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Appendix 1 - Trip Rates



Private Housing

Site	Day	AM Peak			PM Peak		
		Arrivals	Departures	Total	Arrivals	Departures	Total
GL-03-A-05	Thu	0.06	0.24	0.30	0.22	0.26	0.48
GL-03-A-02	Tue	0.08	0.22	0.30	0.30	0.24	0.54
GL-03-A-02	Tue	0.24	0.32	0.56	0.27	0.08	0.35
GL-03-A-02	Tue	0.08	0.11	0.19	0.30	0.32	0.62
	Mean	0.12	0.22	0.34	0.27	0.23	0.50

Offices

Site	Day	AM Peak			PM Peak		
		Arrivals	Departures	Total	Arrivals	Departures	Total
GL-02-A-10	Tue	3.88	0.32	4.20	0.75	2.80	3.55
GL-02-A-15	Thu	1.46	0.00	1.46	0.06	2.58	2.64
GL-02-A-11	Thu	1.41	0.00	1.41	0.00	0.70	0.70
GL-02-A-12	Thu	0.83	0.00	0.83	0.00	0.59	0.59
GL-02-A-13	Thu	0.23	0.00	0.23	0.00	0.70	0.70
	Mean	1.56	0.06	1.63	0.16	1.47	1.64

Tennis Clubs

Site	Day	AM Peak			PM Peak		
		Arrivals	Departures	Total	Arrivals	Departures	Total
GL-07-G-01	Wed	0.33	0.13	0.46	1.11	1.44	2.55
LC-07-G-01	Tue	0.13	0.11	0.24	2.50	2.75	5.25
	Mean	0.23	0.12	0.35	1.81	2.10	3.90

Industrial Depots

Site	Day	AM Peak			PM Peak		
		Arrivals	Departures	Total	Arrivals	Departures	Total
HC-02-D-02	Tue	1.39	0.30	1.69	0.31	1.33	1.64
GL-02-D-02	Thu	1.13	0.44	1.57	0.28	0.64	0.92
WS-02-D-03	Tue, Wed, Thu	0.91	0.11	1.02	0.12	0.71	0.83
GL-02-D-01	Tue, Wed, Thu	0.43	0.29	0.72	0.11	0.27	0.38
	Mean	0.97	0.29	1.25	0.21	0.74	0.94

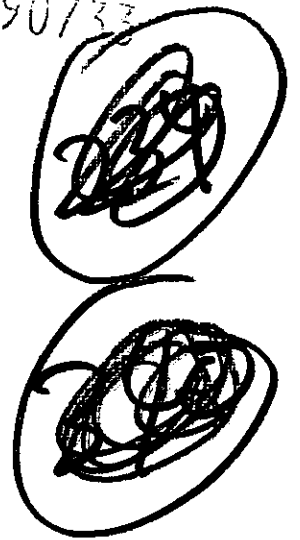
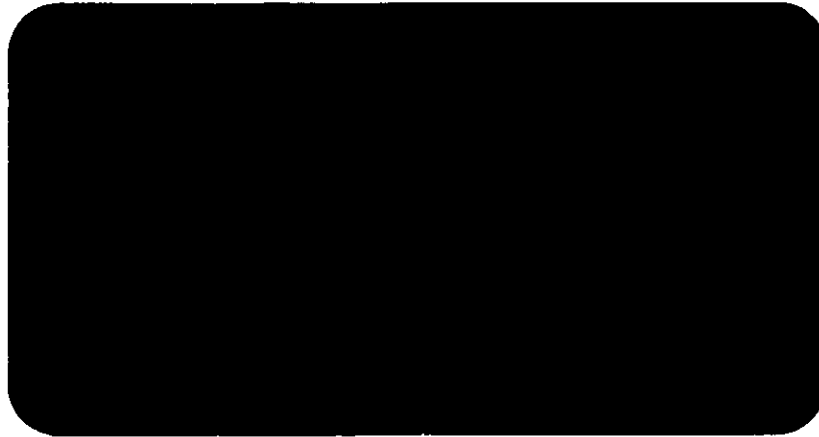
Flats

Site	Day	AM Peak			PM Peak		
		Arrivals	Departures	Total	Arrivals	Departures	Total
GL-03-D-01	Tue	0.16	0.35	0.51	0.27	0.24	0.51
GL-03-D-02	Wed	0.07	0.15	0.22	0.11	0.15	0.26
GL-03-C-01	Tue	0.04	0.28	0.32	0.27	0.09	0.36
		0.09	0.26	0.35	0.22	0.16	0.38

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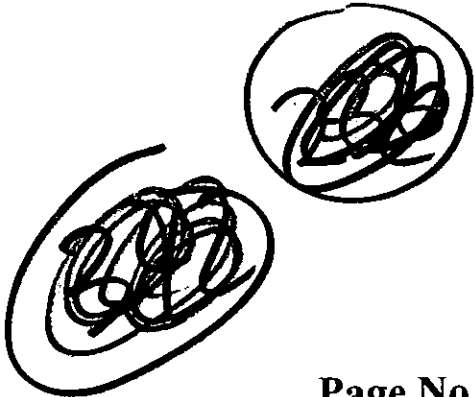
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**Redevelopment of  
Water Tower House  
&  
The Former Campden Hill  
Reservoir Site, Kensington**

**Planning Policy Report  
on behalf of  
St James Homes Limited  
March 1999**

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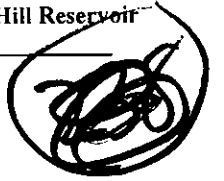
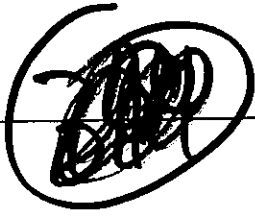


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1. INTRODUCTION

- 1.1 This planning policy statement is submitted on behalf of St James Homes Ltd. Its objective is to provide a planning policy context against which the current redevelopment proposals for the Thames Water land holdings at Campden Hill Road and Aubrey Walk can be assessed. Transportation issues are dealt with in the separate TIA prepared by TPK.
- 1.2 Although many of the people who submit representations in respect of the St James Homes applications will have an essentially local perspective on the scheme, it is also necessary to consider how the proposals reflect national policy issues such as promoting sustainable development and the desirability of maximising the housing potential of urban land.
- 1.3 In order to address these factors, this report is subdivided into five sections. Section 2 deals with national and regional guidance in the PPG's and RPG's which are of relevance to this site. This is followed in Section 3 by an analysis of the development plan context provided by the Kensington & Chelsea UDP. In recognition of the conservation importance of this local area, Section 4 evaluates the Conservation Area Statement for the Kensington Conservation Area. Finally, the conclusions of this policy analysis are drawn together in Section 5.



2. NATIONAL POLICY

2.1 PPG1 (General Policy and Principles) provides an overall statement of Government Policy towards development and the environment. At its heart is the concept of sustainable development. Paragraph 5 of PPG1 summarises the key elements of a sustainable planning framework which are,

- (a) to provide for the needs of development
- (b) use already developed areas in the most efficient way whilst making them more attractive places to live and work.
- (c) to protect and conserve cultural and natural resources
- (d) adopt development patters which minimise the need to travel.

2.2 These objectives encapsulate the dilemma which is posed by all development proposals in seeking to meet legitimate development needs whilst minimising the impact on the environment. Given that the former Campden Hill reservoir site is a previously developed site within an urban area and well served by public transport, there can be no doubt that it fulfills the locational criteria for a sustainable pattern of land use. The second issue, which can only be resolved when looking at the policies of the UDP and Conservation Area Statement, is whether the local environmental impact of the scheme outweighs its sustainable credentials.

