12 attached to the Planning Permission dated 11th July 1995.

The first two materials listed on approved document 100B are a grey natural slate and a blue black natural slate. I hereby confirm that the submitted samples, namely a "Penrhyn natural roofing slate" (Galician Grey) and the "Penrhyn Heather Blue natural roofing slate" are acceptable in this respect. I understand that the blue black slate is proposed for the central and cottage roof slopes, with the grey proposed for the southern wing of the house.

The submitted blue engineering brick, identified as no (6) on document 100B, is considered to be acceptable for the band details on the approved drawings.

However, the submitted stock brick (no. 8) is a rather unusual one, and in my opinion a more normal stock, much yellower, would be appropriate. I cannot approve the submitted brick as it would, in my opinion, appear out of character with the townscape of St. Mary Abbots Place. Similarly, turning to the submitted red facing brick for item (18), I consider this brick to be too yellow and in contrast with the "Leicester" type red brick that is already predominant in the Place. I would therefore request that different bricks are chosen for items (8) and (18).

Turning to the landscape drawing 6366 - 26, submitted in accordance with Condition 15, I confirm that the present drawing needs to be adjusted in terms of the tree planting and also accompanied by an elevation as seen from the rear. I will comment again on this when the further details are submitted, at which time I will also consult the residents of Warwick Gardens to the rear.

The random York stone paving shown for the courtyard is acceptable, as long as it is laid loose upon a gravel bed, to allow adequate water percolation to the tree roots below. I confirm that this detail is not in conflict with Condition 11 of the Planning Permission, which requires that the courtyard shall not have an impermeable surface and shall be surfaced in gravel and so maintained.


F

With regard to the submitted elevation, drawing no. 6366 - 24, I have now consulted with the Design and Conservation officer. I must advise that the round headed window for the centre of the East elevation is considered to be an incongruous and detrimental element within the facade facing St Mary Abbots Place. A vertical extension of the approved rectangular window might be acceptable, but the proposed revision involving the rounded top is not acceptable, as it would contrast unfavourably with the other elements of the elevation.

Yours faithfully,

M. J. French
Executive Director, Planning & Conservation

RBK & C ARBORICULTURAL OBSERVATIONS

Address 4 ST. MARY ASBOTH PLACE, UB	Appl. No. TP94 / 0611	DC Officer DT	Date of Obs. 09/07/96
Development HANG - JOLT LANDSCAPE PROPOSAL.	C.A. N/A.	Obj.	No Obj. 
TPO N/A.			

Comments

I HAVE STUDIED DRAWINGS NO 6366-26 AND AM OF THE OPINION THAT ALTHOUGH AESTHETICALLY PLEASING, THIS SCHEME MAY NOT SATISFY THOSE RESIDENTS WHO ARE EXPECTING A SUBSTANTIAL TREE SCREEN TO BE ESTABLISHED TO THE REAR OF THE DEVELOPMENT.

CARPENTERIA IS HANGED A TREE BUT A MAN TO MEDIUM SHRUBS WITH A MAXIMUM HEIGHT OF 3M. LIKEWISE, DESPITE THE COMMON NAME 'CASHEW OIL TREE', FATIJA IS A SHRUB WITH LARGE ARCHITECTURAL LEAVES. CLIPPED GOLDEN PRIVETS (*LISUSTRUM ANGENUM*) WILL BE 'BONDAID' IN THEIR CONTAINERS AND THE GUN TREES (*EUCALYPTUS*) ARE SPACED A SUCH CLOSE CENTRES THAT THEY WILL NEED TO BE CUT BACK EACH SPRING IN THE MANNER OF A SHRUBBY DOGWOOD.

I FEEL THAT THIS SCHEME WILL BE EXCELLENT FOR THE FUTURE OCCUPIERS OF THE PROPERTY BUT WILL NOT SATISFY THE CONDITION THAT A TREE SCREEN BE ESTABLISHED AS THE PLANTS WILL BE HANGED VISIBLE FROM OUTSIDE THE SITE.

J.R.A. 09/07/96.

APPENDIX 1 - 15/08/96.

FOLLOWING DISCUSSIONS WITH THE ARCHITECTS I AM NOW CONFIDENT THAT THE ADDITIONAL TREES (*JERONIMUS JUNIPERUS*) WILL GIVE THIS SCHEME THE (DESIRED) HEIGHT AND DOGS AND I CAN NOW CHRISTEN THE PLANTING A 'TREE SCREEN'.

J.R.A.
15/08/96.

① PG ② DT

✓
4/16

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

June 3, 1996

Dear Mr French,

Development at 4 St Mary Abbot's Terrace

I wrote to you on this matter on April 3 asking to be kept fully up to date with the landscaping proposals to be made in relation to this development. I assume that, since I have heard nothing from you, the developers have so far made none.

However, my neighbours and I have been going through the usual party-wall exercise, with surveyors acting for both sides. From the present developers' still evident intention to build right up to the wall and dismantle it, we have reason to think that they are not fully aware that planting a screen of trees along the boundary was a condition of the planning permission given; and are worried that they may shortly try to press ahead with the project in spite of that.

Can you therefore assure me that the contents of the letter you wrote last October 4 to Mr Barrow of Meadowview Developments stipulating that a tree screen must be planted were duly passed on to the present developers, and are fully understood by them? Although it must have been incumbent on Meadowview Developments not to conceal any of the conditions attached to the planning permission when they sold the property, whether the details were contained in the original document or added subsequently, it is obviously best that the present developer is in no doubt about what the Council decided - and that steps are taken to make sure.

Yours sincerely,

Adam Fergusson

Adam Fergusson

38

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

Councillor Desmond Harney OBE,
16, Stafford Terrace, W 8.

May 31, 1996

Dear Desmond,

Development at 4 St Mary Abbot's Place W8

We have been going through the usual party wall exercise here, each with our own surveyors. In consequence, our neighbours and we are very worried, first, that the conditions laid down when planning permission was given - particularly in regard to the tree screen to be planted - may not have been made clear to the present developers (who bought the site from the original applicants); and second, that the assurances on which the Planning Committee based its judgment so marginally in favour of consent are not watertight - in particular in respect of the damage to trees neighbouring the site.

The original applicants, Meadowview Developments, would have had an obligation to pass on all such details when they sold the site with planning permission - including what they heard when the committee granted it and what had to be confirmed subsequently by letter. I have written to Mr French asking whether, to his knowledge, these details are understood by the present developers, who may be relying on the undemanding wording of the basic consent.

The Planning Committee was led to assume that trees and their root systems close to the site (as well as on the site) would be satisfactorily protected. However, it appears that ensuring the survival of neighbouring trees, in particular the fig tree which is crucial to the amenity of No 11 Warwick Gardens, is not a condition of the consent.

I remain sorry (and astonished) that planning permission was ever given for a scheme that will rob us and our neighbours of the open space we have enjoyed, and still wish it could be revoked. Short of that, however, would your committee consider at a very early date (because development is imminent) amending the consent fully and explicitly to reflect what the committee said and meant at the time, both in regard to the tree screen and the protection of root systems close by?

*Yours ever,
Adam.*

Adam Fergusson

copies to Councillor Miss Christmas
Councillor Mark Field

① PC ② ST



ASHTON ALLEN DESIGN LTD

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To
PLANNING & CONSERVATION
THE ROYAL BOROUGH OF KENSINGTON
& CHELSEA

Date 21.5.96

THE TOWN HALL
HORNTON STREET
LONDON W8 7NX

Our Ref. 6366/PA

FOR THE ATTENTION OF MR. D. TAYLOR

Your Ref. DPS/PV/TP/94/0644/0/18/2195

PROJECT
LAND ON AND ADJACENT TO NO 4 ST. MARY ABBOTS PLACE, KENSINGTON, W8.

DEAR SIRS

WE HAVE PLEASURE IN ENCLOSING 4 NO COPIES OF DWG NO 6366-26
(1 NO. COLOURED) SHOWING THE PROPOSED HARD & SOFT LANDSCAPING
FOR THE ABOVE DEVELOPMENT, IN ACCORDANCE WITH CONDITION
NO 15(A) OF PLANNING APPROVAL REF. TP/94/0644.

WE TRUST YOU FIND THE PROPOSALS SATISFACTORY AND LOOK
FORWARD TO RECEIVING YOUR APPROVAL IN THE NEAR FUTURE.

✓
LJ
24/5

Signed *Patrice Allen*

for ASHTON ALLEN DESIGN LTD

① PC ② DT

✓ CM
4/4

10/10/1996

16.

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

April 3, 1996

Dear Mr French,

Development at 4 St Mary Abbot's Terrace

I have heard no further word from the developer of this site about the possibility of acquiring a small piece of roadway and changing the position of the houses he wishes to build round the plane tree. He was aware, of course, of the sympathetic approach of your Department to the proposal, and the support of all neighbouring householders and of ESSA, and had encouraged me in seeking that general approval. Although I would still prefer him to follow the idea a little further, as I am convinced it would be in the best interests of everyone, I must assume that he now proposes to go ahead with the building for which planning permission was given last year.

For that reason I am writing to you to remind you that my neighbours and I would like to be kept fully up to date on this matter, in particular in respect of the screen of trees which is to be planted along the rear boundaries of the site. This condition of the planning permission was of course confirmed in your letter of October 4 1995 to Mr C.P.Barrow of Meadowview Developments.

Please let me know as soon as the full details of landscaping proposals are received. Your letter to me of July 10 said you would ensure I was consulted when you received the details. A letter to me from the Chairman of the Planning Committee, dated July 26, also said the best form of concealment "will be discussed and agreed fully with you when the application on such detail is submitted".

With many thanks,

Yours sincerely,

Adam Fergusson

Adam Fergusson

dealt with
by telephone

DT

cc Councillor Desmond Harney
Councillor Miss Elizabeth Christmas
Councillor Mark Field

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director of Planning & Conservation M J FRENCH FRICS DipTP MRTPI Cert TS

Patrick Allen, R.I.B.A.,
Ashton Allen Design Ltd.,
1 Tide Mill Way,
Quayside,
Woodbridge,
Suffolk, IP12 1BY.

Telephone: 0171 361 2767

Switchboard: 0171 937 5464

Facsimile: 0171-361 3463

5 March 1996

My Ref: DPS/PV/TP/94/ Your Ref: 6366/PA/DAS
0644/G/18/2195/
DGA/YS

Please Ask For: Mr. D.G. Austin.

Dear Mr. Allen,

Re:- Removal of Sycamore Trees, land on and adjacent
to No. 4 St. Mary Abbots Place, Kensington, W8.

Thank you for your letter of 10th January, 1996, which was passed to me by Mr. Taylor for attention. I do apologise for the delay in dealing with this matter.

I can confirm that the two 'volunteer' Sycamore trees at the northern end of the above site may be removed in accordance with your request under condition 4 of the Planning Approval reference above.

Yours sincerely,

Principal Arboricultural Officer for the
Executive Director of Planning and Conservation.

c.c. Mr. Derek Taylor, Senior Planning Officer,
Development Control (Central) Team.

MEMO TO D.T.!!

Reply
JA. 04/07/96.



ASHTON ALLEN DESIGN LTD

① PC Ack
Letters book
+
Copy to D. Austin
marked 'URGENT'
② DT
✓
11/1

Our reference: 6366/PA/DAS

10th January 1996

The Royal Borough of Kensington & Chelsea
Planning & Conservation
Town Hall
Hornton Street
LONDON
W8 7NX

For the Attention of Mr D Taylor

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Dear Sirs

**LAND ON & ADJACENT TO NO4 ST MARY ABBOTS PLACE
KENSINGTON W8
PLANNING PERMISSION REFERENCE: DPS/PV/TP/94/0644/G/18/2195**

On behalf of Eyton Developments (Suffolk) Ltd we request under condition 4 of the above referenced Planning Approval your formal agreement to the removal of the 2 No Sycamore trees at the northern end of the site, marked in green on the attached plan.

Yours faithfully

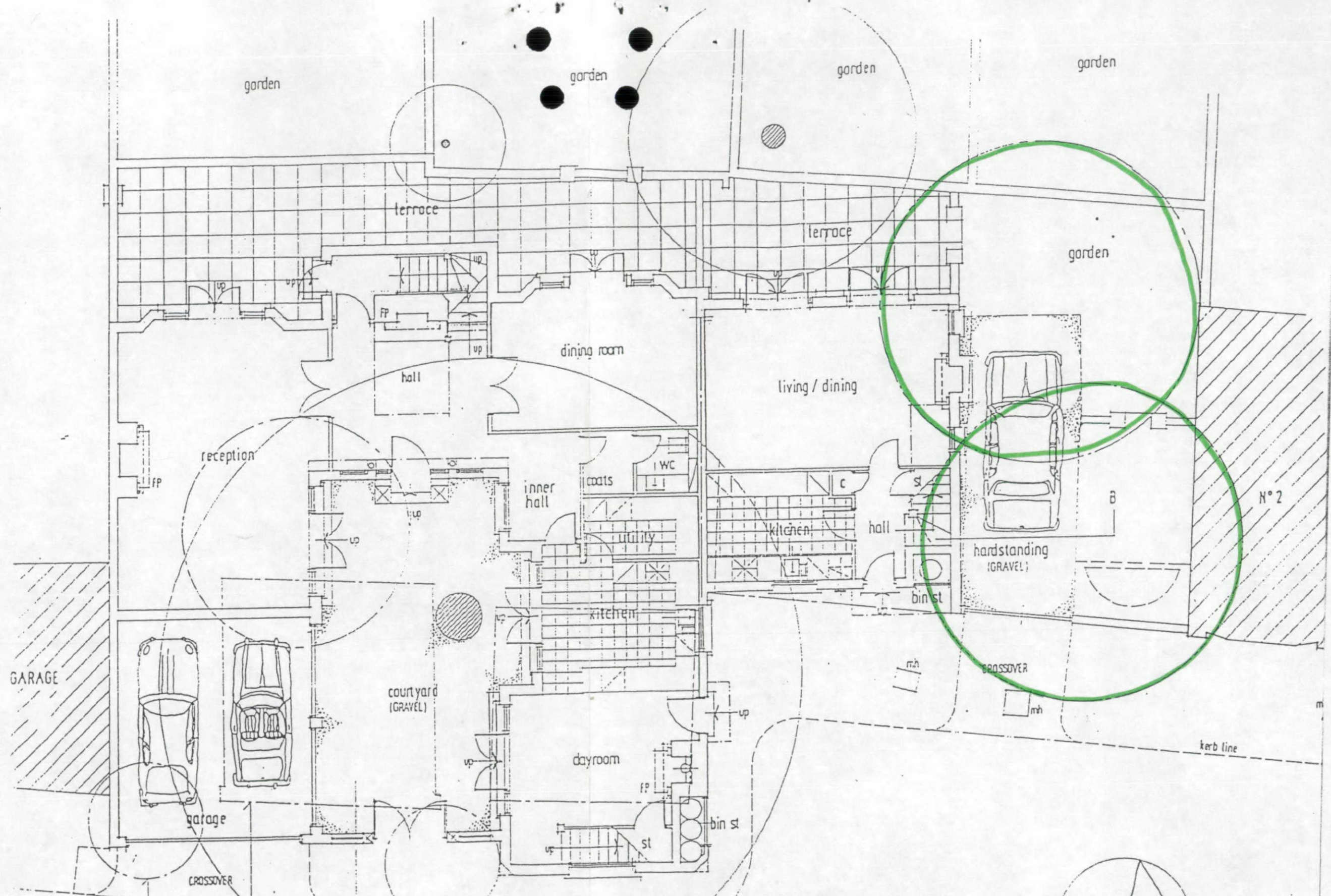
Patrick Allen

Patrick Allen R. I. B. A.
FOR ASHTON ALLEN DESIGN LTD

Enc as above
cc client

1 Tide Mill Way, Quayside, Woodbridge, Suffolk IP12 1BY
Telephone: Woodbridge (01394) 388500. Facsimile: (01394) 388372

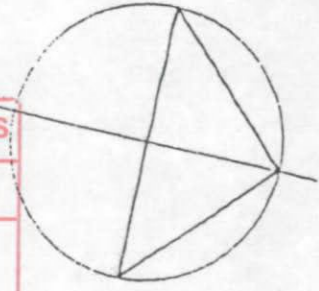
Registered Office: Regina House, 124 Finchley Road, London NW3 5JS
Registered in England No. 2890426

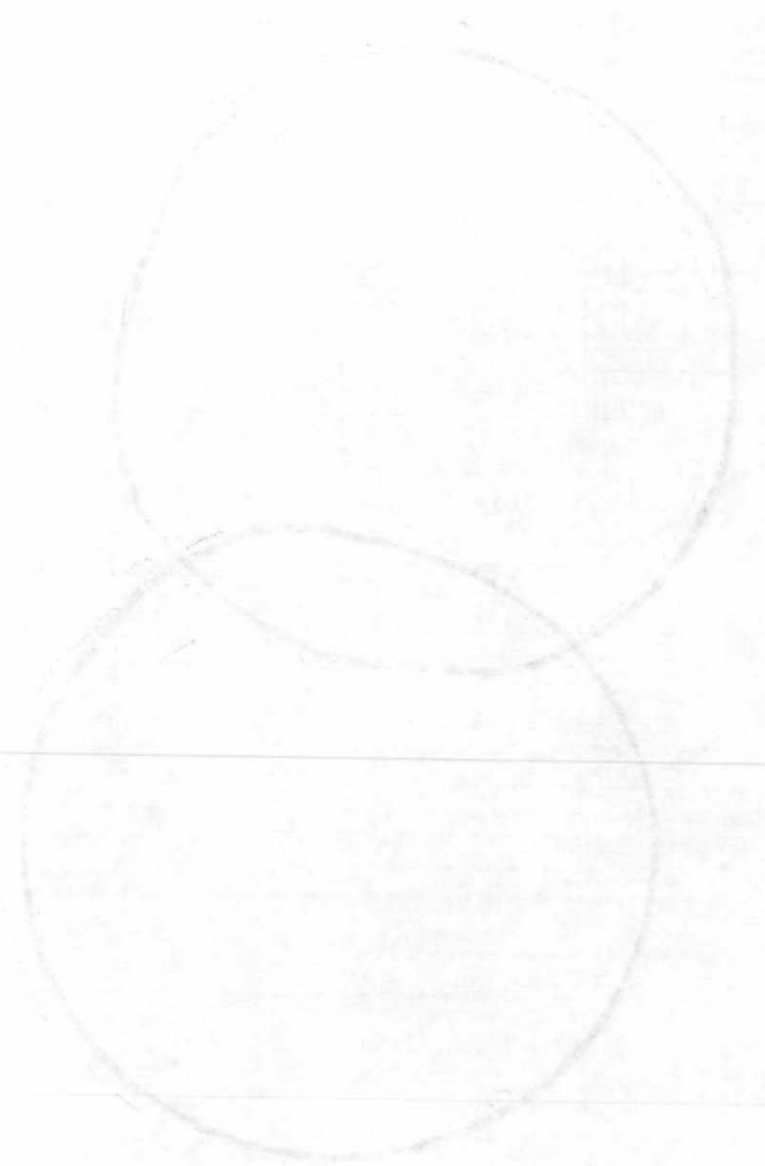
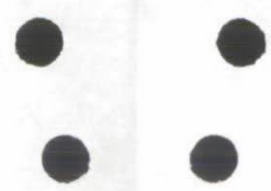


line of trees + buildings to be removed
 - see Survey Dwg + Tree Survey for details of trees.

ST MARY ABBOTS PLACE

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To: Derek Taylor, Planning Date: 12/3

The attached document(s) is/are forwarded:

- as discussed
- for action by you
- for your information
- for your consideration and comments
- for noting and returning
- as requested

Notes:

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

With the Compliments of **The Director of Highways and Traffic**

The Town Hall,

Hornton Street, London W8 7NX

Telephone: 0171-937 5464

FAX: 0171-938 5478

Mr. Adam Fergusson
15, Warwick Gardens
London W14 8PH

11 March, 1996

Dear Mr. Fergusson,

Development in St. Mary Abbot's Place

Thank you for your letter of 4 March, since when I have had an opportunity to talk to Mr. Davies to whom you also wrote on 6 March.

I have now also seen a copy of a letter written to Ashton Allen Design by Mr. Taylor who is the officer responsible for the development in the Planning Department. Neither Mr. Davies nor his officers have been approached by the Architects, but I am attaching, for your information, a copy of Mr. Taylor's letter. I understand that Mr. Taylor has not heard anything further from the Architects, although you will see from his letter that he has indicated his willingness to assist as appropriate.

Whilst there are a number of important planning issues which will need to be addressed if a decision is taken to go forward with new plans etc., the Environmental Services Committee will obviously have to consider very carefully any proposal which results in a part of the highway being stopped up. I realise it is early days, but I do think that the proposal might not be quite as straightforward as it would seem. I have asked the officers to keep me informed of developments in any case.

Yours sincerely,

Councillor Miss Elizabeth M. Christmas, MBE

FAX FROM

NAME: Doreah Taylor

THE DIRECTORATE OF PLANNING SERVICES ON

DATE: 28th February 1996

TELEPHONE NUMBER: 071 937 5464

EXTENSION: 2011 / 2057

FAX NUMBER (if different from below): _____

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

TO

NAME: Adam Ferguson

OF: _____

ADDRESS: _____

_____ POSTAL CODE _____

FAX NUMBER: _____

NUMBER OF PAGES TO FOLLOW: 3

COMMENTS AND/OR INSTRUCTIONS (if any)

Adam Ferguson
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4114

R FAX NUMBER IS: 0171 361 3463

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-PLANNING & CONSERVATION -

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PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director MICHAEL J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

Patrick Allen RIBA
Ashton Allen Design
1 Tide Mill Way Quayside
Woodbridge
Suffolk
IP12 1BY

Telephone: 0171-937 5464
Extension: 2011
Direct Line: 0171 361 2011
Facsimile: 0171-361 3463

7 February 1996

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference:
DPS/DCC/TP/94/0644

Your reference:

Please ask for:
Mr D. Taylor

Dear Sir,

Town and Country Planning Act, 1990
4 St. Mary Abbot's Place, W.8

I refer to your letter dated 24th January 1996, in connection with possible amendments to the recently approved planning permission for two houses at the above site. You enclose a copy of a letter from Adam Ferguson which suggests a significant replanning of the existing approval. I am afraid that your letter was wrongly addressed to no.s 102 to 108 Warwick Road, and only arrived in the Town Hall on 2nd February.

You are probably aware that planning permission was granted on 11th July 1995 after a protracted period of negotiation and amendment to the proposal. The approved scheme met with considerable local objection, and the houses finally approved represented the maximum height, bulk and site coverage that was considered acceptable in planning terms.

It may be that an increase in the site area, as now suggested by incorporating more land at the North East corner of the site, could allow a re-orientation of the proposed buildings, and I can see that this might reduce the impact upon the outlook of the properties of Warwick Gardens. There may well be some mileage in this, however I do have four initial reservations.

Firstly, the existing approval was tailored very carefully around the large Plane tree at the centre of the site, and I am concerned that a new built footprint could result in harm to the vitality of this tree. Any new proposal would need to be examined very closely indeed in this respect.

Secondly, one of the merits of the approved design is that the central courtyard, albeit shady, allowed the provision of a number of windows to habitable rooms looking into this internal courtyard only, thereby reducing the need for rearward looking windows and limiting overlooking of the property to the rear. The suggested changes would remove this courtyard and may require more West facing windows. It would be very important that any redesign should not result in an increase in actual or perceived overlooking when compared to the approved scheme.

Thirdly, the existing scheme includes a front elevation which is detailed carefully to complement the existing style and streetscape of St. Mary Abbot's Place. Whilst it may be that a redesign could improve the impact of the building to the West, this improvement would not be acceptable in planning terms if it resulted in compromise to the quality of the St. Mary Abbot's Place elevation.



● Fourthly, the incorporation of the suggested plot of roadway would result in the loss of at least one on street resident's parking space, which would be contrary to the Council's policies to retain the maximum amount of residents parking space.

The proposal is, nevertheless, an interesting idea. It may be that the above concerns can be overcome, and if you wish to proceed with developing the idea further then the original case officer, Mr Taylor, would be pleased to comment upon a sketch scheme in greater detail.

Yours faithfully,

M. J. French
Executive Director, Planning and Conservation





ASHTON ALLEN DESIGN LTD

*YCM-PC/13
-copy laws
2/DT.
for reply*

*✓
YCM
2/12*

Our reference: 6366/PA/DAS

24th January 1996

Kensington & Chelsea Borough Council
Planning Department
102 - 108 Warwick Road
LONDON
W148 PHT

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For the Attention of Mr D Taylor

Dear Sirs

**Nº4 ST MARY ABBOTS PLACE
LONDON W8**

PLANNING REFERENCE NO: DPS/PV/TP/94/0644/G/18/2195

We have been requested by our clients Eyton Developments (Suffolk) Ltd to forward you a copy letter from Alan Ferguson of 15 Warwick Gardens, London W14 8PH proposing an amendment to the approved development site. Our clients advised that they would approach you regarding this proposal and request informal response based on the following :-

- a) Whether or not you consider it a viable proposition.
- b) Whether or not you would support such a proposal.

In order to clarify the land in question we enclose a site plan showing the area marked in red.

Looking forward to your early response.

Yours faithfully

**Patrick Allen R. I. B. A.
FOR ASHTON ALLEN DESIGN LTD**

Enc as above
cc client

(10)

From ADAM FERGUSSON
15, Warwick Gardens, London W 14 8PH
Tel: 0171-603 7900 Fax: 0171-603 4114

George Eyton-Jones, Esq.,
2 Park Road,
Ipswich IP1 3SY

January 15, 1996

Dear George,

I have spoken with my neighbour Peter Mullins (at No 11 Warwick Gardens) about any possible rearrangement of your development in St Mary Abbot's Place. We think that the priority is obviously for you and your architect to determine that acquiring the extra piece of land would be worth while, both from a design and an economic point of view. That done, and assuming a positive result, it might be best if Peter Mullins and I jointly spoke to our councillors to try to prepare the ground politically for your formal approach.

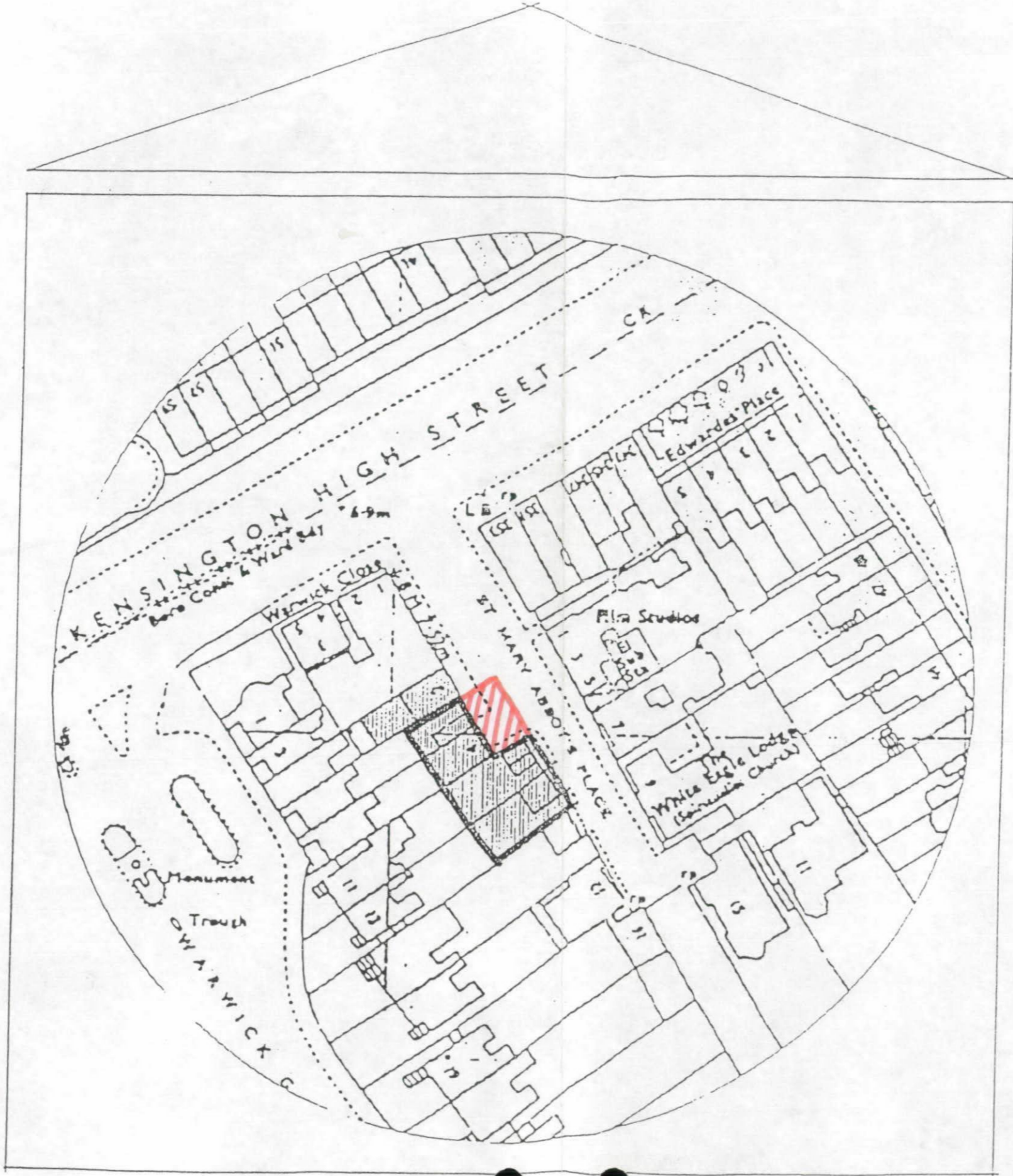
I would envisage the smaller proposed house (the cottage) being moved as currently designed 6 metres northwards to the end of the property, and if possible 3 or 4 metres out into the roadway, thus giving it a better, sunnier garden. The main house could then occupy an L-shaped site to the north and east of the plane tree, leaving that tree in the north-east corner of a large south-west facing garden. The west facade of the house would be pulled back another 2 - 3 metres from your neighbours' walls, thus making everyone happier; and your garden, apart from the large square part (about 10 metres by 12 metres), would also run along the party wall in a strip 4 to 6 metres wide.

This arrangement, by my calculations, would provide a total main garden of about 175 m²; and (through eliminating the courtyard and its associated design problems) would actually increase the ground area available for the main house by up to 50m². In my view, there could be a better-designed house with a much more congenial outlook - to the south and west over its own garden and enjoying the general greenery to the south; no sunless, tree-shaded courtyard; less waste of space and distance to walk; and sensibly placed staircase(s). There would be the same garaging space. I suspect less of the house would have to be built on stilts. The whole would, I am pretty sure, conform more closely to the Council's own guidelines for conservation areas and tree preservation than the present plan does.

These advantages seem to me to be big enough to merit serious reconsideration. I shall be abroad from January 19th - 28th, so that any action by me would have to be before and/or after then.

Yours sincerely,
Adam Fergusson.

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Appeals Office	IO	Fees Officer	Forward Plan	Head DC	



NORTH

Scale	1:1000.	Date	FEBRUARY 1994.	Type	LOCATION DWG. SITE LOCATION PLAN.
Drawn by	GRK.	Client	MEADVIEW DEV LTD.	Job	ST MARY ABBOTS PLACE WB.
Job No.	94.002.	DWG No.	L (---) 00.	Architects	ROGER CARPENTER KERR AND O'HARA 116 FLEETWOOD ROAD, LONDON SE16 6LS TEL 011 296 2411 293

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PLANNING AND CONSERVATIONTHE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director MICHAEL J FRENCH FRICS Dip TP MRTPI Cert TS**Director of Planning Services**

CP Barrow
Meadview (Developments) Ltd.,
33/35 Battersea Bridge Road
London SW11 3BATelephone: 0171-937 5464
Extension: 2011
Direct Line: 0171 361 2011
Facsimile: 0171-361 346311 December 1995

**THE ROYAL
BOROUGH OF****KENSINGTON
AND CHELSEA**

My reference:
DPS/DCC/TP/94/0644

Your reference:

Please ask for:
Mr D. Taylor

Dear Sir,

Town and Country Planning Act, 1990
4 St. Mary Abbots Place W.8

I refer to your letter dated 22nd November 1995, and our earlier meeting of 20th November, and apologise for the delay in this reply.

I confirm that if the southernmost flank of the property was moved 4" to the north, the remainder of the building remaining as approved in all aspects, then this minor amendment could be treated as non-material in planning terms, and would not present a breach of the relevant Conditions attached to the Planning Permission ref. TP/94/0644. Therefore, no further planning permission would be required for this adjustment.

Yours faithfully,

M. J. French
Executive Director, Planning and Conservation

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21 DT

MEADVIEW (DEVELOPMENTS) LIMITED

33/35 BATTERSEA BRIDGE ROAD
LONDON SW11 3BA

Telephone 0171-924 3555 Facsimile 0171-924 2549

Registered Office: 23 Bridford Mews London W1N 1LQ
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BY POST & FAX
Fax: 0171-361 3463

Director of Planning and Conservation
Royal Borough of Kensington & Chelsea
The Town Hall, Hornton Street
Kensington, London
W8 7NY

22nd November 1995


F.A.O: Mr Derek Taylor
Your Ref: TP/94/0644/G/18/2195

Dear Sir,

Re: 4, St Mary Abbot's Place, London W8

As agreed at your meeting on 20th November 1995, we would be grateful to receive your written confirmation that were the proposals approved for the above site constructed such that the southernmost flank wall of the larger house were erected within the party wall with the adjoining property, i.e. 4" further to the north, whilst the remainder of the building in all other respects were built exactly as shown on the approved drawings, then this would constitute a non-material revision to that approval, requiring no further permissions.

Yours faithfully,



C P Barrow

Colin ...
LWS

From ADAM FERGUSSON
15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

October 7, 1995

Dear Mr French,

Development at 4 St Mary Abbot's Terrace

Thank you very much for your letter of October 4 and for the copy of your further letter to Mr Barrow, which was exactly what I wanted.

Yours sincerely,

Adam Fergusson

Adam Fergusson

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PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director MICHAEL J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services



**KENSINGTON
AND CHELSEA**

Adam Ferguson
15 Warwick Gardens
London
W14 8PH

Telephone: 0171-937 5464
Extension: 2078
Direct Line: 0171 361 2078
Facsimile: 0171-361 3463

4 October 1995

My reference:
DPS/DCC/TP/94/0644

Your reference:

Please ask for:
M. J. French

Dear Sir,

Town and Country Planning Act, 1990
4 St. Mary Abbot's Place

I refer to your letter of September 22nd 1995, in which you reiterate a number of concerns relating to the development proposed for the above site. In relation to the matter of site levels, I can say little more at the moment other than to repeat that if the applicants cannot construct the building as approved, then that is their concern and there is absolutely no compulsion for the Council to approve any increase in its height, general bulk, or design. The applicants can be under no illusion that an application for any such variation would be likely to meet with swift refusal.

I have passed your point about the on-site rubble and hard core to Mr Austin, the Council's Arboriculturist, and will write to you again in due course with his response.

I have written a further letter to the applicants to remind them of the importance of the conditions attached to their Planning Permission, including no.15, and attach a copy of that letter as you request.

Yours faithfully,

M. J. French
Executive Director, Planning and Conservation

R

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director MICHAEL J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

Mr. C. P. Barrow
Meadview Developments Ltd.,
33/35 Battersea Bridge Road
London
SW11 3BA

Telephone: 0171-937 5464
Extension: 2011
Direct Line: 0171 361 2011
Facsimile: 0171-361 3463

4 October 1995

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference:
DPS/DCC/TP/94/0644

Your reference:

Please ask for:
Mr D. Taylor

Dear Sir,

Town and Country Planning Act 1990
4 St. Mary Abbot's Place, W.8

Further to the granting of planning permission for two dwelling houses on the above site, dated 11th July 1995, I write in relation to a couple of outstanding matters.

Firstly, there are two outstanding "duplicate" applications, ref. TP/95/0605 and TP/95/0606. I would be grateful if you could confirm whether I should treat these as withdrawn, as it is clearly unsatisfactory to have inactive applications on the Council's books for a prolonged period..

Secondly, I feel I should take this opportunity to remind you again of the Conditions that still need to be satisfied before any development commences. Full details of landscaping proposals, which must include a screen of trees along the rear boundary with nos. 9, 11, 13 and 15 Warwick Gardens, must be submitted before development commences to comply with Condition 15, and Conditions 3, 12 and 14 also need to be complied with similarly.

Yours faithfully,

M. J. French
Executive Director, Planning and Conservation

15, WARWICK GARDENS
LONDON, W14 8PH.

Tel: 071-603 7900
Fax: 071-603 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

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Dear Mr French,

Development at 4 St Mary Abbot's Terrace

Thank you for your letter of September 11 and its enclosures.

I do not think that the elevation section showing the plane tree and the space under the floor of the proposed building was among the drawings available to the public in the planning department offices earlier this year. In any event it does not depict the drop in level between the proposed buildings on the site and the garden levels in No. 9 Warwick Gardens or any of the other neighbouring properties.

The "site survey drawing" you sent me, also unnumbered, records the varying levels on the site itself, but signally fails to record the much lower ground levels in any of the neighbouring gardens - and so of course could have meant nothing to anyone not familiar with the ground. I repeat that Drawing 06.D actually - and I suspect consciously - misrepresents how the ground lies on the west side of the boundary wall. Your point about Drawing 07.C really won't do: being (roughly) north-south rather than east-west it naturally gives no indication of any space or progressive fall below the raft, and can have told the committee nothing. They may have understood the purpose of the raft, as you say, but I do not see how they can have understood its implications for people living close by.

However, from what you say, I take it that the developers will have to submit a fresh application if they wish to proceed. We shall certainly oppose it again, insisting that the fall of the ground on the site itself and between the site and the neighbouring properties be correctly shown.

Meanwhile you will be aware that all the under-floor space which, according to the section drawing you sent me, is to be "void", has already been filled up with rubble and hard core by the firm which demolished the coachhouse and garages.

None of that, perhaps, is as immediately important as what is in your letter of July 25 to Mr Barrow of Meadview Developments. I am glad, of course, that it clearly spells out the obligation on any developer to plant a screen of suitable trees to protect the privacy of those who live in Nos. 9, 11 and 13 Warwick Gardens. What it omits, and thus concerns me greatly, is any obligation

equally to screen this house and its garden. The most southerly first-floor window of the development would overlook all activity in most of our garden (albeit obliquely) from a distance of a few feet, and would look more directly into our drawing room. Indeed, any adult person walking on its ground-floor terrace next to my garden walls would peer over it and down on us. It is therefore essential for us that the screen also covers all that (quite short) part of our party wall that adjoins our garden and where there is no proposal to raise it up to and beyond a second storey. I am certain that the councillors who stipulated this condition - and with whom I have been in correspondence - cannot have intended this garden and house to have remained unprotected.

I should be grateful, therefore, if you would very kindly complete this exercise with a further letter to Mr Barrow, explaining the full and correct extent of the condition; and if you would again send me a copy.

Yours sincerely,

A handwritten signature in cursive script that reads "Adam Fergusson". The signature is written in dark ink and includes a period at the end.

Adam Fergusson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director MICHAEL J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

Adam Ferguson
15 Warwick Gardens
London
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Telephone: 0171-937 5464
Extension: 2078
Direct Line: 0171 361 2078
Facsimile: 0171-361 3463

11 September 1995

LJ

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference:
DPS/DCC/TP/94/0644

Your reference:

Please ask for:
M. J. French

Dear Sir,

Town and Country Planning Act, 1990
4 St. Mary Abbot's Place, W.8

I refer to your letter dated 17th August 1995, and earlier letters dated 10th July, 14th July, and 22nd July, in connection with the planning permission granted for the above site, ref. TP/94/0644. Conditional Planning Permission, and Conservation Area Consent for the demolition of the existing buildings, were granted on 11th July 1995.

I apologise for the delay in this reply, however all of the Officers concerned, including myself, have been on leave at one time or other during August and it has proved very difficult to consult upon the various matters you raised.

Referring to the demolition of the existing buildings, the commencement of demolition on July 11th was in accordance with the granting of Consent for that demolition on the same date. They certainly wasted no time, nevertheless the commencement of demolition on the 11th was a legal operation under the above Act. The same would not be true of any construction work to implement the Planning Permission, however; as you correctly point out there are wide ranging outstanding requirements, imposed by Condition, which have to be satisfied before the developers can commence construction of the buildings.

Of the various Conditions, No. 15 requires the developers to obtain the Council's approval, in writing, of all soft landscaping in the development before work commences upon the Planning Permission. This Condition was imposed following the Committee's discussion, and enables us to require a screen of suitable trees before issuing such written approval. I enclose a copy of my letter to the developers, dated 25th July 1995, on this matter.

In your letters you have commented at some length upon what you regard as the misleading nature of a number of drawings, in particular Drawing 06.D, 07.C, and 12.D. You have relayed your concerns that the ground does not actually lie in the manner represented in the elevation in Drawing 06.D, and that the proposed 'raft' was similarly not represented properly in the drawings before the Committee.

I should first advise that planning permission is always granted in the assumption that an applicant can physically build the structure for which permission has been sought. If, in the event, an

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applicant finds that for some reason, or error, they cannot construct it as approved, then they have two options. Firstly, they could apply for a revised Planning Permission which would not necessarily be approved, or secondly they could attempt to construct a building to a varied design which has not been authorised, and then be subject to Enforcement action. If an applicant cannot carry out the development for which they have permission, it is their loss. There is absolutely no onus upon the Council to attempt to prove whether or not a building can actually be built.

In this case, planning permission was granted for a building of a certain height, bulk, position, and detailed design. Whilst alterations can be carried out to dwelling houses without requiring planning permission, under Permitted Development rights, the developers in this case are given virtually no flexibility by the extensive and restrictive conditions attached to their Planning Permission. If the developers have not measured the ground accurately, and discover that they have constructional problems for either physical or financial reasons, then they must find the solution within the parameters of their Planning Permission. The developers are keenly aware that permission is most unlikely to be granted for any increase in height, bulk, or footprint of the proposed development, or compromise to the valuable Plane tree. Any breach of Condition will be vigorously pursued.

I must disagree that the Committee were not made fully aware, both verbally and visually, of the nature and purpose of the proposed 'raft' to support the building and retain an air gap. Drawing no. 07.C to which you refer clearly shows the location of the raft beneath the house, resting upon mini-pile foundations. Being a section the drawing does not show the rise or fall of the land to either side of the section line, nor could it be expected to, and the exact position, and depth, of the piles and supporting pads would only be finally fixed once work is under way on site. I enclose a copy of an additional explanatory drawing, showing a section through the Plane tree and how the proposed raft would relate to the tree, which was submitted before the first Committee meeting at officers request in order to clarify the raft. The spot heights shown accord with those presented on the original site survey drawing, a copy of which I also enclose. The raft was discussed in detail at Committee, and I do not consider that any members were left in doubt as to its purpose.

I do not know when the developers intend to commence work on site, however Conditions 3, 12, 14 and 15 need to be fully satisfied before they may start on this.

Yours faithfully,

M. J. French
Executive Director, Planning and Conservation

1 DT
2, RUE

F

Adam Fergusson, Esq.,
15 Warwick Gardens,
London,
W14 8PH.

14 September 1995

4 St. Mary Abbots Place

Thank you for your letter of 22nd August. I do apologise for the delay in responding but I have only recently returned to London from holiday.

With regard to the points raised in your letter, I have now been given a copy of Mr. French's response to your earlier letter, and I do hope that the contents of that letter give you some comfort. As you know, I am more than happy to discuss any continuing concerns with you over this application, and should you feel this necessary perhaps you could contact me.

In regard to your specific point on the irrigation of the Plane tree, I have asked that the principal arboriculturist maintains a close watch on the development, and ensures that nothing harmful is done to the root system which would prejudice the future vitality of the tree.

Cllr. Desmond Harney, OBE
Chairman
Planning & Conservation Committee

15, WARWICK GARDENS,
LONDON, W14 8PH.

Tel: 071-603 7900
Fax: 071-603 4114

Councillor Desmond Harney OBE,
16, Stafford Terrace, W 8.

August 22, 1995

Dear Desmond,

*entire mistrust of
Miss Jones*

Because of my remarks below about Council officers, please treat this letter as personal and confidential.

Thank you very much for your letter of July 26 which I promised to answer when I was back in London on a more permanent basis than last week, when I only had time to try to send a further request to Mr French for an answer.

On the two semantic points which you raise: I think that an effective screen of trees would indeed be a "meaningful mitigation" of our unhappiness about overlooking and intrusion. And I think there will have to be a "next time" for "a harder look", because the drawings for which permission has been granted simply do not represent the ground as it exists - as we have tried to point out many times.

As for the matter of concealment or the misleading of the committee, I simply cannot agree. Miss Jones may be experienced and meticulous, but she certainly misinformed the committee about a number of important points all relevant to a site in a conservation area. For example (the smaller trees apart):

She said that the elevation drawings of the site correctly reflected the fall of the land. But they reflect no fall whatever (which means that the buildings and their windows and roofs and chimneys will appear 3 feet higher from our side, and the boundary walls must be raised in consequence). The "raft" on which the buildings will sit is not depicted in any drawing.

She said the site had always been "just unused open space". She knew, and Mr French knew, that this was false: when we came here and almost until the Pru sold the site (for £530,000 along with No 7 Warwick Gardens), the gardens of Nos 13 and 11 (Chesterton's, with the plane tree) went right back to the road. She also suggested that these gardens had been sold off piecemeal in the past - but that too was untrue. We showed her all this months ago from our own roof terrace.

When she was asked in committee how many St Mary Abbot's Place buildings ran back as far as the proposed ones, she said "two come out as far as this will". She omitted to say that one was the Victorian coachhouse standing in the re-entrant bit of St Mary Abbot's Place and thus not comparable; and that the other was only a one-storey studio. Both sit, not on a three-foot raft, but down on the ground. Neither is a real precedent.

When she was asked about the letter written in 1982 by Mr Sanders (then Chief Planning Officer) to the owner of this

house, which heavily discounted the granting of any planning application because of "overlooking", she said it was "not clear what was in the minds of the Council and its officers at that time". But it was perfectly clear from the letter; and Mr French, who stayed silent, was Mr Sanders's deputy.

You will recall how Miss Jones underplayed the bulk of the new development - her claim that the main house had been cut back by 300 millimetres. That is less than 12 inches. When Mark Field suggested that the reason for its bulk was that it was a speculative development, Miss Jones said this was not so, because she "understood" that the owner was proposing to live in it himself.

Well, the site with planning permission is now on sale - and is being advertised even in Hong Kong - for £1.8 million. The garages and the coachhouse have been demolished, and hard core to the depth of three feet now covers the entire site. It could be there for years, solidifying in the rain. Since it covers all the ground over which the "raft" was to have been built to allow for aeration and irrigation of the plane-tree's roots, I take it that this is another deliberate assault on the tree that has caused all the trouble. (You will understand how little credence we give to Miss Jones's telling the committee that she felt "sure the Council would in future resist any request to lop further branches off the top of the tree").

All the above amounts to one solid reason why I hope that Mr French will deal with my queries personally. More important, though, regarding an effective screen of trees, is that we want a bankable assurance that we shall have one. I shall keep your letter carefully, of course. But was anything minuted about the screen? Suppose the relevant meeting of the Planning Committee - perhaps in 1999 - contains none of the councillors present last May? And if, in the meantime, we in Warwick Gardens hope to sell our houses, what are we able to show any prospective buyer (not that Mr Sanders's letter of 1982, shown to us when we moved here, proved to be of any use!)?

I cannot see that a Condition which obliges a developer to submit landscaping proposals without telling him what they must contain is satisfactory. You say it is "quite customary to leave such Conditions general in form so as not unnecessarily to tie down the negotiators". But, with respect, the purpose in this case is to tie down the developers as tightly as possible. Apart from anything else, I don't think it is fair to spring the full, real Condition on someone who may have been persuaded to part with nearly two million pounds. Because of that, it seems vital that Mr French's letter to "the applicants", who may or may not pass it on to the developers, is as specific as can be.

Yours ever,

Adam

Adam Fergusson

ASTON
to check

AGREE

15 WARWICK GARDENS
LONDON W14 8PH

TEL 071-603 7900
FAX: 071-603 4114

With the Compliments of
ADAM FERGUSSON

For your information again.
May I reply to your letter of July 26
when I return to London next week?

AF
18.8.95.



KENSINGTON W8

A magnificent freehold site with planning permission for a substantial low built detached house.

Situated in a quiet cul-de-sac with approximately 100ft frontage, the site benefits from permission to build a superb principal house around a courtyard together with an adjacent cottage, in total circa 6,000 sq ft.

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DE GROOT COLLIS

From ADAM FERGUSSON, 15 Warwick Gardens, London W 14 8PH
Telephone: 0171-603 7900 Fax: 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

August 17, 1995

Dear Mr French,

Site at 4 St Mary Abbot's Place

I am disappointed that you have still found yourself unable to answer at all, let alone in any detail, the three progressively more urgent letters I wrote to you in the course of July.

In your letter of July 25 to my neighbour, Mr Mullins, you said you were writing to me separately, but more than three weeks later I have received nothing from you. In that letter you professed your satisfaction that "the plans accurately reflected the fall of land across the site". When you write to me, I hope you will in that case comment on the accuracy of Drawing 06.D which is crucial in this regard as it comprises part of the schedule for planning permission. It reflects no land fall.

Your letter to Mr Mullins also says that you would write to the applicants to remind them of the Committee's "concerns in respect of suitable screening". My understanding is that the "concerns" are embodied in a positive condition. It is thus essential to be clear, both to the developer and everyone affected, what "suitable screening" means. May we therefore see a copy of what you have sent or propose to send?

Finally, you state that it was your understanding that the house "is for the use of the applicant". Yet the site with planning permission (apparently including my garage) had already been advertised in the London property magazines. You will recall that when the nature of the development company and the likely purpose of the application were pointed out to the Committee, your Miss Jones disarmed criticism with the same assertion. No doubt you will be enquiring into how this misunderstanding arose. Meanwhile, I am sure you will see that it is more important than ever that the exact and full nature and implications of the conditions for planning permission are spelt out - and understood both by the applicants and by those to whom they are attempting to sell the site.

Yours sincerely,

Adam Fergusson

cc to Councillor Desmond Harney OBE, Councillor Ian Donaldson
and Mr Peter Mullins

*Not a
Planning
matter*

Mike

I can't really comment on the 22nd July letter, as it relates to your conversations....

The 14th July letter

Para. 1 Condition 15, imposed following the Committee's discussion, requires the developers to obtain the Council's approval, in writing, of all soft landscaping in the development before work commences. This enables us to ask for the 'screen' of trees before issuing such written approval. I enclose a copy of my recent letter to Meadow Developments on this matter.

Para. 2 P. Permission was granted for a building of a certain height, bulk, and position. The developers are given virtually no flexibility by the extensive and restrictive conditions attached to their Permission. If they have trouble building the property, for either cost or physical reasons, then they would almost certainly have to find the solution themselves, at extra cost. They know we will not grant any increase in height, bulk, position, or compromise to the large plane tree. Any breach of Condition would be vigorously pursued with enforcement action.

I don't think it is up to us to
move whether or not man can
build it.

15, WARWICK GARDENS
LONDON, W14 8PH.

Tel: 071-603 7900
Fax: 071-603 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

1/ cm-PC copy DT
2/ MJF

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Dear Mr French,

Development at 4 St Mary Abbot's Place

Thank you for your letter of July 10 and the copy of the Con-
ditional Development Permission to be sent to Roger Carpenter.

Further to my letter of July 10 which crossed with yours, and
our short telephone conversation this morning:

1. I find it extraordinary that Condition 15, though obliging
the developer to submit landscaping details, gives no guidance
about the particular condition made by the committee with regard
to the screen of trees to prevent overlooking and intrusion.
However, you have assured me that the developer was present and
heard what was said in committee; and that the if the details
when submitted do not conform with the committee's wishes the
developer will be required to change them. I am of course most
grateful for your promise to consult us when this happens.

2. In my letter I commented at some length on the inaccuracies
of Drawing 06.D and the misleading nature of Drawings 07.C and
12.D, among others. These three are all included in the
Schedule. Since the ground does not lie as represented in the
elevation in Drawing 06.D, the Borough Council is thereby giving
approval to a development plan which cannot be carried out.
More, since the "raft" to be built out over the area is not
depicted in the drawings, it is consenting to a plan whose most
important mechanical details Members of the Planning Committee
may have read about but, like the residents, have not yet seen.

You said this morning that you would look at this aspect again.
You also said that the matter was now out of the Committee's
hands, although it would be able to look at the details once
more; and that, if the developer put up something which did not
conform to the plan approved, the Council could take steps to
rectify it. It seems to me to be common sense to make certain
first that the approved proposal is physically possible. I
therefore hope that when more accurate and informative proposals
(or details) are submitted the Planning Committee will be able
to take a harder look than last time round.

As before, if you disagree with anything I have recorded in this
letter, please let me know.

Yours sincerely

Adam Fergusson

Adam Fergusson

cc. as before

Deek
URGENT
Could you do a draft response to
para 2 today. Thanks L

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director Mr MICHAEL FRENCH FRICS Dip TP MRTPI C&A TS

MJF DT
**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

Mr. C. P. Barrow,
Meadview (Developments) Ltd.,
33/35 Battersea Bridge Road,
LONDON, SW11 3BA.

Telephone: 0171-937 5464
Extension: 2057
Direct Line: 0171 361 2057
Facsimile: 0171-361 3463

25 July 1995

My reference:
DPC/DCC/DT/94/0644

Your reference:

Please ask for:
Miss Jones

Dear Mr. Barrow,

Town and Country Planning Act 1990
Re: 4 St. Mary Abbots Place, Kensington, W.8.

I understand that demolition works have commenced in association with the recent planning permission for the redevelopment of the above site.

I would take this opportunity to remind you of the requirements of Condition 15 of the planning permission which must be complied with the Council's satisfaction. Full details of the treatment of open land showing soft and hard landscaping must be submitted and approved before the development commences. As part of the landscaping proposals, a screen of tree planting will be required to the rear boundary with 9, 11 and 13 Warwick Gardens. This was specially requested by the Planning and Conservation Committee when they determined the applications.

I look forward to receiving your details in the very near future.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

① PC Ack (MJF dealing) ✓ 07/26/95
 ② Pass to DT for notes then DT → MJF

LWS

15, WARWICK GARDENS
 LONDON, W14 8PH

Tel: 071-603 7900
 Fax: 071-603 4114

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M.J.French, Esq.,
 Executive Director, Planning & Conservation
 The Town Hall, Kensington.

Dear Mr French,

In response to two letters I wrote to you on July 10 and 14, I have only had an acknowledgment card saying that Mr Derek Taylor is dealing with my "communication".

Although I am of course happy to correspond with Mr Taylor, those letters were written personally to you, recording discussions you and I had had - and inviting you to agree in writing on their accuracy. Please would you reply personally and soon to both my letters. If they are wrong in any detail, would you say how?

I was surprised to find that work has already started on clearing the site, planning permission having been given - according to the foreman - on July 11. I must have misunderstood our conversation on July 14, when I thought you said that permission had not then been sent out. You will remember that you promised first to look again at the conflicts in the plans which we discussed on July 7. There can have been very little point in my seeing and making comments on the problems with the plans and on the conditions to be attached if you took no notice of what I said and issued them anyway.

I have seen a copy of the letter of July 19 written to you by Peter Mullins. I think he is quite right - and that it is urgent that the developers are positively instructed that an effective tree screen has to be included in the landscaping referred to in Condition 15. It is not safe to leave it to the whim of some future Planning Committee - in theory up to five years hence - uninformed of the circumstances in which the proposal was accepted.

Yours sincerely,

Adam Fergusson

Adam Fergusson

15, WARWICK GARDENS
LONDON. W14 8PH.

Tel: 071-603 7900
Fax: 071-603 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

Dear Mr French,

Development at 4 St Mary Abbot's Place

Thank you for your letter of July 10 and the copy of the Conditional Development Permission to be sent to Roger Carpenter.

Further to my letter of July 10 which crossed with yours, and our short telephone conversation this morning:

1. I find it extraordinary that Condition 15, though obliging the developer to submit landscaping details, gives no guidance about the particular condition made by the committee with regard to the screen of trees to prevent overlooking and intrusion. However, you have assured me that the developer was present and heard what was said in committee; and that if the details when submitted do not conform with the committee's wishes the developer will be required to change them. I am of course most grateful for your promise to consult us when this happens.

2. In my letter I commented at some length on the inaccuracies of Drawing 06.D and the misleading nature of Drawings 07.C and 12.D, among others. These three are all included in the Schedule. Since the ground does not lie as represented in the elevation in Drawing 06.D, the Borough Council is thereby giving approval to a development plan which cannot be carried out. More, since the "raft" to be built out over the area is not depicted in the drawings, it is consenting to a plan whose most important mechanical details Members of the Planning Committee may have read about but, like the residents, have not yet seen.

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As before, if you disagree with anything I have recorded in this letter, please let me know.

Yours sincerely
Adam Fergusson

Adam Fergusson

cc. as before

1/ CM-PC copy DT
2/ MJF

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
17 JUL 1995 25.				
Exec Dir	July	Records 14,	ABB 1996	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

15, WARWICK GARDENS
LONDON, W14 8PH.

Tel: 071-603 7900
Fax: 071-603 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

RECEIVED BY PLANNING SERVICES				
DC N	D	DC S	E	Ao Ack
11 JUL 1995				48
Exec Dir	July	Record 10, 1995	Con Dns	
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Dear Mr French,

Development at 4 St Mary Abbot's Place

It was very kind of you to come round last Friday to see at last our problems on the spot, here and at No 11 Warwick Gardens; and in particular to let me read through the proposed wording of the "Planning Obligation" on the developers when planning permission is given.

1. From our point of view, as I pointed out to you, it had one large and crucial defect. It made no reference at all to the Planning and Conservation Committee's insistence (at the instance of Councillor Donaldson, backed by Councillor Harney and acknowledged by yourself) on the obligatory provision of a screen of trees along the various boundary walls to protect neighbouring gardens (Nos 9, 11, 13, and 15 Warwick Gardens) from overlooking and intrusion. The promise of this screen, as you will recall, was the only consolation we were able to draw from the committee's narrowest possible decision to accept a proposal to which all the affected Warwick Gardens residents were resolutely opposed.

You agreed on Friday to re-examine the point and to insert some sort of binding instruction to the developers to carry out the Committee's wishes. (If my own careful notes of what was said in committee on these points would help you, I should be happy to let you see them). I hope you may find a way to ensure that an evergreen tree screen remains a permanent and enforceable feature - not simply a gesture of complying minimally once and observed for a year or so.

Our main need is to protect our gardens from being closely overlooked from new first-floor windows immediately over our boundary walls and 18 feet above ground level. I suspect that this will require greater depth for any suitable tree roots than could be provided by tubs or shallow earth beds whose permanence would in any case be dubious. I should be most grateful if you would again be kind enough to let me see what instructions the developers are to be given.

2. Again on the matter of trees: the Planning Obligation stipulates that the developers shall not fell any of the standing trees on the site without giving due notice (seven

days?) to the Council. That is obviously something very short of a Tree Preservation Order on the sycamores on the north of the site which, I recall, the Councillors asked to have preserved if possible. Residents would have to depend entirely on the courtesy of the developer or the Council to receive notice of a felling, and would be unlikely to have time to have a statutory order issued. I therefore strongly recommend that the trees are statutorily protected in the meantime and made subject to the normal planning consent procedures.

3. I said above that the promise of a tree screen was our only consolation. It remains an illusion that the adjustments made so far to the rear of the proposed buildings will give us as much open sky in our gardens as the Committee were led to suppose. On site on Friday you were able to appreciate for the first time that all our gardens lie about three feet below the street level of St Mary Abbot's Place. This fact was not just concealed from the Committee but actually consistently misrepresented in the elevations shown to you and them. [See, for example, Drawings 06.A to 06.D (the last received by your Department in April 1995); 07.C; 12.A to 12.D; and Drawing 10.

The exception, of course, was the drawing - dated, I think, April and May - which you brought round on Friday. It was of the rear elevation showing how the rear boundary wall (backing on Nos 9, 11 and 13 Warwick Gardens) would have to be built up to allow for the whole development's being perched on a platform or "raft" three feet above the land on the site. Without it, our gardens would also be overlooked by ground floor windows; for the present six-foot boundary wall would only do the job of a three-foot boundary wall. The proportions of the gardens of 11 and 13 will of course be spoilt. This additional drawing, which I had never seen before but which you told me the Committee had seen, thus apparently justifying the grant of planning permission, was **not made available to residents at any stage** (although both Mr Peter Mullins at No 11 and I asked to see all relevant drawings). It gave the true low level of our gardens, but naturally conflicted entirely with the side elevation plan [Drawing no 06.D] which showed our gardens at the same high level as the street. This side-elevation plan misleadingly made the angle of the new roofs, the high relative position of the overlooking windows and the amount of daylight enjoyed by the gardens appear much more favourable.

The new drawing emphasises how misleading was the only other elevation I have seen showing the boundary walls of No 7 to 13 - Drawing no 10 dated Feb 1994, confusingly described as "View from Warwick Gardens looking West" (it should say "East"). What appeared there to be the bottom of the boundary wall, and thus the garden ground level, is in fact only the pavement level

extended from the street. Yet neither this drawing nor any other I have seen properly shows the relationship of the "raft" to our gardens or even to the ground.

Councillor Field's observations on the low level of the gardens and what that implied were brushed aside by your Miss Jones, who told the Committee that the ground level varied across the site (it does, but only noticeably east-west, which causes the problem) and that the drawings - specifically the side elevation - fairly represented the situation (which they do not; and no one contradicted her). The Committee without guidance could not have understood the discrepancy between the drawings they were shown, nor could have understood the full effect of the "raft".

5. We went through these points on Friday. I do not think you contested any of them. I am glad that you saw how vital it is to us now to ensure that the screen of trees is made a reality.

6. I was grateful for your reassurance about the inviolability of my own boundary wall short of mutual agreement on changing it. You understood that the stretch in question occupies the most critical part of our garden here.

7. As this is by way of a memorandum of our meeting as well as my own considered comments on it, I am copying it to Councillors Harney and Donaldson and of course to my neighbours. If I have misunderstood or misreported our discussion in any way, please tell me. I look forward to your response.

Yours sincerely,

Adam Fergusson .

Adam Fergusson

ROGER CARPENTER KERR AND O'HARA

106 FULHAM ROAD LONDON SW3 6HS TELEPHONE 071 225 2541/2/3 TELEFAX 071 584 6829

1/2 CM - PC
- copy MTF
2/ DT
✓ CA 1/8

RECEIVED BY PLANNING SERVICES				
DC N	DC	DC S	Z	Ao Ack
07 AUG 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

44.

4th August 95

M.J.French, Esquire,
Executive Director,
Planning and Conservation,
The Royal Borough of Kensington and Chelsea,
Town Hall,
Hornton Street,
London W8

Dear Sir,

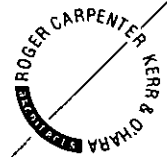
4, St. MaryAbbots Place, W.8

Thank you for your letter of the 25th July concerning the demolition taking place at the above. I understand that my Clients are simply clearing the site for the purposes of tidiness and safety and that development, in so far as the planning approval is concerned, is not commencing.

They are of course, by demolishing the existing buildings, implementing the Conservation Area Consent, but assure me that the conditions contained therein are being complied with.

Yours faithfully,

Roger Carpenter
Roger Carpenter.



CAWJ

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director Mr MICHAEL FRENCH FRICS Dip TP MRTPI Cert TS

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

Adam Fergusson Esq.,
15 Warwick Gardens,
LONDON, W14 8PH.

Telephone: 0171-937 5464
Extension: 2944
Direct Line: 0171 361 2944
Facsimile: 0171-361 3463

22 August 1995

My reference:
DPC/MJF/TP/94/0644

Your reference:

Please ask for:
Mr. French

Dear Mr. Fergusson,

Town and Country Planning Act 1990
Re: 4 St. Mary Abbots Place, W.8.

I am sorry that you do not yet appear to have had any response to your earlier letters regarding the development at the above site. As you may be aware, I have only this week returned from annual leave and I had asked before leaving that your letters be responded to in full.

I will discuss this situation with the Area Planning Officer, Miss Jones, and I will ensure that a detailed response is sent to you in the near future.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

15, WARWICK GARDENS,
LONDON, W14 8PH.

Tel: 071-603 7900
Fax: 071-603 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

RECEIVED BY PLANNING SERVICES					
DC N	August 17, 1995	C	S	E	AC Ack
21 AUG 1995					102
Place Dir	Records	ARB	Con Des	Head DC	

Dear Mr French,

Site at 4 St Mary Abbot's Place

I am disappointed that you have still found yourself unable to answer at all, let alone in any detail, the three progressively more urgent letters I wrote to you in the course of July.

In your letter of July 25 to my neighbour, Mr Mullins, you said you were writing to me separately, but more than three weeks later I have received nothing from you. In that letter you professed your satisfaction that "the plans accurately reflected the fall of land across the site". When you write to me, I hope you will in that case comment on the accuracy of Drawing 06.D which is crucial in this regard as it comprises part of the schedule for planning permission. It reflects no land fall.

Your letter to Mr Mullins also says that you would write to the applicants to remind them of the Committee's "concerns in respect of suitable screening". My understanding is that the "concerns" are embodied in a positive condition. It is thus essential to be clear, both to the developer and everyone affected, what "suitable screening" means. May we therefore see a copy of what you have sent or propose to send?

Finally, you state that it was your understanding that the house "is for the use of the applicant". Yet the site with planning permission (apparently including my garage) had already been advertised in the London property magazines. You will recall that when the nature of the development company and the likely purpose of the application were pointed out to the Committee, your Miss Jones disarmed criticism with the same assertion. No doubt you will be enquiring into how this misunderstanding arose. Meanwhile, I am sure you will see that it is more important than ever that the exact and full nature and implications of the conditions for planning permission are spelt out - and understood both by the applicants and by those to whom they are attempting to sell the site.

Yours sincerely,

Adam Fergusson

cc to Councillor Desmond Harney OBE, Councillor Ian Donaldson
and Mr Peter Mullins

Mike

4 St Mary Abbotts Place

Notes from Derek for

Your replies to Mr Ferarsson

✓ Mr Mullins

I'm on leave - but any
questions Derek will be
able to help.

Hope this is OK.

Lesley.

Sorry, no time to reply, can
you reply please - Thanks
John



(AWJ)

K

Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

26 July 1995

Re: 4 St. Mary Abbots Place, W.8.

Your letters of concern on the implementation of the Planning Permission on 4 St. Mary Abbots Place. First, of course you have my continued support - but there are limits to what that support can now achieve. It cannot "mitigate meaningfully" the effects of the decision if by that you mean a reconsideration of the question of height and fundamental points like that. It cannot "take a harder look next time round" - as there is no next time. The permission has been granted and I am confident that the Area Officer concerned did not hold back, let alone conceal, any drawings nor mislead the Committee, wittingly or unwittingly.

I have asked Miss Lesley Jones, a most experienced and meticulous officer, to give you, through Mr. French, a detailed answer on this aspect and to comment on the physical possibility of building the approve scheme.

On the question of the screen of trees at the back which is not precisely specified in the Condition - but which I am happy to admit Councillor Donaldson recommended and I strongly supported from the chair - I can assure you that the best form of concealment (whether a line of Leylandii, or a Beech hedge or single trees) will be discussed and agreed fully with you when the application on such detail is submitted. It is quite customary to leave such Conditions general rather than specific in form so as not unnecessarily to tie down the negotiators. But have no doubt that the Planning Officers are aware of the Committee's Condition (not wish) that an agreed form of "screen" must be provided and that the developer will be given our requirements.

As for individual trees, the advice I have is that of the two Sycamores, one will almost without doubt be lost (but will be replaced nearby), and the other one is secure without an individual Tree Preservation Order. Neither in themselves are thought to merit or require such a T.P.O. which has, as you will know, been placed on the London Plane, around which so much of this problem revolves.

Councillor Desmond Harney, OBE,
Chairman - Planning and Conservation Committee.

c.c. Mr. Peter Mullins

PETER MULLINS

11, WARWICK GARDENS, LONDON W 14
0171-603 8514

Mr M. J. French,
Executive Director Planning & Conservation,
Town Hall, Hornton Street, W 8 7NX

July 19, 1995

Development in St Mary Abbots Place

Adam Fergusson at No 15 Warwick Gardens has passed me his correspondence with you about the development in St Mary Abbots Place. As work began this very morning on demolishing the garage that used to belong to 13 Warwick Gardens, I assume that you have now issued the planning permission about which Mr Fergusson wrote to you on July 10 and again on July 14.

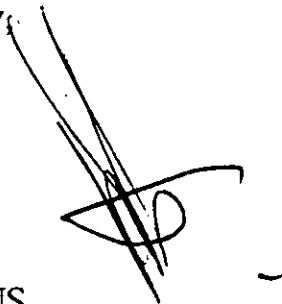
I am greatly concerned that this should have gone ahead without clearing up satisfactorily and in full the question of the obligation on the developers to insert an acceptable permanent screen of trees along the boundary walls to protect the Warwick Gardens houses from the overlooking of which we have consistently complained. I note that in your letter to Mr Fergusson you draw his attention to "Condition 15 which was added by the Committee at the meeting". But the condition discussed in the Committee explicitly called for protective trees to be planted along the boundaries. Condition 15 does not.

Would you therefore immediately assure me in writing that the developers have been informed of the required relevant condition regarding the screen of trees for which the Planning Committee asked? It is evident that an obligation simply to submit landscaping plans to be approved later - perhaps by committee members who were not even present at recent meetings - is not good enough; and that the planting of suitable trees in the places specified must form a positive part of the planning dossier. I think you can be in no doubt about how much this matters to us.

I presume you will be replying to Mr Fergusson regarding the serious discrepancies in respect of the ground levels in the plans and elevations shown to the Planning Committee. I should be grateful if you would copy that reply to me as well.

Since I am now informed that the site is likely to be sold complete with planning permission to someone other than the present owner, these are matters of the greatest importance. If that information is correct, or subsequently turns out to be the case, it will be in exact contradiction to the assurance Miss Jones gave to the Committee that the developer intended to live in the two houses himself.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Peter Mullins', written over a horizontal line.

PETER MULLINS

Copies to Adam Fergusson
Cllr Harney ✕
Cllr Donaldson

M.J.French, Esq.,
Executive Director, Planning & Conservation,
The Town Hall, Kensington.

July 14, 1996

Dear Mr French,

Development at 4 St Mary Abbot's Place

Thank you for your letter of July 10 and the copy of the Conditional Development Permission to be sent to Roger Carpenter.

Further to my letter of July 10 which crossed with yours, and our short telephone conversation this morning:

1. I find it extraordinary that Condition 15, though obliging the developer to submit landscaping details, gives no guidance about the particular condition made by the committee with regard to the screen of trees to prevent overlooking and intrusion. However, you have assured me that the developer was present and heard what was said in committee; and that if the details when submitted do not conform with the committee's wishes the developer will be required to change them. I am of course most grateful for your promise to consult us when this happens.

2. In my letter I commented at some length on the inaccuracies of Drawing 06.D and the misleading nature of Drawings 07.C and 12.D, among others. These three are all included in the Schedule. Since the ground does not lie as represented in the elevation in Drawing 06.D, the Borough Council is thereby giving approval to a development plan which cannot be carried out. More, since the "raft" to be built out over the area is not depicted in the drawings, it is consenting to a plan whose most important mechanical details Members of the Planning Committee may have read about but, like the residents, have not yet seen.

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As before, if you disagree with anything I have recorded in this letter, please let me know.

Adam Fergusson

cc. as before

??
Cooking up a Judicial Review?

landscaping

standon

*
not responsible
them

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director Mr MICHAEL FRENCH FRICS Dip TP MRTPI Cert TS

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

Mr. Adam Ferguson,
15 Warwick Gardens,
LONDON, W14 8PH.

Telephone: 0171-937 5464
Extension: 2944
Direct Line: 0171 361 2944
Facsimile: 0171-361 3463

10 July 1995

My reference:
DPC/MJF/TP/94/0644

Your reference:

Please ask for:
Mr. French

Dear Mr. Ferguson,

Town and Country Planning Act 1990
Re: 4 St. Mary Abbots Place, W.8.

I write with reference to our meeting on Friday afternoon and have pleasure in enclosing a copy of the planning permission which has been issued to Roger Carpenter on behalf of the developers of the above site. I would, in particular, draw your attention to Condition 15 which was added by the Committee at the meeting, and will ensure that details of all hard and soft landscaping on the site are submitted to, and approved, by the Council before work commences. I will ensure that you are consulted when these details are submitted.

Should you have any further queries, I would be happy to discuss these with you.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

c.c. Cllr. Desmond Harney, OBE,
Chairman - Planning and Conservation Committee.

hwt
already replied

PETER MULLINS

11, WARWICK GARDENS, LONDON W 14
0171-603 8514

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
W 14		24 JUL 1995		36
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Mr M. J. French,
Executive Director Planning & Conservation,
Town Hall, Hornton Street, W 8 7NX

July 19, 1995

Copy DC C

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Yours sincerely,

A handwritten signature in black ink, appearing to be 'Peter Mullins', written in a cursive style.

PETER MULLINS

Copies to Adam Fergusson
Cllr Harney
Cllr Donaldson



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1

PK 1 DT
2 Rli

PLANNING AND CONSERVATION

THE TOWN HALL, HORNTON STREET LONDON W8 7NX

**THE ROYAL
BOROUGH OF**

Executive Director Mr MICHAEL FRENCH FRICS Dip TP MRTPI Cert TS



**KENSINGTON
AND CHELSEA**

Mr. Adam Ferguson,
15 Warwick Gardens,
LONDON, W14 8PH.

Telephone: 0171-937 5464
Extension: 2944
Direct Line: 0171 361 2944
Facsimile: 0171-361 3463

10 July 1995

My reference:
DPC/MJF/TP/94/0644

Your reference:

Please ask for:
Mr. French

Dear Mr. Ferguson,

Town and Country Planning Act 1990
Re: 4 St. Mary Abbots Place, W.8.

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Should you have any further queries, I would be happy to discuss these with you.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

c.c. Cllr. Desmond Harney, OBE,
Chairman - Planning and Conservation Committee.

F.A.O: Ms. LESLEY JONES

Ycm-PC

-copy Mike Smith



THE
BELL & DT
CORTWELL
PARTNERSHIP
CHARTERED TOWN PLANNERS

02 JUN 1995

70.

EELA House
Station Road
Hook
Hampshire
RG27 9TL
Tel: (01256) 766673
Fax: (01256) 768490

RECEIVED BY PLANNING SERVICES					
DC N	DC S	DC S	E	AO ACK	
Exec Dir	Records	ARB	Con		
Dissemination Office	Fees	Forward	Tele		
			Fax		

SECTION 106

4 ST. MARK / ROBERTS PLACE

1st JUNE 1995

Dear Lesley,

Copy drawing sent by architects re: their understanding of the works to be undertaken

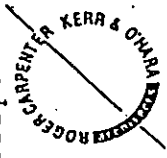
With Compliments undertaken to the footpath. Please let me know if this is sheet is required. Many thanks, Simon

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
02 JUN 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

ROGER CARPENTER KERR AND O'HARA
 106 FULHAM ROAD LONDON SW3 6HS TELEPHONE 071 225 2541/2/3 TELEFAX 071 584 6829

31st May 1995.
 For the attention of Le Verne Parker
 Re: Land on and adjacent to No. 4 St Mary Abbott's Pl. Kensington W8

Enclosed 2 No. copies our Dwg No. L(S106)01D to be annexed to Section 106 Agreement - As per your correspondence dated 5th May 1995.

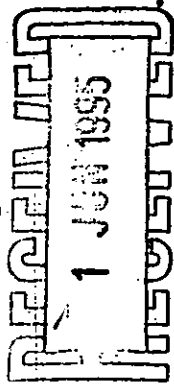


G. R. KERR

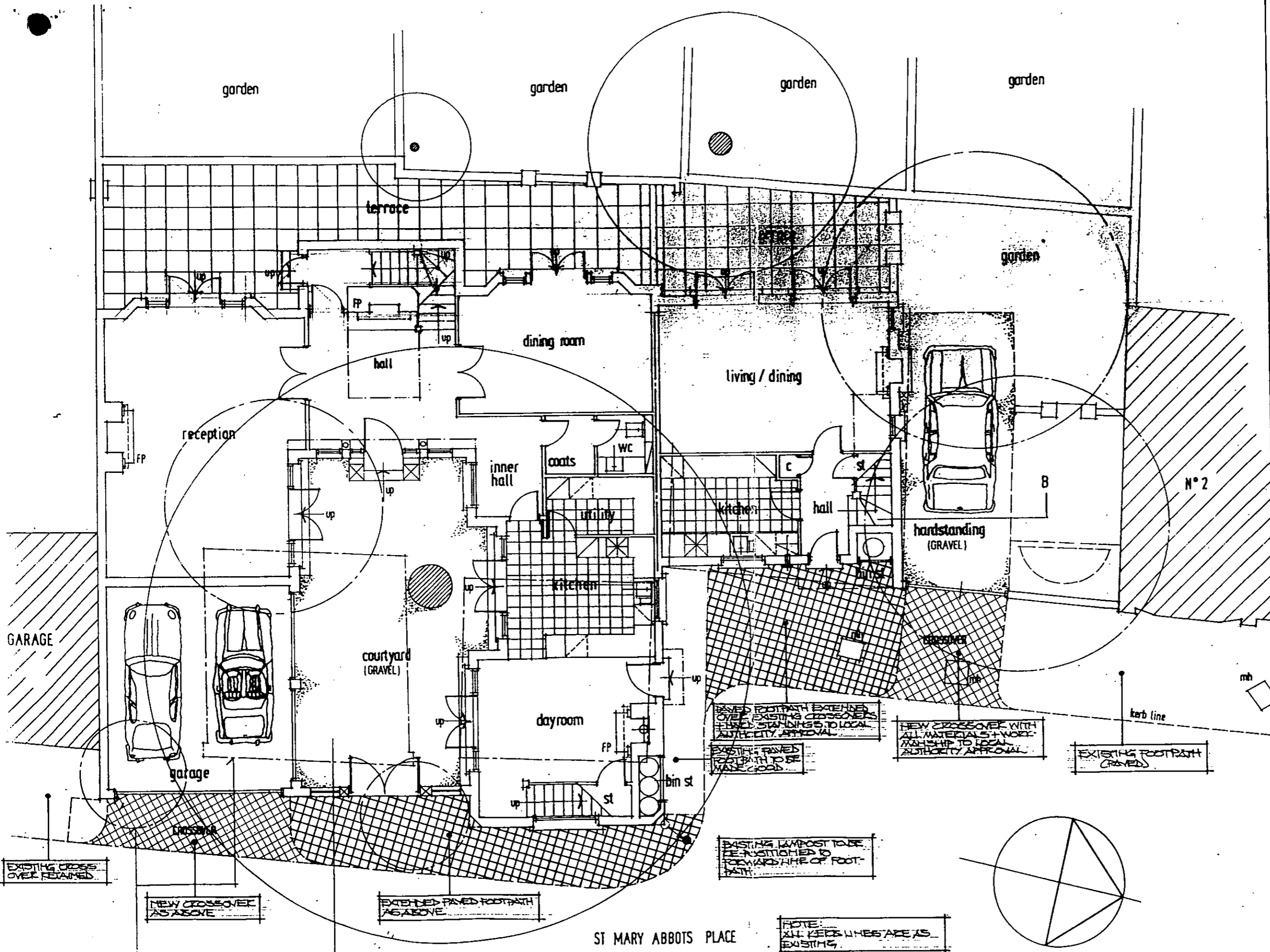
WITH COMPLIMENTS

CC: Z. BARRON
 S. AVERY
 F. DANSON

2288



Handwritten notes:
 v. Stud - Lady Driver. in person
 by telephone
 copy to Mr. [unclear]



line of trees + buildings to be removed
- see Survey Dwg + Tree Survey for details of trees.

ST MARY ABBOTS PLACE

NOTE: ALL KERB LINES ARE AS EXISTING.

Case	LOCATION: ST MARY ABBOTS PLACE
Job	SITE / FOOTPATH LAYOUT - WORKS TO FOOTPATH PLAN
Architects	ROGER CARPENTER KERR AND O'HARA 108 PLUMMER ROAD LONDON SW9 6QS TEL: 01 725 2541/2/3
Job	ST MARY ABBOTS PLACE W8.

Scale	1:100.	Date	FEBRUARY 1994.
Dwg by	GRK.	Client	MEADVIEW DEV LTD.
JOB NO.	94002.	DWG NO.	L (S106) 01.0

RECEIVED BY PLANNING SERVICE			
DC	DC	DC	DC
N	C	S	E
02 JUN 1995			
Exec Dir	Records	APB	C
Appeals Office	IO	Fees Office	Pln

DO NOT SCALE ALL DIMENSIONS TO BE CHECKED ON SITE

MEMORANDUM

To: Highways and Traffic

From: The Director of Legal Services

My ref: LP/
Room No: 313

Your Ref: Mike Smith

Ext: 2180

4 St Mary Abbot's Place
S.106 Agreement
Works to the Footway

Date: 02 June 1995				
PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
05 JUN 1995				
Exec Dir		Records	ARB	Con Des

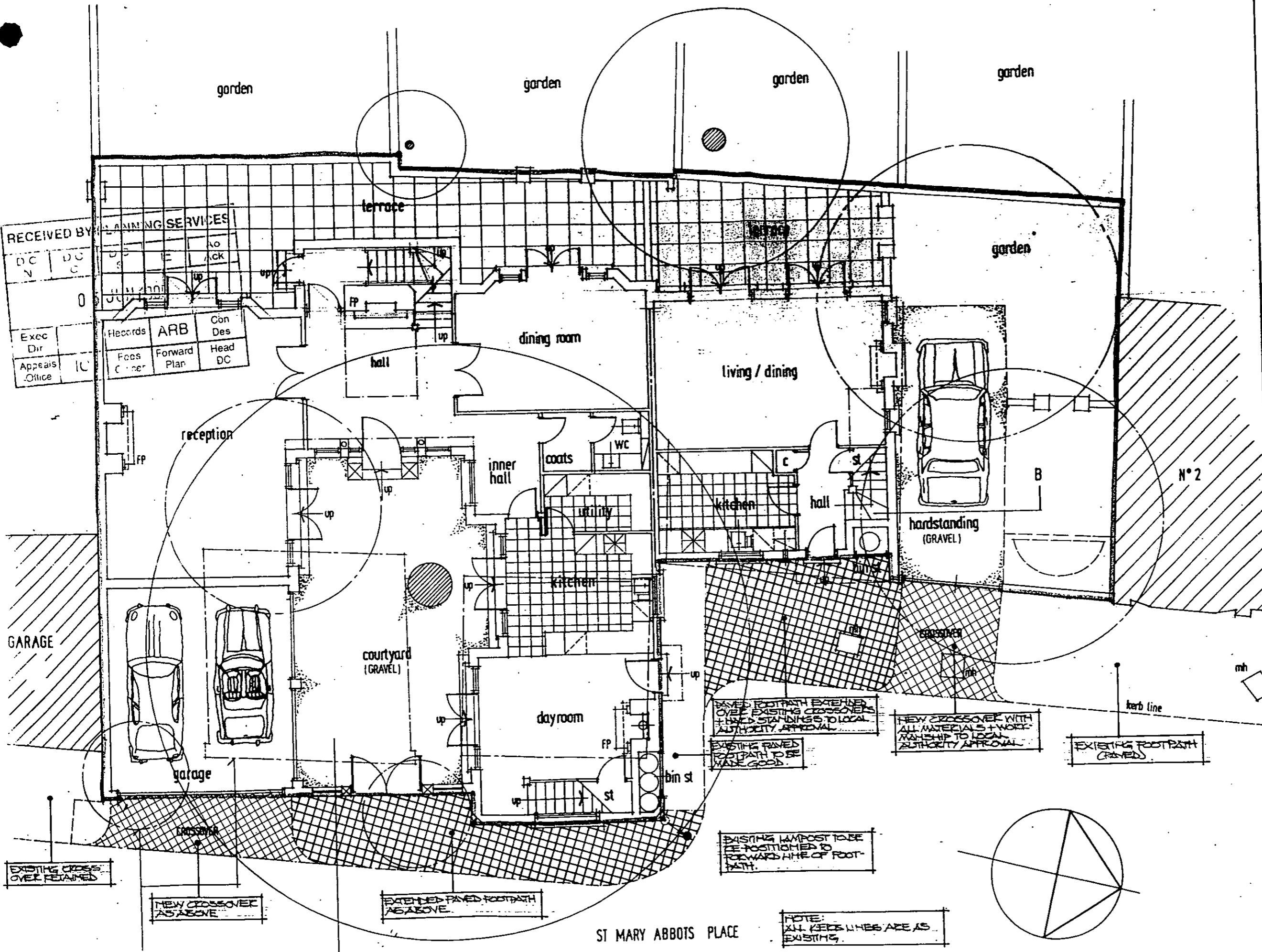
Please find attached a copy of a plan that I have received from the architect showing the works to extend the footway which need to be carried out before the houses are occupied.

Please could you confirm that the plan accurately shows the works necessary and that it can be incorporated into the Agreement.

LeVerne Parker

LeVerne Parker
for Director of Legal Services

cc Planning and Conservation - Derek Taylor



RECEIVED BY

DC	DC
N	C
JUN 1994	
Exec Dir	Appears Office
Records	ARB
Fees	Forward Plan
Con Des	Head DC

0/56

LOCATION: DWG. SITE/GROUND FLOOR G.A. - WORKS TO FOOTPATH PLAN.

JOB: ST MARY ABBOTS PLACE W6.

Architects: ROGER CARPENTER KERR AND O'HARA
108 FULHAM ROAD LONDON SW3 6RS TEL. 01 225 7541/2/3

Date: FEBRUARY 1994.

Client: MEADVIEW DEV LTD.

Scale: 1:100.

Dwg by: GRK.

JOB NO.: 94.002.

DWG NO.: L (S106) 01.D

EXISTING CROSS-OVER RETAINED

NEW CROSSOVER AS ABOVE

EXTENDED PAVED FOOTPATH AS ABOVE

PAVED FOOTPATH EXTENDED OVER EXISTING CROSSOVERS + HEDG STAKINGS TO LOCAL AUTHORITY APPROVAL

EXISTING PAVED FOOTPATH TO BE MADE GOOD

NEW CROSSOVER WITH ALL MATERIALS + WORKMANSHIP TO LOCAL AUTHORITY APPROVAL

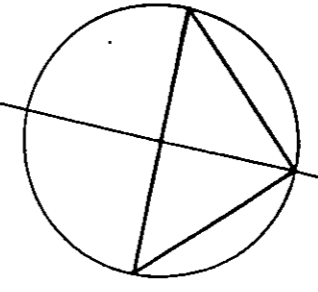
EXISTING FOOTPATH (GRAVEL)

EXISTING LAMPPOST TO BE RE-POSITIONED TO FORWARD H/LINE OF FOOTPATH.

NOTE: ALL KERB LINES ARE AS EXISTING.

line of trees + buildings to be removed - see Survey Dwg + Tree Survey for details of trees.

ST MARY ABBOTS PLACE



DO NOT SCALE ALL DIMENSIONS TO BE CHECKED ON SITE

MEMORANDUM

To: Planning and conservation

From: Director of Legal Services

cc:

Our Ref: LeVerne Parker/CJC
Room No: 313

Your Ref: Derek Taylor

Ext No: 2180

Date: 10 May 1995

4 St Mary Abbott's Place
Section 106 Agreement

I refer to our recent discussion in connection with the above and enclose a copy of the draft agreement which I have sent to the Applicant's agent.

I should be grateful for your comments.

Please could you let me have three copies of an A4 size OS map with the site outlined in red.