2.3 National policy guidance is elaborated and applied to the particular circumstances of London in RPG3. Paragraph 1.14 of RPG3 outlines ten objectives for planning in London. Of these, four are of especial relevance to the St James Homes applications:

- (a) To encourage a pattern of land use and transport which minimises harm to the environment and reduces the need to travel
- (b) To promote urban regeneration, particularly in areas requiring physical improvement
- (c) To maximise housing provision consistent with maintaining environmental quality
- (d) To maintain and improve the urban environment.

2.4 One of the few areas where the RPG gives quantitative guidance to individual Boroughs is in respect of housing. Table 4.1 (p51) of RPG3 distributes a total provision of 234,100 dwellings (1992-2006) between the Boroughs and allocates 7,750 to Kensington & Chelsea. However, the concern of the government to maximise the yield of sustainable urban housing in London is reflected in the following statement;

**“In the light of the need to have regard to the principles of sustainable development, to ensure that as many as possible of London’s residents and workers are housed within the capital, and to respond to the continuing demand for housing as demonstrated in successive population and household projections, the figures in the table should be regarded as the minimum net additional completions over the period to be proposed in the UDP.” (para. 4.8).**

2.5 Whatever higher figure is proposed in a UDP needs to be tested at the public Inquiry into the UDP. One of the policy tests which will be applied is the impact of the proposed level of housing on both the open and urban environment. Helpfully, paragraphs 7.2 and 7.18 of RPG3 state that it is the role of UDP’s to critically analyse the characteristics and use of open spaces within the area. Where

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appropriate, these should be protected by the designation of Conservation Areas or other policies to control development on open areas. The next two sections of this report assess whether the contents of the UDP and the Conservation Area Statement further reinforce the case in favour of redevelopment.





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### 3. THE KENSINGTON & CHELSEA UDP

3.1 The Kensington & Chelsea UDP was adopted in 1995. It is the critical document in terms of both articulating, at local level, the policy approaches in the PPG's and RPG's and in the determination of individual applications under Section 54A of the Town & Country Planning Act 1990.

3.2 The extent to which the Kensington & Chelsea UDP closely reflects national planning guidance can be seen from the four "Principal Strategic Policies" which underpin the document. In summary, these policies (STRAT 1 to 4) propose;

- (a) To give priority to the protection and enhancement of residential character and amenity (STRAT 1)
- (b) To see an increase in residential accommodation and encourage residential development on appropriate sites (STRAT 2)
- (c) To support economic growth and change (STRAT 3)
- (d) To seek an efficient and environmentally acceptable transport system in the Borough (STRAT 4).

3.3 Whilst policies STRAT 3 and 4 are important, it is STRAT 1 and 2 which are of central relevance to the residential redevelopment of the Campden Hill Reservoir site. Since these policies seek to strike a balance between the need for further housing and the impact on the natural and built environment, it is these particular UDP policies which are the focus of this section of the report.

3.4 Dealing first with the encouragement of housing on appropriate sites, paragraph (v) of the Part 1 Reasoned Justification (p80) notes how the number of sites with

potential for residential development is declining. As a consequence “a high priority must be placed on allocating all available development land for residential use” (para. (v) p80). This is carried forward into Policy H2 which states that residential development will be sought on all sites unless,

- (a) a satisfactory residential environment cannot be reasonably achieved; or
- (b) the land is needed for social or community use or
- (c) the site is required to replace existing commercial floor space.

3.5 In the case of the current application site, there can be no doubt that a satisfactory residential environment can be achieved. This is considered in the design report prepared by Broadway Malyan. This satisfies criterion (a). Turning to criterion (b), there has been no suggestion that the site should be retained for a social or community use although the existing number of tennis courts will be retained.

3.6 Whilst the site has been used in part for both office and depot uses, these have been run down by Thames Water in recent years. Since these are historical uses which have grown up in conjunction with the reservoir, they are uses which are out of character with the pattern of land uses in the local area. Hence, their replacement with new commercial floorspace (Criterion C) would not be appropriate. Since the site fulfills none of the exception criteria in Policy H2, there is a strong policy presumption in the UDP that the application site should be redeveloped for residential purposes.

3.7 Whilst the housing figures for individual Boroughs are regarded as minimum levels of completions by the Secretary of State, recent figures from LPAC disclose that Kensington & Chelsea is falling short of the current UDP provision to 2001. During the period 1992 to the end of 1996 ( the latest period for which figures are available), the Borough was already 700 units short (73%) of the provision on a pro

rata basis. This is in sharp contrast to the position in London as a whole where equivalent figures show a small pro rata over provision (109%). This further emphasises the importance of maximising the dwelling potential of available “brownfield” sites.

3.8 Prior to considering the detail of the residential scheme in terms of UDP policies on density, the mix of units and the provision of affordable housing, it is necessary to assess the other issues of principle raised by these applications. This is the impact of the proposals on the natural and built environment.

3.9 Dealing first with the natural environment, there are four groups of policies which need to be covered;

- (a) nature conservation (CD77 and CD80)
- (b) archaeology (CD81 to CD84)
- (c) loss of formal open space used for sports and recreation (LR1)
- (d) loss of open space (CD21)

3.10 The application site is not identified as having any nature conservation importance on the UDP proposals map. This followed an extensive survey of the Borough by the London Ecology Unit. Notwithstanding this, the scheme will retain the southern and western embankments of the reservoir. These have a significant cover of trees and shrubs which will be retained both as part of the local landscape and for any local nature conservation role. The scheme will also create new green space on part of the site currently occupied by the reservoir.

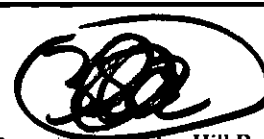
3.11 The site is not identified by the UDP as having any archaeological importance. However, St James Homes have sought advice on the issue from Thames Valley

- Archaeological Services. They have advised that at the time of construction of the reservoir, foundations were dug to a depth of 6 metres. This would have destroyed any archaeological deposits. Similarly, the construction of Water Tower House in the late 1960's would have had the same result. The separate archaeological report addresses this issue in more detail.
- 3.12 Since the roof of the covered reservoir has for many years been used by the Campden Hill Lawn Tennis Club, the loss of this facility or a reduction in its size would be directly in conflict with Policy LR1 which seeks to resist the loss of playing fields and other recreational provision.
- 3.13 St James Homes recognise that the Campden Hill Lawn Tennis Club is an important and well used local facility. In view of this, extensive discussions have taken place between the Club and Thames Water about ways of retaining the club and upgrading its facilities whilst also achieving the redevelopment of part of the site. The result of these discussions is a scheme which retains the same number of courts (12). Six courts of club standard will be provided at the lower level in the western part of the former reservoir. These will be enclosed and will provide a facility which can be used throughout the year and in the evenings. On the upper level six new championship size courts will be provided. Of these, four will be floodlit and will replace the existing floodlit courts. In addition, a practice court will be constructed at the rear of the site. These arrangements are fully supported by the Club which has recently signed an agreement for a new lease, which is conditional on the grant of planning permission. This will secure the continued presence of the Tennis Club on this site well into the next century.
- 3.14 The conclusion to be drawn from the above is that the current proposal cannot be regarded as being in conflict with Policy LR1 since the overall quantity of on site recreational provision is maintained and its quality is enhanced. Furthermore, the new agreement for lease with the Tennis Club ensures the long term presence of the facility, which is greatly valued by the local community.