LeVerne Parker

LeVerne Parker
For Director of Legal Services

Enc

RECEIVED BY PLANNING SERVICES				
DC N	DC P	DC S	E	Ao Ack
11 MAY 1995 79				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

DT. any
day

THIS PLANNING OBLIGATION BY AGREEMENT is dated the

of One thousand nine hundred and ninety-five BETWEEN

(1) THE MAYOR AND BURGESSES OF THE ROYAL BOROUGH OF KENSINGTON AND

CHELSEA of The Town Hall Hornton Street London W8 7NX ("the

Council") (2) MEADVIEW DEVELOPMENTS LIMITED whose registered office

is situate at ("the

Owner") (3) _____

of ("the

Mortgagee")

WHEREAS

(1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 ("the Act") for the area within which the land known as land on and adjacent to 4 St Mary Abbotts Place Kensington W8 ("the Land") (shown for identification purposes outlined in red on the plan attached hereto) is situated

(2) The Owner has the freehold interest in the Land registered at H.M. Land Registry under Title No. and the land is subject to a legal charge dated the day of in favour of who joins in this Agreement to consent to the binding of the land by the terms of this Agreement

(3) On 31 March 1994 the Owner submitted a planning application under reference no TP/94/0644/G/42 to the Council for permission to develop the Land for the erection of two semi-detached single family dwellinghouses with associated off street parking and external amenity space ("the Development")

(4) The Council is a local authority for the purpose of Section 111 of the Local Government Act 1972 and is satisfied that the arrangements made in this Agreement will facilitate be conducive

to and be incidental to the Council's functions

(5) The Council is satisfied that the development is such as may be approved by the Council under the Act subject to the Owner first entering into this Agreement

(6) The Owner has therefore agreed to enter into this Agreement in order to secure the Council's objectives

(7) In this Agreement "Executive Director" means the Council's Executive Director Planning and Conservation and shall be deemed to mean the Officer of the Council from time to time holding that appointment or (if no officer holds that appointment) carrying out the duties of the appointment

NOW IT IS AGREED as follows:-

1. This Planning Obligation by agreement is made pursuant to
 - (a) Section 106 of the Act
 - (b) Section 111 of the Local Government Act 1972 and
 - (c) Section 16 of the Greater London Council (General Powers) Act 1974

to the intent that it shall bind the Owner [and the Mortgagee] and his/their successors in title to each and every part of the Land and their assigns as provided in these sections

2. This Agreement shall be enforceable by the Council but no waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner

3. No person or company shall be liable for any breach of this Agreement unless it holds an interest in the Land in respect of which such breach occurs or held such an interest at the date of breach

4. The provisions of this Agreement shall become binding upon the Land upon the granting by the Council of planning permission ("the Planning Permission") in response to the Application referred to in Recital 3 hereof

5. Nothing in this Agreement shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or under any other appropriate power or Authority pursuant to the provisions of the Act or any statutory amendment or re-enactment thereof and this agreement shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been issued by the Council or any other appropriate person or authority pursuant to the provisions of the Act or any statutory amendment or re-enactment thereof

6. On completion of this Agreement the Owner shall pay the Council's reasonable legal costs for the preparation and completion of this Agreement

7. The Owner confirms that he has obtained all necessary permissions and consents required from any mortgagee covenantee or any other person to his entering this agreement

8. The Owner covenants with the Council as follows:-

Not to occupy nor permit the occupation of either or both of the two semi-detached single family dwellinghouses part of the Development until the works to extend the footway shown on plan annexed to this Agreement have been completed to the satisfaction of the Executive Director

9. The Council undertakes following the execution of this Agreement to issue formal Planning Permission in response to the Application in the form annexed hereto subject to the conditions restrictions provisions and other matters referred to herein

10. The Mortgagee hereby consents to the completion of this Agreement and acknowledges that from the date of the Agreement the

Land shall be bound by the restrictions and obligations contained herein

11. Where the context so requires:-

- (a) The singular includes the plural and vice versa and one gender includes all other genders
- (b) References to any party shall include the successors in title of that party
- (c) Where a party includes more than one person any obligations of that person shall be joint and several

IN WITNESS of which the Parties have sealed this planning obligation by agreement as a deed on the date first above written

THE COMMON SEAL of THE MAYOR)
AND BURGESSES OF THE ROYAL)
BOROUGH OF KENSINGTON AND)
CHELSEA was hereunto affixed)
in the presence of:-)

EXECUTED as a DEED by MEADVIEW)
DEVELOPMENTS LIMITED in the)
presence of:-)

EXECUTED as a DEED by)
in the presence of:-)

THE MAYOR AND BURGESSES
OF THE ROYAL BOROUGH OF
KENSINGTON AND CHELSEA

- and -

MEADVIEW DEVELOPMENTS LIMITED

- and -

Draft

AGREEMENT

Under Section 106 of the
Town and Country Planning Act 1990
(as amended by the Planning and
Compensation Act 1991)

Re: Land on and adjacent to
4 St Mary Abbotts Place,
Kensington, W8

A.G. Phillips
Director of Legal Services
The Royal Borough of Kensington and
Chelsea
The Town Hall
Hornton Street
LONDON
W8 7NX

Our Ref: LP/CJC

Tel: 0171-361-2180

LP1-5-5

MJF DT

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director Mr MICHAEL FRENCH FRICS Dip TP MRTPI Cert TS

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

Mr. C. P. Barrow,
Meadview (Developments) Ltd.,
33/35 Battersea Bridge Road,
LONDON, SW11 3BA.

Telephone: 0171-937 5464
Extension: 2057
Direct Line: 0171 361 2057
Facsimile: 0171-361 3463

25 July 1995

My reference:
DPC/DCC/DT/94/0644

Your reference:

Please ask for:
Miss Jones

Dear Mr. Barrow,

Town and Country Planning Act 1990
Re: 4 St. Mary Abbots Place, Kensington, W.8.

I understand that demolition works have commenced in association with the recent planning permission for the redevelopment of the above site.

I would take this opportunity to remind you of the requirements of Condition 15 of the planning permission which must be complied with the Council's satisfaction. Full details of the treatment of open land showing soft and hard landscaping must be submitted and approved before the development commences. As part of the landscaping proposals, a screen of tree planting will be required to the rear boundary with 9, 11 and 13 Warwick Gardens. This was specially requested by the Planning and Conservation Committee when they determined the applications.

I look forward to receiving your details in the very near future.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

PLANNING AND CONSERVATION

THE TOWN HALL • HORNTON STREET • LONDON W8 7NX

THE ROYAL
BOROUGH OF

Executive Director MJ FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services



Roger Carpenter
Kerr and O'Hara,
106 Fulham Road,
London SW3 6HS

Switchboard: 0171-937 5464
Direct Line: 0171-361 2646

Facsimile: 0171-361 3463

11 JUL 1995

KENSINGTON
AND CHELSEA

My reference:

Your reference:

Please ask for:

DPS/PV/TP/94/0644/G/18/2195

Miss P. Vallely

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING ACT, 1990
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER, 1988**

Permission for development (Conditional) (TP6a)

The Borough Council hereby permit the development referred to in the under-mentioned Schedule, subject to the conditions set out therein and in accordance with the plans submitted, save insofar as may otherwise be required by the said conditions. Your attention is also drawn to the enclosed Information Sheet.

SCHEDULE

DEVELOPMENT

Erection of two semi-detached single family dwelling houses, with associated off-street parking and external amenity space, at **LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON, W.8**, as shown on submitted drawing(s) No(s). TP/94/0644, TP/94/0644/C and TP/94/0644/D, Applicant's drawing(s) No(s). 7413A/1, L(--)01.D, L(--)02D, L(--)03.D, L(--)04.D, L(--)05.D, L(--)06.D, L(--)07.C, L(--)08.D, L(--)09.C, L(--)10.D, L(--)11.D, L(--)12.D and L(--)100B, in accordance with your application dated 31/03/94, completed 08/04/94, revised 10/02/95, 18/04/95 and 01/05/95.

/ CONDITIONS ...

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission. (C.1)
2. All planting, seeding and turfing comprised in 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. (C.18)
3. 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 development commences and maintained for the duration of building and other operations on the site. (C.21)
4. No tree within the curtilage of the site shall be lopped, topped or felled without the prior written approval in writing of the local planning authority. (C.23)
5. The garage accommodation hereby permitted shall be available at all times for car parking and shall not be adapted for living, commercial or other purposes. (C.28)
6. The development hereby permitted shall be carried out exactly and only in accordance with the drawings and other particulars forming part of the permission and there shall be no variation therefrom without the prior written approval of the local planning authority. (C.68)
7. Notwithstanding the provisions of Article 3 and Part 1 Schedule 2 of the Town and Country Planning General Development Order 1988 no external alterations shall be carried out or extensions constructed to the premises the subject of this permission without the prior approval in writing of the local planning authority. (C.70)
8. The roof slopes of the building(s) hereby permitted shall be clad in natural slates and so maintained. (C.73)
9. No water tank, lift motor room or other roof structure shall be erected which rises above the level of the roof hereby approved. (C.77)

/10. No additional ...

10. 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. (C.85)
11. The courtyard and hardstanding shown on drawing No. L(--)01.D shall not have any impermeable base or surface, and shall be surfaced in gravel and so maintained.
12. Samples of materials numbered 1, 2, 6, 7, 8, 11, 12, 14 and 18 on drawing L(--)100B shall be submitted to and approved in writing by the Executive Director of Planning and Conservation before development commences.
13. No window or opening other than those shown on drawing L(--)10.D, hereby approved, shall be inserted within the rear elevation.
14. The Council's Arboricultural Officer shall be informed, in writing, 7 days before any excavation commences on site.
15. 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 treatment of the open land within the site including hard and soft landscaping. (C.11)

REASONS FOR THE IMPOSITION OF CONDITIONS

1. As required by Section 91 of the Town and Country Planning Act 1990 to avoid the accumulation of unexercised planning permissions. (R.1)
2. To protect and enhance the amenities of the area. (R.18)
3. To ensure that the trees are adequately protected and to safeguard the amenities of the area. (R.20)
4. To ensure that the trees are adequately protected and to safeguard the amenities of the area. (R.20)
5. To protect the amenities of the area. (R.28)
6. The details are considered to be material to the acceptability of the proposals and to safeguarding the amenities of the area. (R.68)
7. To ensure that future alterations to the exterior of the building do not result in detriment to the amenity of the residential properties to the rear of the site, or detriment to the character or appearance of the Conservation Area.

/8. To ensure ...

8. To ensure a satisfactory standard of external appearance. (R.71)
9. To safeguard the appearance of the building. (R.77)
10. To ensure a satisfactory standard of external appearance. (R.85)
11. To ensure that adequate rainwater drains down to the tree root systems.
12. To ensure a satisfactory standard of external appearance. (R.71)
13. To protect the amenity of nearby residential property.
14. To allow observation of excavation proceedings, and building operations thereafter, in order to ensure that the trees and their root systems are satisfactorily protected.
15. The particulars 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. (R.11)

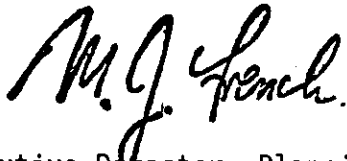
INFORMATIVES

1. This permission does not permit the use of the premises as temporary sleeping accommodation (including holiday lets or short lets) or any purpose specified in Section 25 of the Greater London Council (General Powers) Act 1973 as substituted by the Greater London Council (General Powers) Act 1983 or as timeshare accommodation as specified in Section 5 of the Greater London Council (General Powers) Act 1984. Use for such purposes would constitute a change of use requiring planning permission and it is the Council's policy to resist such changes of use. (I.2)
2. Planning permission is hereby granted for the development as shown on the approved drawings and subject to the conditions. Any alteration to the approved scheme, resulting from the requirements of the Building Regulations or for any other reason, may require further permission. You are advised to consult the Directorate of Planning Services before commencing work. (I.9)
3. Your attention is drawn to the conditions of this permission and to the Council's powers of enforcement, including the power to serve a Breach of Condition Notice under the Town and Country Planning Act, 1990, as amended. (I.10)

/4. Separate ...

4. Separate approval for the works hereby granted planning permission may be required by the Building Act 1984 and the Building Regulations 1991, and the grant of planning permission does not imply that such approval will be given. The Director of Building Control, Council Offices, 37 Pembroke Road, W8 6PW should be consulted before works commence. (I.21)
5. The development hereby permitted must comply with the Highways Act 1959-80. The Director of Highways and Traffic, Council Offices, 37 Pembroke Road, W8 6PW should be consulted on the positioning of buildings in relation to the highway, points of vehicle access and the width of the highway. (I.24)
6. Your attention is drawn to the British Standards Code of Practice for Demolition (CP 94 : 1971) the observance of which should considerably reduce the risks inherent in demolition work (particularly in relation to fire hazards arising from the practice of burning materials on site) both to operatives on the site and to the general public. (I.31)
7. The Naming and Numbering Legislation requires that premises display their street number, and no name or number other than that formally assigned may be displayed. Requests for the assignment of names and numbers to new development should be made to the Executive Director of Planning and Conservation, Town Hall, Hornton Street, W8 7NX, well in advance of the completion of building. (I.39)
8. In granting this permission the Council has had regard to Planning Obligation(s) under Section 106 of the Town and Country Planning Act 1990 as amended. (I.8)

Yours faithfully,



Executive Director, Planning & Conservation

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director Mr MICHAEL FRENCH FRICS Dip TP MRTPI Cert TS

LAUT DT
THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

Mr. Peter Mullins,
11 Warwick Gardens,
LONDON W.14.

Telephone: 0171-937 5464
Extension: 2057
Direct Line: 0171 361 2057
Facsimile: 0171-361 3463

25 July 1995

My reference:
DPC/DCC/DT/94/0644

Your reference:

Please ask for:
Lesley Jones

Dear Mr. Mullins,

Re: 4 St. Mary Abbots Place, W.8.

Thank you for your letter of 19th July. I am satisfied that the provision of suitable planting will be ensured through Condition 15 and I will write to the architects and applicants of the scheme to remind them of the Committee's concerns in respect of suitable screening.

I am writing to Mr. Ferguson separately regarding his concerns over ground levels. These were addressed in detail by the Committee and I am satisfied that the plans accurately reflected the fall of the land across the site.

With regard to the possible sale of the house/site, I have no knowledge of this and it is still my understanding that the house is for the use of the applicant.

I appreciate your concerns, and I have asked the District Surveyor to monitor the progress of works on the site very carefully.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

c.c. Cllr. Desmond Harney, OBE,
Chairman - Planning and Conservation Committee.

Cllr. Ian Donaldson

Director of Building Control

PETER MULLINS

11, WARWICK GARDENS, LONDON W 14
0171-603 8514

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
W 14		24 JUL 1995		36
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Mr M. J. French,
Executive Director Planning & Conservation,
Town Hall, Hornton Street, W 8 7NX

July 19, 1995

Copy DC C

Development in St Mary Abbots Place

Adam Fergusson at No 15 Warwick Gardens has passed me his correspondence with you about the development in St Mary Abbots Place. As work began this very morning on demolishing the garage that used to belong to 13 Warwick Gardens, I assume that you have now issued the planning permission about which Mr Fergusson wrote to you on July 10 and again on July 14.

I am greatly concerned that this should have gone ahead without clearing up satisfactorily and in full the question of the obligation on the developers to insert an acceptable permanent screen of trees along the boundary walls to protect the Warwick Gardens houses from the overlooking of which we have consistently complained. I note that in your letter to Mr Fergusson you draw his attention to "Condition 15 which was added by the Committee at the meeting". But the condition discussed in the Committee explicitly called for protective trees to be planted along the boundaries. Condition 15 does not.

Would you therefore immediately assure me in writing that the developers have been informed of the required relevant condition regarding the screen of trees for which the Planning Committee asked? It is evident that an obligation simply to submit landscaping plans to be approved later - perhaps by committee members who were not even present at recent meetings - is not good enough; and that the planting of suitable trees in the places specified must form a positive part of the planning dossier. I think you can be in no doubt about how much this matters to us.

I presume you will be replying to Mr Fergusson regarding the serious discrepancies in respect of the ground levels in the plans and elevations shown to the Planning Committee. I should be grateful if you would copy that reply to me as well.

Since I am now informed that the site is likely to be sold complete with planning permission to someone other than the present owner, these are matters of the greatest importance. If that information is correct, or subsequently turns out to be the case, it will be in exact contradiction to the assurance Miss Jones gave to the Committee that the developer intended to live in the two houses himself.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Peter Mullins', written in a cursive style.

PETER MULLINS

Copies to Adam Fergusson
Cllr Harney
Cllr Donaldson

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director Mr MICHAEL FRENCH FRICS Dip TP MRTPI Cert TS

LAWJ DT

Roger Carpenter, Kerr and O'Hara,
106 Fulham Road,
LONDON, SW3 6HS.

Telephone: 0171-937 5464
Extension: 2057
Direct Line: 0171 361 2057
Facsimile: 0171-361 3463

25 July 1995

My reference:
DPC/DCC/DT/94/0644

Your reference:

Please ask for:
Miss Jones

Dear Sirs,

Town and Country Planning Act 1990
Re: 4 St. Mary Abbots Place, Kensington, W.8.

I understand that demolition works have commenced in association with the recent planning permission for the redevelopment of the above site.

I would take this opportunity to remind you of the requirements of Condition 15 of the planning permission which must be complied with the Council's satisfaction. Full details of the treatment of open land showing soft and hard landscaping must be submitted and approved before the development commences. As part of the landscaping proposals, a screen of tree planting will be required to the rear boundary with 9, 11 and 13 Warwick Gardens. This was specially requested by the Planning and Conservation Committee when they determined the applications.

I look forward to receiving your details in the very near future.

Yours faithfully,

M. J. French,
Executive Director, Planning and Conservation.



MEMORANDUM

File TP/94/0644

To: Planning & Conservation

From: Director of Legal Services

cc:

Our Ref: LeVerne Parker/CJC
Room No: 313

Your Ref: D Taylor

Ext No: 2180

Date: 28 June 1995

4 ST MARY ABBOTS PLACE
SECTION 106 AGREEMENT

Please find attached a copy of the completed Section 106 Agreement for your file.

LeVerne Parker

LeVerne Parker
For Director of Legal Services

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
27 JUN 1995				68
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

RECEIVED BY PLANNING SERVICES

DC N	DC C	DC S	E	Ao Ack
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27 JUN 1995

Exec Dir		Records	ARB	Cc DC
Office	IC	Office	Plan	MEAD DC

~~THIS PLANNING OBLIGATION BY AGREEMENT~~ is dated the ~~22nd~~ day of June One

thousand nine hundred and ninety-five BETWEEN (1) THE MAYOR AND BURGESSES OF THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA of The Town Hall Hornton Street London W8 7NX ("the Council") (2) MEADVIEW (DEVELOPMENTS) LIMITED whose registered office is situate at 23 Bridford Mews London WIN 1LQ ("the Owner") (3) DUNBAR BANK PLC of 9 Sackville Street London W1A 2JP ("the Mortgagee")

WHEREAS

- (1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 ("the Act") for the area within which the land known as land on and adjacent to 4 St Mary Abbots Place Kensington W8 ("the Land") (shown for identification purposes outlined in red on plan 1 attached hereto) is situated
- (2) The Owner has the freehold interest in the Land registered at H.M. Land Registry under Title Nos. BGL10701 BGL10702 and BGL1073 and the land is subject to a legal charge dated the 17th day of May 1994 in favour of the Mortgagee who joins in this Agreement to consent to the binding of the Land by the terms of this Agreement
- (3) On 31 March 1994 the Owner submitted a planning application under reference no TP/94/0644/G/42 to the Council for permission to develop the Land for the erection of two semi-detached single family dwellinghouses with associated off street parking and external amenity space ("the Development")
- (4) The Council is a local authority for the purpose of Section 111 of the Local Government Act 1972 and is satisfied that the arrangements made in this Agreement will facilitate be conducive to and be incidental to the Council's functions
- (5) The Council is satisfied that the development is such as may be approved by the Council under the Act subject to the Owner first entering into this Agreement

(6) The Owner has therefore agreed to enter into this Agreement in order to secure the Council's objectives

(7) In this Agreement "Executive Director" means the Council's Executive Director Planning and Conservation and shall be deemed to mean the Officer of the Council from time to time holding that appointment or (if not officer holds that appointment) carrying out the duties of the appointment

NOW IT IS AGREED as follows:-

1. This Planning Obligation by agreement is made pursuant to

(a) Section 106 of the Act

(b) Section 111 of the Local Government Act 1972 and

(c) Section 16 of the Greater London Council (General Powers) Act 1974

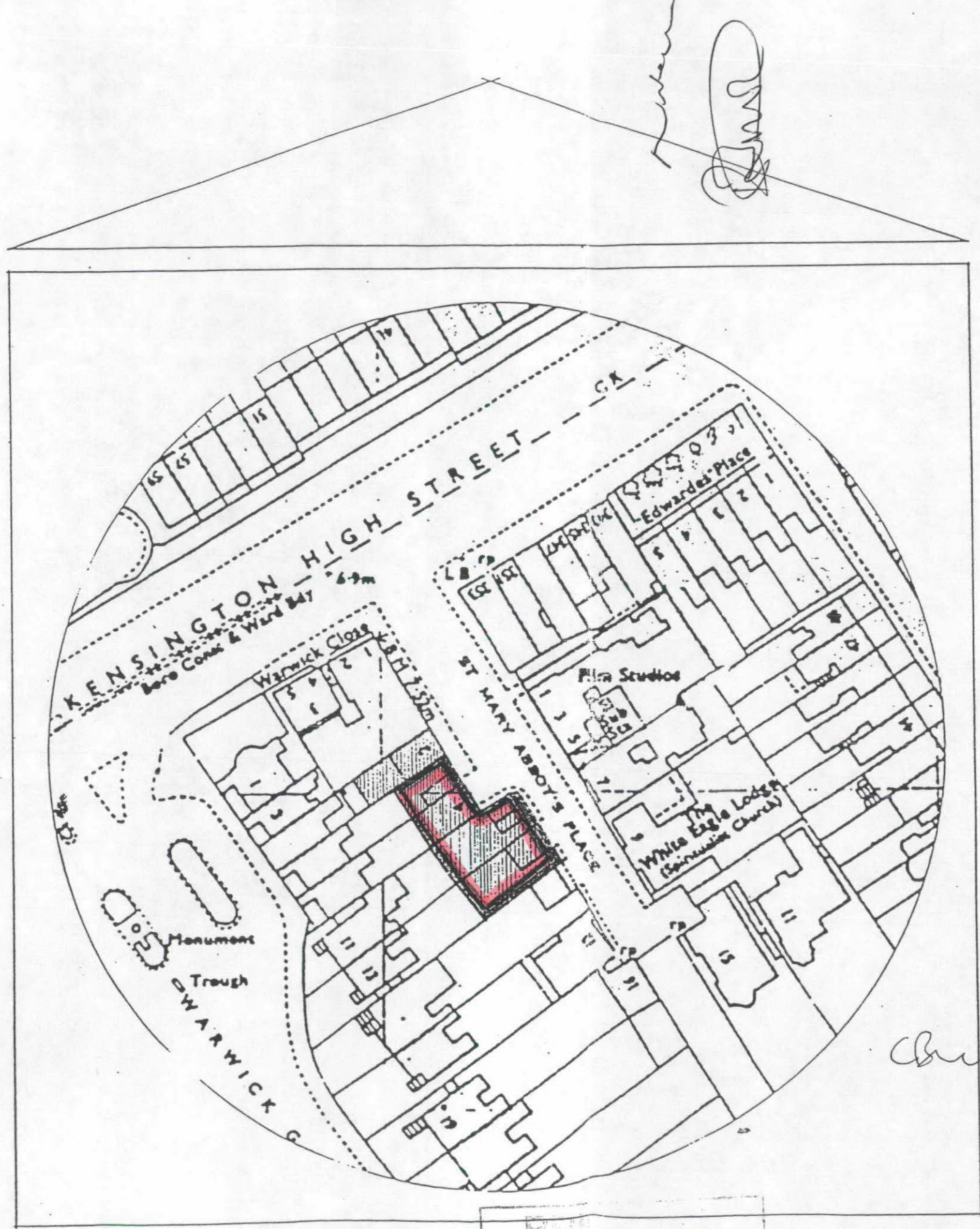
to the intent that it shall bind the Owner [and the Mortgagee] and his/their successors in title to each and every part of the Land and their assigns as provided in these sections

2. This Agreement shall be enforceable by the Council but no waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner

3. No person or company shall be liable for any breach of this Agreement unless it holds an interest in the Land in respect of which such breach occurs or held such an interest at the date of breach provided however that in no event shall the Mortgagee be liable for any such breach unless at the date of the breach it is a mortgagee in possession of the Land

4. The provisions of this Agreement shall become binding upon the Land upon the granting by the Council of planning permission ("the Planning Permission") in response to the Application referred to in Recital 3 hereof

5. Nothing in this Agreement shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or under any other appropriate power or Authority



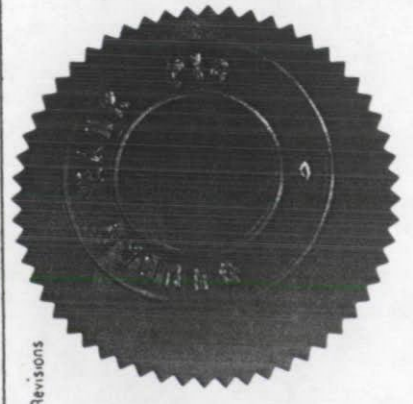
NORTH

[Handwritten signature]

Chen

225
75

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	DC E	DC Ack
27 JUN 1995				
Exec Office	Records	Fees Officer	ARB Forward Plan	Com Des Head DC



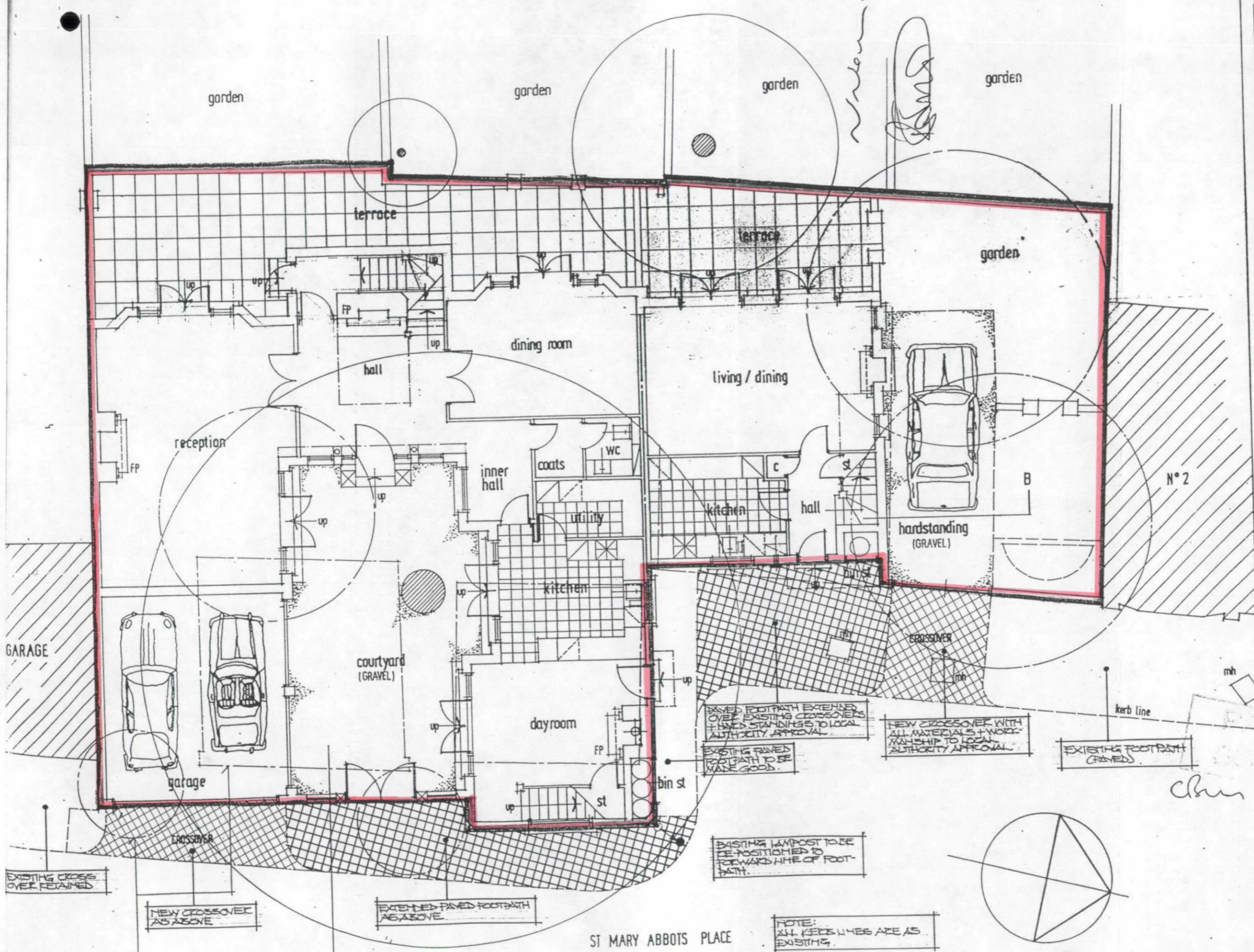
Revisions

Scale	1:1000.	Date	FEBRUARY 1994.	Title	LOCATION DWG. SITE LOCATION. PLAN.
Dwg by	GRK.	Client	MEADVIEW DEV LID.	Job	ST MARY ABBOTS PLACE WB. PLAN 1
JOB NO.	94002.	DWG NO.	L (---) 00.	Architects	ROGER CARPENTER KERR & O'HARA 100 FUJIWAY ROAD LONDON SW3 6HS TEL 071 225 2541/2/3

DO NOT SCALE. ALL DIMENSIONS TO BE CHECKED ON SITE.



HEAT 17795 C



line of trees + buildings to be removed
- see Survey Dwg + Tree Survey for details of trees.

ST MARY ABBOTS PLACE

PAVED FOOTPATH EXTENDED OVER EXISTING CROSSOVERS + NEW STANDINGS TO LOCAL AUTHORITY APPROVAL

EXISTING PAVED FOOTPATH TO BE MADE GOOD.

NEW CROSSOVER WITH ALL MATERIALS + WORKMANSHIP TO LOCAL AUTHORITY APPROVAL

EXISTING FOOTPATH (PAVED)

EXISTING LAMPOST TO BE RE-POSITIONED TO FORWARD H/NE OF FOOTPATH.

NOTE: ALL KERB LINES ARE AS EXISTING.

Architects
ROGER CARPENTER KERR AND O'HARA
106 FULHAM ROAD LONDON SW3 8HS TEL 071 225 2541/2/3

Architects

Job
ST MARY ABBOTS PLACE W8.

Title
**LOCATION DWG
SITE / GROUND FLOOR G.A. - WORKS TO FOOTPATH PLAN.
PLAN.**

Case
RAN 2

Scale
1:100.

Date
FEBRUARY 1994.

Dwg by
GRK.

Client
MEADVIEW DEV LTD.

Job No.
94002.

DWG NO.
L (S106) 01.D

RECEIVED BY PLANNING SERVICES									
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DO NOT SCALE FROM THIS DRAWING. CHECKED ON SITE.

PLANNING AND CONSERVATION

THE TOWN HALL • HORNTON STREET • LONDON W8 7NX

THE ROYAL
BOROUGH OF

Executive Director M J FRENCH
Director of Planning Services

RECEIVED BY PLANNING SERVICES				
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Fec Dit		Records	ARB	Con Facsimile:s
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

Roger Carpenter
Kerr and O'Hara,
106 Fulham Road,
London SW3 6HS

27 JUN 1995

Switchboard: 0171-937 5461
Direct Line: 0171-361 2646

0171-361 3463



KENSINGTON
AND CHELSEA

My reference: Your reference: Please ask for: Miss P.Vallely
DPS/PV/TP/94/0644/G/18/2195

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING ACT, 1990
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER, 1988**

Permission for development (Conditional) (TP6a)

The Borough Council hereby permit the development referred to in the under-mentioned Schedule, subject to the conditions set out therein and in accordance with the plans submitted, save insofar as may otherwise be required by the said conditions. Your attention is also drawn to the enclosed Information Sheet.

SCHEDULE

DEVELOPMENT

Erection of two semi-detached single family dwelling houses, with associated off-street parking and external amenity space, at **LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON, W.8**, as shown on submitted drawing(s) No(s). TP/94/0644, TP/94/0644/C and TP/94/0644/D, Applicant's drawing(s) No(s). 7413A/1, L(--)01.D, L(--)02D, L(--)03.D, L(--)04.D, L(--)05.D, L(--)06.D, L(--)07.C, L(--)08.D, L(--)09.C, L(--)10.D, L(--)11.D, L(--)12.D and L(--)100B, in accordance with your application dated 31/03/94, completed 08/04/94, revised 10/02/95, 18/04/95 and 01/05/95.

/ CONDITIONS ...

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission. (C.1)
2. All planting, seeding and turfing comprised in 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. (C.18)
3. 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 development commences and maintained for the duration of building and other operations on the site. (C.21)
4. No tree within the curtilage of the site shall be lopped, topped or felled without the prior written approval in writing of the local planning authority. (C.23)
5. The garage accommodation hereby permitted shall be available at all times for car parking and shall not be adapted for living, commercial or other purposes. (C.28)
6. The development hereby permitted shall be carried out exactly and only in accordance with the drawings and other particulars forming part of the permission and there shall be no variation therefrom without the prior written approval of the local planning authority. (C.68)
7. Notwithstanding the provisions of Article 3 and Part 1 Schedule 2 of the Town and Country Planning General Development Order 1988 no external alterations shall be carried out or extensions constructed to the premises the subject of this permission without the prior approval in writing of the local planning authority. (C.70)
8. The roof slopes of the building(s) hereby permitted shall be clad in natural slates and so maintained. (C.73)
9. No water tank, lift motor room or other roof structure shall be erected which rises above the level of the roof hereby approved. (C.77)

/10. No additional ...

10. 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. (C.85)
11. The courtyard and hardstanding shown on drawing No. L(--)01.D shall not have any impermeable base or surface, and shall be surfaced in gravel and so maintained.
12. Samples of materials numbered 1, 2, 6, 7, 8, 11, 12, 14 and 18 on drawing L(--)100B shall be submitted to and approved in writing by the Executive Director of Planning and Conservation before development commences.
13. No window or opening other than those shown on drawing L(--)10.D, hereby approved, shall be inserted within the rear elevation.
14. The Council's Arboricultural Officer shall be informed, in writing, 7 days before any excavation commences on site.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. As required by Section 91 of the Town and Country Planning Act 1990 to avoid the accumulation of unexercised planning permissions. (R.1)
2. To protect and enhance the amenities of the area. (R.18)
3. To ensure that the trees are adequately protected and to safeguard the amenities of the area. (R.20)
4. To ensure that the trees are adequately protected and to safeguard the amenities of the area. (R.20)
5. To protect the amenities of the area. (R.28)
6. The details are considered to be material to the acceptability of the proposals and to safeguarding the amenities of the area. (R.68)
7. To ensure that future alterations to the exterior of the building do not result in detriment to the amenity of the residential properties to the rear of the site, or detriment to the character or appearance of the Conservation Area.
8. To ensure a satisfactory standard of external appearance. (R.71)
9. To safeguard the appearance of the building. (R.77)
10. To ensure a satisfactory standard of external appearance. (R.85)

/11. To ensure ...

11. To ensure that adequate rainwater drains down to the tree root systems.
12. To ensure a satisfactory standard of external appearance. (R.71)
13. To protect the amenity of nearby residential property.
14. To allow observation of excavation proceedings, and building operations thereafter, in order to ensure that the trees and their root systems are satisfactorily protected.

INFORMATIVES

1. This permission does not permit the use of the premises as temporary sleeping accommodation (including holiday lets or short lets) or any purpose specified in Section 25 of the Greater London Council (General Powers) Act 1973 as substituted by the Greater London Council (General Powers) Act 1983 or as timeshare accommodation as specified in Section 5 of the Greater London Council (General Powers) Act 1984. Use for such purposes would constitute a change of use requiring planning permission and it is the Council's policy to resist such changes of use. (I.2)
2. Planning permission is hereby granted for the development as shown on the approved drawings and subject to the conditions. Any alteration to the approved scheme, resulting from the requirements of the Building Regulations or for any other reason, may require further permission. You are advised to consult the Directorate of Planning Services before commencing work. (I.9)
3. Your attention is drawn to the conditions of this permission and to the Council's powers of enforcement, including the power to serve a Breach of Condition Notice under the Town and Country Planning Act, 1990, as amended. (I.10)
4. Separate approval for the works hereby granted planning permission may be required by the Building Act 1984 and the Building Regulations 1991, and the grant of planning permission does not imply that such approval will be given. The Director of Building Control, Council Offices, 37 Pembroke Road, W8 6PW should be consulted before works commence. (I.21)
5. The development hereby permitted must comply with the Highways Act 1959-80. The Director of Highways and Traffic, Council Offices, 37 Pembroke Road, W8 6PW should be consulted on the positioning of buildings in relation to the highway, points of vehicle access and the width of the highway. (I.24)

/6. Your attention ...

6. Your attention is drawn to the British Standards Code of Practice for Demolition (CP 94 : 1971) the observance of which should considerably reduce the risks inherent in demolition work (particularly in relation to fire hazards arising from the practice of burning materials on site) both to operatives on the site and to the general public. (I.31)
7. The Naming and Numbering Legislation requires that premises display their street number, and no name or number other than that formally assigned may be displayed. Requests for the assignment of names and numbers to new development should be made to the Executive Director of Planning and Conservation, Town Hall, Hornton Street, W8 7NX, well in advance of the completion of building. (I.39)
8. In granting this permission the Council has had regard to Planning Obligation(s) under Section 106 of the Town and Country Planning Act 1990 as amended. (I.8)

Yours faithfully,

Executive Director, Planning & Conservation

pursuant to the provisions of the Act or any statutory amendment or re-enactment thereof and this agreement shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been issued by the Council or any other appropriate person or authority pursuant to the provisions of the Act or any statutory amendment or re-enactment thereof

6. On completion of this Agreement the Owner shall pay the Council's reasonable legal costs for the preparation and completion of this Agreement

7. The Owner confirms that he has obtained all necessary permissions and consents required from any mortgagee covenantee or any other person to his entering this agreement

8. The Owner covenants with the Council as follows:-

With effect from the implementation of the Planning Permission not to occupy nor permit the occupation of either or both of the two semi-detached single family dwellinghouses part of the Development until the works to extend the footway shown on plan 2 annexed to this Agreement have been completed to the satisfaction of the Executive Director

9. The Council undertakes following the execution of this Agreement to issue formal Planning Permission in response to the Application in the form annexed hereto subject to the conditions restrictions provisions and other matters referred to herein

10. The Mortgagee hereby consents to the completion of this Agreement and acknowledges that from the date of the Agreement the Land shall be bound by the restrictions and obligations contained herein

11. Where the context so requires:-

(a) The singular includes the plural and vice versa and one gender includes all other genders

(b) References to any party shall include the successors in title of that party

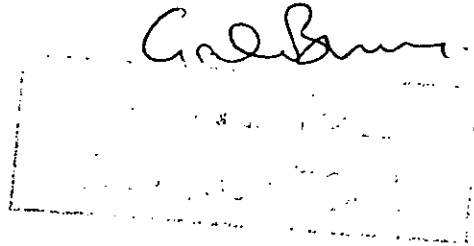
(c) Where a party includes more than one person any obligations of that person shall be joint and several

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27 JUN 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	IC	Files	Forward	Head

IN WITNESS of which the Parties have sealed this planning obligation by agreement as a deed

on the date first above written

THE COMMON SEAL of THE MAYOR)
AND BURGESSES OF THE ROYAL)
BOROUGH OF KENSINGTON AND)
CHELSEA was hereunto affixed)
in the presence of:-)

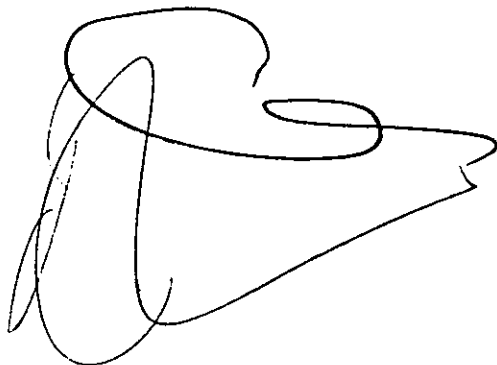
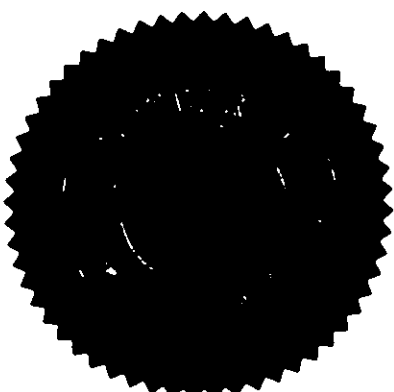


EXECUTED as a DEED by MEADVIEW)
(DEVELOPMENTS) LIMITED in the)
presence of:-)

[Handwritten Signature] DIRECTOR

[Handwritten Signature] SECRETARY

EXECUTED as a DEED by)
DUNBAR BANK PLC in the)
presence of:-)



DATED 22nd June 1995

THE MAYOR AND BURGESSES
OF THE ROYAL BOROUGH OF
KENSINGTON AND CHELSEA

- and -

MEADVIEW (DEVELOPMENTS) LIMITED

- and -

DUNBAR BANK PLC

AGREEMENT

Under Section 106 of the
Town and Country Planning Act 1990
(as amended by the Planning and
Compensation Act 1991)

Re: Land on and adjacent to
4 St Mary Abbots Place,
Kensington, W8

A.G. Phillips
Director of Legal Services
The Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
LONDON
W8 7NX

Our Ref: LP/CJC

Tel: 0171-361-2180

LP1-6-6

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27 JUN 1995

Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Office	Forward Plan	Head DC

MEMORANDUM

14/0649

To: Planning & Conservation
Local Land Charges

From: Director of Legal Services

cc:

Our Ref: LeVerne Parker/CJC
Room No: 313

Your Ref: ~~P Valletly~~
A Horan
L McBarnette

Ext No: 2180

Date: 26 June 1995

4 ST MARY ABBOTS PLACE
SECTION 106 AGREEMENT

Please find attached a copy of the completed Section 106 Agreement.

Please could the Agreement be registered as a local land charge and the planning permission issued.

LeVerne Parker

LeVerne Parker
For Director of Legal Services

RECEIVED BY PLANNING SERVICES				
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26 JUN 1995				<i>qpi</i>
Exec Dir	<i>PA</i>	Records	ARB	Cor Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

THIS PLANNING OBLIGATION BY AGREEMENT is dated the 22nd day of June One thousand nine hundred and ninety-five BETWEEN (1) THE MAYOR AND BURGESSES OF THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA of The Town Hall Hornton Street London W8 7NX ("the Council") (2) MEADVIEW (DEVELOPMENTS) LIMITED whose registered office is situate at 23 Bridford Mews London W1N 1LQ ("the Owner") (3) DUNBAR BANK PLC of 9 Sackville Street London W1A 2JP ("the Mortgagee")

WHEREAS

(1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 ("the Act") for the area within which the land known as land on and adjacent to 4 St Mary Abbots Place Kensington W8 ("the Land") (shown for identification purposes outlined in red on plan 1 attached hereto) is situated

(2) The Owner has the freehold interest in the Land registered at H.M. Land Registry under Title Nos. BGL10701 BGL10702 and BGL1073 and the land is subject to a legal charge dated the 17th day of May 1994 in favour of the Mortgagee who joins in this Agreement to consent to the binding of the Land by the terms of this Agreement

(3) On 31 March 1994 the Owner submitted a planning application under reference no TP/94/0644/G/42 to the Council for permission to develop the Land for the erection of two semi-detached single family dwellinghouses with associated off street parking and external amenity space ("the Development")

(4) The Council is a local authority for the purpose of Section 111 of the Local Government Act 1972 and is satisfied that the arrangements made in this Agreement will facilitate be conducive to and be incidental to the Council's functions

(5) The Council is satisfied that the development is such as may be approved by the Council under the Act subject to the Owner first entering into this Agreement

(6) The Owner has therefore agreed to enter into this Agreement in order to secure the Council's objectives

(7) In this Agreement "Executive Director" means the Council's Executive Director Planning and Conservation and shall be deemed to mean the Officer of the Council from time to time holding that appointment or (if not officer holds that appointment) carrying out the duties of the appointment

NOW IT IS AGREED as follows:-

1. This Planning Obligation by agreement is made pursuant to

(a) Section 106 of the Act

(b) Section 111 of the Local Government Act 1972 and

(c) Section 16 of the Greater London Council (General Powers) Act 1974

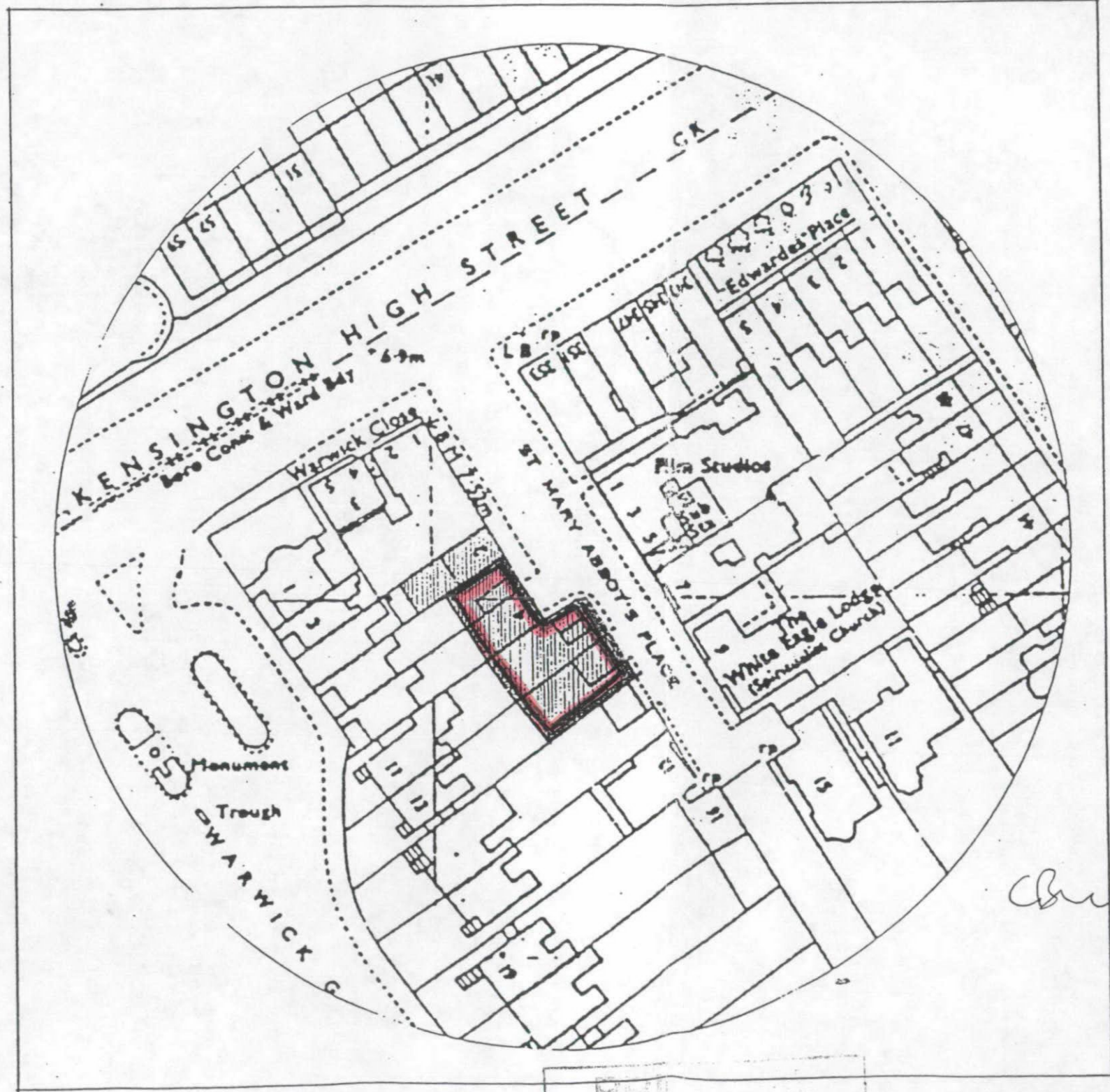
to the intent that it shall bind the Owner [and the Mortgagee] and his/their successors in title to each and every part of the Land and their assigns as provided in these sections

2. This Agreement shall be enforceable by the Council but no waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner

3. No person or company shall be liable for any breach of this Agreement unless it holds an interest in the Land in respect of which such breach occurs or held such an interest at the date of breach provided however that in no event shall the Mortgagee be liable for any such breach unless at the date of the breach it is a mortgagee in possession of the Land

4. The provisions of this Agreement shall become binding upon the Land upon the granting by the Council of planning permission ("the Planning Permission") in response to the Application referred to in Recital 3 hereof

5. Nothing in this Agreement shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or under any other appropriate power or Authority



Title	LOCATION DWG.	Cr/SIB	Date
	SITE LOCATION PLAN.		
Job	ST MARY ABBOTS PLACE WB.	Architects	Job No.
	PLAN 1		
Architects		Job No.	
ROGER CARPENTER KERR AND O'HARA		94002. L (---) 00.	
100 FULHAM ROAD LONDON SW3 6HS TEL 071 225 2511/2/3		DWG NO.	
		FEBRUARY 1994.	
		MEADVIEW DEV LID.	
		Dwg by GRK.	
		Client	
		Scale	
		1:1000.	