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- 3.15 Policy CD21 is a wider policy than LR1 since it seeks to restrict the loss of private or public open space which is capable of making a contribution to an area's character. Whilst it cannot be doubted that much of the reservoir site appears to be an "open space" in the urban area, this ignores a number of particular characteristics which significantly reduce its value as open space. The first point is that the area is not an "open space" in any natural sense. What is seen is the roof of a partially submerged reservoir which is a massive brick structure. This is covered with an artificial surface and used as tennis courts.
- 3.16 As previously explained, the reservoir is also only partially below ground level, with the remainder forming a large embanked structure. This means that from surrounding public vantage points the view is not across an open space but of an embankment. This significantly reduces the perception of the site as an open space. For these reasons it would be more correct to regard this site as being almost wholly developed with the largest structure being an elevated reservoir with a large flat roof. The fact that it is used for tennis is little more than an accident of history.
- 3.17 In addition to retaining the western part of the site as six open tennis courts, the submitted scheme also creates areas of open space within the development.
- 3.18 Drawing together the aspects of this proposal which impact on the natural environment, it is clear that the massive form of the covered reservoir has led to the site having no recorded nature conservation importance or archaeological value. Similarly, it would be wrong to see the roof of a brick reservoir as an open space in any natural sense. The local importance of this site is largely limited to its use by the tennis club. This is recognised by St James Homes and the redevelopment proposals will succeed in maintaining the same number of courts whilst improving the quality of the facility. It is because of this that the proposals are supported by the Campden Hill Lawn Tennis Club.



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3.19 Since the site falls within the Kensington Conservation Area but does not contain any Listed Buildings, a particular concern must be that the redevelopment proposals preserve or enhance the character of the Conservation Area. Policies CD48 to CD56 of the UDP deal with development in Conservation Areas in a general sense with more detailed guidance being provided in the Kensington Conservation Area Proposals Statement. In view of this, the impact of the scheme on the built environment is dealt with in Section 4 which considers the Conservation Area Statement.

### **Residential Design Standards**

3.20 The earlier part of the statement established that, in principle, residential development should be sought on development sites in the Borough. In addition to balancing the presumption in favour against the impact on the natural and built environment, it is also necessary to consider the degree to which the scheme reflects the residential design standards in the UDP.

3.21 The UDP seeks to strike a balance between maximising the residential potential of urban land and protecting the character of the surrounding development. To this end Policy H9 seeks to resist very low densities (below 175hrh) whilst H10 suggests that family housing should be in the range of 175 to 250hrh. Higher densities (up to 350hrh) are regarded as only appropriate for small households, special needs accommodation or where it is necessary for townscape reasons (H12).

3.22 The submitted scheme will provide 366 habitable rooms and the replacement courts on a site area (including 6 metres of Aubrey Walk and Campden Hill Road) of 1.66 hectares. This produces an overall site density of 220hrh which is relatively low for family housing in Kensington & Chelsea. Even if the tennis court area is excluded the density is only 327hrh (136hra). However, there are significant variations between the flats which front on to Campden Hill Road and Aubrey Walk and the new square of town houses. Whilst overall density is in the higher range of the

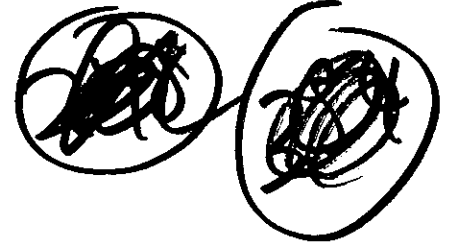
UDP, it is entirely justified in townscape terms since the buildings need to be of a significant scale to successfully blend in with the surrounding Conservation Area. Within the scheme, the large family houses will have the benefit of a largely car free square and a density which is only marginally above that normally sought for family units. The density of the flats is entirely consistent for units which are unlikely to be predominantly occupied by families.

- 3.23 Policies H18 and H19 also strive to achieve a mix of unit sizes on larger developments. In the case of the submitted scheme, the development will range from small two bedroom flats (3hr) to substantial five bedroom houses (11 habitable rooms).
- 3.24 The Borough Council adopted an Interim Policy relating to affordable housing on the 11<sup>th</sup> January 1999. This lays out a sequential or cascade approach to the provision of affordable housing whereby the first preference of the Council is for on site provision. The second and third preferences are for (respectively) the provision of off site units and the payment of a commuted sum. Following discussions with officers, St James Homes are committed to entering into a S106 agreement which reflects this new approach in full.
- 3.25 The UDP design standards do not put forward rigid standards for sunlight and daylight, instead each case will be assessed on its merits. St James Homes have asked McBaines Cooper to consider the impact of the submitted scheme in terms of daylight, sunlight and rights of light. It is their advice that there are no actionable infringements of right of lights and the general impact on sunlight and daylight is within acceptable limits of amenity.
- 3.26 The scheme will utilise the base level of the covered reservoir to provide underground car parking. Spaces will be provided for all dwellings at the standard outlined in Table 5.1 of the UDP. The use of basement parking is both an efficient





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use of the existing structure and will mean that the ground level and square will be a largely car free environment.







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#### 4 KENSINGTON CONSERVATION AREA PROPOSALS STATEMENT

- 4.1 The townscape importance of the area around Campden Hill Road was reflected in the designation of the Kensington Conservation Area in 1970. The more recent Kensington Conservation Area Proposals Statement (January 1995) provides a valuable analysis of the development of the area and defines its essential character. As such, the document represents critical guidance for prospective development schemes.
- 4.2 The overall character of the Conservation Area is defined in the Statement as follows;

**“The history and development of Kensington Conservation Area is essentially that of a quality residential area, though fluctuating commercial fortunes and the influx of poorer citizens in the last century meant that conditions were not always so favourable. The result is that the Area today offers a wide range of housing sizes and styles, so that 32 houses and gardens between Campden Street and Peel Street, for example, can be fitted on the ground occupied by 7 in Phillimore Place. This variety produces welcome flexibility in the Borough’s housing stock as well as constituting an important characteristic of the area.”**

- 4.3 In the context of a character of ‘a high quality and varied residential area’, it is self evident that the historical use of the application site for various purposes related to water supply is not part of the primary character of the area. However, the water utility use has a very long history on and around the application site and first became established around 1810 as part of the original West Middlesex Water Works. As such, the development of the site was inextricably linked to the original urbanisation of this part of Kensington and the surrounding residential areas functionally relied on the site for their water supply.

- 4.4 The relationship between the land holdings of the various water companies and the rest of the area has continued to evolve over the last one hundred and ninety years. For example, as early as 1878, Airlie Gardens was built on surplus Water Company land. The first reservoir was constructed in 1845 on land now occupied by Water Tower House and Kensington Heights. This was followed later in the 19<sup>th</sup> Century by the reservoirs which still exist on the site. The earlier reservoir became surplus some years ago, thus allowing the erection of Water Tower House and Kensington Heights in the late 1960's and 1970's. It is clear, therefore, that as the functional land requirements of the various Water Companies have shrunk over the last hundred years, the surplus land has been redeveloped for housing, in accordance with the primary land use character of the area.
- 4.5 Turning to the detailed issues arising from the Conservation Area Statement which apply to this site, the following points are of relevance;
- (a) **Water Tower House** is variously identified as 'a dreadful building in all townscape respects' (p31) and 'Water Tower House must regretfully be described as the Area's least appealing building' (p31). Given these unambiguous comments, it is hardly surprising that paragraph B3 (p46) encourages the redevelopment of the site 'with premises more responsive to the prominence of the site and better related to the character of the Area'.
  - (b) **Paragraph C7 (p50)** identified certain parts of Aubrey Walk as having 'never been properly considered in design terms'. In particular, the land owned by Thames Water next to 7 Aubrey Walk is highlighted as being 'featureless, but remains a prominent element in an otherwise attractive street'. It is noted that improvements to enhance the sense of enclosure along Aubrey Walk would be welcome.
  - (c) **Paragraph E3/E4 (p51)** highlight the problems with the Thames Water frontages on both Campden Hill Road and Aubrey Walk. It is recommended

that consideration should be given to the design, appearance and maintenance of these frontages. As a consequence 'the character and appearance of Aubrey Walk and Hillsleigh Road would be considerably improved as a result.' (p51).

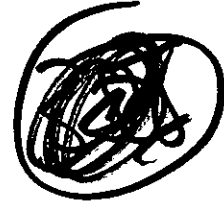
- 4.6 The Conservation Area Statement makes no reference to the townscape role or importance of the other buildings and structures on the application site. However, English Heritage has examined the application site. In their letter to Jeffrey George Associates dated the 25<sup>th</sup> February 1998 (see Appendix 4 of Archaeological Report), English Heritage has confirmed that, following consideration, listing has been rejected as an option.
- 4.7 If all the above conservation points are brought together in the context of the submitted application, the following conclusions can be drawn;
- (a) The redevelopment of this Thames Water site for housing is the continuation of a process which began over 100 years ago whereby Water Company land holdings are limited to that necessary to meet functional needs.
  - (b) Water Tower House will be demolished and replaced by an appropriately designed building on this prominent site.
  - (c) The frontages to both Campden Hill and Aubrey Walk will be designed in a coordinated and comprehensive manner.
  - (d) The new buildings will create both an improved sense of enclosure plus a carefully designed new vista from Aubrey Walk southwards into the new square (see the Design Statement for a full description of the scheme).



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4.8 The enclosed application is a carefully considered and comprehensive approach to the development of the whole Thames Water land holding at Aubrey Walk and Campden Hill Road. Given that the site contains so many acknowledged detractors from the character of the Conservation Area plus some neutral elements, the redevelopment of the site in accordance with these applications should result in a net enhancement to the character and appearance of the Kensington Conservation Area.

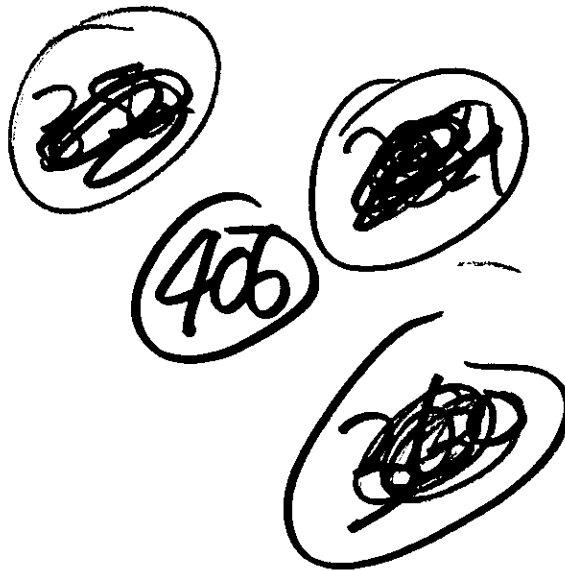


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5 CONCLUSIONS

- 5.1 It is not often that such a large redevelopment opportunity arises in this part of Kensington. St James Homes perceive the redundant Thames Water site as a tremendous opportunity to create a design which enhances the Conservation Area whilst retaining the tennis club.
  
- 5.2 The scheme will make the best use of the site by a design which will create a new Kensington Square of 19 houses with 43 apartments on the Campden Hill Road and Aubrey Walk frontages. Not only will this contribute to the UDP housing provision, but it wholly accords with the philosophy of the present Government to move towards a more sustainable pattern of development by maximising redevelopment opportunities within urban areas.
  
- 5.3 As a consequence, the scheme submitted by St James Homes succeeds in promoting a more sustainable pattern of development whilst also leading to an overall enhancement of this part of the Kensington Conservation Area.



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# REPORT

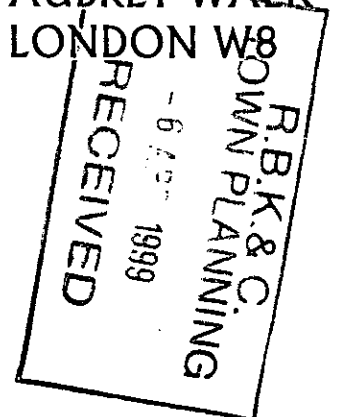
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ON

RIGHTS OF  
LIGHT,  
SUNLIGHT AND  
DAYLIGHT

AT

AUBREY-WALK  
LONDON W8



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## 1.0 RIGHTS OF LIGHT

The houses fronting onto Aubrey Walk are all in excess of twenty years old and have established their light flows over the Thames Water land by prescription through S3. of the Prescription Act 1832. Once acquired, these easements of light are indefeasible private property rights which cannot be overridden by Thames Water and those acting under or through them.

The MWB was established as a statutory corporation by the Metropolis Water Act 1902 and combined the former water companies as a joint board. The land occupied by the Board was not Crown land so that the exemptions which prevent the subject acquiring prescriptive rights over the Crown do not apply to this land.

The land occupied by Holland Park School is, we understand, held by the RBKC which inherited it from the ILEA on the dissolution of the Greater London Council and the Inner London Education Authority.

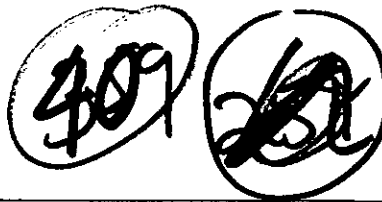
St George's Church is considerably in excess of 20 years old and ecclesiastical property can acquire prescriptive rights in the same way as secular property can.

It is important to remember that what light is taken is not the criterion by which an infringement of a right of light is judged but by what is left. The surrounding owners are entitled only to "sufficient light for the ordinary notions of mankind" per Halsbury LC, Davey LJ and Lindley LJ in *Colls -v- Home & Colonial Stores (1904) HoL*. This has been accepted over the years as 50% of the floor area of the affected room having a sky visibility or sky factor of 0.2% or better. The 50% was called into question in 1967 in *Ough -v- King* in which Denning LJ cited with approval the judgement of Upjohn J in *Cory -v- City of London Real Property Co. Ltd., (1954)* and said. "In these days I would not myself be prepared to regard the 50/50 rule of Mr Waldram as a universal rule. In some cases a higher standard may be reasonably required ....." For safety, we should, today, regard any diminution of the well-lit area below about 53% as likely to be a cause of action.

We have assumed that the surrounding residential owners will not be prepared to release any of their rights in return for money and that all the surrounding owners are hostile to the development and will resist any loss of rights or amenity.

We have received the detailed proposal drawings and site survey showing the demolition of the existing buildings on the water site including the Receiving Office, flats and depot known as Water Tower House, the pumping station behind Water Tower House and the flats at Nos. 3, 5 and 7 Aubrey Walk. The Easternmost covered service reservoir is to be demolished and used as basement car parking and part of the west reservoir is to be retained and used as new indoor tennis courts. New buildings containing nineteen houses and forty-three apartments are to be built on the site. Each of the buildings will be several storeys in height.