Scale	1:1000.
Dwg by	GRK.
Client	MEADVIEW DEV LID.
Date	FEBRUARY 1994.
Job No.	94002. L (---) 00.
DWG NO.	

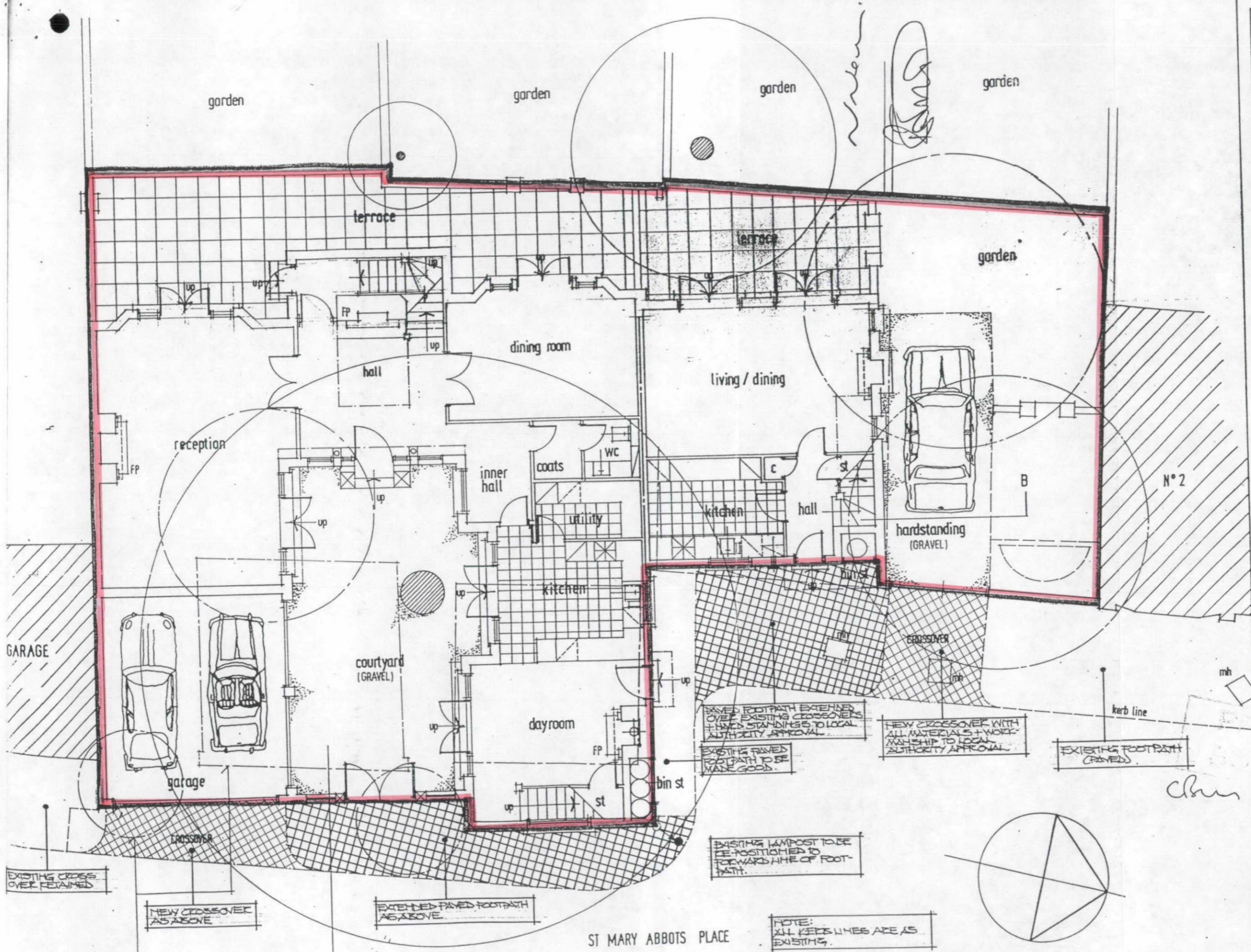
Revisions

DO NOT SCALE. ALL DIMENSIONS TO BE CHECKED ON SITE.

Handwritten signatures: *C. Kerr* and *R. O'Hara*



DO NOT SCALE. ALL DIMENSIONS TO BE CHECKED ON SITE.



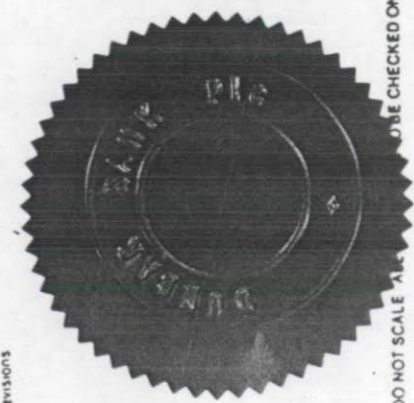
ST MARY ABBOTS PLACE

line of trees + buildings to be removed
- see Survey Dwg + Tree Survey for details of trees.

NOTE:
ALL KERB LINES ARE AS EXISTING.

Title LOCATION DWG. SITE / GROUND FLOOR G.A. - WORKS TO FOOTPATH PLAN. RAN 2	Date FEBRUARY 1994.	Client MEADVIEW DEV LTD.	Job ST MARY ABBOTS PLACE W8.
Scale 1:100.	Dwg by GRK.	DWG NO. 94.002.	ARCHITECTS ROGER CARPENTER KERR AND O'HARA 108 FULHAM ROAD LONDON SW3 8SS TEL 071 225 2541/2/3

Scale 1:100.	Date FEBRUARY 1994.	Client MEADVIEW DEV LTD.	Job ST MARY ABBOTS PLACE W8.
Dwg by GRK.	DWG NO. 94.002.	L (S106) 01.D	ARCHITECTS ROGER CARPENTER KERR AND O'HARA 108 FULHAM ROAD LONDON SW3 8SS TEL 071 225 2541/2/3



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PLANNING AND CONSERVATION

THE TOWN HALL • HORNTON STREET • LONDON W8 7NX

THE ROYAL
BOROUGH OF

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

Roger Carpenter
Kerr and O'Hara,
106 Fulham Road,
London SW3 6HS

Switchboard: 0171-937 5464
Direct Line: 0171-361 2646
Facsimile: 0171-361 3463



KENSINGTON
AND CHELSEA

My reference:

Your reference:

Please ask for:

DPS/PV/TP/94/0644/G/18/2195

Miss P. Vallely

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING ACT, 1990
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER, 1988**

Permission for development (Conditional) (TP6a)

The Borough Council hereby permit the development referred to in the under-mentioned Schedule, subject to the conditions set out therein and in accordance with the plans submitted, save insofar as may otherwise be required by the said conditions. Your attention is also drawn to the enclosed Information Sheet.

SCHEDULE

DEVELOPMENT

Erection of two semi-detached single family dwelling houses, with associated off-street parking and external amenity space, at **LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON, W.8**, as shown on submitted drawing(s) No(s). TP/94/0644, TP/94/0644/C and TP/94/0644/D, Applicant's drawing(s) No(s). 7413A/1, L(--)01.D, L(--)02.D, L(--)03.D, L(--)04.D, L(--)05.D, L(--)06.D, L(--)07.C, L(--)08.D, L(--)09.C, L(--)10.D, L(--)11.D, L(--)12.D and L(--)100B, in accordance with your application dated 31/03/94, completed 08/04/94, revised 10/02/95, 18/04/95 and 01/05/95.

/ CONDITIONS ...

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission. (C.1)
2. All planting, seeding and turfing comprised in 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. (C.18)
3. 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 development commences and maintained for the duration of building and other operations on the site. (C.21)
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7. Notwithstanding the provisions of Article 3 and Part 1 Schedule 2 of the Town and Country Planning General Development Order 1988 no external alterations shall be carried out or extensions constructed to the premises the subject of this permission without the prior approval in writing of the local planning authority. (C.70)
8. The roof slopes of the building(s) hereby permitted shall be clad in natural slates and so maintained. (C.73)
9. No water tank, lift motor room or other roof structure shall be erected which rises above the level of the roof hereby approved. (C.77)

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13. No window or opening other than those shown on drawing L(--)10.D, hereby approved, shall be inserted within the rear elevation.
14. The Council's Arboricultural Officer shall be informed, in writing, 7 days before any excavation commences on site.
15. 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 treatment of the open land within the site including hard and soft landscaping. (C.11)

REASONS FOR THE IMPOSITION OF CONDITIONS

1. As required by Section 91 of the Town and Country Planning Act 1990 to avoid the accumulation of unexercised planning permissions. (R.1)
2. To protect and enhance the amenities of the area. (R.18)
3. To ensure that the trees are adequately protected and to safeguard the amenities of the area. (R.20)
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14. To allow observation of excavation proceedings, and building operations thereafter, in order to ensure that the trees and their root systems are satisfactorily protected.
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INFORMATIVES

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/4. Separate ...

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8. In granting this permission the Council has had regard to Planning Obligation(s) under Section 106 of the Town and Country Planning Act 1990 as amended. (I.8)

Yours faithfully,

Executive Director, Planning & Conservation

pursuant to the provisions of the Act or any statutory amendment or re-enactment thereof and this agreement shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been issued by the Council or any other appropriate person or authority pursuant to the provisions of the Act or any statutory amendment or re-enactment thereof

6. On completion of this Agreement the Owner shall pay the Council's reasonable legal costs for the preparation and completion of this Agreement

7. The Owner confirms that he has obtained all necessary permissions and consents required from any mortgagee covenantee or any other person to his entering this agreement

8. The Owner covenants with the Council as follows:-

With effect from the implementation of the Planning Permission not to occupy nor permit the occupation of either or both of the two semi-detached single family dwellinghouses part of the Development until the works to extend the footway shown on plan 2 annexed to this Agreement have been completed to the satisfaction of the Executive Director

9. The Council undertakes following the execution of this Agreement to issue formal Planning Permission in response to the Application in the form annexed hereto subject to the conditions restrictions provisions and other matters referred to herein

10. The Mortgagee hereby consents to the completion of this Agreement and acknowledges that from the date of the Agreement the Land shall be bound by the restrictions and obligations contained herein

11. Where the context so requires:-

- (a) The singular includes the plural and vice versa and one gender includes all other genders
- (b) References to any party shall include the successors in title of that party
- (c) Where a party includes more than one person any obligations of that person shall be joint and several

IN WITNESS of which the Parties have sealed this planning obligation by agreement as a deed

on the date first above written

THE COMMON SEAL of THE MAYOR)
AND BURGESSES OF THE ROYAL)
BOROUGH OF KENSINGTON AND)
CHELSEA was hereunto affixed)
in the presence of:-)

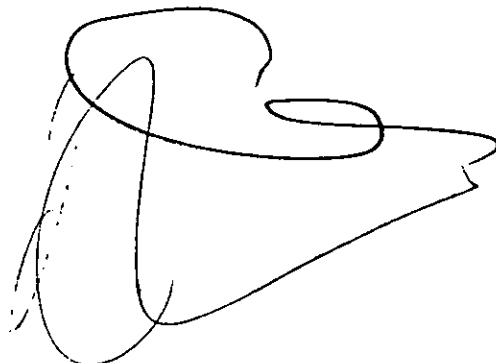
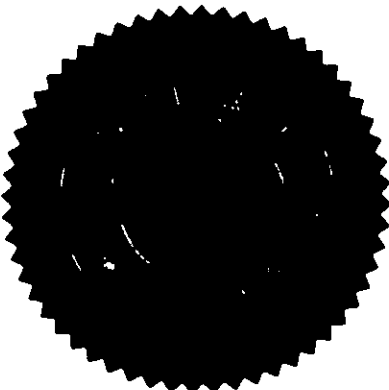
Colburn
[Faint rectangular stamp]

EXECUTED as a DEED by MEADVIEW)
(DEVELOPMENTS) LIMITED in the)
presence of:-)

[Signature] DIRECTOR

[Signature] SECRETARY

EXECUTED as a DEED by)
DUNBAR BANK PLC in the)
presence of:-)



DATED 22nd June 1995

THE MAYOR AND BURGESSES
OF THE ROYAL BOROUGH OF
KENSINGTON AND CHELSEA

- and -

MEADVIEW (DEVELOPMENTS) LIMITED

- and -

DUNBAR BANK PLC

AGREEMENT

Under Section 106 of the
Town and Country Planning Act 1990
(as amended by the Planning and
Compensation Act 1991)

Re: Land on and adjacent to
4 St Mary Abbots Place,
Kensington, W8

A.G. Phillips
Director of Legal Services
The Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
LONDON
W8 7NX

Our Ref: LP/CJC

Tel: 0171-361-2180

LP1-6-6

At a Meeting of the Planning & Conservation Committee held at The Town Hall, Hornton Street, London W8 7NX on Monday 1st May 1995 at 6.30 p.m.

PRESENT:

Councillor Desmond Harney, O.B.E., B.Sc. (Chairman)
Councillor John Cox, M.A, F.C.A.
Councillor Richard Currie
Councillor Ian Donaldson
Councillor Mark Field
Councillor Patrick James Gillford
Councillor Bridget Hoier
Councillor L. A. Holt, B.Sc., F.I.Mech.E.
Councillor Rima Horton
Councillor Bryan P. Levitt, M.A., Ph.D., F.R.S.C. (Vice-Chairman)
Councillor Barry Phelps
Councillor Mrs. Frances Taylor

The interleaved agenda and reports A1-A22 and B1 were before the meeting. The press and public were excluded during the consideration of report B1 and the reason for such exclusion, together with a summary of the proceedings in relation to the report, is included below.

The report of the proceedings at this meeting made to the meeting of the Council held on 17th May is also interleaved (AA).

AGENDA - PART A

PROCEEDINGS DURING WHICH THE PRESS AND PUBLIC WERE ABLE TO BE PRESENT

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Sarah Bonner and Timothy Boulton.

MINUTES OF THE MEETING HELD ON 27TH FEBRUARY 1995

The Minutes of the meeting held on 27th February 1995 were confirmed as a correct record and signed by the Chairman.

A1 MISCELLANEOUS MATTERS

Paragraph 1 - Delegated Functions

Councillor Horton expressed concern about certain flyposting, of a highly offensive nature, which had recently come to her attention: she would pass details to

the Director of Legal Services to consider whether legal or other action was appropriate.

RESOLVED-

That, subject to the above, the recommendations be adopted.

Paragraph 2 - Action taken Pursuant to Standing Order 47

The Committee noted that action had been taken, pursuant to Standing Order 47, as follows:

- (i) Agreement to the deletion of one post within the Building Control Section.
- (ii) Agreement, following the decisions of the Planning & Conservation Committee on 27th February, to the form of words to be recommended to Council for the proposed modification of UDP Policy H24A (and accompanying paragraphs 5.9 and 5.10) and the Schedule of Major Sites; and that these be placed on deposit for public consultation.

A2 RESULTS OF PLANNING APPEALS

The report was received and noted.

A3 REFERENCE FROM THE PLANNING SERVICES COMMITTEE (1ST AND 14TH MARCH AND 4TH APRIL 1995 MEETINGS)

The report was received and noted.

A4 REFERENCE (NO.1) FROM THE POLICY & RESOURCES COMMITTEE (28TH FEBRUARY 1995) - CAPITAL RESOURCES 1995/96

The report was received and noted.

A5 REFERENCE (NO.1) FROM THE POLICY & RESOURCES COMMITTEE (28TH FEBRUARY 1995) - THE SINGLE REGENERATION BUDGET

The report was received and noted.

A6 THE SINGLE REGENERATION BUDGET - PLANNING & CONSERVATION PROJECTS

Officers were asked to pursue every possibility for taking these and other similar schemes forward on a partnership funding or joint sponsorship basis.

RESOLVED-

That, subject to the above, the recommendations be adopted.

A7 MGM CINEMA, 142-150 FULHAM ROAD, LONDON SW10 - PLANNING APPLICATION


The Executive Director of Planning & Conservation reported the receipt of, and summarised the content of, further representations received subsequent to the drafting of the Committee report from local residents, from Councillor Alick Whitfield and from the applicant's agent. He reminded Members that the applicant had already appealed against the Council's non-determination of the application.

RESOLVED-

That the recommendation be adopted and planning permission refused, on the basis set out in the report.

(Reported to Council)

A8 4 ST. MARY ABBOT'S PLACE, LONDON W8 - PLANNING APPLICATION

 The Executive Director of Planning & Conservation reported the receipt of, and summarised the content of, further representations received subsequent to the drafting of the Committee report from local residents, and from Councillors Miss Christmas and Munday. A letter from the Edwardes Square, Scarsdale & Abingdon Association was circulated at the meeting, as were two detailed plans of the site (copies of which have been placed on the Minute Book).

The Committee asked that an additional condition, the precise wording of which to be agreed with the Chairman, be imposed requiring the applicant to undertake some appropriate tree-planting at the rear of the new buildings.

RESOLVED-

That, subject to the inclusion of condition C11(d) and reason R11, the recommendation be adopted and planning permission **granted**.

A9 FLOATING HELIPAD ON THE THAMES

RESOLVED-

That the recommendation be adopted.

(Reported to Council)

A10 AMENDMENTS TO PLANNING LEGISLATION

The report was received and noted.

(Reported to Council)

A11 SHOPFRONT GUIDELINES - THE CONSERVATION OF HISTORIC SHOPFRONTS AND SHOPPING STREETS

The Chairman reported that the Development Plans Advisory Group had warmly welcomed the proposed publication, subject only to some helpful comments on the structure and detail of the document.

The Committee suggested that the document would be more 'user-friendly' were the key policies to be placed together with relevant advice, and suitably highlighted, at the appropriate places within the text.

The Executive Director of Planning & Conservation was asked to include reference to toughened glass, as a more attractive alternative to shuttering; and to include clear guidance also about those types of illuminated signs which the Council considered acceptable.

RESOLVED-

That, subject to the above, the recommendation be adopted.

(Reported to Council)

A12 STRATEGIC GUIDANCE FOR LONDON PLANNING AUTHORITIES - CONSULTATION DRAFT OF REGIONAL PLANNING GUIDANCE NOTE 3 (RPG3)

RESOLVED-

That the recommendations be adopted but that the meeting of the Unitary Development Plan Working Party be arranged for 5.30 p.m. on 7th June.

(Reported to Council)

A13 PLANNING POLICY GUIDANCE NOTE 2 (PPG2) - GREEN BELTS

The report was received and noted.

(Reported to Council)

A14 LONDON PLANNING ADVISORY COMMITTEE - DRAFT SUPPLEMENTARY GUIDANCE ON WASTE AND MINERALS

The report was received and noted.

(Reported to Council)

A15 THE LISTING OF POST-WAR BUILDINGS

The Chairman reported that the Advisory Group had indicated that it was unable to support the listing of this building.

RESOLVED-

That the recommendation be adopted but that, in the response to English Heritage, reference be made of the poor quality of the building's rear elevation.

(Reported to Council)

A16 CONSERVATION GRANTS/BRIGHTEN-UP-THE-BOROUGH FUND**RESOLVED-**

That the recommendations be adopted.

A17 REVIEW OF THE SHARED-COST TREE-PLANTING SCHEME

The Executive Director of Planning & Conservation circulated two additional sheets of statistical and geographical information about sponsored tree planting in the Borough between 1992 and 1995.

RESOLVED-

That the recommendations be adopted.

A18 TREE ROOT CLAIMS - PROGRESS REPORT ON THE RISK-LIMITATION STRATEGY

The report was received and noted.

A19 THE HANDLING OF PLANNING APPLICATIONS (JANUARY-MARCH 1995)

The report was received and noted.

A20 PLANNING SERVICES - PERFORMANCE MONITORING (JANUARY-MARCH 1994)

The Committee noted that there was an error in column three (September 1993) of the graphical display for Cost Centre 1C.

Subject to the above, the report was received and noted.

A21 BUILDING CONTROL - PERFORMANCE MONITORING (JANUARY-MARCH 1994)

The report was received and noted.

A22 ENVIRONMENT AWARD SCHEME 1995**RESOLVED-**

That the recommendations be adopted.

OTHER URGENT PART A MATTERS

There were no further urgent written or oral matters for report under this part of the agenda.

EXCLUSION OF THE PRESS AND PUBLIC**RESOLVED-**

That the press and public be excluded from the remainder of the proceedings by reason of the private nature of the business to be transacted.

Those proceedings, and a description of the private information dealt with, are summarised as follows:

Report and description of the Private Information Dealt With**Summary of Proceedings****B1 PROPOSED LETTING**

Not for publication by virtue of information relating to the amount of any expenditure proposed to be incurred by the Authority under any particular contract for the acquisition of property or the supply of goods or services.

Agreement to the lessee for, and detailed terms of, one letting.

The meeting ended at 9.00 p.m.

At a Meeting of the Planning & Conservation
Committee held at The Town Hall, Hornton
Street, London W8 7NX on Monday 1st May
1995 at 6.30 p.m.

AGENDA - PART B

**PROCEEDINGS DURING WHICH THE PRESS AND PUBLIC WERE
EXCLUDED**

B1 1 BLENHEIM CRESCENT, LONDON W11 - PROPOSED LETTING

RESOLVED-

That the recommendations be adopted.

OTHER URGENT PART B MATTERS

There were no urgent written or oral matters for report under this part of the agenda.

The meeting ended at 9.00 p.m.

Chairman

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director MICHAEL J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

Vera Ayre Cheyne
1 Warwick Close
355 Kensington High Street
London
W.8 6NP

Telephone: 0171-937 5464
Extension: 2011
Direct Line: 0171 361 2011
Facsimile: 0171-361 3463

10 May 1995

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference:
DPS/DCC/TP/94/0644/DT

Your reference:

Please ask for:
Mr D. Taylor

Dear Madam,

Town and Country Planning Act, 1990
4 St. Mary Abbots Place W.8

I refer to your letter dated May 3rd 1995, in connection with the application for Planning Permission to construct two houses at the above site.

I am afraid that you did write too late for your letter to be considered by the Planning and Conservation Committee at the meeting when they considered the proposal, however your earlier letter was taken into account.

The tree to which you refer is subject to a Tree Preservation Order and clearly provides a very important contribution to the character of the area. The Committee, and Council Officers, have always been concerned that the grand Plane tree should be absolutely unharmed if the principle of development on the site is accepted. In the end the Committee resolved to grant Planning Permission, but subject to a number of conditions to ensure that the tree is safeguarded.

I thank you for your comments on the application.

Yours faithfully,

Lesley Jones
Area Planning Officer
for
Executive Director of Planning and Conservation

✓
cm
515

1, Warwick Close
355 Kensington High Street,
London W8 6NP
May 3rd 1995

Your reference:- D.P.S./DCC/DT/TP/94/0644

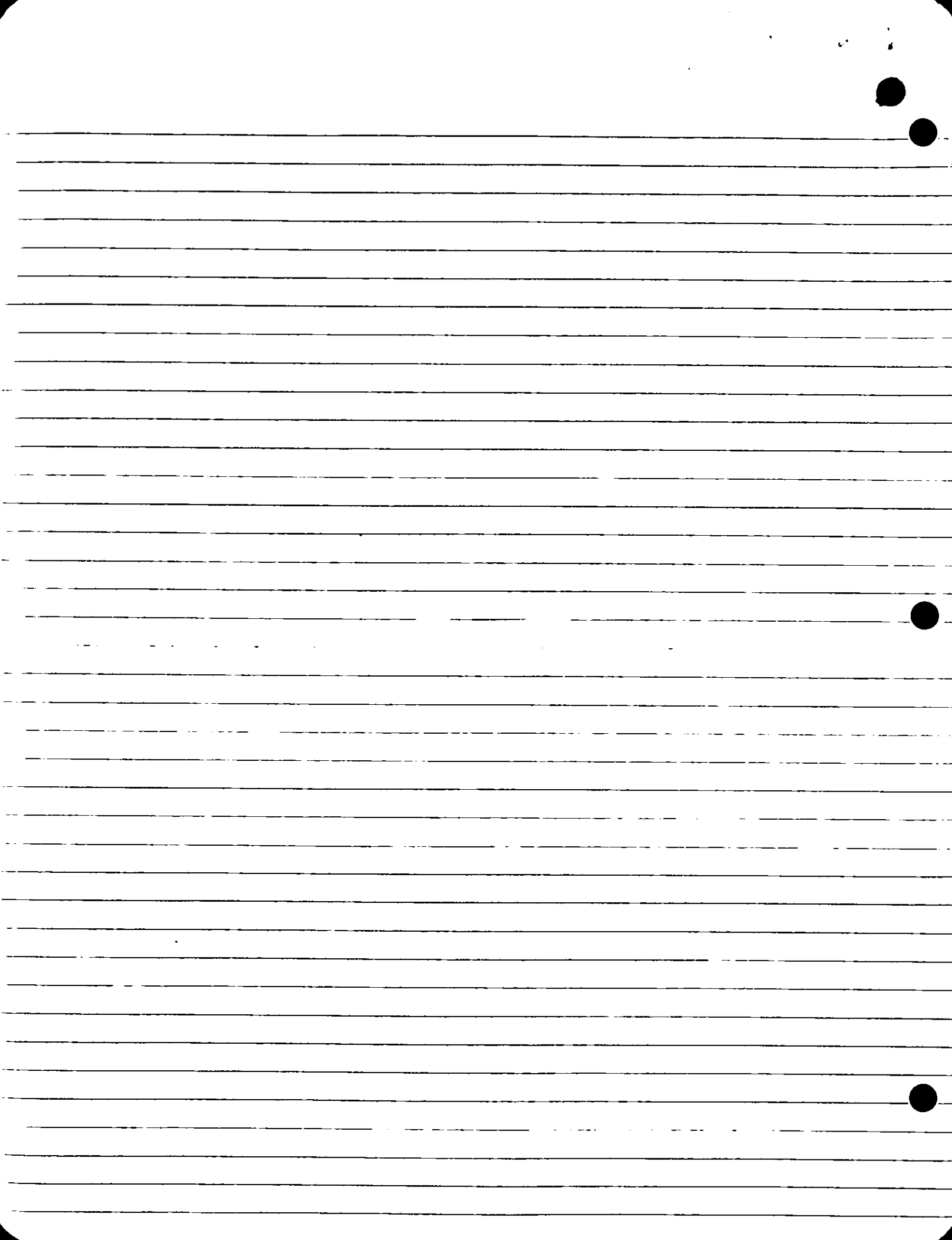
Dear Mr. French.

Thank you; for your letter dated
April 19th, 1995, referring to land on and adjacent to No.4,
St. Mary Abbots Place, Kensington W.8, it arrived after I
had left home for a holiday, & I have just returned!
Too late for your given date for any comments, -
but have written to you earlier stating I have
no objection as long as all the precious
trees are not destroyed but ^{are} well preserved
during the building of this planned proposal.

Yours sincerely

Bera Aye Cheyne (Mrs)

RECEIVED BY PLANNING SERVICES				
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Appeals Office	10	Fees Officer	Forward Plan	Head DC



1/ DT
2/ File

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PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director Mr MICHAEL FRENCH FRICS Dip TP MRTPI Cert TS

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

Robert Hughes Esq.,
Hon. Secretary,
The Chesterton Society,
11 Lawrence Leys,
Bloxham,
Oxon, OX15 4NH.

Telephone: 0171-937 5464
Extension: 2057
Direct Line: 0171 361 2057
Facsimile: 0171-361 3463

9 May 1995

My reference:
DPC/DCC/DT/TP/94/0644

Your reference:

Please ask for:
Lesley Jones

Dear Mr. Hughes,

Town and Country Planning Act 1990
Re: 4 St. Mary Abbots Place, Kensington, W.8.

Thank you for your letter received on 28th April. Your continued objections to the current planning application at the above site were reported to the Planning Services Committee when it met to consider the case on 1st May 1995. The application was debated at great length by the Committee who finally resolved that planning permission should be granted.

I know that this is not the decision that you would have wanted, but I would assure you that this difficult case was given the very fullest consideration.

Yours sincerely,

M. J. French,
Executive Director, Planning and Conservation.

94/0644 F

MEMORANDUM

To: LeVerne Parker,
Legal Services.

From: Executive Director,
Planning and Conservation.

c.c: Head of Development Control

My Ref: DPC/MJF/PYD
Room No. 322B

Your Ref: LP
Room No. 313

Ext. 2075

Date: 10 May 1995

Re: 4 St. Mary Abbots Place

Following the recent decision to grant permission at the above property, I have now received from the applicants a draft of the proposed 106 and note that they would prefer a unilateral obligation.

I understand that you have already sent our draft to them and perhaps you could read their proposals in conjunction with ours and arrive at a mutually acceptable form of wording. I am anxious to conclude this obligation/agreement as soon as possible in order to ensure that the duplicate application is withdrawn.

Perhaps you could keep me informed of progress.

M. J. French,
Executive Director, Planning and Conservation.



**THE
BELL
CORNWELL
PARTNERSHIP**
CHARTERED TOWN PLANNERS

COPY TO AD JAVIER

EELA House
Station Road
Hook
Hampshire
RG27 9TL
Tel: (01256) 766673
Fax: (01256) 768490

C:\WP51\SA\2258MAY.NW

Executive Director
Directorate of Planning and Transportation
Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
London
W8 7NX

F.A.O. Mr M J French

3rd May 1995

Dear Sir,

4 St Mary Abbots Place, W8

Following the Committee Meeting on Monday 1st May 1995, we are pleased to confirm that our clients, Meadview (Developments) Ltd, would withdraw the "duplicate" recent planning and conservation area consent applications, yet to be put to any Committee, upon receipt of the planning permission and conservation area consent decision letters for the applications determined on Monday evening, on the basis of the draft conditions proposed.

With regard to the outstanding Section 106 planning obligation to restore the public footway fronting the development site, we are pleased to enclose a draft obligation for your comments, to which should be added the respective maps.

It is currently expressed in terms of an Agreement. However, to minimise the work load to the Council, we are equally content to express it as a unilateral obligation.

We look forward to receiving your response at the earliest opportunity and on behalf of the applicants, wish to express our appreciation of the integrity and efforts of your officers in resolving this matter.

Yours faithfully,

THE BELL CORNWELL PARTNERSHIP

Ian Sowerby

SIMON AVERY

(dictated by the writer and signed in his absence)

cc: Charles Barrow - Meadview (Developments Ltd)
Enclosure

DRAFT

THIS AGREEMENT is made the day of One thousand nine hundred and ninety-five BETWEEN MEADVIEW (DEVELOPMENTS) LIMITED (hereinafter called "The Applicant") of the first part whose registered office is at and THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA of The Town Hall Hornton Street London W8 7NX (hereinafter called "The Local Authority") of the second part

WHEREAS:-

1. The Local Authority is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 (hereinafter called "The Act") for the area within which the property described in the First Schedule hereto is situate (hereinafter called "The Land")
2. "The LGA 1972" means the Local Government Act 1972
3. "The GLC (GP) A 1974" means the Greater London Council (General Powers) Act 1974
4. The Applicant is the owner in fee simple of the land.
5. The Applicant has by their agent made application for permission to develop that part of the Land shown edged red on the attached plan in the manner set out in the Second Schedule hereto (hereinafter called "The Development")
6. The Local Authority duly considered the said application and has resolved to grant planning permission subject to the Applicant agreeing to enter into a covenant to observe and perform the planning obligations as hereinafter contained

NOW THIS DEED WITNESSETH as follows:-

1. IN the event of The Development being implemented the Applicant HEREBY COVENANTS with the Local Authority (having the benefit of the planning obligations hereinafter referred to) pursuant to Section 106 of the Act AND s.111 LGA 1972 AND s. 16 GLC (GP) A 1974 to the intent that this covenant shall be enforceable against any person deriving title under them or their interest in the Land to observe and perform the planning obligations specified in the Second Schedule hereto to the effect that the the Land shall be permanently subject thereto
2. AND IT IS HEREBY AGREED THAT the Owner shall discharge the Local Authority's costs of the preparation and completion and noting of this Agreement and a duplicate thereof on the date hereof

3. THIS Agreement shall be registered in the Register of Local Land Charges and any other Register as the Local Authority shall determine
4. IN this Agreement where the context so admits:-
 - (a) the expression "the Applicant" and "the Local Authority" shall include the persons deriving title under them respectively and if there are two or more persons included in those expressions covenants expressed to be made by them shall be deemed to be made jointly and severally (if appropriate)
 - (b) words importing the masculine gender include the feminine and neuter genders
 - (c) words importing the singular include the plural and vice versa
5. THIS instrument or document hereby expresses itself as executed as a Deed

IN WITNESS whereof the Applicant has hereunto set his Common Seal the day and year first before written

THE FIRST SCHEDULE

ALL THAT plot of land on and adjacent to 4 St Mary Abbots Place, London W8 and shown edged red on the attached plan

THE SECOND SCHEDULE

Application Number TP/94/0644/G/42 for the erection of two semi-detached single family dwelling houses with associated off-street parking and external amenity space

THE THIRD SCHEDULE

The footway shown edged green on the attached plan to be reinstated to the Council's satisfaction

THE COMMON SEAL of MEADVIEW (DEVELOPMENTS) LIMITED
was hereunto affixed in the presence of:-

Director

Secretary

File DP/94/0644

LAJ
y DT
3 File

Mr. Adam Fergusson,
15 Warwick Gardens,
LONDON, W14 8PH.

12 May 1995

Re: 4 St. Mary Abbots Place, W.8.

Thank you for your philosophical, if resigned, approach to the matter. I will see that Mr. French runs the wording of the Planning permission over with you before it is issued.

On the double whammy of the Red Route, you should know that this is - and always largely has been - out of our hands. Having successfully (yes) got "Priority Routes", as is the bureaucratic name) deflected from Holland Park Avenue and the Fulham Road, we then strove mightily to win some amendment on hours of operation in the interest of residents and businesses along the routes, but to no avail.

All is in the hands of the Traffic Director for London (part of GOL! - the Government Office for London) who is to be found at Millbank Tower, 21/24 Millbank, London, SW1P 4QU.

But I can tell you now that you haven't an iceberg's chance in hell of getting him to deflect your particular Red Route as it is part of one of the key Priority Routes (i.e. the "Earl's Court one-way system"), or indeed any Red Route now. We couldn't shift him even on minor limitations of the hours of operation!

By the way, your section is due to come into force - and the lines actually painted red next year.

Councillor Desmond Harney, OBE,
Chairman - Planning and Conservation Committee.

ENGLISH HERITAGE

TP/94/0644



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04 MAY 1995			28.	
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Director of Planning Services
 The Royal Borough of Kensington & Chelsea
 The Town Hall
 Hornton Street
 London W8 7NX

Your ref: DPS/DCC/
 DT/TP/94/0644
 Our ref:LR/8035
 Dial:0171 973 3763

1 May 1995

Dear Sir

LAND ON AND ADJACENT TO NO.4 ST MARY ABBOTS PLACE, W8

Date of Application: 9.3.95

Applicants: Meadview Development Ltd

Works: Demolition of existing 2 storey detached building & adjacent single storey garages.

With reference to your letter of notification dated 19.4.95 for works of demolition at the above address, English Heritage does not wish in this case to make any representations.

Yours faithfully

P Calvocoressi
 London Region

LR23

TP/97/0644

WS

Development opportunities

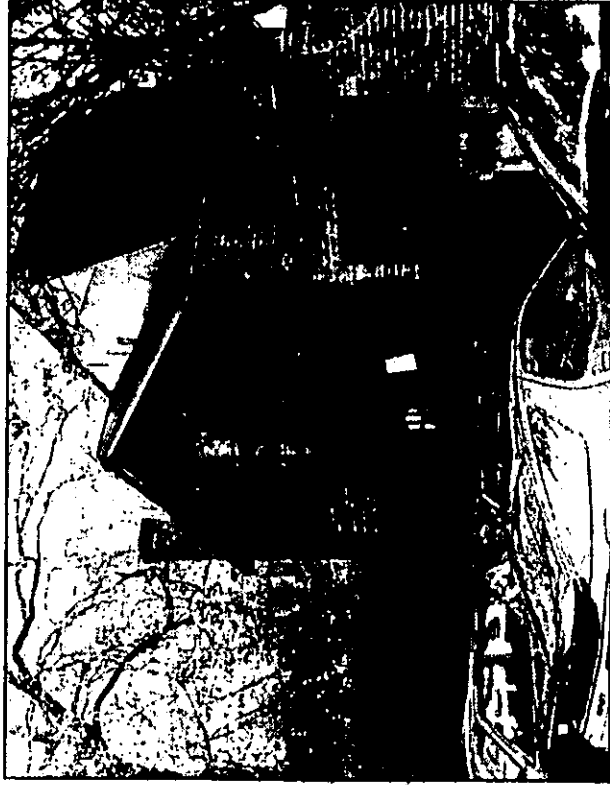
THE DEVELOPMENT - or, as many think overdevelopment - of the Royal Borough goes on apace and every month sees a new batch of approvals for roof, side, rear extensions to local properties being approved by the planning committee, with the odd refusal or two to maintain the illusion that the council is still in control of the local environment. It isn't, and hasn't been for some years, and the function of its planning department is now increasingly being seen by the electorate as more of an exercise in damage limitation than in environmental control. Not that the planners are entirely to blame for this unsatisfactory situation and its echoes of mounting antagonism, although they could help to assuage the feelings of local residents if, when approving unwelcome developments against their better judgement, they could register their displeasure with greater emphasis, instead of, as often happens, trying to justify their actions with a miasma of legalistic double-speak.

The vast majority of approved planning applications have come-pounded rather than ameliorated the borough's many environmental problems and will continue to do so incrementally unless the message sinks in that the *raison d'être*

of a planning and conservation authority is to preserve and enhance, not, as is evident from most of the reports in Grapevine, to assist applicants to maximise the development potential of their properties in ways that are nearly always inimical to, and inconsistent with, the kind of stable community local government is meant to represent. The onus must now be on all residents and associations in the borough to keep reminding the authorities of the fact:

Go-ahead for St Mary Abbot's Place

SUSTAINED opposition did not help the residents living in and around St Mary Abbot's Place, off Kensington High Street. Planning permission to build two semi-detached houses with integral garages on and adjacent to land at number four was finally approved



St Mary Abbot's Place - plans approved despite opposition

by a majority vote of the planning and conservation committee last week. The application, which had undergone several revisions, was passed on a casting vote of the committee's Chairman, Cllr

Desmond Harney. Local residents associations, supported by their ward councillors, were strenuously opposed to the development from the outset, arguing that it was inappropriate to the area on grounds of height, bulk, visual attraction, loss of space and privacy and poor design. It would, they said, create a sense of enclosure on what had hitherto been a quiet and much cherished cul-de-sac set back from the busy high street.

Despite further last-minute amendments to the drawings to meet the objectors' criticisms and the improvement of conditions to the

permission, the objectors continued to maintain their opposition to the development, which ward councillor Mark Field described as a money-making exercise, and rejected the contention by the committee's chairman that there were no clear cut planning reasons to turn down the application.

Consultation on revamp of garden squares

THE ROYAL Borough is to carry out detailed consultations with the committees who maintain their garden squares before applying to the Millennium Fund for money to restore the original cast-iron railings to those squares where they were removed during the war and replaced by unsightly chain mail fencing. Of the Royal Borough's 101 garden squares, 43 are either protected by chain-mail fencing or are badly in need of money being spent on them. Some garden committees have had to raise considerable sums from their own members to have their garden railings replaced and the cost to replicate and install new ones can be as high as £200,000 in some cases.

But why should residents have to pay for something they or their parents and grandparents have already paid for through their local and national taxes?

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS
Director of Planning Services

**THE ROYAL
BOROUGH OF**



CM 515

**KENSINGTON
AND CHELSEA**

COUNCIL NOTIFICATION OF DEVELOPMENT

LADY BALFOUR OF INCHRYE,
15 ST. MARY ABBOTS PLACE,
LONDON W8 6LS.

Switchboard: 0171 - 937 5464
Direct Line: 071-361 2079/2080
Facsimile: 0171 - 361 3463
Date: 19/04/95

My reference:

DPS/DCC/DT

Your reference:

TP/94/0644

Please ask for:

Planning Information Office				
RECEIVED BY PLANNING SERVICES				
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62 05 MAY 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

THIS LETTER INVITES YOU TO COMMENT ON A PLANNING APPLICATION LISTED BUILDING APPLICATION WHICH MAY AFFECT YOUR PROPERTY

Dear Sir/Madam,

The Council has received a planning application for development at a property which is close to yours. The address of that property is set out below, together with brief details of the development for which permission is sought. The Council's Planning Applications Committee, in considering the proposal, will welcome comments, for or against the scheme from those who live in or own property nearby. I should therefore be pleased to know, in writing, if you as the occupier/owner of neighbouring property have any comments.

Address of application property

LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON,
W.8

Proposal for which permission is sought

Erection of two semi-detached single family dwelling houses, with associated off-street parking and external amenity space REVISED DRAWINGS RECEIVED
ANY FURTHER COMMENTS MUST BE RECEIVED BY 28/04/95.

Further details are printed overleaf.

Yours Sincerely,

M.J. FRENCH

Executive Director, Planning and Conservation

*Mary, Lady Balfour of Inchrye
has let it be known to you
on more than one occasion
that she strongly disapproves
of the above scheme*

TOWN AND COUNTRY PLANNING ACTS, 1990

The Council is required by the Secretary of State for the Environment to consider all planning applications expeditiously. Any letter of support or objection should be received as soon as possible within 14 days of the date of this letter, although later objections, if received in time, will be reported to the Council Committee meeting which decides the application. An early response gives the Council's Officers the opportunity to encourage applicants to amend their plans in the light of objections received, and the application may therefore be amended before it is decided. If you cannot formulate your detailed objections within 14 days you should acknowledge this letter so that your interest can be noted.