### Kensington Heights

We have, so far, seen only the deed of lease made on 21st June 1973 between the Metropolitan Water Board of the first part and Campden Hill Developments Ltd., Star (GB) Holdings Ltd. And Rush and Tompkins Developments Ltd. of the second part. This lease provides, *inter alia*;

1 The Board.... demise unto the Lessee ALL THAT piece or parcel of land .... (hereinafter called "the demised premises") Except and Reserving unto the Board.... (g) The right at any time to erect or suffer to be erected any building or other works or to alter any building or other works now standing or hereafter to be erected on the Board's adjoining land in such a manner as to obstruct or interfere with the passage of light and air to any building which is or may be erected upon the demised premises"

2 PROVIDED ALWAYS: .....

(2) All privileges in respect of light and air now enjoyed over the Board's adjoining land in respect of the demised premises shall be deemed to be so enjoyed by the licence and consent of the Board and not as of right.

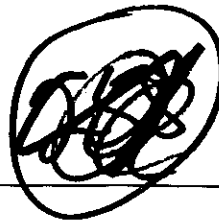
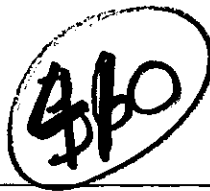
The demised premises are defined as the buildings known as Kensington Heights and the Board's adjoining land is the remainder of the Campden Hill Works site as shown on the lease plan.

There are no clauses limiting the Board's rights for so long as Campden Hill Works are an operational water storage and pumping works and the only operational restrictions are upon the lessees preventing them from interfering in any way with the reservoir, pumping installations or other works belonging to the Board.

By operation of the Water Act 1973 Thames Water Authority was created and assumed all the rights and duties of the Metropolitan Water Board which became the Metropolitan Water Division of the Authority. By the Water Act 1983, The Authority was dissolved and reformed as a public limited company, Thames Water Utilities Plc., though the river management functions were reserved into a newly formed national body, the National Rivers Authority. The Campden Hill Works site is not a "river" site and was transferred into the new Plc. Thames Water Utilities Plc. is, thus, the successor in title to the MWB and is entitled to the benefits and subject to the burdens of the covenants contained in the lease referred to.

In view of the clearly expressed terms of the lease, we are of the opinion that the owners of the flats comprising Kensington Heights would have no grounds for raising objection to the proposals on the grounds of interference to their light or air. The Prescription Act 1832 does not provide for the acquisition of easements except where they are enjoyed *nec clam, nec vi, nec precario*. In the present case, the light flow is enjoyed by permission expressed in the deed so all three tests are not satisfied.

All the purchasers of leasehold interests in the flats purchased their interests knowing that these exceptions and reservations applied to the land. Those on the front part would not, of course, be affected but those to the rear and the North side would know that they could be affected in the future.



### Holland Park School

Holland Park School is set down the hill from the development site and we have not been able to examine the buildings on the site in any detail because of restrictions on access. We have examined the buildings from the reservoir site and conclude that the 1960s classroom blocks will not be adversely affected by the proposals at all. Thorpe Lodge forms the VI.th form library and IT classrooms and this building will be slightly affected. The existing fenestration is poor so that the light flows to the rooms are diminished accordingly. We believe that there may be a small amount of damage caused to the building. We do not consider that this damage is injunctable but, by operation of *Shelfer -v- City of London Electric Light Co. 1895* any damage is of a compensatable nature

### Airlie Gardens

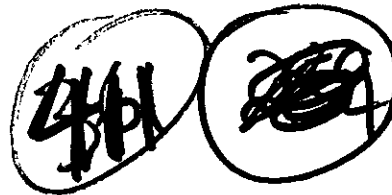
The remaining buildings in Airlie Gardens are set back from the line of Thorpe Lodge and are presently heavily overshadowed by the planting on the berm slope. While trees would not normally be considered for rights of light, where they are "cultivated" rather than wild, a claim could be sustained for them. As no claim has been made and the trees have been there for many years, we feel that they give a degree of protection. The nearest building will be the house in the Southeast corner of the square which is basically two storeys at its nearest point to Airlie Gardens and is set some 36m back. We consider, therefore, that no reasonable claim could be sustained by the Airlie Gardens properties

### 25 Campden Hill Gardens

The building on the corner of Aubrey Walk and Campden Hill Road derives a flow of light principally along Campden Hill Road and is already obstructed by Water Tower House which is built on higher ground and is five storeys tall. The parapet level of Water Tower House is 52.07 AOD. The new proposals show the new buildings being 53.25 AOD to the ridge and 51.25 AOD to the parapet. The footprint of the building is slightly wider than the existing building but with a more broken roofline. Most of the bulk of the building addresses the road rather than the properties built on its sides. We do not consider that an action could be sustained by this property.

### 36 Campden Hill Gardens

The next building faces into Campden Hill Gardens but derives a flow of light over the development site to its side windows and its conservatory. We have considered the impact which the new buildings will have onto these windows and the first floor windows do not appear to be adversely affected. The conservatory receives part of its light from above and would be very difficult to injure. There are no new buildings facing this house and the present pump house roof is set at 49.8 AOD and there are trees and bushes on the berm. The new obstructions will rise to 40.2 AOD so that this building will derive significant increases in light flow. The building has a satellite dish mounted on the West wall facing over the site and set at a low angle to focus on the geostationary satellite.



The new development should not distort or disrupt the signal because it will "see" the satellite through the gap in the buildings. While not a right of light, the Courts may now be tending towards granting relief from interruptions to television signals. The Canary Wharf case is before the Courts and much will depend on how it is resolved at appeal.

### **St. George's Church**

The church of St George's has its main "East" window on Aubrey Walk, facing Southeast together with other, smaller windows. It is normally extremely difficult to injure church windows because of their height and the windows in this case have the sill quite high up and the heads even higher. We do not believe that the church will sustain an actionable injury in this case. St. George's Church will benefit from the amended proposals and will not be affected to the extent they would have been under the previous scheme. There will be a slight diminution in light to the West side of the window but this is more than offset by the demolition of the pumphouse.

### **2 to 6 Aubrey Walk**

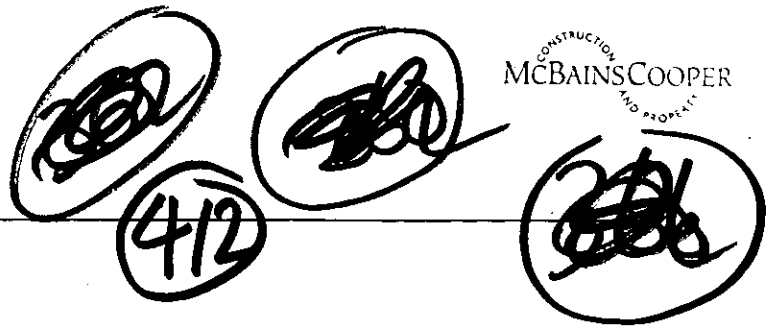
The next group of buildings along the road, numbered 2, 4 and 6, are a block of three Georgian houses each on three storeys. The rooms appear to be quite shallow and the ground floor windows are reasonably high so that the damage may only be slight. We have calculated the effects on these houses and particularly No 6 more closely. This shows a diminution in light but, as far as we are able to calculate, without having access to the rooms internally, this diminution does not appear to be sufficient to sustain an actionable injury. The first floor rooms have very high French windows (approx. 2.3m) and the rooms are shallow so that we do not anticipate any injury at this level.

These houses will be affected to a lesser extent than in the previous scheme though, as before, No 6 is affected to the greatest degree and will still sustain a loss of light. This loss, however, does not seem to be to an actionable extent.

### **8-16 Aubrey Walk**

The block of five "garden suburb" houses, Nos. 8, 10, 12, 14 and 16, again on three storeys, are built a little further along the road. Along this part of the road there is little on the Thames Water site at present to obstruct the light and proposals show the roadway in front of Nos. 12, 14 and 16. This will mean that they will receive, if anything, more light than at present. No 8 is lit from two sides so would be difficult to injure at ground floor level in any event but light will still penetrate over the substation and through the square. Trial Waldram diagrams in the worst case, (No. 8), show that the sky factor at half the likely depth of the rooms would be in excess of 2.5% against a minimum of 0.2% as being sufficient for the ordinary notions of mankind (*Ough -v- King 1967*). Achieving 0.2% over 50+% of the floor area of the rooms should, therefore, be achieved.

No 16 faces the existing buildings at 3, 5 and 7 which stands on the slope of the berm and has a gambrel roof with its ridge line at approximately 50.7m AOD. The proposal drawings show this building being demolished and there will be a significant improvement in light flows to this building.



### **18 Aubrey Walk**

No 18 is a late nineteenth Century buildings on two floors with windows at ground floor and first floor levels facing the site. The ground floor windows are 1425mm high and quite wide so that a good standard of light penetration into the rooms appears to occur. These windows face predominately the existing buildings on 3, 5 and 7 and are obscured by this building. Light passes down the West side of the existing building. This light flow will be significantly improved as will the sunlight and daylight penetration

### **20 Aubrey Walk**

This building benefits from the removal of the existing flats and the new building is set back further than the existing ones. We find the situation for this building improved rather than impaired. No 20 has no windows at ground floor level other than to the garage and, perhaps, a lavatory at ground floor level while the fenestration to the first floor is by four windows each approximately 2.3m high.

### **22 Aubrey Walk**

No 22 has two relatively small windows at ground floor level, lighting rooms either side of the entrance passage. These windows are already obscured by the bulk of Nos. 9 and 11 and, further away, by the gable end of No 7. The ground floor windows will suffer a slight diminution of light but we consider the loss would not be actionable. The principal rooms are on the first floor and the windows to this floor are extremely large with a sculpture displayed in the centre window. These windows will still receive satisfactory flow of light over the reservoir and to the West of the new building.

### **24 Aubrey Walk**

No 24 will also suffer very slight diminution in light flow but this, again, would appear to affect only secondary accommodation at ground floor level rather than principal rooms.

### **26 Aubrey Walk and Beyond**

We do not believe that Nos. 26 and beyond are affected by the proposals,



## 2.0 SUNLIGHT AND DAYLIGHT

We have used the BRE Code of Practice for daylight and sunlight 1991 as the basis for consideration of the effects of the new proposed development on the flats in Kensington Heights. Section 2.2 deals with the effects of developments on existing buildings and we have followed the decision chart given on p.7 of the Guide. In some instances, the new development does subtend an angle greater than  $25^\circ$  at the centre line of the lowest storey of windows so we have gone on to verify the actual vertical sky components (VSC).

To assess the VSC we have used the method of the Waldram Diagram. At p.54, the Guide states "...the Waldram diagram is more precise [than the skylight indicator] and may be used for very complex obstructions." The Waldram diagram also has the advantage that it shows the obstruction in a more pictorial way, which is often of assistance in gauging the likely effects.

The Guide seeks a VSC of 27% at the centreline of windows to be affected. Where this is not attained the Guide then seeks to identify whether the proposed VSC will be 80% or more of the existing figure. If so, then it concludes that daylighting is unlikely to be seriously affected. The Guide requires a further assessment to be made even where the 27% is exceeded and that is to establish whether the proposed VSC is more than 80% of the existing. We have marked with a N those situations where one or other of the Guide's recommendations is not met.

### Holland Park School

Thorpe Lodge does not face within  $90^\circ$  of South so does not fall to be considered from the sunlight point of view.

From the daylighting point of view, we have verified that the angle of obstruction formed by the new buildings at the centres of the ground floor windows will intrude above the  $25^\circ$  line at  $27^\circ$ . We have, therefore checked the sky factor along the window wall and find that it is 27.5% so that the criteria given in Section 2.2 of the Code of Practice published by the BRE is satisfied. Examination of the section drawing attached shows this situation pictorially.

### Kensington Heights

Although the legal documentation precludes action by the owners of the flats in Kensington Heights for loss of their prescriptive rights, Sunlight and Daylight still fall to be considered by the Planners.

In our examination, we have made assessments at points along the ground floor level where there are windows but these appear to serve, for the most part, subsidiary parts of the building, service areas and the like. The flats appear to be confined to the first and upper floors. We have, therefore, also assessed the first floor flats in the section of the building that projects out towards the development.

## 5.0 PHOTOGRAPHS AND DRAWINGS

Photograph of Thorpe Lodge, Holland Park School.

Section showing Thorpe Lodge and the South Terrace with 25° line shown.

25 Campden Hill Road shown as existing with 25° line shown from centre of Ground floor windows

25 Campden Hill Road shown as proposed with 25° line shown as before.

Photograph of 4 and 6 Aubrey Walk

Drawing extract showing 2 - 6 Aubrey Walk and proposed new apartment block

Drawing showing 18 - 24 Aubrey Walk and proposed small flats block

Elevation drawing showing proposed new block facing 18 - 24 Aubrey Walk with existing block shown dotted in.

Part section drawing showing proposed new block and 20 - 24 Aubrey Walk with existing building shown dotted in

Photograph of 18 Aubrey Walk

Photograph of 20 Aubrey Walk

Photograph of 22 Aubrey Walk

Photograph of 24 Aubrey Walk

Elevation of existing buildings facing 18 - 24 Aubrey Walk

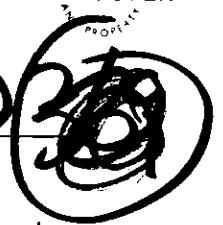
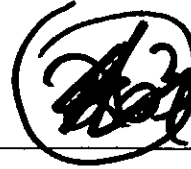
Elevation of East Terrace closest to Kensington Heights

Section of East Terrace and Kensington Heights

Section of North face of Kensington Heights and South face of the apartment block fronting onto Campden Hill Road

Plan of relationship between Kensington Heights and the East Terrace (NB 1:250)

Elevation of Kensington Heights facing the East Terrace



In some places on the ground floor, the windows are limited in the VSC available to them by being recessed under projecting construction. This places an additional burden on the adjoining site because a small obstruction below the projecting balcony will have a disproportionate effect on the VSC. The Guide calls for a flexible interpretation of the numerical values given and we submit that windows affected by projecting balconies should be accorded that more flexible approach.

We have set out below a table of the results achieved at the various window positions and these are indicated on the attached working drawing. Care should be exercised as the plan drawing is scaled at 1:250 not 1:200 as the other drawings. We have also included extracts showing the sections to the West and North faces of the flats.