The reasons for any objection should be clearly stated.

Objections relating to party walls and inconveniences which may be caused by building operations should however be taken up, either by yourself or your professional representative, with the applicant.

All correspondence received will be available to members of the determining Committee when the application is considered.

It must be clearly understood that any comments you may choose to make will be made available to the applicant, his agent and any other interested party, pursuant to the requirements of the Local Government (Access to Information) Act, 1985.

Should there be any tenants in the buildings of other persons likely to be affected by this application, would you please be good enough to bring this letter to their attention.

If you are not the owner of the property to which this notice is addressed will you kindly forward this letter to the owner.

WHERE TO EXAMINE THE PLANS

The plans and/or application details referring to this proposal may be inspected at the Planning Information Office on the 3rd floor at the Town Hall, Hornton Street, W8 7NX, between the hours of 9.00 a.m. and 4.45 p.m., Mondays to Thursdays and 9.00am to 4.15pm Fridays.

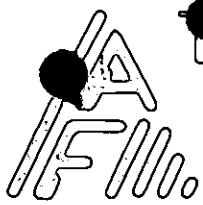
Alternatively, copies of all planning applications relating to:

- (a) the Chelsea area can be examined at the Information Office, Chelsea Old Town Hall, King's Road, SW3. Tel. 071-352 1856.
- (b) the postal areas W10, W11, or W2 can be examined at the Borough Council's Advisory Service Office, The Information and Aid Centre, Ladbrooke Grove, W10 (under Westway, opposite Ladbrooke Grove tube station.) Tel. 081-969 2433

Please telephone the Chelsea and Westway offices to check opening times.

Please quote the T.P. reference number on all written replies.

Please note: In the interest of economy, letters in agreement or without objections to the proposals will not be acknowledged.



**TECHNICAL
SERVICES**

Arboriculture - Forestry - Computer
Consultancy Service

F. B. I. D. S. A.

TP/94/0644

A/F Technical Services

21 Burpham Lane

Guildford

Surrey GU4 7LN

Telephone: Guildford (0483) 32786

Mobile: (0860) 742359

Fax: (0483) 34836

Mr D Austin
Royal Borough of Kensington & Chelsea
Planning Department
Town Hall
Hornton Street
London W8 7NX

Our Ref: 93039L3.RDG
12 December 1994

Dear Derek

London Plane Tree - St Mary Abbotts Place, London W8

Further to my inspection of the area between the two garages at the above site I have prepared the enclosed plan indicating garage slab levels and the presence of tree roots.

As illustrated the slab for garage A is considerably lower than the slab for garage B. There are some roots in the area between the two garages but these are below pavement level. One root was evident just above garage slab A but was turned back towards the area between the garages. Towards the back of the site the garden is lower than the pavement level and tree rooting is assumed to be undisturbed on this side.

The drawing prepared by Roger Carpenter Kerr & O'Hara indicates the pile and beam foundation for the proposed building to be at pavement level. With the exception of the one root indicated there do not appear to be any roots higher than the existing pavement level. I therefore do not anticipate any root severance as a result of changes to existing levels and where soil is raised this will be with a no-fines material to provide maximum aeration.

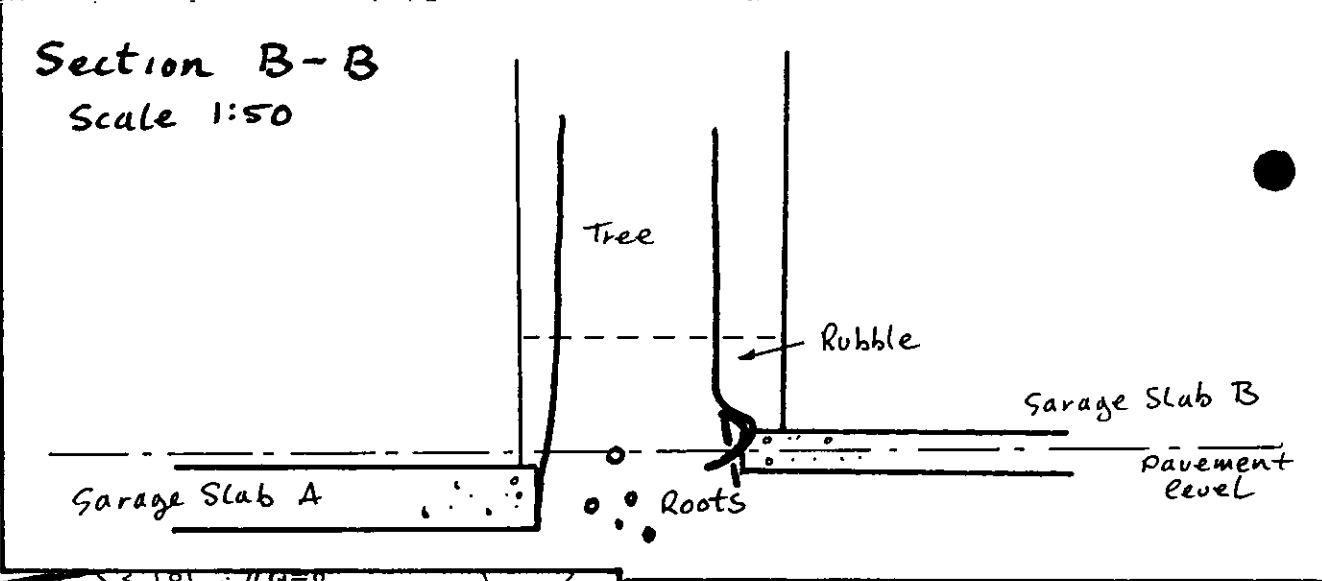
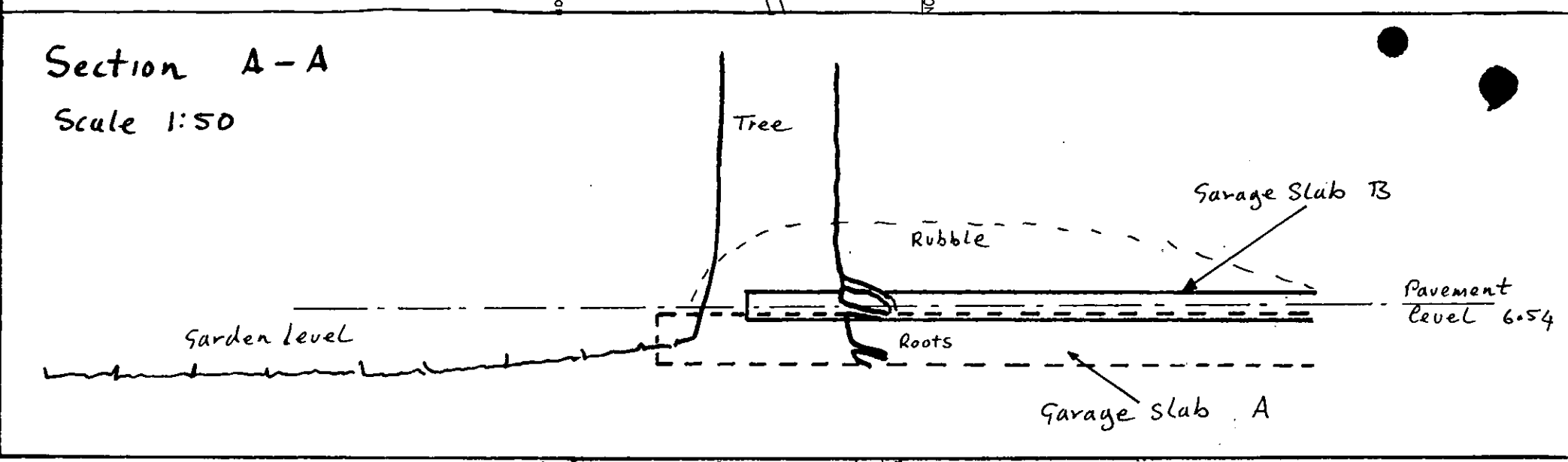
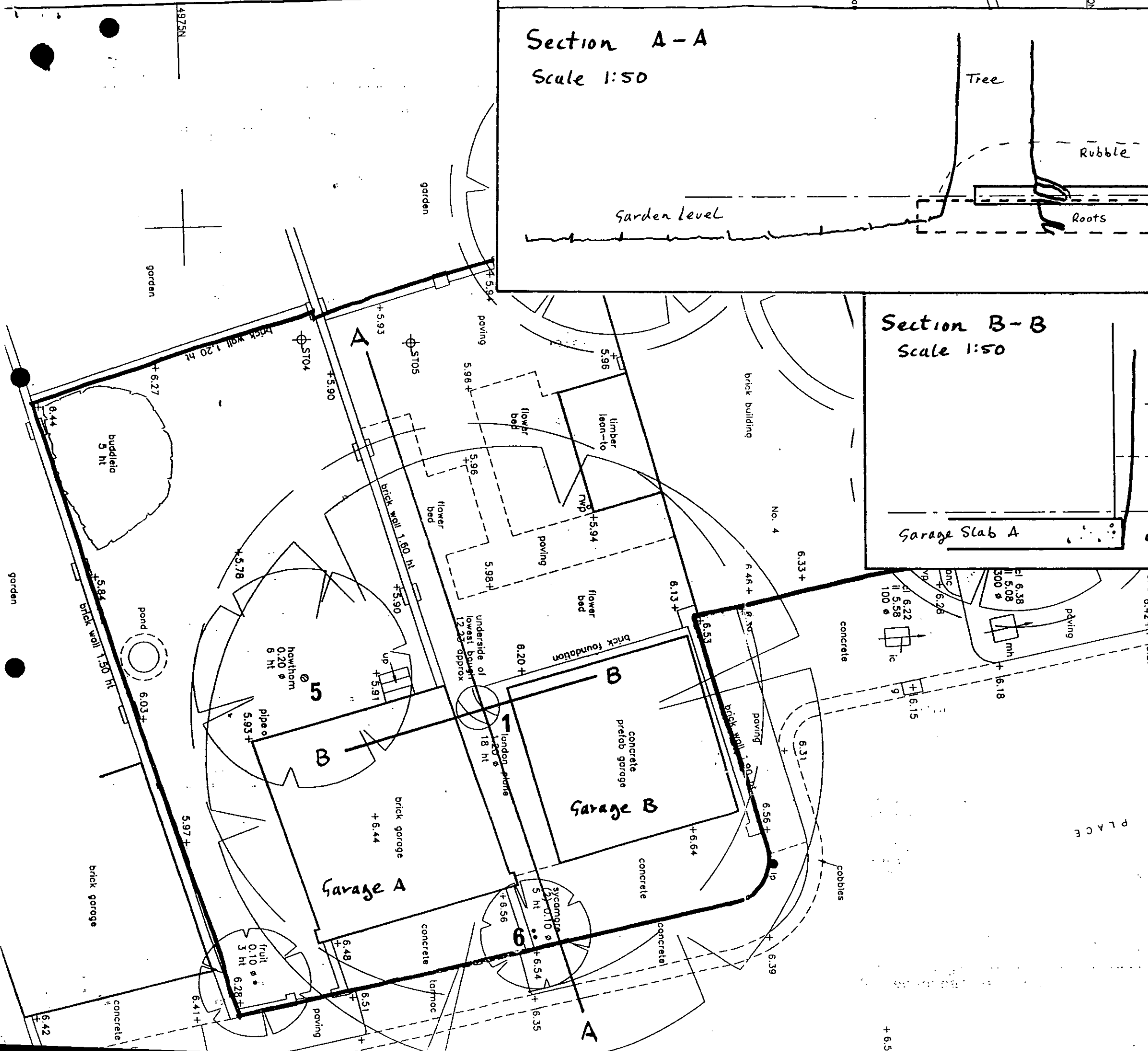
From my observations I have seen nothing to alter my client's proposals as discussed at our recent meeting.

If you require any further information please do not hesitate to contact me.

Yours sincerely

R D D Grainger





A TECHNICAL SERVICES
Arboriculture - Forestry - Computer Consultancy Service

21 Burpham Lane
Guildford
Surrey GU4 7LN

Telephone: Guildford (0483) 32786

Tree Survey

St Mary Abbot's Place, Kensington

Scale 1:100

Date Dec 94 Drawn by RDS



Fax No: 071-602 0624

F. TP/94/0644

PETER MULLINS

PHILLIPA DOWN

071 361 3463

To.

Fax no.

PETER MULLINS/ ADAM FERGUSSON

11 JANUARY 1995

From.

Date.

10.4ST MARY ABBOTS PLACE, W8

Ref.

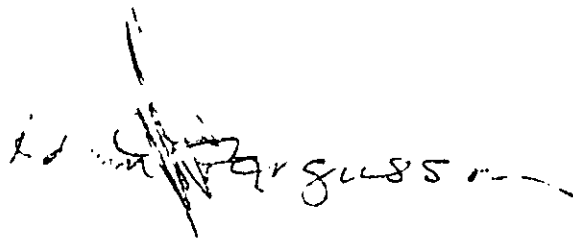
Pages to follow.

Fax Message.

WE WOULD LIKE TO ATTEND THE COUNCIL MEETING TONIGHT AT 6.30PM AND BE ABLE TO SPEAK ABOUT OUR OBJECTIONS RELATING TO THE PROPOSED DEVELOPMENT IN ST MARY ABBOTS PLACE. WE WILL BRIEFLY HIGHLIGHT SOME OF THE VARIOUS POINTS, IE DENSITY, LOSS OF LIGHT, ETC WHICH HAVE BEEN EXPRESSED IN NUMEROUS LETTERS BY MANY COUNCIL MEMBERS THE LAST FEW MONTHS. THANK YOU FOR YOUR ATTENTION.

YOURS FAITHFULLY,

PETER S MULLINS
ADAM FERGUSSON



P.LANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director Mr MICHAEL FRENCH FRICS Dip TP MRTPI Cert TS

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

Mr. Adam Ferguson,
15 Warwick Gardens,
LONDON, W14 8PH.

Telephone: 0171-937 5464
Extension: 2057
Direct Line: 0171 361 2057
Facsimile: 0171-361 3463

25 April 1995

My reference:
DPC/DCC/DT/TP/94/0644

Your reference:

Please ask for:
Derek Taylor

Dear Mr. Ferguson,

Town and Country Planning Act 1990
Re: 4 St. Mary Abbots Place, Kensington, W.8.

Thank you for your letter of 22nd April. I have noted your continued objection to the revised drawings in respect of the current application for the above property and shall ensure that your letter is brought to the attention of the Planning and Conservation Committee when it meets to consider the application on 1st May.

Following his recent telephone conversation with you, the Chairman of the Planning and Conservation Committee has asked me to clarify the position with regard to the Hawthorn tree. I would confirm that the report of 11th January was amended verbally at the meetings of 11th January and 4th April, and that Members have been advised that the tree will be felled. This point has been included in the amended report for 1st May.

Yours sincerely,

Lesley Jones,
Area Team Leader,
For the Executive Director, Planning and Conservation.

15, WARWICK GARDENS,
LONDON, W14 8PH.

Tel: 071-603 7900
Fax: 071-603 4114

M.J.French, Esq.,
Executive Director, Planning & Conservation
The Town Hall, Kensington.

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ac Ack
24 APR 1995				
Exec Dir	Records April 22, 1995		ARB	Con Des
Appeals Office	10	Fees Office	Forward Plan	Head DC

Dear Mr French,

Land on and adjacent to 4 St Mary Abbots Place

I have studied the drawings for this proposed development revised yet one more time, and wish to maintain my strong objection both to these plans and to the recommendations the Planning Department has put forward to the Planning Applications Committee for approving past versions of them.

The latest drawings show that the south-west corner of the main building has been pushed backwards a very short distance, thus again marginally lowering the angle to which a small section of the roof above it will rise when seen from the houses directly opposite. The effect seen from my own house and garden will be almost exactly the same. In any case, the total incremental reduction of the bulk and intrusiveness of the building does not seriously meet the anxieties expressed by committee members nor the concerns of the neighbouring householders. I request you to bring this view positively and explicitly to the committee's attention.

May I add that this is not simply a matter of marginal reductions of roof angles? We believe that under no circumstances should a building of that size occupy such a central position in a group of back-to-back gardens in a conservation area. It would change the amenity for all of us - as your office clearly recognised in 1982, when it regarded loss of garden space as a prime factor. I would thus be grateful to you for an explanation as to why the advice given then - in the knowledge of which we acquired this house 3 years later - has now been changed; or in what ways the present proposals differ from the former in respect of loss of visual amenity, loss of garden space, overlooking or possible harm to the plane tree.

Your recommended decision, although no doubt in line with the guidelines on distances between buildings, plainly infringes several points of the District Plan in respect of amenity. I note your own quotation from "Policy 7.3.8" that "new buildings . . . will not be allowed to intrude into garden space which, on its own or together with neighbouring gardens, is important to the character of the particular area . . . "; and your reference under Policy LR7 to the need "to resist the loss of garden space . . . which independently or together with neighbouring gardens, is important either to the character or the amenity". Apart from the small patch of garden allotted to the smaller proposed house, your recommendation means that,

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 435
LECTURE 10
THERMODYNAMICS
AND STATISTICS
PART 1

LECTURE 10
THERMODYNAMICS
AND STATISTICS
PART 1

what with buildings, paved terraces and hardstanding, there would be no garden left at all. It is simply not true to say [Paragraph 4.11 of your report accompanying the addendum report dated 17.3.95] that "no garden space, as described in Policy LR7 above, would actually be lost". I therefore request you to bring it explicitly to the attention of the committee that the householders living beside the site regard the garden space which would be lost both as falling clearly under Policy LR7 and as being essential to the amenity and character of the area.

I request also that you bring to the committee's attention the fact that, as with other neighbouring gardens, the whole garden of Number 15 Warwick Gardens, next to the south party wall of the site, lies more than two feet lower than St Mary Abbot's Place road level; and that therefore the drawing of the south elevation does not fully reflect how the brick wall and chimney would eventually tower over our garden. The first floor bedroom window would similarly be more intrusive to all the facing properties than the drawing of the west elevation suggests. Paragraph 4.36 of your report mentions the land fall from east to west, but this is not reflected in any of the drawings, and your report notably fails to point out the effect on the amenity. The committee ought to be informed.

Finally, although I appreciate that it may not affect the granting of planning permission, I think the committee as well as your department, whom I expect to have the well-being and interests of residents as well as developers at heart, should be reminded that the ancient party wall and the mature plants and shrubs growing against it will not survive the insertion of a basement swimming pool, jacuzzi and jetstream immediately beside and below. That includes the very old and - for us - essential wisteria growing where the wall meets our garage (which it covers in the summer), inexplicably not mentioned in your report but to which I think I have drawn your attention before.

With this letter, I repeat my objection with equal firmness to the duplicate application from the same developers of which you informed me and on which I have commented before.

Yours sincerely,

Adam Fergusson

Adam Fergusson

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
24 APR 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

MEMORANDUM

To: PRINCIPAL ADMINISTRATIVE OFFICER From: HEAD OF DEVELOPMENT CONTROL

c.c: CHIEF EXECUTIVE (G EBENEZER)

My Ref: DPS/HDC/AD
Room No. 324/A

Your Ref: TP/PSC/PV

Ext. 2004

Date: 23 May 1995

PLANNING & CONSERVATION COMMITTEE: 1 May 1995

Please note the following amendments:

A8

CENTRAL

94/0644/2195 4 St Mary Abbott's Place

Add Condition C11 (d)

Reason R11

NB Decisions subject to s106.

pcmay23.5.95

THE
MUSEUM OF
ART AND
ARCHITECTURE
OF THE
CITY OF
NEW YORK
AND
THE METROPOLITAN MUSEUM OF ART

PLANNING & CONSERVATION COMMITTEE 1ST MAY 1995

ADDENDUM REPORT

AGENDA ITEM -

APPLICATION REFERENCE: TP/94/0644/G/6/2195 and
TP/94/0645/ /6/2196

**RECOMMENDATION
ADOPTED**

The Planning and Conservation Committee is asked to determine two current applications; a conservation area consent application for demolition of garages and a planning application for the erection of two single family houses.

APPROVED BY
PLANNING SERVICES CTTEE

MAY 1 1995

CONSENT REF.....

FOR DECISION

1.0 BRIEF SUMMARY

- 1.1 The current planning application and conservation area consent application were considered and deferred by the Planning Services Committee at their meetings on 11 January and 14th April 1995.
- 1.2 Members remained concerned in respect of the revised drawings with regard to issues of site coverage and sense of enclosure to neighbouring properties in Warwick Gardens to the rear. Members stated that they were satisfied with regard to the design and bulk of the front elevation to St. Mary Abbot's Place.
- 1.3 The application was considered originally by the Planning Services Committee on 11th January and was deferred in order that the bulk of the proposed building, site coverage, overlooking to the rear, and front elevational treatment could be addressed. The Committee reports of the 11th January and 4th April are attached for information.

2.0 REVISIONS

- 2.1 Further revisions have been made since the 4th April, and these are summarized below:
 - 2.1.1 The central ground floor staircase projection, measuring 4.6m x 1.3m, has been deleted and garden area provided in its place.

- 2.1.2 The rear wall of the northern house has been moved back from Warwick Gardens by 300mm for a length of 6.4 metres at ground and first floor levels.
- 2.1.3 The rear wall of the southern house has been moved back by 600mm from the rear boundary with Warwick Gardens for a length of 5.5 metres at ground and first floor levels. The eaves height on the elevation has been adjusted as a consequence. The ground floor French windows have been set in a small bay projection.
- 2.2 The revisions presented to the previous Committee (also incorporated in the current plans) were:
 - 2.2.1 The deletion of the rear studio bedroom at second floor level and the setting back of the roof by 1.5m and lowering in height of the roof by 0.7m, and as a consequence the lowering of the central eaves line.
 - 2.2.2 The setting back of the rear staircase projection by 1 metre at ground and first floors.
- 2.3 The effect of these revisions is to reduce site coverage further and to significantly reduce the impact of the buildings on the Warwick Gardens houses. Site coverage has been reduced to approximately 58%. The impact of the current revisions must be assessed together with the revisions that were considered by the Planning Services Committee on 4th April. Members are reminded that there are no daylighting or sunlighting infringements, and that issues of privacy and overlooking are addressed in the 4th April Committee report (paragraphs 2.8 -2.10).
- 2.4 Trees: The Committee are reminded that at the Planning Services Committees of 11th January and 4th April the 11th January Committee report was amended verbally to include the proposed felling of the hawthorn tree at the site.

3.0 CONSULTATION

- 3.1 All objectors have been notified of the receipt of revised drawings and their comments will be reported verbally to Committee.

4.17 The provision of two new family dwelling houses is supported by the relevant regional planning guidance by central government, and by the above policies, subject to the other relevant policies in the District Plan and Unitary Development Plan. With such large houses, the proposed properties meet all of the relevant planning standards in terms of minimum floorspaces, the accommodation being of very high standard.

4.18 Bulk, form, and detailed design The two properties together, and the larger house in particular, form a large building when viewed together. Two stages of amendment, in conjunction with the Council's Design Officer, have sought to lessen the overall size and visual impact of the buildings on this fairly restricted site, in order to achieve a building which is considered to be properly related in its size, form and detailed design to the existing character and form of the surrounding townscape.

4.19 Paragraph 4.7.5 of the District Plan provides a set of considerations to be satisfied by all new development in Conservation Areas:-

"In consideration of applications for development, including extensions, within or immediately adjoining a Conservation Area or affecting a Listed Building, the following aspects are important:

- (a) the siting of the building in relation to adjoining buildings and spaces and to existing building frontage lines;
- (b) the careful selection of building materials to ensure a harmonious relationship with local building traditions and the materials predominant in the locality, either by emulating them or in the case of exceptional designs by emphasis through careful contrast;
- (c) the form and size of the building and/or extension under consideration, having regard to the character and scale of nearby properties and others in the area, which should not generally be exceeded in height;
- (d) the scale and proportion, bay widths and floor to ceiling heights, fenestration and shopfronts, which should relate to (though not necessarily reproduce) those of sympathetic buildings nearby and in the area generally;
- (e) the form of roofs and their materials and details, especially where visible from high or distant vantage points;
- (f) the landscaping, treatment of paved and other surfaces, boundary walls, street furniture and signs associated with the development, which should, in terms of design and materials, fit in with and enhance the character of the area; and
- (g) the uses to which a building will be put and, in particular, their effect on traffic and parking and the area's character."

4.20 Policy CD60 of the Unitary Development Plan (as placed on deposit) is:-

"To ensure that all development in conservation areas is to a high standard of design and is compatible with:

- (a) Character, scale and pattern;
 - (b) Bulk and height;
 - (c) Proportion and rhythm;
 - (d) Roofscape;
 - (e) Materials;
 - (f) Landscaping and boundary treatment;
- of surrounding development."

4.21 Policy CD59 (as proposed to be modified) is:-

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

4.22 The properties of Warwick Gardens are fairly tall, the Listed terrace numbered 1-9 reaching to 14m from ground level, with the main roofs of the others reaching 12m. To the East of the site, on the far side of St. Mary Abbots Place, the properties are mostly of three storeys and the main roofs reach an average of 9m from ground level.

4.23 The applicants were advised at the outset that any development on this site should not take its lead from the bulk or height of the buildings on either Warwick Gardens or the East side of the Place, but must be clearly subordinate to those two groups of buildings. The existing buildings on the West side of the Place are all subordinate in scale to these other two groups of buildings, and it is considered that any further development on this side of the Place should maintain this contrast.

4.24 The roofs of the buildings of Warwick Close at the northern end of the Place reach 7.8m at their highest point, and the average line of the roofs of the other properties at that end of the Place, namely Nos. 2 and 4, is 6.4m from ground level. The detached house to the South of the site reaches 7.8m.

4.25 The proposed smaller dwelling maintains a ridge height of 6.6m across its width, which is considered to satisfactorily reflect the existing heights of buildings on this side of the Place. The larger house has a main ridge line of 7.0m, which is also considered acceptable. It reaches 8.9m at one point in its roof, which is higher than any other roof on this side of the Place, however, as the roof includes quite steep pitches at front and rear, it is not considered that this height in itself conflicts with the criteria set out above.

4.0 RECOMMENDATION

4.1 Subject to a Planning Obligation, grant planning permission for the development as shown in submitted drawings TP/94/0644, 0644/B, 0644/C and 0645/D; Applicant's Drawing Nos. 7413A/1 (survey), L(--)01D, L(--)02D, L(--)03D, L(--)04D, L(--)05D, L(--)07C, L(--)08D, L(--)09C, L(--)10D, L(--)11D, L(--)12D and L(--)100B, subject to the conditions as set out in the attached planning report of 11 January 1995.

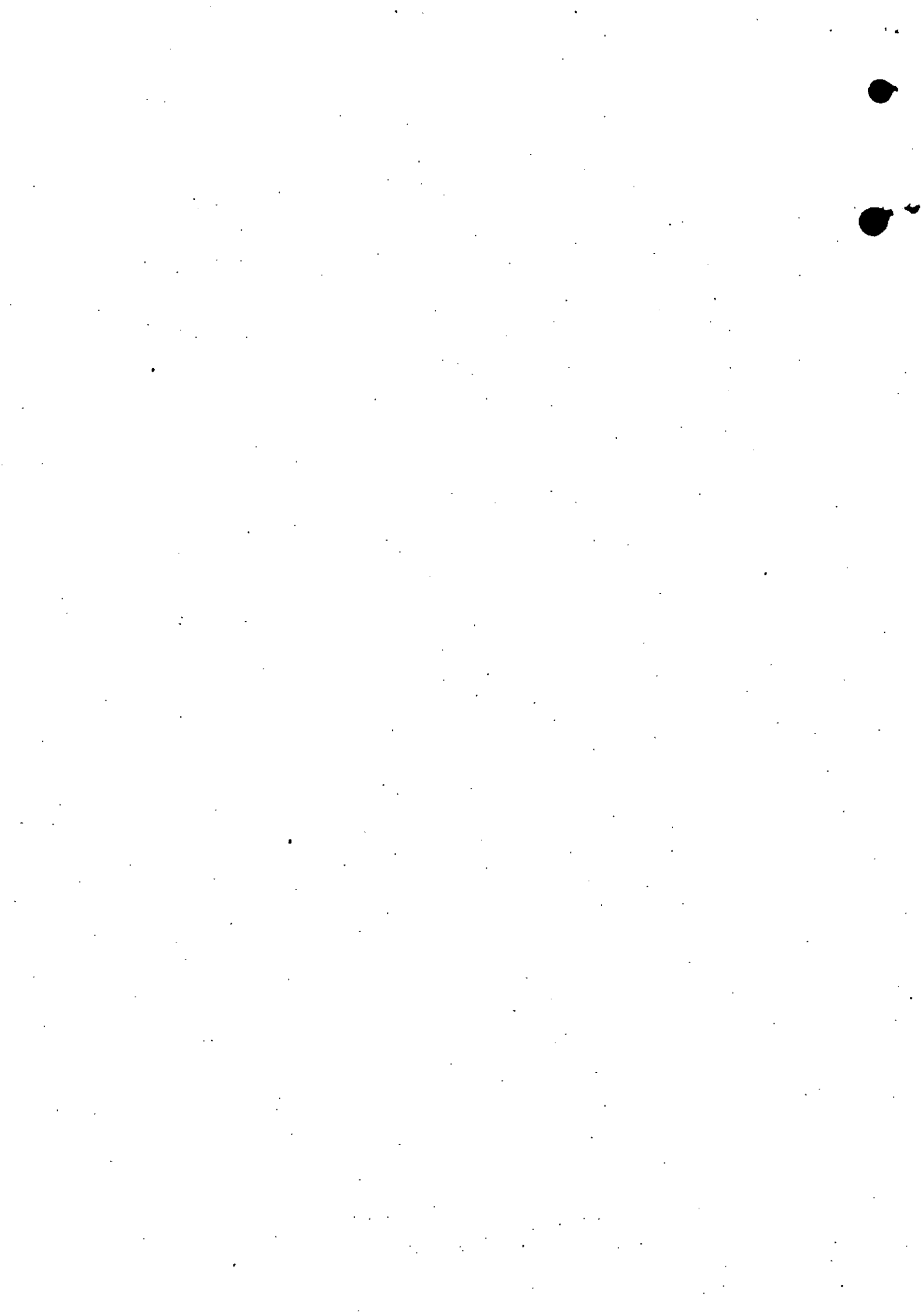
M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

LIST OF BACKGROUND PAPERS

1) The contents of the file number TP/94/0644 referred to at the head of this report, save for exempt or confidential information as defined by the Local Government (Access to Information) Act, 1985.

REPORT PREPARED BY: LAWJ
REPORT APPROVED BY: AD
DATE REPORT APPROVED: 20/04/95

PSC9505.LAWJ.REP



ROYAL BOROUGH OF KENSINGTON & CHELSEA

ADDENDUM REPORT

BY EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

4 ST. MARY ABBOT'S PLACE, KENSINGTON, W.8

AGENDA ITEM: 2160

APPLICATION REFERENCE: TP/94/0644, TP/94/0645

1.0 BRIEF SUMMARY

- 1.1 This proposal for two dwelling houses was considered and deferred by the Planning Services Committee at their meeting of 11th January 1995.
- 1.2 The application was deferred in order that the following concerns, voiced at the Committee, should be addressed:
 - 1.2.1 That the bulk of the building was too great for this site, and would have an overpowering effect upon the houses to its rear, specifically 7 - 15 Warwick Gardens;
 - 1.2.2 That the site coverage was too great;
 - 1.2.3 That the rear elevation was too close to the houses behind and that overlooking would result;
 - 1.2.4 That the front elevation was out of scale with the other buildings of St. Mary Abbot's Place;
- 1.3 Revised drawings were received on 10th February 1995, following discussion with Council Officers.

2.0 CONSIDERATION OF THE PLANNING ISSUES

- 2.1 Bulk The bulk of the building has been reduced at the rear in two ways.

- 2.2 Firstly, the rear studio bedroom at second floor level has been deleted from the scheme, enabling the rear roof to be set back by a further 1.5m, and the rear roof height to be lowered by 0.7m. The lowering of the roof over the centre of the building results in the rear eaves line also dropping at the centre, to line up with the main eaves line at the rear of the building. Resulting in an angle of 26 degrees taken from the rear of the Warwick Gardens houses, this brings the rear elevation well within the recommended angle of 30 degrees.
- 2.3 Secondly, the rear staircase projection has been set back by a further 1m at both ground and first floor levels, no longer abutting the site boundary at ground level but being set back 1m behind it.
- 2.4 It is considered that these measures will have the effect of significantly reducing the impression of bulk when the building is viewed from the rear of the Warwick Gardens' houses, particularly at lower floor levels. In design terms, the reduction to the roof in fact results in a more cohesive appearance to the rear elevation, which is also considered to be of benefit.
- 2.5 Site Coverage The site coverage has been reduced by 4.6 sq.m. as a result of reducing the projection of the rear staircase. Including the central courtyard surrounding the large Plane tree, the site coverage is now approximately 60%.
- 2.6 This site coverage in fact compares favourably with the other buildings on the West side of St. Mary Abbot's Place, the nearby house at No. 12 having a site coverage of approximately 80%. The buildings on the East side of the Place must not be taken as setting the form for development on the West side, however, it is worth noting that their site coverage is considerably higher, ranging from 72% to well over 90%.
- 2.7 Given its townscape context, it is not considered that a site coverage of 60%, on a site where the existing garages cover approximately 35% of its area, could reasonably present a reason for refusal of planning permission.
- 2.8 Proximity and Overlooking Four small windows at the centre of the rear elevation have also been deleted, further reducing the perception of being overlooked and also improving the appearance of the rear elevation.
- 2.9 The relevant policies of both the District Plan and Unitary Development Plan accept that in Kensington it is often the case that some overlooking may have to be accepted. In this case, the distance between the proposed houses and the houses of Warwick Gardens varies but is generally about 13 or 14m. Given the number of windows in the proposed rear elevation, it is not considered that the degree of overlooking would be such that a refusal of permission would be justified.

- 2.10 The Committee is reminded that a condition is proposed (No. 13) restricting permitted development rights for the rear elevation, so that no further windows, or enlarged windows, may be inserted in the rear.
- 2.11 The Front Elevation The view was also expressed at the Committee that the central gable to the front elevation was too dominant, and should be reduced.
- 2.12 A further site inspection has been carried out in order to assess this point. Following further consideration, it is concluded that the central gable is indeed dominant on the front elevation, however, it is this very dominance which serves to break up the front elevation. The existing buildings in St. Mary Abbot's Place are of varying design and many use large elevational features to avoid producing a "slab" effect, and it is considered that to reduce it in size would reduce the variation and the quality of this elevation. In the context of St. Mary Abbot's Place, it is considered that the present approach is the right approach.
- 2.13 The Committee are reminded that a condition is recommended requiring that samples of all the main elevational materials are submitted for approval prior to development commencing.

3.0 FURTHER CONSULTATION

- 3.1 The 19 original objectors were notified of the receipt of revised drawings by letter dated 15th February 1995.
- 3.2 6 objections have been received in relation to the amended proposal, including one from the Warwick Gardens Resident's Association.
- 3.3 The Resident's Association and the individual objectors all consider that their original concerns, and the matters raised at the Committee, have not been satisfactorily answered. They consider that the bulk of the building is still too large, and that it would still have a detrimental effect upon the amenity and outlook of the existing houses of Warwick Gardens. These objections are set out in detail in Paragraphs 5.2 - 5.16 of the original report which is attached.

As stated above, it is considered that the proposed amendments have produced a scheme which is reduced in bulk at the rear, and, importantly, also produces a much more cohesive appearance to the rear elevation. It is concluded that the amendments have resulted in a proposal that requires the careful application of conditions, but does not justify a refusal of planning permission.

4.0 RECOMMENDATION

4.1 The Committee is recommended subject to a Planning Obligation as set out in the attached planning report to grant planning permission and Conservation Area Consent for the scheme as shown in Revised Drawings: 7413A/1 (existing) L(--)01C L(--)02C)03C)04C)05C)06C)07C)08C)09C)10C)11C)12C and)100B, and subject to the conditions as set out in the attached reports.

FOR DECISION

REPORT PREPARED BY: DT
APPROVED BY: LAWJ/AD
DATE APPROVED: 17/03/95

Background Papers TP/94/0644 and TP/94/0645

PSC. 95.04.DT.REP

ATTACHMENT AGENDA ITEM

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING SERVICES COMMITTEE

11/01/95

APPLICATION NO.
TP/94/0644/G/42

AGENDA ITEM
2006

REPORT BY THE DIRECTOR OF PLANNING SERVICES

APPLICANTS NAME/ADDRESS

Application dated 31/03/94

Roger Carpenter
Kerr and O'Hara,
106 Fulham Road,
London SW3 6HS

Revised 18/10/94

Completed 08/04/94

Polling Ward KB36

ON BEHALF OF : Meadview Developments Ltd.
INTEREST : Not known

District Plan Proposals Map:

Cons.Area	CAPS	Article 4 Direction	Listed Building	HBMC Direction	A/O Consulted	Objectors (to date)
8	YES	NO	NO	NO	34	19

RECOMMENDED DECISION :-

- (1) SUBJECT to a Planning Obligation under Section 106 of the Town and Country Planning Act 1990, such that footway will be reinstated to the Council's satisfaction.
- (2) GRANT planning permission for the erection of two semi-detached single family dwelling houses, with associated off-street parking and external amenity space.

At: LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON, W.8

As shown on submitted drawing(s) No(s): TP/94/0644 and TP/94/0644/B

Applicants drawing(s)No(s) : 7413A/1 (existing) L(--)01B,
L(--)02B,)03B,)04B,)05B,)06B,)07B,
)08B,)09B,)10B,)11B,)12B and)100B

CONDITIONS

1. C.1 2. C.18 3. C.21 4. C.23 5. C.28
6. C.68 7. C.70 8. C.73 9. C.77 10. C.85
11. The courtyard and hardstanding shown on drawing No. L.01B shall not have any impermeable base or surface, and shall be surfaced in gravel and so maintained.
12. Samples of materials numbered 1, 2, 6, 7, 8, 11, 12, 14 and 18 on drawing 100B shall be submitted to and approved in writing by the Executive Director of Planning and Conservation before development commences.
13. No window or opening other than those shown on drawing L.10.B hereby approved, shall be inserted within the rear elevation.
14. The Council's Arboricultural Officer shall be informed, in writing, 7 days before any excavation commences on site.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. R.1 2. R.18 3. R.20 4. R.20 5. R.28 6. R.68
7. To ensure that future alterations to the exterior of the building do not result in detriment to the amenity of the residential properties to the rear of the site, or detriment to the character or appearance of the Conservation Area.
8. R.71 9. R.77 10. R.85
11. To ensure that adequate rainwater drains down to the tree root systems.
12. R.71
13. To protect the amenity of nearby residential property.
14. To allow observation of excavation proceedings, and building operations thereafter, in order to ensure that the trees and their root systems are satisfactorily protected.

INFORMATIVES

1. I.2 2. I.9 3. I.10 4. I.21
5. I.24 6. I.31 7. I.39

1.0 Site Description

- 1.1 This application concerns a site of 0.043 ha (430 sq.m.) located on the western side of St. Mary Abbot's Place and backing onto the rear gardens of the residential houses at No. 9, 11, 13 and 15 Warwick Gardens.
- 1.2 The eastern side of St. Mary Abbot's Place, opposite this site, does not contain any open space and is built up to three storeys. The western side of the Place contains the two storey residential buildings of Warwick Close at its northern corner with Kensington High Street, 2 two storey studio buildings immediately to the North of the site, and a two and a half storey residential house immediately to the South of the site.
- 1.3 The site itself contains four garage buildings, one of these being of two storeys with a storage floor above the parking area, and a pitched roof. The two garages to the southern end of the site are double garages, one being brick and the other of concrete. The remainder of the site is currently open space, with some naturally seeded vegetation growth.
- 1.4 The site also contains 5 trees of note, namely:-
- 1 large London Plane tree in the centre of the site, in fine condition
 - 3 Sycamore trees, one of which is in rather poor condition
 - 1 Hawthorn tree

There are also a number of smaller trees around the periphery of the site in the gardens of neighbouring properties, including a healthy fig tree in the garden of No. 11 Warwick Gardens.

- 1.5 The site is included within the Edwardes Square, Scarsdale and Abingdon Conservation Area. No buildings on the site are Listed, however, the terrace of 1-9 Warwick Gardens, of which No. 9 abuts the rear of the site, are Listed Grade II.

2.0 Details of Proposal

- 2.1 It is proposed to demolish the existing garage buildings, and to construct two houses on the site.
- 2.2 The larger of the two houses would be of two storeys with a studio room and bedroom forming an extra half storey at roof level. It would be a large dwelling house, comprising a swimming pool and fitness room in the basement; a double garage, hall, kitchen, reception rooms, and central courtyard at ground level; with three bedrooms and a dressing room at first floor level, each of the bedrooms with en-suite facilities.

- 2.3 The smaller of the two houses would have a kitchen and reception room at ground level, with two en-suite bedrooms on the first floor. This house is not internally connected to the large house, and has its own off-street parking space.
- 2.4 Externally, the houses are of fairly traditional form, with pitched roofs front and rear and a large bay window at the front of the larger house. The large house is built around a central courtyard within which the London Plane tree would remain. It is proposed that three sets of french doors, plus the main entrance to the house, would all lead from the courtyard at ground level, and that a balcony should overlook it at first floor level. All the other trees on or adjacent to the site would remain, with the exception of the poorer Sycamore tree.
- 2.5 The rear elevation is set back from the rear boundary wall by between 2.5 and 3.5m, with the exception of the rear wall of the main staircase which projects out from the main rear wall by 1.5m and, consequently, is only set back from the rear boundary wall by 1.5m. It is intended that terrace areas would be provided for each house within the rear spaces, and that the small house would also have a garden at its North side. The rear elevation is intended to have a pitched roof along its length, with a glazed area central to the larger house. Bedroom windows are proposed at each end of the building, with two small windows of obscured glazing to admit daylight to the dressing room of the large house.

3.0 Relevant Planning History

- 3.1 In 1982, preliminary discussions took place involving prospective applicants, Council officers and local residents, in relation to a proposal to redevelop the site to provide four small houses with garages. The prospective applicants were advised that such a proposal would be very difficult to achieve in view of the possibility of overlooking; harm to the Plane tree, and loss of visual amenity in this part of the Conservation Area. The discussions did not result in the submission of any planning application.
- 3.2 There is no other planning history to the site.

4.0 Planning Considerations

- 4.1 This proposal must be assessed in the context of the following considerations:-
- 4.1.1 The principle of demolishing the existing buildings on the site, and the impact that their loss would have upon the character or appearance of the Conservation Area;
- 4.1.2 The principle of developing this largely open site;

- 4.1.3 The principle of providing two residential dwelling houses with off-street parking on the site, with particular reference to the Council's housing policies;
- 4.1.4 The impact of the proposed houses upon the physical character and appearance of the Conservation Area, in terms of their overall form and detailed design; with particular reference to the Council's policies relating to conservation and development;
- 4.1.5 The impact of the proposal upon the health, vitality and longevity of the existing trees on and near the site, in particular, the London Plane tree at its centre;
- 4.1.6 The impact of the proposed houses upon the existing levels of amenity enjoyed by the residents of properties surrounding the site, particularly in terms of loss of privacy, loss of day or sunlighting, or increased sense of enclosure;
- 4.1.7 The effect of the proposal in relation to existing pressure upon on-street parking spaces in the vicinity, with reference to the Council's standards for off-street parking provision.
- 4.2 The relevant planning policies are contained within Chapter Four, Five, Seven and Ten of the District Plan, and the "Conservation and Development," "Housing" and "Transportation" Chapters of the Unitary Development Plan (UDP) as placed on deposit and as proposed to be modified. The provisions of the Conservation Area Proposals Statement must also be taken into account.

- 4.3 The demolition of the existing building Policy 4.7.1 of the District Plan states:-

"There will be a general presumption against the demolition of a building in a Conservation Area, or any material alteration to a Listed Building or its setting."

- 4.4 Paragraph 4.4.8 expands on this by stating:-

"There is also a desire to retain buildings with the charm of the small scale domestic cottage, a strong local flavour, historical associations with famous people or events, unusual or eccentric features or mature gardens mellowed by time. Such buildings and spaces are psychologically important in that they provide a link with the past within areas and times of change."

- 4.5 The Unitary Development Plan provides further guidance in Policy CD58 (as proposed to be modified) which states:-

"To resist demolition or partial demolition of buildings in Conservation Areas unless:

- (a) the building or part of the building structure makes no positive contribution to the character or appearance of the area; or
- (b) the condition of the building is proved to be such that refurbishment is not possible; and

(c) a satisfactory scheme for redevelopment has been approved."

4.6 The two double garages on the site are relatively recent buildings, and the concrete one in particular is of little architectural merit or historic interest. The older two garages, in particular, the two storey garage with a pitched roof and loft window, are probably Victorian buildings and provide more historic interest than the later two. They are, however, in poor condition, and it is not considered that they are of enough architectural or historic merit to justify resisting their demolition, as long as criteria (c) of Policy CD58 is satisfied.

4.7 Development on this site : Although the site contains four garage buildings, much of the site area is open space, and the single storey garage buildings have a relatively minor impact upon views of the site from surrounding buildings. The two storey garage creates a relatively greater impression. Policy 7.3.7 of the District Plan seeks to protect open space, stating:

"The Council will ensure that where existing open space, both public and private, makes, or is capable of making, a contribution to an area's character or amenity, it shall be protected from development or change of use."

4.8 Policy 7.3.8 states:-

"New buildings, extensions to existing buildings and other works, will not be allowed to intrude into garden space which, on its own or together with neighbouring gardens, is important either to the character of the particular area or to the general character of the urban scene."

4.9 Policy LR7 of the Unitary Development Plan (as placed on deposit) provides similar guidance, being:

"To resist the loss of garden space (including garden squares), with independently or together with neighbouring gardens, is important either to the character or amenity of the particular area or to the general character of the urban scene."

4.10 Of the total site area of 430 sq.m., 137 sq.m. (or about 35%) is taken up by the existing buildings. 154 sq.m. of the site would remain open space under the scheme (including the single hardstanding which is proposed to be gravel covered), meaning that the net loss of open space would be 139 sq.m. The canopy of the London Plane tree covers over 50% of the site area.

4.11 Part of the site, located to the rear of No. 11 Warwick Gardens, is used as an extension to that garden by agreement, which would, of course, cease if the proposal was to be implemented. It does not, however, form part of the actual garden to that property, and would be separated from it by the rebuilding of the boundary wall between the two. The remainder of the open space on the site is not used as garden space, but simply as an open area which is closed to access. This piece of land does provide a greater sense of openness in the vicinity, and the London Plane tree the

centre of the site provides an element in the character of the locality that is considered to be of very great importance. When viewed from St. Mary Abbots Place itself, the site does not read visually as open space, although the tree is again a dominant feature.

4.11 Given that some 35% of the site area is already built upon, and the fact that the tree covers over half of the site and is by far the most dominant element in any view of the site, it is considered that the open space of the site contributes less in itself to the amenity value of the site than does the Plane tree, and other trees. No public open space would be lost as a result of the proposal. No garden space, as described in Policy LR7 above, would actually be lost either. Provided that the contribution of the Plane tree to the amenity of the area is not materially reduced, it is concluded that the proposal would not be in conflict with the above policies.

4.12 The provision of two dwelling houses The primary objective of the housing policies of the District Plan is presented at Paragraph 5.2.14(a), which is:-

"To help maintain the Borough's population by retaining and protecting existing residential uses and increasing the amount of housing available to residents and would-be residents."

4.13 Policy H15 of the Unitary Development Plan (as placed on deposit) states a similar objective, being:-

"To encourage the provision of housing, where appropriate, on vacant land and to encourage proposals to redevelop, for residential use, sites and properties which are in other uses (subject to other policies in the Plan)."

4.14 Policy 5.6.4 of the District Plan sets out the factors to be taken into account in assessing density:-

"The following factors will be used to indicate the appropriate density of new housing development:

(i) The G.L.D.P. guidelines. Housing predominantly for families with children should be in the range 70 to 85 h.r.a. (175 to 210 h.r.h.). Housing predominantly for small households (with units of 1 or 2 habitable rooms) should be in the range 85 to 100 h.r.a. (210 to 250 h.r.h.). Housing entirely designed for small households may be built at higher densities, although in general a maximum of 140 h.r.a. (350 h.r.h.) will apply.

(ii) Higher densities may be permitted in Conservation Areas and infill schemes where low density development would adversely affect the architectural character and scale of the environment.

(iii) Higher densities may also be permitted on sites where the developments will have access to a public or private open space, to a local shopping centre, a primary school and public transport, all within 400m and without the necessity to cross busy main roads."

4.15 The density policies within the Unitary Development Plan have been proposed to be modified following the Inspector's Report and are now as follows:-

"In considering both the quality of the environment proposed in a new housing scheme, and the effect of that scheme on the character and environment of the surrounding area, the density policies set out below will be followed, and regard will be had to the ~~density ranges set out below~~. Schemes will also have to comply with other policies of the Plan, particularly those relating to design, light, privacy, open space, and residential parking." (3.11a)

"In applying the following policies, the Council will have regard to the following well established density guidelines:

Very Low: less than 70hra (175 hrha)
Lower: between 70hra and 100hra (175-250 hrha)
Higher: between 100hra and 140hra (250-350hrha)
Very High: above 140hra (350hrha)

Guidance on the calculation of residential density is given in the Planning Standards Chapter. (3.11b)

"Normally to resist residential development designed to a very low density." (H11A)

"Normally to require that housing predominantly suitable for occupation by families with children, is designed to a lower density." (H11)

"Normally to resist housing designed to higher densities except where it:

- (a) is designed predominantly for occupation by small households;
or
- (b) enables the provision of special needs or affordable housing on appropriate sites; or
- (c) is an infill scheme where a higher density development is necessary for townscape reasons to comply with the policies of the Conservation and Development Chapter." (H12)

4.16 The two properties would provide a residential density of about 250 habitable rooms per hectare. However, it is not considered that a refusal could be justified in this case. Amenity space is provided for both dwellings, and although limited is considered satisfactory.

- 4.26 Height is, of course, only one factor; depth from front to rear, width, and detailed design all influence the impact of a building. In this case, the two buildings together are 22m in total width. The architects have worked to reduce the impression of bulk by using different materials for the two buildings, and have used projections and recesses to break up the elevation. At the rear, it has been more difficult as there is no recessed courtyard, however, the staircase projection again helps to break up the elevation. The maximum depth of the buildings from front to rear is 17m, with average depth just over 13m, which is considered reasonable for residential houses. The materials vary from one part of the building to another, with the primary elements being stock brick on both elevations, and natural slate for all roof pitches.
- 4.27 Overall, the bulk, height, proportion roofscaping and other treatment is considered to preserve the existing character and appearance of the surrounding townscape, and therefore, to be acceptable in terms of the above policies.
- 4.28 The Conservation Area Proposal's Statement does not recommend any particular proposals, categories, or controls for this site.
- 4.29 The London Plane tree, and other trees in and around the site
The District Plan presents a statement on the importance of trees in the townscape at Paragraph 4.14.1:
"Trees in cities are a valuable amenity which once removed can rarely be adequately replaced; and often it is only when one has been removed that its value becomes apparent. Trees act as screens; they provide privacy and mask unwelcome views. They are valuable as contrast and relief to bricks and mortar, and should be complementary to new developments. Trees also act as barriers to wind and noise."
- 4.30 Paragraph 4.14.3 states that:
"There will be a general presumption in favour of the retention of trees, irrespective of their age, unless they are potentially a public danger..."
- 4.31 Policy CD84 of the Unitary Development Plan (as placed on deposit) is:
"To resist development proposals that would result in an unnecessary loss of trees."
- 4.32 Policy CD85 (as placed on deposit) is:
"To resist the loss of trees unless they are dead, dying or potentially a public danger, causing an actionable nuisance or, exceptionally, when removal is required in a replanting programme."

- 4.33 It is considered that the London Plane tree on the site is of particular importance in providing arguably the single largest contribution to the visual character and appearance of this part of the Conservation Area. Cumulatively, all the trees in and around the site are considered to provide an essential element in the amenity of the occupiers of all the properties that look over the site. It is considered that any proposal which may harm the health, vigour, appearance or longevity of the trees on the site, and the Plane tree in particular, must be unacceptable. The loss of the one Sycamore tree in poorer health can be tolerated.
- 4.34 The applicants have employed a reputable firm of arboricultural consultants to advise on this matter, and have submitted a tree survey to record the health and status of all the trees on the site. The height of the Plane tree, and its boughs, have been measured with optical instruments, and the results have been discussed and checked by the Council's own arboriculturist.
- 4.35 The only proposed work to the trees on the site involves the removal of the lower branch of the Plane tree, and the one Sycamore tree. It is proposed to use a pile and beam foundation to avoid harm to the root system of the trees, and it has been confirmed that the basement swimming pool is sufficiently far away from the main roots so that it will not have any significant impact upon the health of the tree. The central courtyard area is to be a porous surface, covered in gravel, as is the single hardstanding for the small house. It has also been confirmed that the trees surrounding the site would not suffer from the proposed development.
- 4.36 There is a change in grade across the site, with the land falling from East to West, with the gardens of Warwick Gardens properties being below the level of St. Mary Abbots Place. In many circumstances, this fall would have necessitated excavating on the uphill side of the tree, or backfilling on the downhill side, in order to provide a level platform for the proposed building. In this case, however, it is proposed to build the houses upon a raft supported above ground level, so that a space remains between it and the ground and no excavation around the tree will be necessary.
- 4.37 On balance, it is concluded that, with suitable conditions to protect the trees whilst work is in progress, the vigour and longevity of the Plane tree, and other trees, can be safeguarded. Similar conditions are proposed to protect all trees around the site, including the Fig tree at the rear.
- 4.38 A tree has little townscape value unless it can be seen. The proposed house would obscure the main trunk tree from St. Mary Abbot's Place views, but the canopy would still be seen in full. This is the same as the present situation whereby the main trunk of the tree is obscured by the existing garages. Viewed from Warwick Gardens, currently of the full height of the tree, would be reduced to a view of the canopy, and the overall grandeur of the tree being correspondingly reduced. Nevertheless, it is considered that the tall canopy would continue to provide its important contribution to the character of the Conservation Area;

as this would be preserved, it is not considered that a refusal of planning permission would be justified on this ground.

4.39 Amenity issues The rear boundary wall of the site is about 11m from the main rear walls of the Warwick Gardens properties to the rear, and the proposed main rear building line would be 14m distant. The Warwick Gardens properties do not have a right to a view as such, however, any significant reduction in amenity by virtue of loss of daylighting, loss of privacy, or general increase in sense of enclosure must render the proposed houses highly questionable in planning terms.

4.40 The rear boundary wall, to be constructed of stock brick, would be 2.5m in height and will avoid any overlooking from the ground floor of the property. At first floor level, three bedroom windows are proposed, which will result in an amount of overlooking where there is none at present. The Unitary Development Plan recommends that 18m should be provided between opposing windows if possible. Policy 4.10.3 of the District Plan acknowledges the consequences of living in a built up area, stating:

"The Council will try to ensure that development does not adversely affect the privacy of those living and working in neighbouring properties. Buildings in Kensington and Chelsea, however, are often close together, and a consequent loss of privacy has to be accepted."

4.41 Whilst it is clear that some overlooking will result, it is considered that a distance of 13 or 14m would reduce this to a level that would not in itself result in a reduction of amenity that could justify a refusal of planning permission.

4.42 At its highest point, the roof of the proposed building will result in a daylighting angle of 28 degrees, with the measurement taken from sill height at basement level of the Warwick Gardens properties. This is within the recommended guideline of 30 degrees, and most of the roof, being lower, would be considerably within this. The applicants have not simply met the recommended daylighting guidelines, but have kept well within them. Therefore, it is concluded that the proposal does not contravene the relevant guidelines for daylighting.

4.43 The recommended guidelines for direct sunlight, as opposed to daylight, is that a minimum angle of 28 degrees should be allowed for South facing buildings. The sun is at its highest when coming from the South, and lower angles apply where it may be blocked as it rises in the East or sinks in the West, for example the South-East or South-West would be about 20 degrees. Clearly in the winter the sun is lower at all points of the compass. In this case, the proposed house would block direct sunlight to the gardens and ground floors of the Warwick Gardens properties during the morning, when the sunlight would be coming from the East, at all times of the year. There would not be any blockage of sunlight from the South, during the middle part of the day. The blockage of morning light is certainly a detrimental result of the proposed development, however, as sunlight later in the

day is preserved, and as daylighting angles are complied with, and as it has to be accepted that in an urban setting buildings will often block out sunlight, particularly at lower angles, it is not considered that this point justifies a refusal of planning permission.

- 4.44 In constructing a building of this size where at present there is none, there will inevitably be some sense of enclosure in consequence. However, that fact in itself will not normally dictate that an urban development should not be permissible; it is only when that sense of enclosure reaches to a point beyond that which could usually be expected in an urban setting that a refusal of planning permission would be justified on such a ground. In this case, the distance between the properties in question, coupled with the fact that the properties in Warwick Gardens are houses with two aspects, is considered to lead to the conclusion that the resultant sense of enclosure would not be of a degree that would justify a refusal.
- 4.45 English Heritage who were consulted with regard to the demolition of the existing garages, have written to state that they have no objection to the demolition, but cannot comment in any detail on how the appearance of the character of the area would be affected without commenting on the replacement buildings. Details have been forwarded.
- 4.46 Traffic and parking The Council's Transportation Officer comments that the larger dwelling provides two off-street parking spaces, complying with the latest Council parking standards for a large house. It is pointed out that crossovers will need to be constructed, however, together with an extension to the existing pavement which would be at the applicants' expense. This work will need to form a Planning Obligation under S.106 of the Town and Country Planning Act 1990.

5.0 Public Consultation

- 5.1 34 letters of consultation were sent to occupiers of neighbouring properties in St. Mary Abbots Place and Warwick Gardens, and a total of 17 objections have been received, including one from the Edwardes Square, Scarsdale and Abingdon Residents' Association, and one from the Warwick Gardens Residents' Association. Many of the objectors have written a number of points. Councillors Munday and Christmas have also raised concerns regarding the application.
- 5.2 Following notification of the first set of design amendments, 8 objectors have sent further letters stating that the amendments to the design were insignificant and did nothing to allay their previous grounds for objection. Further amendments to the rear elevation and roof have been carried out since then.
- 5.3 One letter has been received in favour of the proposal.
- 5.4 The objections can be divided into the following areas.

- 5.5 The Plane tree - 12 of the objectors, including the Edwardes Square, Scarsdale and Abingdon Residents' Association, specifically voice their concerns over the London Plane tree at the centre of the site. A number of these objectors refer specifically to the method of foundation proposed for the houses, and are not convinced that the need to excavate is thereby avoided. The majority of these objectors are not convinced that the tree would be able to survive the construction of the proposed houses without suffering serious harm, with particular reference to the effect of the basement swimming pool and fitness room upon the root system. Even if the tree was to survive the construction work, they fear that it would ultimately be lost due to its proximity to the development. They also object to the principle of obscuring the tree by a large building, and warn that any occupiers of the house would find their guttering packed with leaves every autumn, which would lead to continual requests to lop further branches and thin the canopy.
- 5.6 As stated above, it is considered that any development on this site could only be acceptable if the vigour and longevity of the Plane tree would be unaffected. The Council's Arboricultural Officer has confirmed that the method of pile and beam foundation, and channel system to safeguard the necessary oxygen supply to the root system, will ensure that the root system, and health of the tree, will not suffer from the development. It is considered that the work on site should be tightly controlled by condition in order that the Plane tree, and other trees, are not damaged during construction.
- 5.7 It is not considered that the visual contribution of the Plane tree, and other trees, will be materially lessened by the proposed development, as the canopy is large enough and tall enough to continue to feature largely in all views in this part of the Conservation Area.
- 5.8 The Council could prevent any future lopping or thinning of the tree by refusing such requests.
- 5.9 Scale and Design - The Edwardes Square, Scarsdale and Abingdon Residents' Association, and 7 other objectors, object to the principle of constructing a large building on the site, commenting that the scale of the proposed building, and its detailed design, is inappropriate for this site.
- 5.10 It is considered that the height of the building is in keeping with the existing buildings on the West side of the Place, and that the features incorporated into the design, such as the courtyard, variation of materials, and roof pitches at the rear, mitigate the physical impact of the building to the extent that it is acceptable in planning terms. Strict conditions are recommended to ensure that samples of all facing and roof materials shall be submitted, and approved, before any development commences.

- 5.11 Amenity - The Edwardes Square, Scarsdale and Abingdon Residents' Association, and 8 other objectors living at the rear of the site, stress objection to the proposal on grounds of loss of amenity, in particular to the Warwick Gardens properties at the rear, by virtue of loss of daylight, loss of privacy and sense of enclosure.
- 5.12 As stated above, the proposal is within the building envelope necessitated by the recommended daylighting guidelines, and no material loss of daylight is expected to result. It is accepted that the proposal would result in a reduction of privacy, and increased sense of enclosure, by virtue of the simple fact that there would be a house where at present there is a space. However, it is considered that the buildings are far enough apart to reduce this effect to the degree that should reasonably be expected in a built up London Borough. It is not considered that the impact upon amenity is severe enough to justify a refusal of planning permission on that ground.
- 5.13 Traffic - One objection relates to the concern that the proposal would cause an increase in traffic in St. Mary Abbots Place.
- 5.14 All parking standards for new houses are complied with, and it is not considered that any increase in traffic will result as there are four existing garages on the site.
- 5.15 G.K. Chesterton - A further letter of objection has been submitted by the Chesterton Society. G.K. Chesterton lived in No. 11 Warwick Gardens for many years, and the Society are committed to honouring Chesterton's life and work. The Society consider the house and garden to No. 11 as being an informal but important monument, that ought to be preserved in a manner that Chesterton would have known them. Therefore, the Society object to the principle of building on part of the garden to No. 11 Warwick Gardens, of affecting the setting of the property in any way.
- 5.16 The proposed house would not be constructed upon any part of the garden of No. 11. The garden to No. 11 backs onto the proposal site and at present it is possible to walk through from one to the other. However, the site is under different ownership and there is no legal right to use the land as part of the garden to No. 11. No. 11 itself is not a Listed building, nevertheless it is not considered that the proposal will materially affect the historic interest or integrity of this building. As discussed earlier in this report, it is not considered that the setting of this and the neighbouring properties within Warwick Gardens will be affected to an extent that would justify a refusal of planning permission.

6.0 RECOMMENDATION

6.1 Subject to a Planning Obligation under Section 106, grant planning permission.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

Background Papers

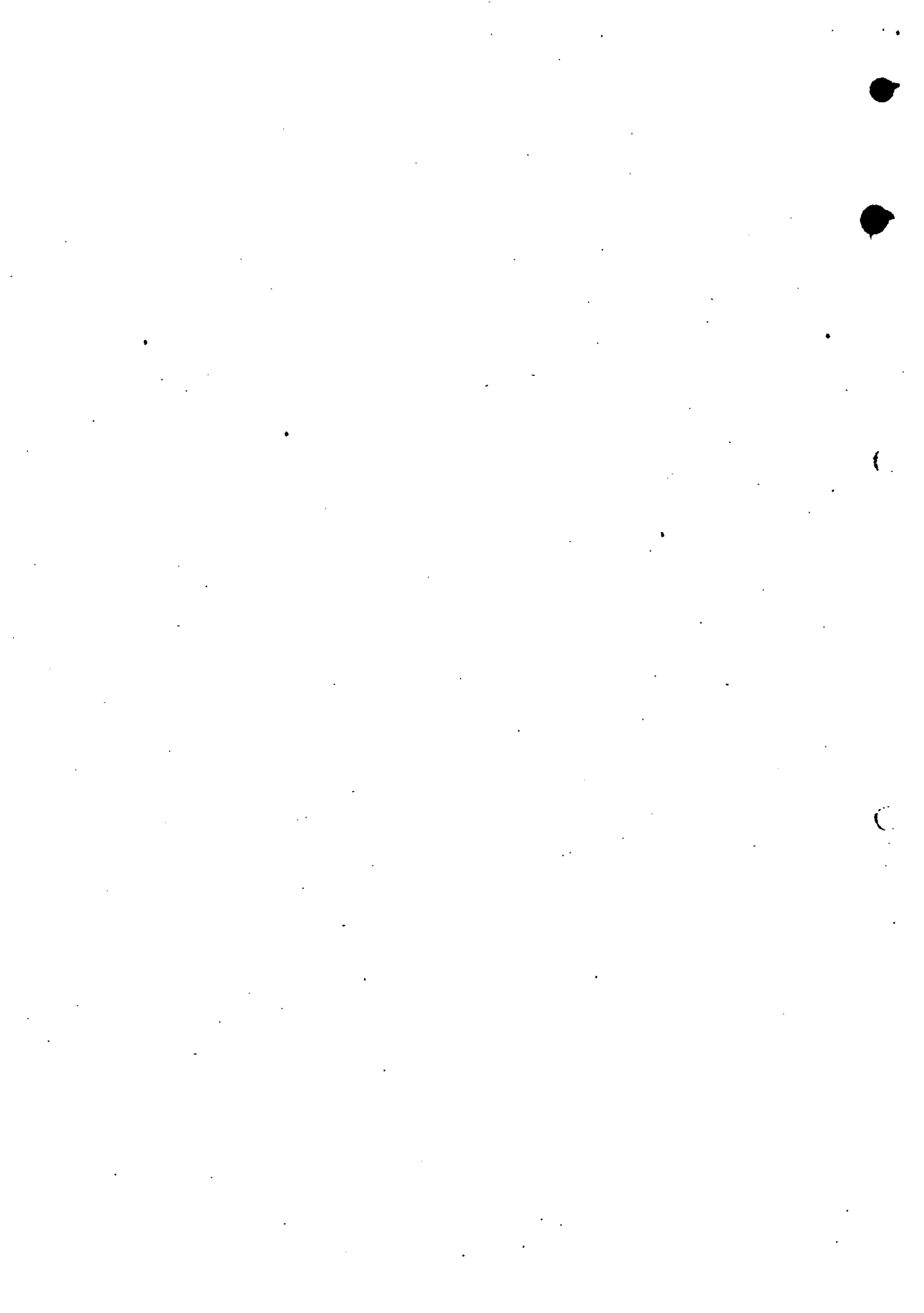
The contents of the file number TP/94/0644 referred to at the head of this report save for exempt or confidential information as defined by the Local Government (Access to Information) Act, 1985.

Officer Contact

The above documents can be inspected by prior appointment with Tracey Rust in the Planning Information Office, Room 325, The Town Hall, Telephone 0171-361-2080.

REPORT PREPARED BY: DT
REPORT APPROVED BY: LAWJ/AD
DATE REPORT APPROVED: 24/12/94

PSC9501/DT .REP



THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING SERVICES COMMITTEE

11/01/95

APPLICATION NO.
TP/94/0645/ZZ/42

AGENDA ITEM
2007

REPORT BY THE DIRECTOR OF PLANNING SERVICES

APPLICANTS NAME/ADDRESS

Roger Carpenter
Kerr and O'Hara,
106 Fulham Road,
London SW3 6HS

Application dated 31/03/94
Revised 18/10/94
Completed 08/04/94
Polling Ward KB36

ON BEHALF OF : Meadview Developments Ltd.
INTEREST : Not known

District Plan Proposals Map:

Cons.Area	CAPS	Article 4 Direction	Listed Building	HBMC Direction	A/O Consulted	Objectors (to date)
8	YES	NO	NO	NO	34	19

RECOMMENDED DECISION :-

GRANT conservation area consent for demolition of existing 2 storey detached building and 3 no. adjacent single storey garages

At: LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON, W.8

As shown on submitted drawing(s) No(s): TP/94/0645 and TP/94/0645/A

Applicants drawing(s)No(s) : 7413A (existing), L(--) 01B,
)02B,)03B,)04B,)05B,)06B,)07B,)08B,
)09B,)10B,)11B,)12B and)100B

CONDITIONS

1. C.301
2. The Council's Arboricultural Officer shall be informed, in writing, 7 days before the commencement of any demolition on site.
3. C.20

REASONS FOR THE IMPOSITION OF CONDITIONS

1. R.301
2. To allow inspection of tree protection measures.
3. R.20

INFORMATIVES

1. I.12
2. I.44

1.0 DETAILS

1.1 Details of this application are given in the report on application Reference TP/94/0644, Agenda Item No. 2006.

2.0 RECOMMENDATION

2.1 Grant Conservation Area Consent.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

Background Papers

The contents of the file number TP/94/0644 and TP/94/0645 referred to at the head of this report save for exempt or confidential information as defined by the Local Government (Access to Information) Act, 1985.

Officer Contact

The above documents can be inspected by prior appointment with Tracey Rust in the Planning Information Office, Room 325, The Town Hall, Telephone 0171-361-2080.

REPORT PREPARED BY: DT
REPORT APPROVED BY: LAWJ/AD
DATE REPORT APPROVED: 24/12/94

PSC9501/DT .REP

March 30th 95.

Planning Dept

Your Ref. DPS/DCC/ATF -
- TP/95/0395

1 Warwick Close
355 Kensington High Street
London W8 6NP

RECEIVED BY PLANNING SERVICES

DC N	DC C	DC S	E	Ap Ack
5/4 - 4 APR 1995				
Exec Dir	Records	ARB	Con Des	
Appeals Officer	Fees Officer	Forward Plan	DC	

Dear Sir. I am the Hon. Secretary to our

residents in 5 houses called "Warwick Close" No 1 to 5. Of late we all have been receiving various planning applications referring to St. Mary Abbot's Place & 1 Warwick Gardens - but you are addressing them wrongly with the post code of West Kensington W.14.

We are not as above but please alter your records to 1, Warwick Close, 2 Warwick Close, 3, Warwick Close or 2a St. Mary Abbot's Place (they have 2 addresses) 4, Warwick Close & 5 Warwick Close. followed by 355 Kensington High Street London W8 6NP

So many letters have been all over London before they reach us, almost making it too late for

4
for us to reply to you before the
expiry date.

Thanking you with hopes
the records will be corrected.

Yours faithfully
Vera Aye Cheyne Mrs.

11 St Mary Abbot's Place
London W8 6LS

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
10th April 1995		11 APR 1995		57
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

Mr M J French
Executive Director
Planning & Conservation
RBK & C
The Town Hall
Hornton Street
London W8 7NX

Dear Mr French

Ref: LAND ON AND ADJACENT TO ST MARY ABBOT'S PLACE, W8
REF: DPS/DCC/TP/95/0605/DT

I believe, as do many in the immediate community, that St Mary Abbot's Place CANNOT sustain further development. The projected application at 4 St Mary Abbot's Place, however worthy in its stated aims, comes on top of considerable building activity all around. We live in a conservation area where over-development is already rampant. Further building would, quite clearly, have an extremely adverse affect on the environment, and the local setting, leading to more noise, more traffic, more disruption, more damage to the quality of the area, and to the quality of life for residents, etc.

With good wishes

Yours sincerely


Adam Munthe



9 Warwick Gardens, London W14 8PH

Telephone: 071-602 3893

✓
1.5

27 April 1995

Mr M J French
Executive Director
Planning & Conservation
The Town Hall
Hornton Street
London W8 7NX

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
1 MAY 1995				al
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Dear Mr French

RE: LAND ON AND ADJACENT TO NO.4 ST MARY ABBOTS PLACE, W.8

We have seen the new drawings for the above proposed development and are still distressed that none of our previous comments seem to have been noted.

We see that the plans have been changed so that windows overlooking our neighbours at 11 Warwick Gardens have been altered. The same conditions and reasons apply to our gardens and privacy. So I do not understand how our objections to overlooking have been ignored.

Also the mature sycamore tree in our back garden near the boundary wall, which is part of our family's enjoyment, should be protected along with other tree on the proposed development. We have no confidence that our tree will survive the building operations around it.

Mr Mullins has made his strong objections known to you relating to the height, bulk and other adverse reasons for not accepting this design or indeed any building at all in this conservation area. We fully support his comments and objections and present them as support for our own case.

Yours faithfully,

Essam Mattar

RP
Essam Mattar
11.4.95

J. French Esq., Executive Dir.,
Planning & Conservation
The Town Hall
Horton Street, London W8

9A St Mary Abbots Pl.
Kensington
London W8 6LS
✓ 01
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RECEIVED BY PLANNING SERVICES				
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01 MAY 1995 76.				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

26th April 1995

Dear Mr. French

I am writing to you to comment on the proposed development of land adjacent to No. 4, St Mary Abbots Place. I have already written to you in response to the first application for development on this land and was surprised to have to respond to an identical proposal again.

I looked at the plans for this proposed development at your office and was left in no doubt that if carried out, such a development would kill the mature plane tree which has a protection order on it.

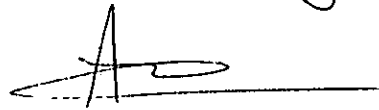
The proposed underground room and jacuzzi would, without any doubt, necessitate cutting through some of the main roots of the tree because its position is so central in the plan; to think otherwise is immensely cynical on the part of the developers, since the building of foundations for this aspect of the development would very likely kill the tree in the first place.

please turn over / —

I really must ask you to stand up to this proposed development and refuse permission, and not to let it get through on a loophole in the law by repeatedly putting forward identical plans!

I feel I made my views very clear the first time the original plan for this site was put forward and I feel it is your responsibility now. I urge you please to refuse permission for the development.

Yours sincerely

A handwritten signature in cursive script, appearing to be 'Ann Storock', written over a horizontal line.

Ann Storock (Mrs)

9a St Mary Abbots Place
Kensington
London
W8 6LS

0171-603 6779

✓
cm
25/4

M. J. French, Esq
Director, Planning and Conservation
Royal Borough of Kensington and Chelsea
Town Hall
Hornton St
W8 7NX

RECEIVED BY PLANNING SERVICES				
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H/S		25 APR 1995		
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Appeals Office	IO	Fees Officer	Forward Plan	Head DC

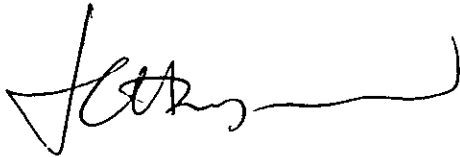
22nd April 1995

Dear Mr French

Thank you for your notice regarding the revised drawings for the planning application for land on and adjacent to no. 4 St Mary Abbots Place, bearing reference DPS/DCC/DT/TP/94/0644.

I have written twice on this subject, but as I am just about to go away I have been unable to inspect the new plans. I would hope that the Committee would continue to do its utmost to ensure the preservation of the mature plane tree, which is of unrivalled quality and one of the principal amenities of the street. My grandfather wrote of it in editorials of the magazine of The White Eagle Lodge (at no. 9 St Mary Abbots Place) on a number of occasions in the 1940s and I understand it was in an earlier age written of by G. K. Chesterton.

Yours sincerely



J. C. Hayward

S A M A B B O T S

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26/4

RECEIVED BY PLANNING SERVICES				
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26 APR 1995				91.
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Ward Councillors
 Ms Christmas & Mr Field
 RBK & C
 Town Hall
 Hornton Street
 London W8

24 April 1995

Dear Ms Christmas and Mr Field

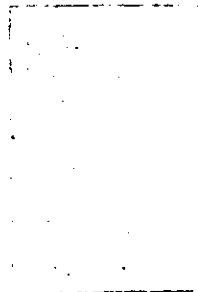
RE: Site adjacent and including 4 St Mary Abbots Place, London W8

I am writing in my capacity as a director of the company that developed the buildings at 1-5 St Mary Abbots Place, London W8 where we are also the resident managers. On making a recent call to the Planning Enquiry office regarding progress on the site opposite, I was told that the case had been deferred once again. I therefore, feel as a resident of both offices and a home in the Borough that I should comment on the proposals.

I understand that the objections to the proposed scheme have come from the residents of the large houses on Warwick Gardens who feel that a large tree of historical interest would be compromised by any development. I too am not in favour of the tree being damaged or removed but the plans I have seen in your records office do not suggest its removal. I do feel however, that you are possibly seeing this issue from their perspective only and do not appreciate why I and the other tenants of this development are keen to see something done to this site. While I realise we all will be inconvenienced by the noise and dirt associated with construction in the short term, the long term benefits will in my view far outweigh the temporary disturbances.

Firstly, the plans proposed appear to be in keeping with general environment of this street. Every building here with the exception of Numbers 2 and 4 St Mary Abbots Place and the rear of the post war block of flats on Kensington High Street are large Arts and Craft style houses or studios. Even our office building is designed to resemble them. Therefore the large house proposed would be in keeping with the surrounding architecture and the smaller number 4 would resemble the typical adjoining coach house or mews.

Secondly, but most importantly from our standpoint we are keen for some development to take place because what is here presently is an eyesore and has severely detracted from the desirability and the aesthetics of our buildings. The existing garages are scruffy, unkempt and vermin infested and their forecourts are used by the neighbouring shops as dumping grounds for meat, vegetables and the parking of vans, bikes etc. This lowers the tone of the street so much that at times it resembles the back alley of a third world city. Mr Dunlop of your Environmental Health Department can attest to the amount of correspondence he has received from myself and other tenants of this building regarding this issue. The situation will never improve however much we complain because the scene of dereliction encourages our unhygienic neighbours who have no civic consciousness whatsoever to carry on as they have been for however long the site has remained undeveloped. We in turn have lost many potential tenants due to the fact that they are none too impressed with the decayed ambience of the street.



As a payer of Commercial Rates and RBK & C Council Tax (as incidentally are the majority of our tenants including Sir David Frost) I feel that you should take into account our views on this matter because at present it would appear that the planning committee is only taking note of the reservations of one group of people who ultimately will not be as directly affected by the scheme as we are.

I may take the liberty of following up this letter with a telephone call.

Yours sincerely



Ms Samia Murgian
Director

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
26 APR 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

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		S		Acc
84 28 APR 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	DC

Cathalie BERTRAND
 17 Warwick Odus
 W14 8PH London
 : 0171-623-87-87

M. J. French, Esq.,
 Executive Director, Planning &
 Conservation
 The Town Hall, Kensington

Wednesday, 26th April

✓ J.S.

Dear Mr French,

I am writing to express my objection to the following proposal:

Land on and adjacent to 41 S^t Mary Abbots Place.

We do believe that if any more constructions are permitted in the open garden space between

Warwick Gardens and St Mary Abbot Place,
the pleasantness and amenity of all
our houses will be seriously affected.

We should be grateful if you
would bring our anxieties to the
attention of the planning committee.

Yours sincerely,

J. S. T. J.

23 April 1995

M.J. French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

Dear Mr French

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
01 MAY 1995				101
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

RE: 4 ST MARY ABBOTS PLACE, KENSINGTON, W.8-APPLICATION REFERENCE
TP/94/0644, TP/94/0645

We have reappraised the latest set of revised drawings for the proposed development on the above site and maintain the following objections:

1. The front elevation (East) is still too high and bulky. The proposed two separate houses are built next to each other covering a length of 22 meters, giving the appearance of one building (main house and staff quarters). In fact a mansion with its attendant services and additional pollutions.
2. The height of the rear elevation has been marginally reduced over a period of "Redesign", however the remaining height of the roof line of St Mary Abbots Place still overpowers these reductions, so maintaining the unacceptable height which intrudes onto the Warwick Garden properties. Also there is a fall in ground level of 26" to the rear of the building which results in an actual additon of 3'2" (0.97m) to the existing height - This is not in the existing drawings.

There is anxiety and serious concern of height, bulk, density, privacy and loss of mature garden space and light in a Conservation Area that applies strongly to this project!

3. We maintain that any building erected onthis site should not be higher than the original roof line of the existing Coach House (No.4) which is 6m 40cm. The Artist Light on the North side was an Edwardian addition and gives a false visual signal which the developers have exploited.
4. We maintain that the combined buildings length should be broken up, giving sight/glimpses of existing gardens, architecture and light through the spaces seen from both elevations (East & West).

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RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
01 MAY 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Free	Forward	Local read allow

5. We maintain that the existing protected plane trees of interest and merit should only be franked by buildings allowing it to be appreciated through a gap seen from both elevations (East & West). This allows more of the tree's crown to be seen above a lower roof line and in profile through the gap. Thus going some way to appease local concern of residents for its welfare.

Finally, we maintain that if these proposed buildings are erected as planned it will be detrimental to our local area. The bulk and intrusiveness of the combined structures will lessen the accepted amenities and destroy the conservation aspect and character of this corner of Kensington. Our objections apply to the previous and duplicate application from the same developers.

We trust as local residents we can rely on the Planning Services Committee to support our objections by only allowing a more sympathetic development to be built.

Yours faithfully,

Resident (s)

Address

S. Nicholas
2A ST Mary Abbots Place Ken.

23 April 1995

M.J. French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

Dear Mr French

RE: 4 ST MARY ABBOTS PLACE, KENSINGTON, W.8-APPLICATION REFERENCE
TP/94/0644, TP/94/0645

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RECEIVED BY PLANNING SERVICES				
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Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

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RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
01 MAY 1995				
Exec Dir		Records	ARB	Con Dev

5. We maintain that the existing protected trees of local interest and merit should only be flanked by buildings allowing it to be appreciated through a gap seen from both elevations (East & West). This allows more of the tree's crown to be seen above a lower roof line and in profile through the gap. Thus going some way to appease local concern of residents for its welfare.

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We trust as local residents we can rely on the Planning Services Committee to support our objections by only allowing a more sympathetic development to be built.

Yours faithfully,

LAWRENCE BARROW

Resident (s)

Address 12 ST. MARYS ABBOTTS PLACE
W8 6LS

23 April 1995

M.J. French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

Dear Mr French

RE: 4 ST MARY ABBOTS PLACE, KENSINGTON, W.8-APPLICATION REFERENCE
TP/94/0644, TP/94/0645

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Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

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4. We maintain that the combined buildings length should be broken up, giving sight/glimpses of existing gardens, architecture and light through the spaces seen from both elevations (East & West).

- 5. We maintain that the existing protected Plane Tree of local interest and merit should only be flanked by buildings allowing it to be appreciated through a gap seen from both elevations (East & West). This allows more of the tree's crown to be seen above a lower roof line and in profile through the gap. Thus going some way to appease local concern of residents for its welfare.

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We trust as local residents we can rely on the Planning Services Committee to support our objections by only allowing a more sympathetic development to be built.

Yours faithfully,



Resident (s)

Address

3 Warwick Gardens Kensington W14 8PT

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
01 MAY 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

23 April 1995

M.J. French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

Dear Mr French

RE: 4 ST MARY ABBOTS PLACE, KENSINGTON, W.8-APPLICATION REFERENCE
TP/94/0644, TP/94/0645

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5. We maintain that the existing protected interest and merit should only be flanked by buildings at low-ing it to be appreciated through a gap seen from both elevations (East & West). This allows more of the tree's crown to be seen above a lower roof line and in profile through the gap. Thus going some way to appease local concern of residents for its welfare.

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We trust as local residents we can rely on the Planning Services Committee to support our objections by only allowing a more sympathetic development to be built.

Yours faithfully,

pp. Resident (s) Clare Beezam (@Weds)
 Address St. Mary Abbots Place
Kensington W8

23 April 1995

M.J. French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
01 MAY 1995 108				
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

VOK

Dear Mr French

RE: 4 ST MARY ABBOTS PLACE, KENSINGTON, W.8-APPLICATION REFERENCE
TP/94/0644, TP/94/0645

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01 MAY 1995				
Exec Dir Office	Plane Tree	Records ABB	Con Local	allow- ing

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We trust as local residents we can rely on the Planning Services Committee to support our objections by only allowing a more sympathetic development to be built.

Yours faithfully,

Resident (s) AOL PULLON

Address S WARWICK GARDENS
KENSINGTON W.14 8PH

23 April 1995

M.J. French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

Dear Mr French

RE: 4 ST MARY ABBOTS PLACE, KENSINGTON, W.8-APPLICATION REFERENCE
TP/94/0644, TP/94/0645

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Appeals	IO	Fees	Forward	Head
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We trust as local residents we can rely on the Planning Services Committee to support our objections by only allowing a more sympathetic development to be built.

Yours faithfully,

B. Zinn

Resident (s)

Address 2, WARWICK CLOSE, KENSINGTON HIGH STREET,
LONDON W8 6NP

23 April 1995

M.J. French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
01 MAY 1995				166
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

10/5

Dear Mr French

RE: 4 ST MARY ABBOTS PLACE, KENSINGTON, W.8-APPLICATION REFERENCE
TP/94/0644, TP/94/0645

We have reappraised the latest set of revised drawings for the proposed development on the above site and maintain the following objections:

1. The front elevation (East) is still too high and bulky. The proposed two separate houses are built next to each other covering a length of 22 meters, giving the appearance of one building (main house and staff quarters). In fact a mansion with its attendant services and additional pollutions.
2. The height of the rear elevation has been marginally reduced over a period of "Redesign", however the remaining height of the roof line of St Mary Abbots Place still overpowers these reductions, so maintaining the unacceptable height which intrudes onto the Warwick Garden properties. Also there is a fall in ground level of 26" to the rear of the building which results in an actual additon of 3'2" (0.97m) to the existing height - This is not in the existing drawings.

There is anxiety and serious concern of height, bulk, density, privacy and loss of mature garden space and light in a Conservation Area that applies strongly to this project!

3. We maintain that any building erected onthis site should not be higher than the original roof line of the existing Coach House (No.4) which is 6m 40cm. The Artist Light on the North side was an Edwardian addition and gives a false visual signal which the developers have exploited.
4. We maintain that the combined buildings length should be broken up, giving sight/glimpses of existing gardens, architecture and light through the spaces seen from both elevations (East & West).

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DC N	DC C	DC S	E	Ac Ack
01 MAY 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Envirof Officer	Local Heard

5. We maintain that the existing protected Plane Tree allowing interest and merit should only be flanked by buildings allowing it to be appreciated through a gap seen from both elevations (East & West). This allows more of the tree's crown to be seen above a lower roof line and in profile through the gap. Thus going some way to appease local concern of residents for its welfare.

Finally, we maintain that if these proposed buildings are erected as planned it will be detrimental to our local area. The bulk and intrusiveness of the combined structures will lessen the accepted amenities and destroy the conservation aspect and character of this corner of Kensington. Our objections apply to the previous and duplicate application from the same developers.

We trust as local residents we can rely on the Planning Services Committee to support our objections by only allowing a more sympathetic development to be built.

Yours faithfully,

Resident (s) S.M. ALKINSON
 Address 7. ST. MARY ABBOTS PLACE,
KENSINGTON W86LS.

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*11 objections
plus applicants'
counsel's
opinion*

MEADVIEW (DEVELOPMENTS) LIMITED

33/35 BATTERSEA BRIDGE ROAD
LONDON SW11 3BA

Telephone 0171-924 3555 Facsimile 0171-924 2549

Registered Office: 23 Bridford Mews London W1N 1LQ
Registered in England. Company No. 2889902

you - PC
27/5/95
✓ OH
1.5

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1 MAY 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

M J French Esq. FRICS. Dip TP. MRTPI. Cert TS.
Executive Director
Planning and Conservation
The Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
London W8 7NX

1st May 1995

Dear Mr French

Re. 4 St Mary Abbots Place

I enclose a copy of a letter I have written to Councillor Harney for your information. The drawings that are referred to in that letter are presently being mounted and will be delivered to your office in time for the Committee meeting this evening.

Yours sincerely



C P Barrow

MEADVIEW (DEVELOPMENTS) LIMITED

33/35 BATTERSEA BRIDGE ROAD

LONDON SW11-3BA

Telephone 071-924 3555 Facsimile 071-924 2549
Registered Office: 23 Bridford Mews, London W1N 1EQ.
Registered in England. Company No. 2889902

RECEIVED BY PLANNING SERVICES				
DC	DC	DC	E	Ao Ack
1 MAY 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

Councillor Desmond Harney O.B.E., B.Sc.
16 Stafford Terrace
London W8 7BH

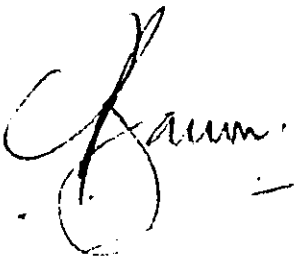
28th April 1995

Dear Councillor Harney

4 St Mary Abbots Place

Our application comes before your committee on 1st May 1995. To assist you in coming to a decision, I enclose a schedule of the major alterations that have been made since the original planning application dated 31st March 1994, in response to comments made through your officers. I also enclose Counsel's advice which we sought after the last Committee meeting.

Yours sincerely



C P Barrow

c.c. M J French Esq., Executive Director, Planning and Conservation

Since the planning application of 31st March 1994, the applicants have:

- * Reduced the height of the north wing of the main house by 2ft 6ins and set the western roof slope back by 10ft, i.e. away from Warwick Gardens.
- * Set back the staircase wing by 7ft 6ins at ground floor level and the chimney and upper parts by some 6ft.
- * Improved the view of the plane tree from Warwick Gardens by virtue of the lowered roof line.
- * Set back the smaller house by 1ft and the south wing of the main house by 2ft.
- * Removed the large studio room and therefore its dormer window at the rear of the north wing of the main house.
- * Removed four windows from the rear elevation at first floor level.