Position	Extg VSC	0.8 of extg	Prop VSC	Pass 27%	Pass 80%
A	25.71	20.57	24.727	Y	Y
B	26.06	20.848	23.82	N	Y
C	23.2	18.562	20.60	N	Y
D	31.81	24.945	28.677	Y	Y
E	21.6	17.28	18.747	N	Y
F	22.47	17.976	20.316	N	Y
G	40	32	33.736	Y	Y
H	40	32	33.485	Y	Y

In the case of positions A, B and C, the 27% VSC is not attained as existing due to the oversailing balcony above. In positions E and F, the adjoining projections shield the windows from the sky. The proposed development reduces the VSC but the proposed value is still greater than 80% of the existing

We have examined the impact of the proposals on the north elevation of Kensington Heights. As above, we have compiled Waldram diagrams of the worst affected part of the building taken at 2m above ground level. We find that the original VSC at this location is 27.6% but that the VSC under the proposed scheme will be 24.3%. Although this is less than the target numerical value set by the Code, it is still more than 0.8 times the original value (22.08%) As with the west elevation, there are windows on the north side of the building that are overshadowed by projecting balconies in the storey above. This dramatically reduces the VSC available to those windows, even if the building were to be on a completely undeveloped site on a hilltop. It would be perverse to impose the additional burden of this element of the previous design onto the proposed use of the Thames Water site.

Taking into account the flexibility of approach envisaged in the Code (*para 6, P.1*) we consider this diminution in VSC not to be material.

### 3.0 SUNLIGHTING

The penetration of sunlight falls to be considered because the windows on the West face of Kensington Heights face within 90° of due south. (Facing 253° True). The Guide repeats the requirements of BS8206 Pt 2 1992 and calls for the windows to receive 25% of annual probable sunlight hours including at least 5% of annual probable sunlight hours between 21<sup>st</sup> September and 21<sup>st</sup> March. Where the sun penetration is reduced, it should still leave 80% of the existing sunlight hours.

We have carried out an analysis using the sunlight availability indicator for 51.5°N (the latitude of London) at p.28 and the transparent indicator supplied with the Guide. We have not analysed those parts of the new buildings lying to the North of the points under consideration as noted in Fig. 16 on p.11.

The results of our analysis are shown in the table below:

Posn	APSH%	80%	WPSH%	80%	APSH%	WPSH%	80%< A	80%<W
A	56	43.2	22	15.2	56	22	Y	Y
B	56	44.8	21	16.8	56	21	Y	Y
C	53	42.4	19	15.2	53	19	Y	Y
D	50	40	19	15.2	50	19	Y	Y
E	19	15.2	2	1.6	18	1	Y	N
F	23	18.4	3	2.4	28	3	Y	Y
G	55	44	20	16	48	16	Y	Y
H	54	43.2	19	15.2	51	17	Y	Y

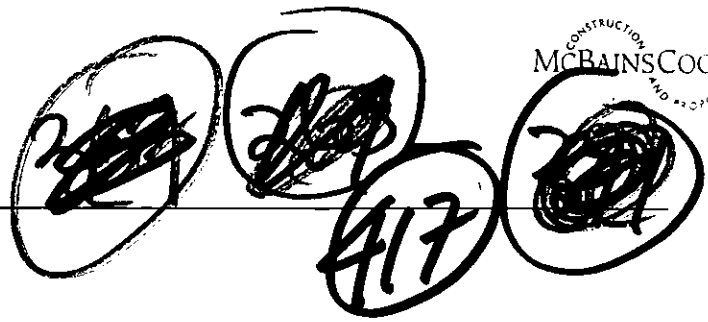
The notation used is that the first column shows the existing percentage of annual probable sunshine hours, the second shows 80% of that, the third column shows the existing winter probable sunshine hours, the fourth 80% of that. The fifth and sixth columns respectively show the proposed annual and winter probable sunshine hours and the seventh and eighth column show by Yes/No notation whether the proposed probable sunshine hours are 80% or more of the existing respectively.

In the case of position E the drop in annual probable hours is only 0.6% below the critical value. The remainder are either not reduced at all or are only reduced very slightly. In all but positions E and F the remaining percentage of sunshine hours is still between three times and four times the Guide's winter minimum. Only positions E and F fall significantly below the Guide's provision but these are heavily shadowed by the rest of the building and do not achieve the Guide minima even as existing.

We have considered the north elevation of the building for sunlight as for daylighting. As none of the windows face within 90° of due south, none call to be considered for sunlighting under the Code.

In the circumstances shown by our research, we believe that the impact on Kensington Heights will not be so significant as to represent a severe diminution of light to the flats taken as a whole. We do not believe, therefore, that the effects on the building should be regarded as an impediment to granting Planning Consent for the proposed development.



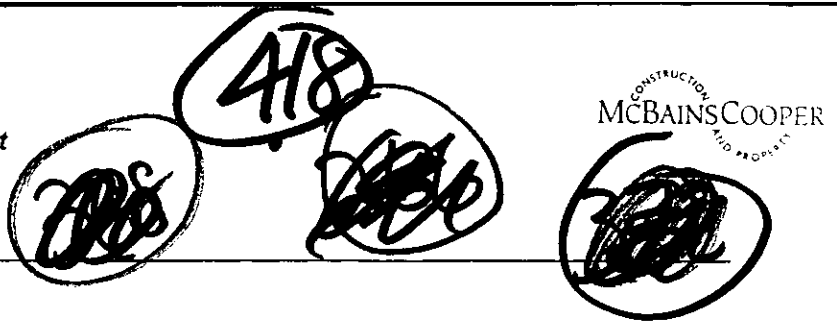


### **Aubrey Walk**

The houses in Aubrey Walk face within 90° of due South and the sunlight criteria set out in sections 3.1 and 3.2 of the Code must be checked to ensure that there is sufficient sunlight and daylight. The Code is less demanding for bedrooms and kitchens and reserves its heaviest requirements for the living rooms of buildings. Nos. 2, 4 and 6, appear to be the buildings affected to the greatest degree and in these houses, the living rooms appear to be at ground floor level and these will be affected by the proposals. The least angle of intercept from the centre of the ground floor windows is 31° and the greatest is 45°. This exceeds the criteria set by the Code of 25°. An assessment of the sky factor available indicates that it is 27% for 2 and 4 and 25% for No 6. The reduction of VSC at this point is small and still affords more than 80% of the existing VSC for all three houses. In addition, No 6 is also lit from the side, deriving an almost uninterrupted sky factor down Aubrey Walk. The proposals call for the demolition of the present block of flats in Aubrey Walk so that the side elevation will gain both sky visibility and sunshine. We have also verified the annual probable sunlight proportion and find that this is some 66% with 10% available in the winter months. This, therefore, satisfies the requirements of the Code where the minimum recommendation within the Code of Practice is for 25% of the total probable annual sunshine hours to be available with 5% of the probable annual hours to be available through the winter. In these circumstances, we anticipate no cause of complaint from the Planners with regard to sunlight penetration.