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1 MAY 1995				
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In the matter of the planning Acts 1980 and in the matter of proposed development at 4 St Mary Abots Place, London W8

A D V I C E

Bell Cornwell Partnership,
EELA House,
Station Road,
Hook, Herts
RG27 9TL

fax: 01256-768490

\c95-21a

27 April 1995

A D V I C E

1. Applications have been submitted to the Council of the Royal Borough of Kensington and Chelsea for conservation area consent for the demolition of some garages at 4 St Mary Abbots Place, off Kensington High Street, London W8, and for planning permission for the construction of two houses. The garages are not listed, but the site is within the Edwardes Square, Scarsdale and Abingdon Conservation Area. I am asked to advise as to the likelihood of success at appeal, in the event that those applications are refused.
2. The application for conservation area consent should be determined in the light of the general duty laid upon the Council under s 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the desirability of preserving or enhancing the character and appearance of the Conservation Area. That has been held to mean, in effect, a requirement that the character etc of the Area should not be harmed (see the decision of the House of Lords in *South Lakeland DC v Secretary of State* [1992] 2 WLR 204). It is difficult to believe that the removal of these garages could of itself be said to harm the area.
3. The second statutory duty laid upon the Council is to notify English Heritage of the application, and to take into account any representations made by it (Listed Buildings Act 1990, s 14, as substituted by SI 1990 No 1519, Sched 3). English Heritage has been notified, and has - I understand - raised no objection.
4. A further relevant factor affecting the determination of the conservation area consent application will be the quality of the replacement building proposed - "consent for demolition should not be given unless there are acceptable and detailed plans for any redevelopment." (PPG 15; see also *Richmond-upon-Thames LBC v Secretary of State* (1978) 37 P&CR 151). Since it seems to me, not least on the basis of the detailed analysis of the proposed development in the officers' report (as to which see my further comments below), that the quality of the proposed development is entirely acceptable, I

see no reason why this consideration should operate against the grant of consent.

5. As for the application for planning permission to construct the two new houses, the determination of that will be subject first to the requirement (under Town and Country Planning 1990, s 54A) to consider first the development plan. That is currently (still) the 1987 District Plan; but a Unitary Development Plan is nearing the end of its path through the statutory procedures leading to adoption, and thus has considerable weight in the determination of applications.

6. The application is also subject to the requirement to have regard to the desirability of preserving or enhancing the conservation area (*South Lakeland*, supra; see also *Bath Society v Secretary of State*).

7. On this occasion, the Council officers have considered carefully the relevant policies in the Plan, and the draft Plan, to each of which they give its correct status. They consider too the various ways in which the proposal might affect the conservation area, including whether it conforms with the Policy Statement prepared for the Conservation Area. Their report deals also with the responses to public consultation. Indeed there have been not one but two such reports.

8. The first report in particular is very thorough, and considers the proposal in the light of the following issues:

- (a) the planning history of the site;
- (b) the demolition of the existing buildings;
- (c) the principle of development on the site;
- (d) the extent of site coverage;
- (e) the principle of housing in this location;
- (f) bulk, architectural form and detailed design;
- (g) the effect of the proposal on trees;
- (h) other "amenity issues";
- (i) traffic and parking;
- (j) G K Chesterton.

It is difficult to argue that anything of any substance has been omitted.

9. In all of these matters, the report was favourable to the scheme, or raised no objection. There was not even a balance of some disadvantages against some advantages.

10. The Committee appear to have been unenthusiastic, and the architects accordingly made some revisions to the scheme. A further report was then prepared by the officers, which considered that it was even more acceptable in terms of bulk, site coverage, and distance from other buildings. In spite of members' comments at the first meeting relating to the elevational treatment of the proposal, the officers reconsidered the matter and considered the original design to be "the right approach".

11. I therefore consider that, at the very least, it would be difficult for any of the officers associated with the two reports to revise their view sufficiently to enable them to present truthfully a cogent case at any subsequent inquiry.

12. Although the professional officers have thus stamped the scheme with their seal of approval, I am perfectly well aware that it is the elected members who have the final say, and who are perfectly entitled to take a different line:

Apparently these officers sometimes forget that local planning authorities consist of democratically elected members, and the members are, in my view, in practice constantly considering what their voters want and may, on dealing with any question, deal with it in accordance with what they think will be satisfactory to those whose votes they have solicited in the past and intend to solicit in the future" (per *Thesiger J in Cardiff Corp'n v Secretary of State for Wales* (1971) 22 P & CR 718 at p 726).

However, the members must still have reasons for disagreeing with those who give them professional advice. I have seen notes of the two committee meetings at which this proposal has so far been considered, and I am far from clear as to what are the arguments advanced by the members of the committee against it.

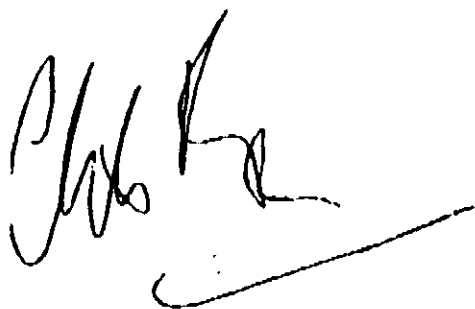
13. Whether one or more members of the committee chooses to give evidence at any subsequent inquiry, or whether they persuade an officer or consultant to do it for them, it will be necessary to provide hard evidence to support their view, and I have seen nothing to suggest that there is any such evidence - merely vague assertions feeling that the proposed buildings are "too big" or "look awful".

14. I therefore consider that, in the light of the evidence I have seen to date, I should be surprised if the Council was able to uphold a refusal at appeal.

15. Further, if the views of the members are not supported by such evidence, I consider that - in the light of current Government advice (in para 9 of Annex 3 to Circular 8/93) - it is likely that costs would be awarded against the Council:

"Planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers, or received from statutory bodies or consultees. But they will be expected to show that they had reasonable planning grounds for taking a decision contrary to such advice; and they were able to produce relevant evidence to support their decision in all respects. If they fail to do so, costs may be awarded against the authority" (emphasis added).

16. It will therefore be necessary for the Committee to produce cogent planning grounds for overturning the very clear and well-supported recommendation of its officers, if the Council is to avoid the likelihood of an award of costs against it.



CHARLES MYNORS

2 Harcourt Buildings,
Temple,
London EC4Y 9DB

27 April 1995

FILE NUMBER:94/644.....

ADDRESS:4 ST. MARY ABBOTS PLACE.....

.....W.8.....

REVISED DRAWINGS RECEIVED

1. Please re-notify all objectors. Add to letter:

"Revised drawings received. Any further comments must be received by" * 28/4/45

~~2.~~ Please re-advertise *

* delete or add as appropriate

✓ CM
18/4/45

Am Slocock, -9a St. Mary Abbots Place, W8 6LS ✓
Adam Ferguson, 15 Warwick Gardens, W14 8PH ✓
Lady Balfour of Inchrye, 15 St. Mary Abbots Place, W8. ✓
Adam Munthe, " " " 6LS. ✓
Claire Bezem, 4 Warwick Close, Kens H. St. W8 6NP. ✓
Cavendish Sq. Investments Ltd, Chelsea Hse, West Cctg, W5 1DR ✓
Essam Mattar, 9 Warwick Gardens, W14 8PH. ✓
J. C. Hayward, 9a St. Mary Abbots Place, W8 6LS. ✓
Peter Mullins, 11 Warwick Gardens, W14 8PH. ✓
The Occupier, 2 Warwick Close, Kens H. St. W8. ✓
Mrs. V. B. Ayre Cheyne | " " " 6NP. ✓
E.S.S.A, Mrs. S. Anderson, 8 Phillimore Terrace, W8 6BT. ✓
Martin Barron, 12 St. Mary Abbots Pl. W8 6LS. ✓
Samalco Ltd, 1a " " " ✓
The Chesterton Society, 11 Lawrence Leys, Hoxham Oxon
OX15 4NW
Warwick Gardens R.A., 67 Warwick Gardens, W14 8PL ✓

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

COUNCIL NOTIFICATION OF DEVELOPMENT

FILE COPY

Switchboard: 0171 - 937 5464
Direct Line: 071-361 2079/2080

Facsimile: 0171 - 361 3463
Date: 19/04/95

My reference:

Your reference:

Please ask for:

Planning Information Office

DPS/DCC/DT/TP/94/0644

THIS LETTER INVITES YOU TO COMMENT ON A PLANNING APPLICATION / LISTED BUILDING APPLICATION WHICH MAY AFFECT YOUR PROPERTY

Dear Sir/Madam,

The Council has received a planning application for development at a property which is close to yours. The address of that property is set out below, together with brief details of the development for which permission is sought. The Council's Planning Applications Committee, in considering the proposal, will welcome comments, for or against the scheme from those who live in or own property nearby. I should therefore be pleased to know, in writing, if you as the occupier/owner of neighbouring property have any comments.

Address of application property

LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON,
W.8

Proposal for which permission is sought

Erection of two semi-detached single family dwelling houses, with associated off-street parking and external amenity space REVISED DRAWINGS RECEIVED
ANY FURTHER COMMENTS MUST BE RECEIVED BY 28/04/95.

Further details are printed overleaf.

Yours Sincerely,

M.J. FRENCH

Executive Director, Planning and Conservation

TOWN AND COUNTRY PLANNING ACTS, 1990

The Council is required by the Secretary of State for the Environment to consider all planning applications expeditiously. Any letter of support or objection should be received as soon as possible within 14 days of the date of this letter, although later objections, if received in time, will be reported to the Council Committee meeting which decides the application. An early response gives the Council's Officers the opportunity to encourage applicants to amend their plans in the light of objections received, and the application may therefore be amended before it is decided. If you cannot formulate your detailed objections within 14 days you should acknowledge this letter so that your interest can be noted.

The reasons for any objection should be clearly stated.

Objections relating to party walls and inconveniences which may be caused by building operations should however be taken up, either by yourself or your professional representative, with the applicant.

All correspondence received will be available to members of the determining Committee when the application is considered.

It must be clearly understood that any comments you may choose to make will be made available to the applicant, his agent and any other interested party, pursuant to the requirements of the Local Government (Access to Information) Act, 1985.

Should there be any tenants in the buildings of other persons likely to be affected by this application, would you please be good enough to bring this letter to their attention.

If you are not the owner of the property to which this notice is addressed will you kindly forward this letter to the owner.

WHERE TO EXAMINE THE PLANS

The plans and/or application details referring to this proposal may be inspected at the Planning Information Office on the 3rd floor at the Town Hall, Hornton Street, W8 7NX, between the hours of 9.00 a.m. and 4.45 p.m.. Mondays to Thursdays and 9.00am to 4.15pm Fridays.

Alternatively, copies of all planning applications relating to:

- (a) the Chelsea area can be examined at the Information Office, Chelsea Old Town Hall, King's Road, SW3. Tel. 071-352 1856.
- (b) the postal areas W10, W11, or W2 can be examined at the Borough Council's Advisory Service Office, The Information and Aid Centre, Ladbroke Grove, W10 (under Westway, opposite Ladbroke Grove tube station.) Tel. 081-969 2433

Please telephone the Chelsea and Westway offices to check opening times.

Please quote the T.P. reference number on all written replies.

Please note: In the interest of economy, letters in agreement or without objections to the proposals will not be acknowledged.

PLANNING AND CONSERVATION

THE TOWN HALL • HORNTON STREET • LONDON W8 7NX

THE ROYAL
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Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services



KENSINGTON
AND CHELSEA

English Heritage,
Historic Buildings & Monuments Commission,
London & South East Region,
23 Savile Row,
London W1X 1AB

Switchboard: 0171-937 5464
Direct Line: 0171-361 2011

Facsimile: 0171-361 3463

Date: 19/04/95

My reference: ~~Yours reference~~
DPS/DCC/DT/19/94/0644

Please ask for:

TOWN AND COUNTRY PLANNING ACT, 1990, PART III

LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON, W.8

Further to our application dated 31/03/94, regarding the above property, which relates to demolition in a Conservation Area.

The Council has received revisions to this application and would be pleased to hear any comments you may like to make.

I intend to present this application to the Town Planning Committee in the immediate future.

Yours faithfully,

M.J. FRENCH

Executive Director, Planning and Conservation

ROGER CARPENTER KERR AND O'HARA

106 FULHAM ROAD LONDON SW3 6HS TELEPHONE 071 225 2541/2/3 TELEFAX 071 584 6829

1st May 1995

M. J. French, Esquire,
The Planning Department,
The Town Hall,
Hornton Street,
London W8

Dear Sir,

Land on and adjacent to 4, St Mary Abbott's Place

We have seen Mr Adam Ferguson's letter to you of the 22nd April and also that of Mr Peter Mullins of the 28th. We have been asked by our Clients to comment on those paragraphs which deal with the question of levels.

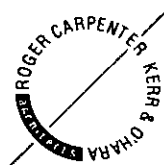
Our drawings are based upon a Site Survey, of which we enclose a part copy, by On Centre Surveys Limited and we believe this to be accurate. The relationship of the building to St Mary Abbott's Place is based upon the spot level marked in blue and what is proposed, is shown. For the purposes of the West and South elevations, the level of the gardens of Warwick Gardens is taken, in good faith, as being a mean level between the two true spot heights marked in red. It is generally agreed that the garden levels vary throughout the site.

The garden levels of No. 15 Warwick Gardens and No. 8 St Mary Abbott's Place, which adjoins it, are similar to each other.

Yours sincerely,



Roger Carpenter



MESSAGE FORM

To

WHILE YOU WERE OUT

M. On Monday

of On Mrs Christmas

Tel. No.

CALLED TO SEE YOU		PLEASE RING	
TELEPHONED		PLEASE VISIT	
WANTS TO SEE YOU		WILL RING YOU	
URGENT		WILL CALL AGAIN	

re objection

MESSAGE

i) continued

ii) bank

iii) start again from scratch.

Signed [Signature]

Date

Time

Gpied to C/C members
28-4-95

15, WARWICK GARDENS,
LONDON, W14 8PH.

Tel: 071-603 7900
Fax: 071-603 4114

Councillor Desmond Harney, OBE,
16, Stafford Terrace, W 8

April 22, 1995

Dear Desmond,

Site at 4, St Mary Abbot's Terrace, W 8

You invited me to return to this matter. I think my letter to you of March 31, though expressing our deep concern about what we are threatened with, may have lacked some substantiating detail. Please have the patience to consider what follows. The emphases, of course, are my own.

1. The issue is not whether the buildings would be closer than regulations permit, or loss of daylight, or "what must be expected in an urban area". It is whether the Council's own guidelines for preserving the amenity in a conservation area are to be followed.

Please look therefore at paragraphs 4.7 to 4.9 of the Planning Services Report on the proposal, circulated at the last meeting. Policy 7.3.7. of the District Plan is quoted like this:

The Council will ensure that where existing open space, both public and private, makes, or is capable of making, a contribution to an area's character or amenity, it shall be protected from development or change of use.

The words "is capable of making" are important but superfluous. To insert a block of that size in a central position in a group of back-to-back gardens is self-evidently destructive of their amenity, reducing critically the sense of space they enjoy. Anyway, Policy 7.3.8 states:

New buildings . . . will not be allowed to intrude into garden space which, on its own or together with neighbouring gardens, is important either to the character of the particular area or to the general character of the urban scene.

It is not possible to judge from the road the importance of this garden space and its trees. The Council officials who saw it from our viewpoint last year thought that permission was most unlikely to be given: it is hard to guess why collectively they have changed their minds. It is even harder in the light of the guidance given by Policy LR7 of the Unitary Development Plan:

To resist the loss of garden space . . . which independently or together with neighbouring gardens, is important either to the amenity of the particular area or to the general character of the urban scene.

One can accept that the garden space behind the present garages does not greatly affect the "urban scene" in St Mary Abbot's Place. But, if words mean anything, it is surely incontestable that it is important to the "particular area". I speak for the seven or eight households on its west side alone: we are the particular area. The report recognises as much, for in paragraph 4.33 it refers respectfully to

the amenity of the occupiers of all the properties that look over the site.

Yet see paragraph 4.11 which says - incredibly, to my mind -

It is considered that the open space of the site contributes less in itself to the amenity value of the site than does the Plane tree and other trees. . . No garden space, as described in Policy LR7 above, would actually be lost either.

This is breathtaking. The Executive Director's Addendum Report (dated March 17; paragraph 2.7) asserts that the site will be only 60% covered. But the truth is that, apart from a tiny plot beside the secondary house, the whole site is about to go under concrete, with a gravelled courtyard and a hardstanding and a paved "terrace" (part of it over a basement swimming pool) covering what is left when the building is complete. Even if Policy LR7 is open to such eclectic and subjective interpretation, I am certain the District Plan is not. But that is the tenor of the whole report. Consider this assessment (paragraph 5.7) of the result of building a three-storey house closely round three sides of a mature tree:

It is not considered that the visual contribution of the plane tree and other trees will be materially lessened.

But *nobody*, not even the owners of the development looking upwards, would ever be able to see the plane tree again as a whole! Can that be meant as a joke? I fear not: the department is simply determined to maintain that black is white. Possibly it just can't tell the difference. Paragraph 4.38 actually says the opposite - that viewed from Warwick Gardens the "overall grandeur of the tree would be correspondingly reduced", but the conclusion is sophistry at best.

2. The report goes into detail about the importance of the trees on the site. Paragraph 1.4 says there are five of note - the plane, three sycamores ("one of which is in rather poor condition") and one hawthorn. The hawthorn, as you know, gives us all much pleasure every spring and should have a long life ahead of it. Moreover, paragraphs 4.29 - 4.32 lays all kinds of obligations on the council to retain trees which are not dangerous. Paragraph 4.33, however, goes further:

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THIS IS A CARRIER SHEET. For Dick Granger described it as "dead"! DA nearly agrees, says it's full of disease and we could never insist on it's retention document ,management company. www.theedmgroup.co.uk

THIS IS A CARRIER SHEET. For (DA offered to go and look at it again but the Chairman said "not to bother") document ,management company. www.theedmgroup.co.uk

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Cumulatively, all the trees in and around the site are considered to provide an essential element in the amenity of the occupiers of all the properties that look over the site. It is considered that any proposal that may harm the health, vigour, appearance or longevity of the trees on the site . . . must be unacceptable. The loss of the one Sycamore in poorer health can be tolerated.

That is absolutely clear and specific. Paragraph 2.4, moreover, after discussing the plane tree, says categorically

All the other trees on or adjacent to the site would remain, with the exception of the poorer Sycamore tree.

If you study the plan, however, you will find that the hawthorn stands where the proposed main reception room is to be. I hope, therefore, that in line with what the Director of Planning Services says, quoted above in support of the council's declared policy on trees and the amenity they provide, the committee will decide that it is the notional reception room, not the existing hawthorn, that must go.

3. There is much else I could quote from the report - misrepresentations, inconsistencies, *non sequiturs*, arbitrary judgments. For example, Paragraph 4.39 says that any "loss of privacy, or general increase in sense of enclosure must render the proposed houses highly questionable in planning terms". Of course that is just what we shall feel; so it is not acceptable for the Director of Planning (Para 4.44) then to decide we have no business feeling like that in an urban setting. Again, the advice given in paragraph 4.23 about not taking a lead from the bulk or height of any of the surrounding buildings has not been observed.

In paragraph 5.15 and 5.16 it is actually argued that the garden which once belonged to G.K.Chesterton (of 11 Warwick Gardens, which has a blue plaque) is no longer the garden that once belonged to him because the relevant part of it - the site in question - is now under different ownership. But see the District Plan Policy on buildings with associations with famous people (quoted in paragraph 4.4): "Such buildings and spaces are psychologically important in that they provide a link with the past. . ." Quite so: the plane tree grows in Chesterton's garden, and was almost certainly planted by his parents.

4. The various salami-like modifications to the western front of the development do not materially alter its bulk, appearance or obtrusiveness when seen from our house (or, I believe, from anyone else's).

We contemplate with dismay having to live next to a building site for however long it takes, and thereafter being overlooked and crowded by a development which has robbed us of the spaciousness, greenery and peace which we currently enjoy. We

are already threatened with the imposition of a red route in the front of these houses. We are distressed by the prospect that our ancient party wall and all the mature shrubs beside it, including a very old and precious wisteria that covers our garage every summer, will be destroyed to allow for the building: that corner is the suntrap of our garden, which will be an unusable eyesore for the foreseeable future. The proposed subterranean swimming pool, I suppose with its pumping machinery, will be alongside. As I have already told you, it is not going to be worth while staying here any longer if the plan were allowed to go ahead - though we are, naturally, well aware of the blight it would cause in the meantime.

In making his drawings, the architect has failed to point out (and the report does not mention) that, our gardens lying from two to three feet below street level, the overpowering effect of the walls and windows will be much worse than they indicate.

5. Last - we bought this house at the end of 1984 in the belief that this sort of development would not be permitted by the Council. You may be aware that in 1982 the Borough Planning Officer, Mr Sanders, wrote to the then owners of this house on the question of "redeveloping a site on the western side of St Mary Abbot's Place to provide new residential houses and garages" saying:

It is considered that . . . the loss of such garden space, particularly in a Conservation Area, would be most unlikely to be considered favourably, as it would be contrary to Para 3.8 of Chapter 7 of the Council's District Plan. It is further considered that such development could give rise to problems of overlooking, and congestion in an already busy cul-de-sac.

I would be happy to show you the letter. Mr French, who alludes to this in paragraph 3.1 of his report, but does not mention there that the loss of garden space was in 1982 a deciding factor, was Assistant Borough Planning Officer at that time. I do not know if the applicants have been given any reason to hope that the Council will change its mind now; but, if so, it would certainly be important to know why, and by whom.

I very much hope that what I have written above will persuade you that there is a real and substantial case against the development and the recommendation made to the Planning Services Committee; and that you will do all you can to ensure that anything built on the site is both more modest and more appropriately positioned. We are asking for the Council to stick to its own guidelines and thereby give us the protection we reasonably expect.

Yours ever,

Adam

Adam Fergusson

DIETHELM MULLINS

11 Warwick Gardens Kensington London England W14 8PH Tel: 071 603 8514 Fax: 071 602 0674

28 April 1995

Councillor Harney
Planning Services Committee
The Town Hall
Hornton Street
London W8 7NX

Dear Chairman Harney

RE: DPS/DCC/DT/94/0644/D-LAND ON AND ADJACENT TO NO.4 ST MARY
ABBOTS PLACE W.8

You will be aware of the Planning Committee meeting to be held on 1 May 1995 relating to the above application.

I was present at the last meeting where with the support of 'aware' Councillors this project was again questioned on the continued objections of bulk, height, density, loss of light/privacy, ground coverage and garden space, etc, and again "Deferred" with the repeated instructions to the Developers to address these problems!

You will see by the Developers latest "Revised Drawings" that the alterations have again been minimal, doing as little as possible to technically achieve their own ends -- another flagrant ploy that disregards the broader points made by your Committee!

I refer again to the fall in ground level from St Mary Abbots Place to the Boundary Wall of the Warwick Gardens properties (East to West) of 26" which will result in an actual 3'2" addition to the height of the rear elevation and roof line when viewed from our gardens. This is not indicated on the Developers "cross-section" drawings so creating a false impression to the Committee.

Please understand, in a perfect world it would be great to keep our rear open garden outlook forever. However that is not to be in these days of "commercial progress." Therefore, accepting that some form of housing/development is to be carried out on this land is not in question. Our objection is to a building 73'.0 long and 29'.0 high to the main gable straddling across three garden spaces - without any real acknowledgement to the fears, needs and wishes of local residents in a Conservation Area.

The area cries out for the proposed development to be scaled down to a more sympathetic design and proportion, or the possible construction of two/three coach house style residences, with gardens, of a more human scale befitting this old characterful cul-de-sac.


ST MARY ABBOTS PLACE

PAGE 2

I realize that this is not where the Developers' profit lies, with much more to be gained from the proposed mansion and its adjacent staff quarters, though this of course should not influence the Council's Planning Department or eventual permissions.

I, with other residents and our families will be greatly affected and distressed should planning permission be granted for the development in its present form to be implemented. We can only hope for the continued support of a more aware Planning Committee under your enlightened guidance.

Yours faithfully,

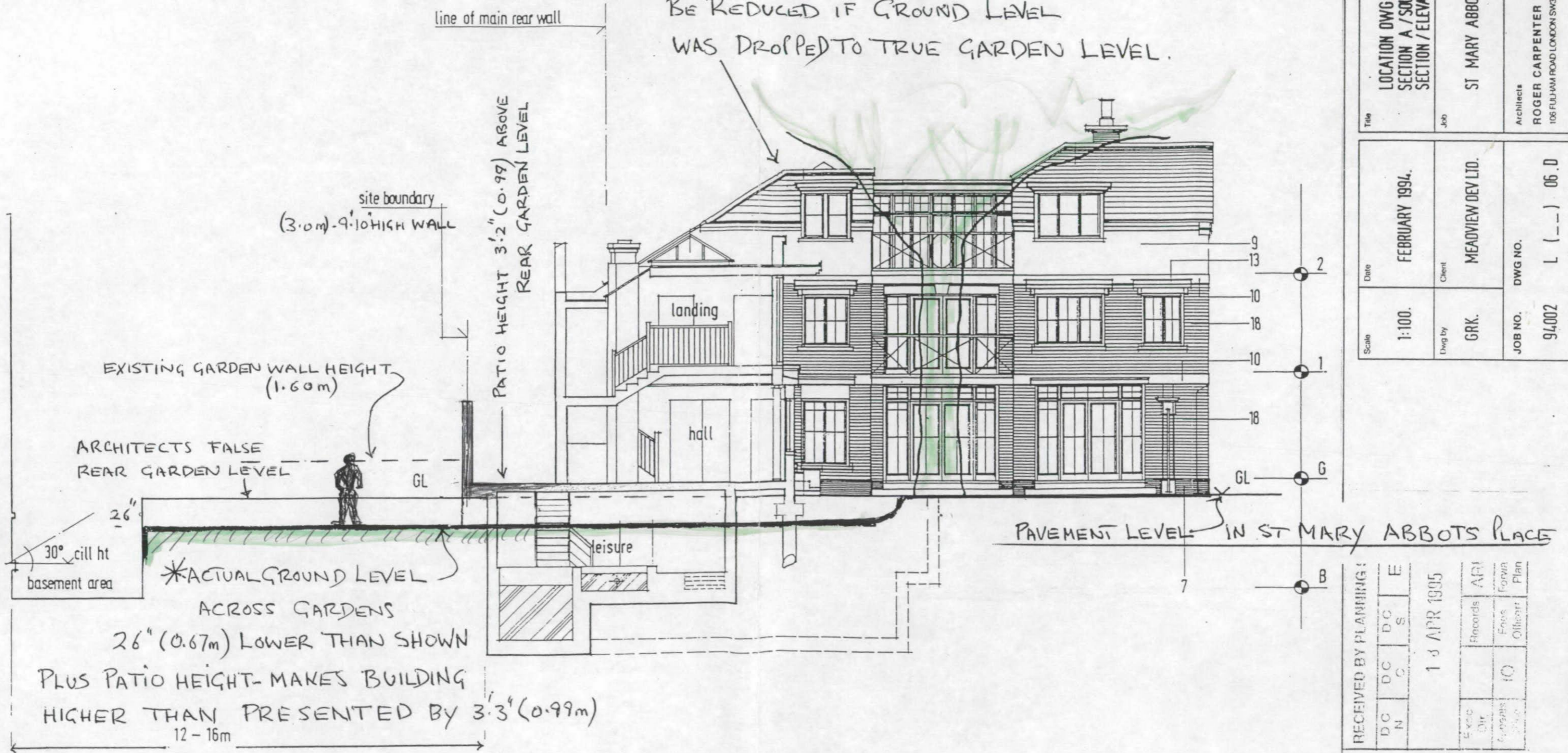
A handwritten signature in black ink, appearing to be 'Peter S Mullins', written over a series of vertical lines that form a signature strip.

Peter S Mullins

TP940644/D

REAR MAIN WALLS OF WARWICK GARDENS PROPERTIES

REAR BUILDING HEIGHT COULD
 BE REDUCED IF GROUND LEVEL
 WAS DROPPED TO TRUE GARDEN LEVEL.



SEE DWG N° L(---)100 FOR KEY TO MATERIALS

CSRB	LOCATION DWG. SECTION A / SOUTH COURTYARD ELEVATION. SECTION / ELEVATION.	Architects ROGER CARPENTER KERR AND O'HARA 108 FULHAM ROAD LONDON SW3 6HS TEL 071 225 2541/2/3
Title	ST MARY ABBOTS PLACE WB.	Job

Date	FEBRUARY 1994.	Client	MEADVIEW DEV LTD.
Scale	1:100.	Dwg by	GRK.
JOB NO.	94002	DWG NO.	L (---) 06.D

RECEIVED BY PLANNING:				13 APR 1995	
DC	DC	DC	DC	Records	ARI
N	C	S	E	10	Forma
					Plan

PETER MULLINS

11 Warwick Gardens Kensington London England W14 8PH Tel: 071-603 8514 Fax: 071-602 0624

26 April 1995

Mr M J French
Executive Director
Planning & Conservation
The Town Hall
Hornton Street
London W8 7NX

Dear Mr French

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ag Ack
01 MAY 1995 31				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Office:	Forward Plan	Head DC

WJS
1.

RE: DPS/DCC/DT/94/0644/D-LAND ON AND ADJACENT TO NO.4 ST MARY ABBOTS PLACE, W.8

I have inspected the latest "Revised Drawings" (issued 18 April 1995) of the above proposed development and continue to maintain my vigorous objections.

Again, I can not see any appreciable difference to the previous plans in spite of the Planning Committee's instructions to curtail the bulk, height and to address ground coverage and density.


I note the southwest corner of the main building has been pushed back giving more patio/ground space which I suspect helps to support the Developers' technical arguments regarding ground cover. However, this token reduction does nothing to address the problems raised by the last Planning Committee, not to mention all other past instructions.

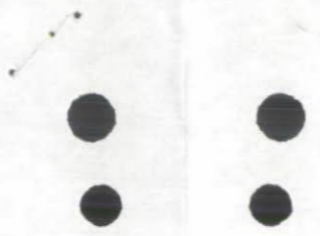
It will be argued that this and past revisions have collectively achieved a 'Visual Valhalla' for the residents and that the Developers have obviously gone out of their way to accommodate everyone's wishes— The fact still remains and must be more than apparent to all concerned on the Committee that under no circumstances should a building of this size and bulk occupy the natural garden spaces in a Conservation Area. Destroying local character and amenities plus giving a great sense of enclosure to our lives!

I refer again to the fall in ground levels from St Mary Abbots Place to garden boundary wall of the Warwick Gardens properties (East to West) of 26" which will result in an actual 3'2" (0.97m) addition to the height of the rear elevation and roof line when viewed from our gardens. This is not indicated in any elevations or cross sections of the Developers' drawings - I submit that the drawings are therefore false (by default or design?) and should be rejected by the Committee!

I have made my objections clear in the past quoting chapters and paragraphs from the U.D.P. along with Mr Adam Fergusson's present objections which I uphold with equal passion.

Yours faithfully,


Peter S Mullins



TABLE

DATE	TIME	LOCATION	TYPE	STATUS
1991 JAN 10	10:00
1991 JAN 10	11:00
1991 JAN 10	12:00
1991 JAN 10	13:00
1991 JAN 10	14:00
1991 JAN 10	15:00
1991 JAN 10	16:00
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1991 JAN 10	18:00
1991 JAN 10	19:00
1991 JAN 10	20:00
1991 JAN 10	21:00
1991 JAN 10	22:00
1991 JAN 10	23:00

PETER MULLINS

11 Warwick Gardens Kensington London England W14 8PH Tel: 071-603 8514 Fax: 071-602 0624

26 April 1995

Mr M J French
Executive Director
Planning & Conservation
The Town Hall
Hornton Street
London W8 7NX

RECEIVED BY PLANNING SERVICES				
IN	C	DC	E	Ao Ack
1 MAY 1995				

Dear Mr French

Exec Dir		Records	ARB	Con Des
9:47/064	64	LAND	ON	He
Office		Officer	Plan	DC

RE: DPS/DCC/DT/9:47/064 (C/D) LAND ON AND ADJACENT TO NO.4 ST MARY ABBOTS PLACE, W.8

✓
C/S
1.3

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I have made my objections clear in the past quoting chapters and paragraphs from the U.D.P. along with Mr Adam Fergusson's present objections which I uphold with equal passion.

Yours faithfully,

Peter S Mullins

2/2/15

RECEIVED DIRECTOR'S OFFICE SERVICES

11 Warwick Gardens Kensington London England W14 3PH Tel: 020 716038514 Fax: 020 716020674

1 MAY 1995

Exec Dir		Records	ARB	Con Des
Projects Office	10	Fees Off. corr	Forward Plan	Head

Dear Madam,

FIND ENCLOSED A COPY OF MY LETTER TO MR FROUCHI WITH COPIES OF THE DEVELOPER'S DRAWINGS WITH ADDED COMMENTS RELATIVE TO THE LANDFALL WHICH IS NOT INDICATED TO THE FULL.

IF YOU ARE TOTALLY AWARE OF THE REAL DIFFERENCE IN THE HEIGHT WHICH AFFECTS THIS PROPOSED DEVELOPMENT — PUTTING OUR GARDENS SOME 2ft LOWER THAN INDICATED, WITH THE ATTENDANT PROBLEMS FOR US RESIDENTS, I WOULD HOPE YOU WOULD APPLY THIS FACT NEGATIVELY TO THE PROJECT !!

I KNOW THAT MOST COMMITTEE MEMBERS CAN NOT READ ARCHITECTURAL DRAWINGS WELL, AND WOULD NOT APPRECIATE THIS PROBLEM IF NOT POINTED OUT — NO DOUBT YOU WILL DO THIS?

ROGER CARPENTER KERR AND O'HARA

106 WILLIAM ROAD LONDON SW3 6HS TELEPHONE 071 225 2541/2/3 TELEFAX 071 581 6829

11th May 1995

H. J. French, Esquire,
The Planning Department,
The Town Hall,
Hendon Street,
London W9

Dear Sir,

Reference is made to your letter of 11th May 1995.

The information provided in your letter is being reviewed and we will contact you again once a decision has been reached. We are sorry that we cannot provide a more definitive answer at this time.

Yours faithfully,
Robert O'Hara

Robert O'Hara
Director





1 MAY 1956

ROGER CARPENTER KERR AND O'HARA

100 LUTHAM ROAD LONDON SW3 6HS TELEPHONE 071 229 2544/2/3 15 LEXFAX 071 504 6820

1st May 1995

Mr. J. J. ...
The ...
The ...
Board of ...
London

Dear Sirs,

Thank you for your report to ...

We ...
April ...
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The ...
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each ...

Yours ...
R. Kerr
Hon.



Roger Carpenter MA (Cantab), Dip Arch Hons, RIBA, Robert O'Hara BA Hons (Oxon), B Arch Hons (Liverpool), RIBA.
Gordon R Kerr BA Hons, Grad Dip Arch (Oxon), RIBA, FFB MASl.

ROGER CARPENTER KERR AND O'HARA

106 FULHAM ROAD LONDON SW3 6HS TELEPHONE 071 225 2541/2/3 TTI FAX 071 584 6829

INTERNATIONAL TRANSMISSION

SHEET

NO. 0171

DATE:

TO: *[Faint recipient information]*

FOR THE ATTENTION OF:

MESSAGE:



Roger Carpenter MA (Cantab), Dip Arch Hons, RIBA, Robert O'Hara BA Hons (Oxon), D Arch Hons (Liverpool), RIBA,
Gordon R Kerr BA Hons, Grad Dip Arch (Oxon), RIBA, FFD MASL



1 MAY

ROGER CARPENTER KERR AND O'HARA

106 WILLIAM ROAD LONDON SW3 6HS TELEPHONE 071 225 2541/2/3 TELEFAX 071 584 6829

NO. C100

DATE:

TO:

FOR THE:

MESSAGE:



MA (Contint), Dip Arch Hons, RIBA, Robert O'Hara BA Hons (Oxon), B Arch Hons (Liverpool), RIBA
Gordon R Kerr BA Hons, Grad Dip Arch (Oxon), RIBA, FFR MASI.

ROYAL BOROUGH OF KENSINGTON & CHELSEA

ADDENDUM REPORT

BY EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

4 ST. MARY ABBOT'S PLACE, KENSINGTON, W.8



AGENDA ITEM: 2160

APPLICATION REFERENCE: TP/94/0644, TP/94/0645

1.0 BRIEF SUMMARY

1.1 This proposal for two dwelling houses was considered and deferred by the Planning Services Committee at their meeting of 11th January 1995.

1.2 The application was deferred in order that the following concerns, voiced at the Committee, should be addressed:

1.2.1 That the bulk of the building was too great for this site, and would have an overpowering effect upon the houses to its rear, specifically 7 - 15 Warwick Gardens;

1.2.2 That the site coverage was too great;

1.2.3 That the rear elevation was too close to the houses behind and that overlooking would result;

1.2.4 That the front elevation was out of scale with the other buildings of St. Mary Abbot's Place;

1.3 Revised drawings were received on 10th February 1995, following discussion with Council Officers.

2.0 CONSIDERATION OF THE PLANNING ISSUES

2.1 Bulk The bulk of the building has been reduced at the rear in two ways.

- 2.2 Firstly, the rear studio bedroom at second floor level has been deleted from the scheme, enabling the rear roof to be set back by a further 1.5m, and the rear roof height to be lowered by 0.7m. The lowering of the roof over the centre of the building results in the rear eaves line also dropping at the centre, to line up with the main eaves line at the rear of the building. Resulting in an angle of 26 degrees taken from the rear of the Warwick Gardens houses, this brings the rear elevation well within the recommended angle of 30 degrees.
- 2.3 Secondly, the rear staircase projection has been set back by a further 1m at both ground and first floor levels, no longer abutting the site boundary at ground level but being set back 1m behind it.
- 2.4 It is considered that these measures will have the effect of significantly reducing the impression of bulk when the building is viewed from the rear of the Warwick Gardens' houses, particularly at lower floor levels. In design terms, the reduction to the roof in fact results in a more cohesive appearance to the rear elevation, which is also considered to be of benefit.
- 2.5 Site Coverage The site coverage has been reduced by 4.6 sq.m. as a result of reducing the projection of the rear staircase. Including the central courtyard surrounding the large Plane tree, the site coverage is now approximately 60%.
- 2.6 This site coverage in fact compares favourably with the other buildings on the West side of St. Mary Abbot's Place, the nearby house at No. 12 having a site coverage of approximately 80%. The buildings on the East side of the Place must not be taken as setting the form for development on the West side, however, it is worth noting that their site coverage is considerably higher, ranging from 72% to well over 90%.
- 2.7 Given its townscape context, it is not considered that a site coverage of 60%, on a site where the existing garages cover approximately 35% of its area, could reasonably present a reason for refusal of planning permission.
- 2.8 Proximity and Overlooking Four small windows at the centre of the rear elevation have also been deleted, further reducing the perception of being overlooked and also improving the appearance of the rear elevation.
- 2.9 The relevant policies of both the District Plan and Unitary Development Plan accept that in Kensington it is often the case that some overlooking may have to be accepted. In this case, the distance between the proposed houses and the houses of Warwick Gardens varies but is generally about 13 or 14m. Given the number of windows in the proposed rear elevation, it is not considered that the degree of overlooking would be such that a refusal of permission would be justified.

- 2.10 The Committee is reminded that a condition is proposed (No. 13) restricting permitted development rights for the rear elevation, so that no further windows, or enlarged windows, may be inserted in the rear.
- 2.11 The Front Elevation The view was also expressed at the Committee that the central gable to the front elevation was too dominant, and should be reduced.
- 2.12 A further site inspection has been carried out in order to assess this point. Following further consideration, it is concluded that the central gable is indeed dominant on the front elevation, however, it is this very dominance which serves to break up the front elevation. The existing buildings in St. Mary Abbot's Place are of varying design and many use large elevational features to avoid producing a "slab" effect, and it is considered that to reduce it in size would reduce the variation and the quality of this elevation. In the context of St. Mary Abbot's Place, it is considered that the present approach is the right approach.
- 2.13 The Committee are reminded that a condition is recommended requiring that samples of all the main elevational materials are submitted for approval prior to development commencing.

3.0 FURTHER CONSULTATION

- 3.1 The 19 original objectors were notified of the receipt of revised drawings by letter dated 15th February 1995.
- 3.2 6 objections have been received in relation to the amended proposal, including one from the Warwick Gardens Resident's Association.
- 3.3 The Resident's Association and the individual objectors all consider that their original concerns, and the matters raised at the Committee, have not been satisfactorily answered. They consider that the bulk of the building is still too large, and that it would still have a detrimental effect upon the amenity and outlook of the existing houses of Warwick Gardens. These objections are set out in detail in Paragraphs 5.2 - 5.16 of the original report which is attached.

As stated above, it is considered that the proposed amendments have produced a scheme which is reduced in bulk at the rear, and, importantly, also produces a much more cohesive appearance to the rear elevation. It is concluded that the amendments have resulted in a proposal that requires the careful application of conditions, but does not justify a refusal of planning permission.

4.0 RECOMMENDATION

4.1 The Committee is recommended subject to a Planning Obligation as set out in the attached planning report to grant planning permission and Conservation Area Consent for the scheme as shown in Revised Drawings: 7413A/1 (existing) L(--)01C L(--)02C)03C)04C)05C)06C)07C)08C)09C)10C)11C)12C and)100B, and subject to the conditions as set out in the attached reports.

FOR DECISION

REPORT PREPARED BY: DT
APPROVED BY: LAWJ/AD
DATE APPROVED: 17/03/95

Background Papers TP/94/0644 and TP/94/0645

PSC. 95.04.DT.REP

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING SERVICES COMMITTEE 11/01/95

APPLICATION NO. AGENDA ITEM
TP/94/0644/G/42 2006

REPORT BY THE DIRECTOR OF PLANNING SERVICES

APPLICANTS NAME/ADDRESS

Roger Carpenter
Kerr and O'Hara,
106 Fulham Road,
London SW3 6HS

Application dated 31/03/94
Revised 18/10/94
Completed 08/04/94
Polling Ward KB36

ON BEHALF OF : Meadview Developments Ltd.
INTEREST : Not known

District Plan Proposals Map:

Cons. Area	CAPS	Article 4 Direction	Listed Building	HBMC Direction	A/O Consulted	Objectors (to date)
8	YES	NO	NO	NO	34	19

RECOMMENDED DECISION :-

- (1) SUBJECT to a Planning Obligation under Section 106 of the Town and Country Planning Act 1990, such that footway will be reinstated to the Council's satisfaction.
- (2) GRANT planning permission for the erection of two semi-detached single family dwelling houses, with associated off-street parking and external amenity space.

At: LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON, W.8

As shown on submitted drawing(s) No(s): TP/94/0644 and TP/94/0644/B

Applicants drawing(s) No(s) : 7413A/1 (existing) L(--)01B, L(--)02B,)03B,)04B,)05B,)06B,)07B,)08B,)09B,)10B,)11B,)12B and)100B

CONDITIONS

- 1. C.1 2. C.18 3. C.21 4. C.23 5. C.28
- 6. C.68 7. C.70 8. C.73 9. C.77 10. C.85
- 11. The courtyard and hardstanding shown on drawing No. L.01B shall not have any impermeable base or surface, and shall be surfaced in gravel and so maintained.
- 12. Samples of materials numbered 1, 2, 6, 7, 8, 11, 12, 14 and 18 on drawing 100B shall be submitted to and approved in writing by the Executive Director of Planning and Conservation before development commences.
- 13. No window or opening other than those shown on drawing L.10.8 hereby approved, shall be inserted within the rear elevation.
- 14. The Council's Arboricultural Officer shall be informed, in writing, 7 days before any excavation commences on site.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. R.1 2. R.18 3. R.20 4. R.20 5. R.28 6. R.68
7. To ensure that future alterations to the exterior of the building do not result in detriment to the amenity of the residential properties to the rear of the site, or detriment to the character or appearance of the Conservation Area.
8. R.71 9. R.77 10. R.85
11. To ensure that adequate rainwater drains down to the tree root systems.
12. R.71
13. To protect the amenity of nearby residential property.
14. To allow observation of excavation proceedings; and building operations thereafter, in order to ensure that the trees and their root systems are satisfactorily protected.

INFORMATIVES

1. I.2 2. I.9 3. I.10 4. I.21
5. I.24 6. I.31 7. I.39

1.0 Site Description

- 1.1 This application concerns a site of 0.043 ha (430 sq.m.) located on the western side of St. Mary Abbot's Place and backing onto the rear gardens of the residential houses at No. 9, 11, 13 and 15 Warwick Gardens.
- 1.2 The eastern side of St. Mary Abbot's Place, opposite this site, does not contain any open space and is built up to three storeys. The western side of the Place contains the two storey residential buildings of Warwick Close at its northern corner with Kensington High Street, 2 two storey studio buildings immediately to the North of the site, and a two and a half storey residential house immediately to the South of the site.
- 1.3 The site itself contains four garage buildings, one of these being of two storeys with a storage floor above the parking area, and a pitched roof. The two garages to the southern end of the site are double garages, one being brick and the other of concrete. The remainder of the site is currently open space, with some naturally seeded vegetation growth.
- 1.4 The site also contains 5 trees of note, namely:-
- 1 large London Plane tree in the centre of the site, in fine condition
 - 3 Sycamore trees, one of which is in rather poor condition
 - 1 Hawthorn tree

There are also a number of smaller trees around the periphery of the site in the gardens of neighbouring properties, including a healthy fig tree in the garden of No. 11 Warwick Gardens.

- 1.5 The site is included within the Edwardes Square, Scarsdale and Abingdon Conservation Area. No buildings on the site are Listed, however, the terrace of 1-9 Warwick Gardens, of which No. 9 abuts the rear of the site, are Listed Grade II.

2.0 Details of Proposal

- 2.1 It is proposed to demolish the existing garage buildings, and to construct two houses on the site.
- 2.2 The larger of the two houses would be of two storeys with a studio room and bedroom forming an extra half storey at roof level. It would be a large dwelling house, comprising a swimming pool and fitness room in the basement; a double garage, hall, kitchen, reception rooms, and central courtyard at ground level; with three bedrooms and a dressing room at first floor level, each of the bedrooms with en-suite facilities.

- 2.3 The smaller of the two houses would have a kitchen and reception room at ground level, with two en-suite bedrooms on the first floor. This house is not internally connected to the large house, and has its own off-street parking space.
- 2.4 Externally, the houses are of fairly traditional form, with pitched roofs front and rear and a large bay window at the front of the larger house. The large house is built around a central courtyard within which the London Plane tree would remain. It is proposed that three sets of french doors, plus the main entrance to the house, would all lead from the courtyard at ground level, and that a balcony should overlook it at first floor level. All the other trees on or adjacent to the site would remain, with the exception of the poorer Sycamore tree.
- 2.5 The rear elevation is set back from the rear boundary wall by between 2.5 and 3.5m, with the exception of the rear wall of the main staircase which projects out from the main rear wall by 1.5m and, consequently, is only set back from the rear boundary wall by 1.5m. It is intended that terrace areas would be provided for each house within the rear spaces, and that the small house would also have a garden at its North side. The rear elevation is intended to have a pitched roof along its length, with a glazed area central to the larger house. Bedroom windows are proposed at each end of the building, with two small windows of obscured glazing to admit daylight to the dressing room of the large house.

3.0 Relevant Planning History

3.1 In 1982, preliminary discussions took place involving prospective applicants, Council officers and local residents, in relation to a proposal to redevelop the site to provide four small houses with garages. The prospective applicants were advised that such a proposal would be very difficult to achieve in view of the possibility of overlooking, harm to the Plane tree, and loss of visual amenity in this part of the Conservation Area. The discussions did not result in the submission of any planning application.

3.2 There is no other planning history to the site.

4.0 Planning Considerations

4.1 This proposal must be assessed in the context of the following considerations:-

4.1.1 The principle of demolishing the existing buildings on the site, and the impact that their loss would have upon the character or appearance of the Conservation Area;

4.1.2 The principle of developing this largely open site;

- 4.1.3 The principle of providing two residential dwelling houses with off-street parking on the site, with particular reference to the Council's housing policies;
- 4.1.4 The impact of the proposed houses upon the physical character and appearance of the Conservation Area, in terms of their overall form and detailed design; with particular reference to the Council's policies relating to conservation and development;
- 4.1.5 The impact of the proposal upon the health, vitality and longevity of the existing trees on and near the site; in particular, the London Plane tree at its centre;
- 4.1.6 The impact of the proposed houses upon the existing levels of amenity enjoyed by the residents of properties surrounding the site, particularly in terms of loss of privacy, loss of day or sunlighting, or increased sense of enclosure;
- 4.1.7 The effect of the proposal in relation to existing pressure upon on-street parking spaces in the vicinity, with reference to the Council's standards for off-street parking provision.
- 4.2 The relevant planning policies are contained within Chapter Four, Five, Seven and Ten of the District Plan, and the "Conservation and Development," "Housing" and "Transportation" Chapters of the Unitary Development Plan (UDP) as placed on deposit and as proposed to be modified. The provisions of the Conservation Area Proposals Statement must also be taken into account.

- 4.3 The demolition of the existing building Policy 4.7.1 of the District Plan states:-

"There will be a general presumption against the demolition of a building in a Conservation Area, or any material alteration to a Listed Building or its setting."

- 4.4 Paragraph 4.4.8 expands on this by stating:-

"There is also a desire to retain buildings with the charm of the small scale domestic cottage, a strong local flavour, historical associations with famous people or events, unusual or eccentric features or mature gardens mellowed by time. Such buildings and spaces are psychologically important in that they provide a link with the past within areas and times of change."

- 4.5 The Unitary Development Plan provides further guidance in Policy CD58 (as proposed to be modified) which states:-

"To resist demolition or partial demolition of buildings in Conservation Areas unless:

- (a) the building or part of the building structure makes no positive contribution to the character or appearance of the area; or
- (b) the condition of the building is proved to be such that refurbishment is not possible; and

(c) a satisfactory scheme for redevelopment has been approved."

4.6 The two double garages on the site are relatively recent buildings, and the concrete one in particular is of little architectural merit or historic interest. The older two garages, in particular, the two storey garage with a pitched roof and loft window; are probably Victorian buildings and provide more historic interest than the later two. They are, however, in poor condition, and it is not considered that they are of enough architectural or historic merit to justify resisting their demolition, as long as criteria (c) of Policy CD58 is satisfied.

4.7 Development on this site: Although the site contains four garage buildings, much of the site area is open space, and the single storey garage buildings have a relatively minor impact upon views of the site from surrounding buildings. The two storey garage creates a relatively greater impression. Policy 7.3.7 of the District Plan seeks to protect open space, stating:

"The Council will ensure that where existing open space, both public and private, makes, or is capable of making, a contribution to an area's character or amenity, it shall be protected from development or change of use."

4.8 Policy 7.3.8 states:-

"New buildings, extensions to existing buildings and other works, will not be allowed to intrude into garden space which, on its own or together with neighbouring gardens, is important either to the character of the particular area or to the general character of the urban scene."

4.9 Policy LR7 of the Unitary Development Plan (as placed on deposit) provides similar guidance, being:

"To resist the loss of garden space (including garden squares), with independently or together with neighbouring gardens, is important either to the character or amenity of the particular area or to the general character of the urban scene."

4.10 Of the total site area of 430 sq.m., 137 sq.m. (or about 35%) is taken up by the existing buildings. 154 sq.m. of the site would remain open space under the scheme (including the single hardstanding which is proposed to be gravel covered), meaning that the net loss of open space would be 139 sq.m. The canopy of the London Plane tree covers over 50% of the site area.

4.11 Part of the site, located to the rear of No. 11 Warwick Gardens, is used as an extension to that garden by agreement, which would, of course, cease if the proposal was to be implemented. It does not, however, form part of the actual garden to that property, and would be separated from it by the rebuilding of the boundary wall between the two. The remainder of the open space on the site is not used as garden space, but simply as an open area which is closed to access. This piece of land does provide a greater sense of openness in the vicinity, and the London Plane tree the

centre of the site provides an element in the character of the locality that is considered to be of very great importance. When viewed from St. Mary Abbots Place itself, the site does not read visually as open space, although the tree is again a dominant feature.

4.11 Given that some 35% of the site area is already built upon, and the fact that the tree covers over half of the site and is by far the most dominant element in any view of the site, it is considered that the open space of the site contributes less in itself to the amenity value of the site than does the Plane tree, and other trees. No public open space would be lost as a result of the proposal. No garden space, as described in Policy LR7 above, would actually be lost either. Provided that the contribution of the Plane tree to the amenity of the area is not materially reduced, it is concluded that the proposal would not be in conflict with the above policies.

4.12 The provision of two dwelling houses The primary objective of the housing policies of the District Plan is presented at Paragraph 5.2.14(a), which is:-

"To help maintain the Borough's population by retaining and protecting existing residential uses and increasing the amount of housing available to residents and would-be residents."

4.13 Policy H15 of the Unitary Development Plan (as placed on deposit) states a similar objective, being:-

"To encourage the provision of housing, where appropriate, on vacant land and to encourage proposals to redevelop, for residential use, sites and properties which are in other uses (subject to other policies in the Plan)."

4.14 Policy 5.6.4 of the District Plan sets out the factors to be taken into account in assessing density:-

"The following factors will be used to indicate the appropriate density of new housing development:

(i) The G.L.D.P. guidelines. Housing predominantly for families with children should be in the range 70 to 85 h.r.a. (175 to 210 h.r.h.). Housing predominantly for small households (with units of 1 or 2 habitable rooms) should be in the range 85 to 100 h.r.a. (210 to 250 h.r.h.). Housing entirely designed for small households may be built at higher densities, although in general a maximum of 140 h.r.a. (350 h.r.h.) will apply.

(ii) Higher densities may be permitted in Conservation Areas and infill schemes where low density development would adversely affect the architectural character and scale of the environment.

(iii) Higher densities may also be permitted on sites where the developments will have access to a public or private open space, to a local shopping centre, a primary school and public transport, all within 400m and without the necessity to cross busy main roads."

4.15 The density policies within the Unitary Development Plan have been proposed to be modified following the Inspector's Report and are now as follows:-

"In considering both the quality of the environment proposed in a new housing scheme, and the effect of that scheme on the character and environment of the surrounding area, the density policies set out below will be followed, and regard will be had to the density ranges set out below. Schemes will also have to comply with other policies of the Plan, particularly those relating to design, light, privacy, open space, and residential parking." (3.11a)

"In applying the following policies, the Council will have regard to the following well established density guidelines:

Very Low: less than 70hra (175 hrha)
Lower: between 70hra and 100hra (175-250 hrha)
Higher: between 100hra and 140hra (250-350hrha)
Very High: above 140hra (350hrha)

Guidance on the calculation of residential density is given in the Planning Standards Chapter. (3.11b).

"Normally to resist residential development designed to a very low density." (H11A)

"Normally to require that housing predominantly suitable for occupation by families with children is designed to a lower density." (H11)

"Normally to resist housing designed to higher densities except where it:

- (a) is designed predominantly for occupation by small households;
or
- (b) enables the provision of special needs or affordable housing on appropriate sites; or
- (c) is an infill scheme where a higher density development is necessary for townscape reasons to comply with the policies of the Conservation and Development Chapter." (H12)

4.16 The two properties would provide a residential density of about 250 habitable rooms per hectare. However, it is not considered that a refusal could be justified in this case. Amenity space is provided for both dwellings, and although limited is considered satisfactory.

4.17 The provision of two new family dwelling houses is supported by the relevant regional planning guidance by central government, and by the above policies, subject to the other relevant policies in the District Plan and Unitary Development Plan. With such large houses, the proposed properties meet all of the relevant planning standards in terms of minimum floorspaces, the accommodation being of very high standard.

4.18 Bulk, form, and detailed design The two properties together, and the larger house in particular, form a large building when viewed together. Two stages of amendment, in conjunction with the Council's Design Officer, have sought to lessen the overall size and visual impact of the buildings on this fairly restricted site, in order to achieve a building which is considered to be properly related in its size, form and detailed design to the existing character and form of the surrounding townscape.

4.19 Paragraph 4.7.5 of the District Plan provides a set of considerations to be satisfied by all new development in Conservation Areas:-

"In consideration of applications for development, including extensions, within or immediately adjoining a Conservation Area or affecting a Listed Building, the following aspects are important:

- (a) the siting of the building in relation to adjoining buildings and spaces and to existing building frontage lines;
- (b) the careful selection of building materials to ensure a harmonious relationship with local building traditions and the materials predominant in the locality, either by emulating them or in the case of exceptional designs by emphasis through careful contrast;
- (c) the form and size of the building and/or extension under consideration, having regard to the character and scale of nearby properties and others in the area, which should not generally be exceeded in height;
- (d) the scale and proportion, bay widths and floor to ceiling heights, fenestration and shopfronts, which should relate to (though not necessarily reproduce) those of sympathetic buildings nearby and in the area generally;
- (e) the form of roofs and their materials and details, especially where visible from high or distant vantage points;
- (f) the landscaping, treatment of paved and other surfaces, boundary walls, street furniture and signs associated with the development, which should, in terms of design and materials, fit in with and enhance the character of the area; and
- (g) the uses to which a building will be put and, in particular, their effect on traffic and parking and the area's character."

4.20 Policy CD60 of the Unitary Development Plan (as placed on deposit) is:-

"To ensure that all development in conservation areas is to a high standard of design and is compatible with:

- (a) Character, scale and pattern;
 - (b) Bulk and height;
 - (c) Proportion and rhythm;
 - (d) Roofscape;
 - (e) Materials;
 - (f) Landscaping and boundary treatment;
- of surrounding development."

4.21 Policy CD59 (as proposed to be modified) is:-

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

4.22 The properties of Warwick Gardens are fairly tall, the Listed terrace numbered 1-9 reaching to 14m from ground level, with the main roofs of the others reaching 12m. To the East of the site, on the far side of St. Mary Abbots Place, the properties are mostly of three storeys and the main roofs reach an average of 9m from ground level.

4.23 The applicants were advised at the outset that any development on this site should not take its lead from the bulk or height of the buildings on either Warwick Gardens or the East side of the Place, but must be clearly subordinate to those two groups of buildings. The existing buildings on the West side of the Place are all subordinate in scale to these other two groups of buildings, and it is considered that any further development on this side of the Place should maintain this contrast.

4.24 The roofs of the buildings of Warwick Close at the northern end of the Place reach 7.8m at their highest point, and the average line of the roofs of the other properties at that end of the Place, namely Nos. 2 and 4, is 6.4m from ground level. The detached house to the South of the site reaches 7.8m.

4.25 The proposed smaller dwelling maintains a ridge height of 6.6m across its width, which is considered to satisfactorily reflect the existing heights of buildings on this side of the Place. The larger house has a main ridge line of 7.0m, which is also considered acceptable. It reaches 8.9m at one point in its roof, which is higher than any other roof on this side of the Place, however, as the roof includes quite steep pitches at front and rear, it is not considered that this height in itself conflicts with the criteria set out above.

- 4.26 Height is, of course, only one factor; depth from front to rear, width, and detailed design all influence the impact of a building. In this case, the two buildings together are 22m in total width. The architects have worked to reduce the impression of bulk by using different materials for the two buildings, and have used projections and recesses to break up the elevation. At the rear, it has been more difficult as there is no recessed courtyard, however, the staircase projection again helps to break up the elevation. The maximum depth of the buildings from front to rear is 17m, with average depth just over 13m, which is considered reasonable for residential houses. The materials vary from one part of the building to another, with the primary elements being stock brick on both elevations, and natural slate for all roof pitches.
- 4.27 Overall, the bulk, height, proportion roofscaping and other treatment is considered to preserve the existing character and appearance of the surrounding townscape, and therefore, to be acceptable in terms of the above policies.
- 4.28 The Conservation Area Proposal's Statement does not recommend any particular proposals, categories, or controls for this site.
- 4.29 The London Plane tree, and other trees in and around the site
The District Plan presents a statement on the importance of trees in the townscape at Paragraph 4.14.1:
- "Trees in cities are a valuable amenity which once removed can rarely be adequately replaced; and often it is only when one has been removed that its value becomes apparent. Trees act as screens; they provide privacy and mask unwelcome views. They are valuable as contrast and relief to bricks and mortar, and should be complementary to new developments. Trees also act as barriers to wind and noise."
- 4.30 Paragraph 4.14.3 states that:
- "There will be a general presumption in favour of the retention of trees, irrespective of their age, unless they are potentially a public danger..."
- 4.31 Policy CD84 of the Unitary Development Plan (as placed on deposit) is:
- "To resist development proposals that would result in an unnecessary loss of trees."
- 4.32 Policy CD85 (as placed on deposit) is:
- "To resist the loss of trees unless they are dead, dying or potentially a public danger, causing an actionable nuisance or, exceptionally, when removal is required in a replanting programme."

- 4.33 It is considered that the London Plane tree on the site is of particular importance in providing arguably the single largest contribution to the visual character and appearance of this part of the Conservation Area. Cumulatively, all the trees in and around the site are considered to provide an essential element in the amenity of the occupiers of all the properties that look over the site. It is considered that any proposal which may harm the health, vigour, appearance or longevity of the trees on the site, and the Plane tree in particular, must be unacceptable. The loss of the one Sycamore tree in poorer health can be tolerated.
- 4.34 The applicants have employed a reputable firm of arboricultural consultants to advise on this matter, and have submitted a tree survey to record the health and status of all the trees on the site. The height of the Plane tree, and its boughs, have been measured with optical instruments, and the results have been discussed and checked by the Council's own arboriculturist.
- 4.35 The only proposed work to the trees on the site involves the removal of the lower branch of the Plane tree, and the one Sycamore tree. It is proposed to use a pile and beam foundation to avoid harm to the root system of the trees, and it has been confirmed that the basement swimming pool is sufficiently far away from the main roots so that it will not have any significant impact upon the health of the tree. The central courtyard area is to be a porous surface, covered in gravel, as is the single hardstanding for the small house. It has also been confirmed that the trees surrounding the site would not suffer from the proposed development.
- 4.36 There is a change in grade across the site, with the land falling from East to West, with the gardens of Warwick Gardens properties being below the level of St. Mary Abbots Place. In many circumstances, this fall would have necessitated excavating on the uphill side of the tree, or backfilling on the downhill side, in order to provide a level platform for the proposed building. In this case, however, it is proposed to build the houses upon a raft supported above ground level, so that a space remains between it and the ground and no excavation around the tree will be necessary.
- 4.37 On balance, it is concluded that, with suitable conditions to protect the trees whilst work is in progress, the vigour and longevity of the Plane tree, and other trees, can be safeguarded. Similar conditions are proposed to protect all trees around the site, including the Fig tree at the rear.
- 4.38 A tree has little townscape value unless it can be seen. The proposed house would obscure the main trunk tree from St. Mary Abbot's Place views, but the canopy would still be seen in full. This is the same as the present situation whereby the main trunk of the tree is obscured by the existing garages. Viewed from Warwick Gardens, currently of the full height of the tree, would be reduced to a view of the canopy, and the overall grandeur of the tree being correspondingly reduced. Nevertheless, it is considered that the tall canopy would continue to provide its important contribution to the character of the Conservation Area;

as this would be preserved, it is not considered that a refusal of planning permission would be justified on this ground.

4.39 Amenity issues The rear boundary wall of the site is about 11m from the main rear walls of the Warwick Gardens properties to the rear, and the proposed main rear building line would be 14m distant. The Warwick Gardens properties do not have a right to a view as such, however, any significant reduction in amenity by virtue of loss of daylighting, loss of privacy, or general increase in sense of enclosure must render the proposed houses highly questionable in planning terms.

4.40 The rear boundary wall, to be constructed of stock brick, would be 2.5m in height and will avoid any overlooking from the ground floor of the property. At first floor level, three bedroom windows are proposed, which will result in an amount of overlooking where there is none at present. The Unitary Development Plan recommends that 18m should be provided between opposing windows if possible. Policy 4.10.3 of the District Plan acknowledges the consequences of living in a built up area, stating:

"The Council will try to ensure that development does not adversely affect the privacy of those living and working in neighbouring properties. Buildings in Kensington and Chelsea, however, are often close together, and a consequent loss of privacy has to be accepted."

4.41 Whilst it is clear that some overlooking will result, it is considered that a distance of 13 or 14m would reduce this to a level that would not in itself result in a reduction of amenity that could justify a refusal of planning permission.

4.42 At its highest point, the roof of the proposed building will result in a daylighting angle of 28 degrees, with the measurement taken from sill height at basement level of the Warwick Gardens properties. This is within the recommended guideline of 30 degrees, and most of the roof, being lower, would be considerably within this. The applicants have not simply met the recommended daylighting guidelines, but have kept well within them. Therefore, it is concluded that the proposal does not contravene the relevant guidelines for daylighting.

4.43 The recommended guidelines for direct sunlight, as opposed to daylight, is that a minimum angle of 28 degrees should be allowed for South facing buildings. The sun is at its highest when coming from the South, and lower angles apply where it may be blocked as it rises in the East or sinks in the West, for example the South-East or South-West would be about 20 degrees. Clearly in the winter the sun is lower at all points of the compass. In this case, the proposed house would block direct sunlight to the gardens and ground floors of the Warwick Gardens properties during the morning, when the sunlight would be coming from the East, at all times of the year. There would not be any blockage of sunlight from the South, during the middle part of the day. The blockage of morning light is certainly a detrimental result of the proposed development, however, as sunlight later in the

day is preserved, and as daylighting angles are complied with, and as it has to be accepted that in an urban setting buildings will often block out sunlight, particularly at lower angles, it is not considered that this point justifies a refusal of planning permission.

4.44 In constructing a building of this size where at present there is none, there will inevitably be some sense of enclosure in consequence. However, that fact in itself will not normally dictate that an urban development should not be permissible; it is only when that sense of enclosure reaches to a point beyond that which could usually be expected in an urban setting that a refusal of planning permission would be justified on such a ground. In this case, the distance between the properties in question, coupled with the fact that the properties in Warwick Gardens are houses with two aspects, is considered to lead to the conclusion that the resultant sense of enclosure would not be of a degree that would justify a refusal.

4.45 English Heritage who were consulted with regard to the demolition of the existing garages, have written to state that they have no objection to the demolition, but cannot comment in any detail on how the appearance of the character of the area would be affected without commenting on the replacement buildings. Details have been forwarded.

4.46 Traffic and parking The Council's Transportation Officer comments that the larger dwelling provides two off-street parking spaces, complying with the latest Council parking standards for a large house. It is pointed out that crossovers will need to be constructed, however, together with an extension to the existing pavement which would be at the applicants' expense. This work will need to form a Planning Obligation under S.106 of the Town and Country Planning Act 1990.

5.0 Public Consultation

5.1 34 letters of consultation were sent to occupiers of neighbouring properties in St. Mary Abbots Place and Warwick Gardens, and a total of 17 objections have been received, including one from the Edwardes Square, Scarsdale and Abingdon Residents' Association, and one from the Warwick Gardens Residents' Association. Many of the objectors have written a number of points. Councillors Munday and Christmas have also raised concerns regarding the application.

5.2 Following notification of the first set of design amendments, 8 objectors have sent further letters stating that the amendments to the design were insignificant and did nothing to allay their previous grounds for objection. Further amendments to the rear elevation and roof have been carried out since then.

5.3 One letter has been received in favour of the proposal.

5.4 The objections can be divided into the following areas.

- 5.5 The Plane tree - 12 of the objectors, including the Edwardes Square, Scarsdale and Abingdon Residents' Association, specifically voice their concerns over the London Plane tree at the centre of the site. A number of these objectors refer specifically to the method of foundation proposed for the houses, and are not convinced that the need to excavate is thereby avoided. The majority of these objectors are not convinced that the tree would be able to survive the construction of the proposed houses without suffering serious harm, with particular reference to the effect of the basement swimming pool and fitness room upon the root system. Even if the tree was to survive the construction work, they fear that it would ultimately be lost due to its proximity to the development. They also object to the principle of obscuring the tree by a large building, and warn that any occupiers of the house would find their guttering packed with leaves every autumn, which would lead to continual requests to lop further branches and thin the canopy.
- 5.6 As stated above, it is considered that any development on this site could only be acceptable if the vigour and longevity of the Plane tree would be unaffected. The Council's Arboricultural Officer has confirmed that the method of pile and beam foundation, and channel system to safeguard the necessary oxygen supply to the root system, will ensure that the root system, and health of the tree, will not suffer from the development. It is considered that the work on site should be tightly controlled by condition in order that the Plane tree, and other trees, are not damaged during construction.
- 5.7 It is not considered that the visual contribution of the Plane tree, and other trees, will be materially lessened by the proposed development, as the canopy is large enough and tall enough to continue to feature largely in all views in this part of the Conservation Area.
- 5.8 The Council could prevent any future lopping or thinning of the tree by refusing such requests.
- 5.9 Scale and Design - The Edwardes Square, Scarsdale and Abingdon Residents' Association, and 7 other objectors, object to the principle of constructing a large building on the site, commenting that the scale of the proposed building, and its detailed design, is inappropriate for this site.
- 5.10 It is considered that the height of the building is in keeping with the existing buildings on the West side of the Place, and that the features incorporated into the design, such as the courtyard, variation of materials, and roof pitches at the rear, mitigate the physical impact of the building to the extent that it is acceptable in planning terms. Strict conditions are recommended to ensure that samples of all facing and roof materials shall be submitted, and approved, before any development commences.

- 5.11 Amenity - The Edwardes Square, Scarsdale and Abingdon Residents' Association, and 8 other objectors living at the rear of the site, stress objection to the proposal on grounds of loss of amenity, in particular to the Warwick Gardens properties at the rear, by virtue of loss of daylight, loss of privacy and sense of enclosure.
- 5.12 As stated above, the proposal is within the building envelope necessitated by the recommended daylighting guidelines, and no material loss of daylight is expected to result. It is accepted that the proposal would result in a reduction of privacy, and increased sense of enclosure, by virtue of the simple fact that there would be a house where at present there is a space. However, it is considered that the buildings are far enough apart to reduce this effect to the degree that should reasonably be expected in a built up London Borough. It is not considered that the impact upon amenity is severe enough to justify a refusal of planning permission on that ground.
- 5.13 Traffic - One objection relates to the concern that the proposal would cause an increase in traffic in St. Mary Abbots Place.
- 5.14 All parking standards for new houses are complied with, and it is not considered that any increase in traffic will result as there are four existing garages on the site.
- 5.15 G.K. Chesterton - A further letter of objection has been submitted by the Chesterton Society. G.K. Chesterton lived in No. 11 Warwick Gardens for many years, and the Society are committed to honouring Chesterton's life and work. The Society consider the house and garden to No. 11 as being an informal but important monument, that ought to be preserved in a manner that Chesterton would have known them. Therefore, the Society object to the principle of building on part of the garden to No. 11 Warwick Gardens, of affecting the setting of the property in any way.
- 5.16 The proposed house would not be constructed upon any part of the garden of No. 11. The garden to No. 11 backs onto the proposal site and at present it is possible to walk through from one to the other. However, the site is under different ownership and there is no legal right to use the land as part of the garden to No. 11. No. 11 itself is not a Listed building, nevertheless it is not considered that the proposal will materially affect the historic interest or integrity of this building. As discussed earlier in this report, it is not considered that the setting of this and the neighbouring properties within Warwick Gardens will be affected to an extent that would justify a refusal of planning permission.

6.0 RECOMMENDATION

6.1 Subject to a Planning Obligation under Section 106, grant planning permission.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

Background Papers.

The contents of the file number TP/94/0644 referred to at the head of this report save for exempt or confidential information as defined by the Local Government (Access to Information) Act, 1985.

Officer Contact

The above documents can be inspected by prior appointment with Tracey Rust in the Planning Information Office, Room 325, The Town Hall, Telephone 0171-361-2080.

REPORT PREPARED BY: DT
REPORT APPROVED BY: LAWJ/AD
DATE REPORT APPROVED: 24/12/94

PSC9501/DT .REP

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING SERVICES COMMITTEE

11/01/95

APPLICATION NO.
TP/94/0645/ZZ/42

AGENDA ITEM
2007

REPORT BY THE DIRECTOR OF PLANNING SERVICES

APPLICANTS NAME/ADDRESS

Application dated 31/03/94

Roger Carpenter
Kerr and O'Hara,
106 Fulham Road;
London SW3 6HS

Revised 18/10/94

Completed 08/04/94

Polling Ward KB36

ON BEHALF OF : Meadview Developments Ltd.
INTEREST : Not known

District Plan Proposals Map:

Cons. Area	CAPS	Article 4 Direction	Listed Building	HBMC Direction	A/O Consulted	Objectors (to date)
8	YES	NO	NO	NO	34	19

RECOMMENDED DECISION :-

GRANT conservation area consent for demolition of existing 2 storey detached building and 3 no. adjacent single storey garages

At: LAND ON AND ADJACENT TO NO. 4 ST. MARY ABBOTS PLACE, KENSINGTON, W.8

As shown on submitted drawing(s) No(s): TP/94/0645 and TP/94/0645/A

Applicants drawing(s)No(s) : 7413A (existing), L(--) 01B,
)02B,)03B,)04B,)05B,)06B,)07B,)08B,
)09B,)10B,)11B,)12B and)100B

CONDITIONS

1. C.301
2. The Council's Arboricultural Officer shall be informed, in writing, 7 days before the commencement of any demolition on site.
3. C.20

REASONS FOR THE IMPOSITION OF CONDITIONS

1. R.301
2. To allow inspection of tree protection measures.
3. R.20

INFORMATIVES

1. I.12
2. I.44

1.0 DETAILS

1.1 Details of this application are given in the report on application Reference TP/94/0644, Agenda Item No. 2006.

2.0 RECOMMENDATION

2.1 Grant Conservation Area Consent.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

Background Papers

The contents of the file number TP/94/0644 and TP/94/0645 referred to at the head of this report save for exempt or confidential information as defined by the Local Government (Access to Information) Act, 1985.

Officer Contact

The above documents can be inspected by prior appointment with Tracey Rust in the Planning Information Office, Room 325, The Town Hall, Telephone 0171-361-2080.

REPORT PREPARED BY: DT
REPORT APPROVED BY: LAWJ/AD
DATE REPORT APPROVED: 24/12/94

PSC9501/DT .REP

Rose Elliot

✓
4/14

9A ST MARY ABBOTS PLACE . LONDON W8 6LS
TEL 0171 603 3756 FAX 0171 603 3410

1st April 1995

DT

M. J. French
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
274 APR 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

Dear Mr French,

Thank you for your letter and notification of development.

What worries me most about this planning application is the impact which it might have on resident parking in this already crowded cul de sac. However I note that the notification states that provision is made in the plans for off-street parking. I hope that you will ensure that this is adequate, to avoid further pressure on parking in St Mary Abbots Place.

Yours faithfully,

Rose Elliot

Rose Elliot

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director MICHAEL J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

Councillor Miss Elizabeth M. Christmas
Flat 37
Abingdon Court
27 Abingdon Villas
London
W8 6BT

Telephone: 0171-937 5464
Extension: 2011
Direct Line: 0171 361 2011
Facsimile: 0171-361 3463

30 March 1995

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference:
DPS/DCC/TP/94/0644

Your reference:

Please ask for:
Mr D. Taylor

Dear Councillor Miss Christmas,

Town and Country Planning Act, 1990
4 St. Mary Abbot's Place, W.8

I write with reference to the current planning application for two dwelling houses on the above site, about which you requested that you be kept informed. As you are aware, the Planning Services Committee deferred a decision on the proposal in order that a number of aspects should be reassessed.

I can now advise that the application has been amended to reduce the bulk of the houses at the rear, and to reduce the roofline at the centre. On the basis of these revisions, the application is on the agenda for the Committee of 4th April for further consideration.

For your information, I enclose a copy of the pamphlet the applicants have produced to support the application.

Yours faithfully,

Lesley Jones
Area Planning Officer
for
Executive Director of Planning and Conservation

R

4 St. Mary Abbot's Place

• Cllr. Munday would like it known that he continues to object to the proposal — he considers a fundamental change in approach is necessary, one that cannot be achieved by simple design amendment.

DT 3/4/95

PETER MULLINS

11 Warwick Gardens Kensington London England W14 8PH Tel: 071-603 8514 Fax: 071-602 0624

2 April 1995

M.J. French
Executive Director
Planning and Conservation
The Town Hall
Hornton Street
London W8 7NX

Dear Mr French

RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
4 APR 1995			128.	
Exec Dir		Records	ARB	Con Des
Appeals Office	10	Fees Officer	Forward Plan	Head DC

RE: 4 ST MARY ABBOTS PLACE, KENSINGTON, W.8 - AGENDA ITEM:2160
APPLICATION REFERENCE:TP/94/0644, TP/94/0645

MAY I urgently bring to yours, and the Planning Services Committee's attention a misrepresentation in the drawings for the above project to be submitted for planning consent this Tuesday, 4 April 1995.

I have recently noticed that the ground levels across the proposed site vary considerably and are not shown accurately in the drawings (by default or design?) so giving a false presentation of the rear elevation, as being lower than it actually is.

The area has been surveyed and the difference in land fall noted on the enclosed Developer's drawing (enclosed) with description as follows:

If the ground level of the proposed building is projected back from the pavement height of St Mary Abbots Place, W8 to the rear boundary wall of the houses in Warwick Gardens, W14 there is a difference in height of 26" (0.67m) with the Warwick Gardens side being the lower. Add to this the two steps up - 1'2" (0.36m) to the buildings interior ground level and you get the rear patio some 3'2" (0.97m) above our gardens. This amount combined with the buildings newly proposed roof height of 26'3" (8m) give it an actual height of almost 29'7" (9m) when viewed from our position in Warwick Gardens. Technically, the building's rear height is now lower by 0.7m. However the less than accurate site evaluation has contrived to increase the height and maintain the impression of bulk that the addendum's report (Para 2.1, 2.2 and 2.4) begs to minimise without effect!

This difference in levels also effects the boundary wall which will now have to be 11'6" (3.50m) high on our garden's side so creating a "prison yard" ambience- so much for amenity and appreciation of our Conservation Area. //

These new facts should be taken into account when considering the upcoming application and applied against any final decisions.

St Mary Abbot's
Mullins
Page 2

Finally, I have studied the addendum report and maintain my past objections. The "planning issues" appear to do all it can to dismiss, justify, belittle or excuse most of the genuine objections put forward by the residents, seemingly in favour of pleading the Developer's interests - a shameful and sorry document.

Yours faithfully,



Peter S Mullins

cc: Councillor Desmond Harney, OBE
Councillor Mark Field
Councillor Derrick Taylor
Councillor Keith Cunningham

0256 768490

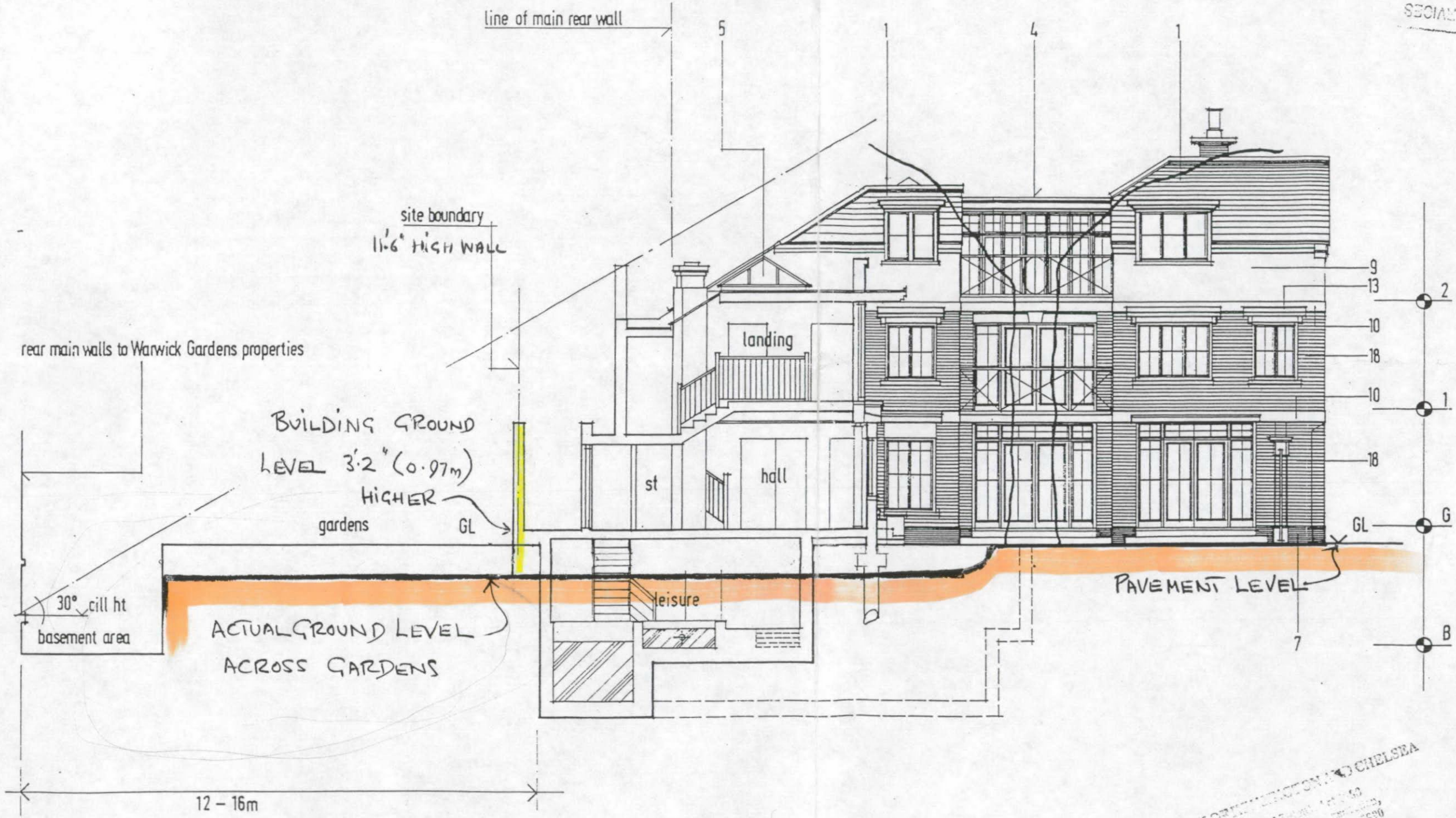
RECEIVED BY PLANNING SERVICES				
DC N	DC C	DC S	E	Ao Ack
4 APR 1995				
Exec Dir		Records	ARB	Con Des
Appeals Office	IO	Fees Officer	Forward Plan	Head DC

ROGER CARPENTER KERR & O'HARA

LOCATION DWG. SECTION A / SOUTH COURTYARD ELEVATION SECTION / ELEVATION.

ST MARY ABBOTS PLACE W8.

Architects
ROGER CARPENTER KERR AND O'HARA
100 FULHAM ROAD LONDON SW6 6HS TEL 071 225 2521



Title	LOCATION DWG. SECTION A / SOUTH COURTYARD ELEVATION SECTION / ELEVATION.
Job	ST MARY ABBOTS PLACE W8.
Architects	ROGER CARPENTER KERR AND O'HARA 100 FULHAM ROAD LONDON SW6 6HS TEL 071 225 2521
Date	FEBRUARY 1994.
Client	MEADVIEW DEV LTD.
Scale	1:100.
Dwg by	GRK.
Job No.	94002
DWG NO.	L (---) 06.C

TR/94/0644/C

SEE DWG N° L (---) 100 FOR KEY TO MATERIALS

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2 Apr 95

ESSA

Edwardes Square Scarsdale & Abingdon Association

Chairman: His Honour Judge Gerald Gordon

Hon. Secretary: Mrs. S. Anderson, 8 Phillimore Terrace, W8 6BJ

Tel: 071-937 5292

Cllr. D. Harney,
Chairman, Planning and Conservation Committee,
Town Hall,
Hornton Street,
London W8 7NX.

4/4/1995

Dear Cllr. Harney,

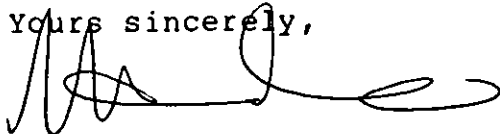
Re. Land on and adjacent to St Mary Abbot's Place

ESSA is extremely disappointed that the revised plans do so little to address the concerns expressed by ourselves, other objectors and the members of the Planning Services Committee. At their meeting of 24th January 1995, the Planning Services Committee expressed concerns regarding the bulk and scale of the proposed new building, especially in its relation to the properties in Warwick Gardens at the rear and asked the applicants to revise the plans to address these concerns.

Having examined the revised plans, this Association is of the view that the alterations are minimal and in no way address concerns regarding bulk and scale of building. Our previous objections therefore remain. Nor do the proposed alterations address our concerns regarding the plane tree which hitherto has made a valuable contribution to the street scene which will be lost should the proposed scheme be granted.

We regret that the applicants have not taken the opportunity to ameliorate the adverse impact of the proposed building which, we believe, is wholly inappropriate in scale to the location and which will have a particularly harmful effect on the properties in Warwick Gardens to the rear. We request that, as the applicants have signally failed to address the Planning Services Committee's concerns, their revised plans are refused consent. I enclose a copy of our previously stated objections.

Yours sincerely,



Suzanne Anderson

cc. Mr. M. French, Executive Director Planning & Conservation

The Planning Officer
Planning Department
Royal Borough of Kensington and Chelsea
Town Hall
Horton Street
London W8 7NX

Dear Sir,

4 St Mary Abbot's Place London W8 TP/94/0644 and 0645

We have examined the proposals for development of the above property including the drawings referred to in the architect's letter of 11th July 1994.

After consideration and discussion of the proposals we wish to object strongly to the proposals for the following reasons:

Plane Tree

Although there is visual clutter around the base of the tree the upper parts are clearly visible from the entrance to St Mary Abbot's Place and are a visual amenity which is available to public view. There are branches at a fairly low level which it appears will need lopping but more important is the space enclosed by the small hanging branches; one of the most attractive and distinctive aspects of plane trees and one which will be totally lost with the proposed development.

The tree will undoubtedly overshadow the house and make the rooms overlooking the courtyard very dark. While this may be acceptable to the present developer we are concerned that there would soon be pressure from the occupier for further thinning and lopping or even pollarding of the tree. There will also be potential problems with leaves in the many gutters which could give rise to similar requests for lopping.

The building cuts into what may reasonably be assumed to be the root area of the tree and in particular the basement area will prevent any root spread in that direction. The site is quite congested and we consider that it would take very exceptional measures by the builder to ensure that the tree was adequately protected during the course of the works. We note that there is a proposal to weave the piles through the roots and to keep the ground slab above the ground level to ensure that there is an oxygen supply to the soil. No details of how this will be achieved are provided and if the application were to be approved we consider that a very specific construction method would need to be agreed as part of the consent. Unfortunately even this precaution would not ensure protection against damage to the tree and once damage has occurred it cannot be undone.

The northern wing will crowd the tree visually and fill the space under the crown, creating an uncomfortable relationship.

There is also a small tree in the garden at the back of the property which is also likely to be affected by the basement construction.

Scale of development

The scale of the development is not appropriate to the west side of St Mary Abbott's Place which is generally two storey buildings with a pitched roof. The three storey northern wing and the general size of the building is inappropriate in that location and the high wall interrupts the flow of the buildings on the western side of the road. The buildings on either side of the development are on a much smaller scale both in actual bulk and design approach.

The U shape of the plan accentuates the overdevelopment of the site as the courtyard which is behind substantial gates does not contribute to the public space and tends to make the building read as a solid mass. An L shape with southern and western wings leaving the tree in an open sided court would be more appropriate.

Design

The garage and adjoining wall seem to be an arbitrary addition to the buildings and may be designed as part of a longer wall as a balanced composition. We do not know if there are future plans for extending this wall but if so these should be shown now as the present arrangement is unsatisfactory.

The end of the projecting north wing while appearing to be substantial element on the east elevation properly integrated into the overall massing of the building is clearly, when seen from the north and south, an element tacked on to the main part of the building with a truncated and roof which from the north in particular seems to have been trying to echo the roof to the west and creates a particularly unhappy composition. If this block were removed many of the concerns regarding the tree would be reduced, the massing would be more satisfactory and the building would be less intrusive in the street scene if the three storey element were kept behind the general building line at the northern end of St Mary Abbott's Place.

There are some discrepancies with the chimney and flues. There are three fire places to be served but only one chimney pot which means that the stack is likely to increase in size or that an additional flue will be required and both of these are likely to increase the visual bulk of the north elevation.

In summary we consider that while development of this site would be appropriate [and we understand that previously there were other more suitable and rather more modest proposals] the current scheme is an overdevelopment of the site and sits uncomfortably with the existing tree. We are not satisfied that adequate measures can be taken to safeguard this tree and in fact some of the measures which are proposed to minimise the impact on the tree and the effect of the three storeys have resulted in a visually unsatisfactory and unbalanced building.

Yours faithfully,

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director MICHAEL J FRENCH FRICS Dip TP MRTPI Cert TS

Director of Planning Services

Martin Barrow
12 St. Mary Abbot's Place
London
W.8

Telephone: 0171-937 5464
Extension: 2011
Direct Line: 0171 361 2011
Facsimile: 0171-361 3463

30 March 1995

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

My reference:
DPS/DCC/TP/94/0644

Your reference:

Please ask for:
Mr D. Taylor

Dear Sir,

Town and Country Planning Act, 1990
No. 4 St. Mary Abbot's Place

I refer to your letter dated 11th February 1994, in connection with the proposed construction of two dwelling houses on the above site. I apologise for the delay in this reply, however there have been ongoing discussions with the applicants and the position has only recently become clear following the receipt of revised drawings.

I can now advise that, on the basis of revised drawings, the application is to be considered by the Planning Services Committee at their meeting of 4th April 1995, which commences at 6.30 pm in Committee Room 1. The proposal still involves two dwelling houses built around a courtyard which would retain the existing fine Plane tree on the site, but has been amended to improve the rear elevation facing Warwick Gardens.

Yours faithfully,

M. J. French
Executive Director of Planning and Conservation

R