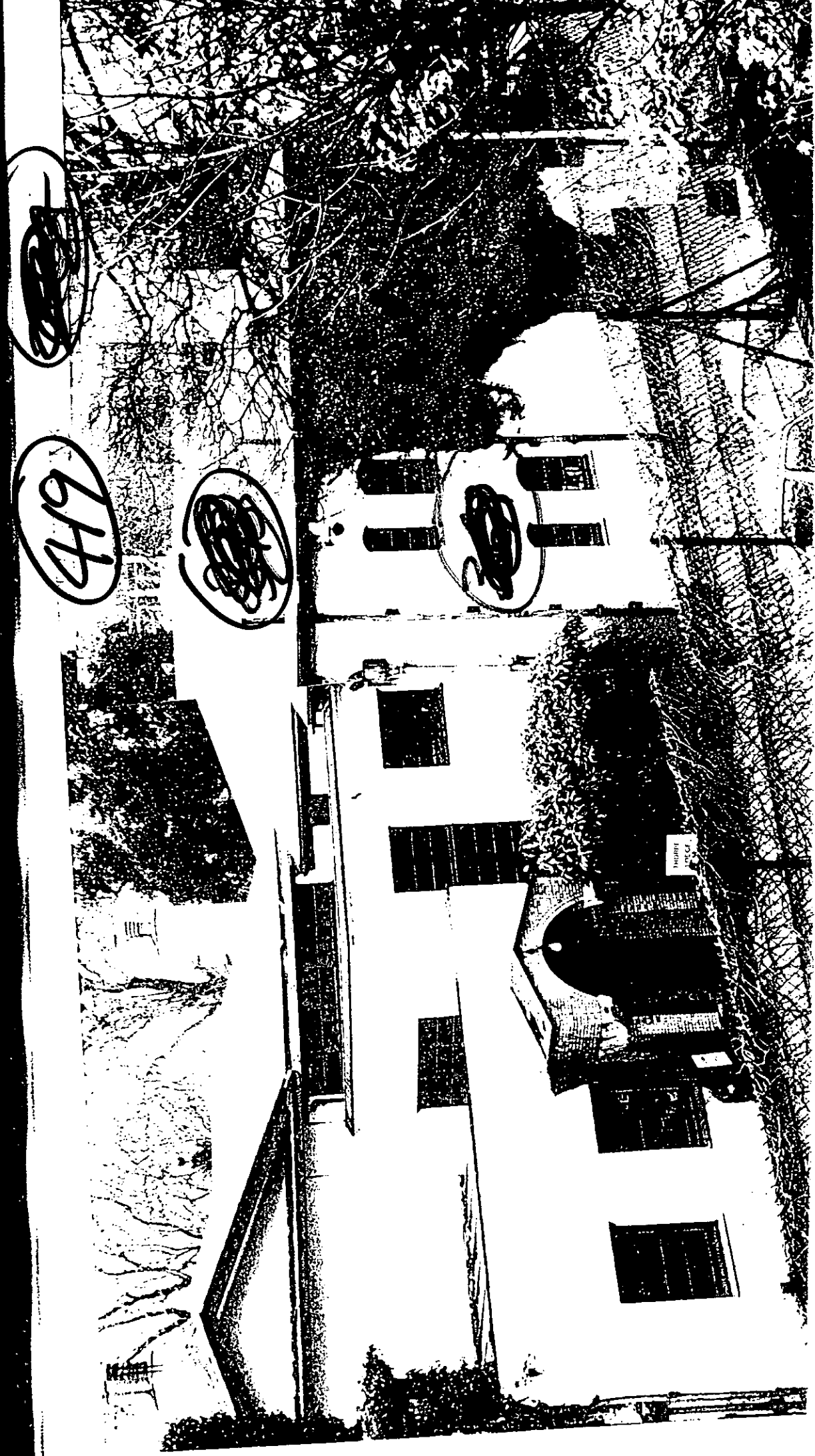
Nos. 8 to 16 Aubrey Walk will be advantaged by the proposals as they will have a more open Southern aspect though the morning sun will be diminished. The angle of intercept of the nearest obstruction is below 25° and the sky factor is in excess of 27%. Our calculations show that the buildings will receive 69% of the probable annual sunshine hours and 21% will be received during the winter months. This exceeds the requirements of the Code, which are for 25% with 5% during the winter.

Nos 18 to 24 will be slightly affected by the scheme but not to any appreciable adverse extent. The proposed block fronting onto Aubrey Walk will subtend an angle greater than 25° from the midpoint of the lowest level of windows but, in the case of 18 and 20, the existing block subtends a greater angle than the proposed building so there will be a gain in sky factor at these points. Daylighting and sunlight penetration standards will, therefore, improve. On No 22 we have calculated the sunlight penetration at 66% of annual probable sunlight hours with 15% of these in the winter. This exceeds the requirements of the Code, which are for 25% with 5% during the winter. In the case of No. 24 the sunlight penetration is 62% with 20% in the winter. In both cases, these readings are taken at Ground floor level because these buildings have habitable rooms at that level as shown on the attached copy photographs.



#### 4.0 CONCLUSIONS

Taken overall, we have assessed the impact of the proposals on the surrounding buildings and our findings are that the impact on amenity in terms of sunlight and daylight are small to all the buildings. Some make significant gains in natural lighting while others will experience slight losses and the remainder will find the proposals broadly neutral. Where natural lighting is reduced, the reductions will, in almost every case, be within the 80% of existing levels which the Guide express as being insufficient to cause any noticeable diminution in amenity. Natural lighting is only one of many factors in site layout design and the target figures demand a flexible approach to their interpretation.



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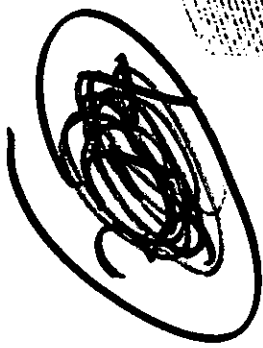
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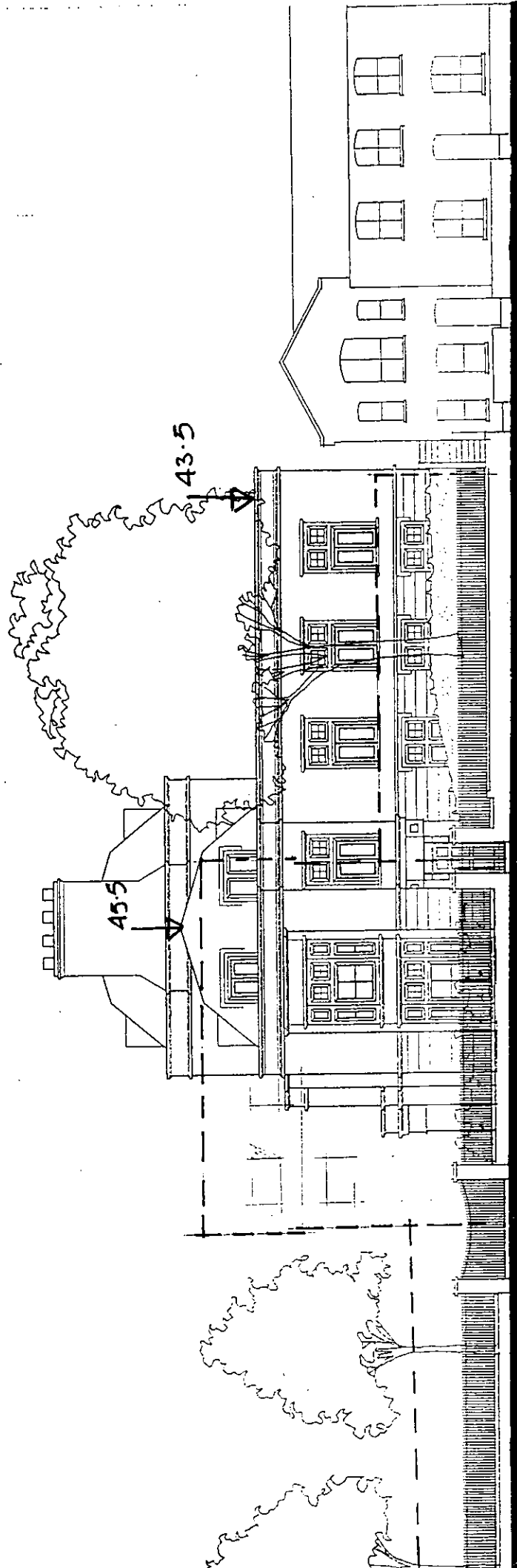


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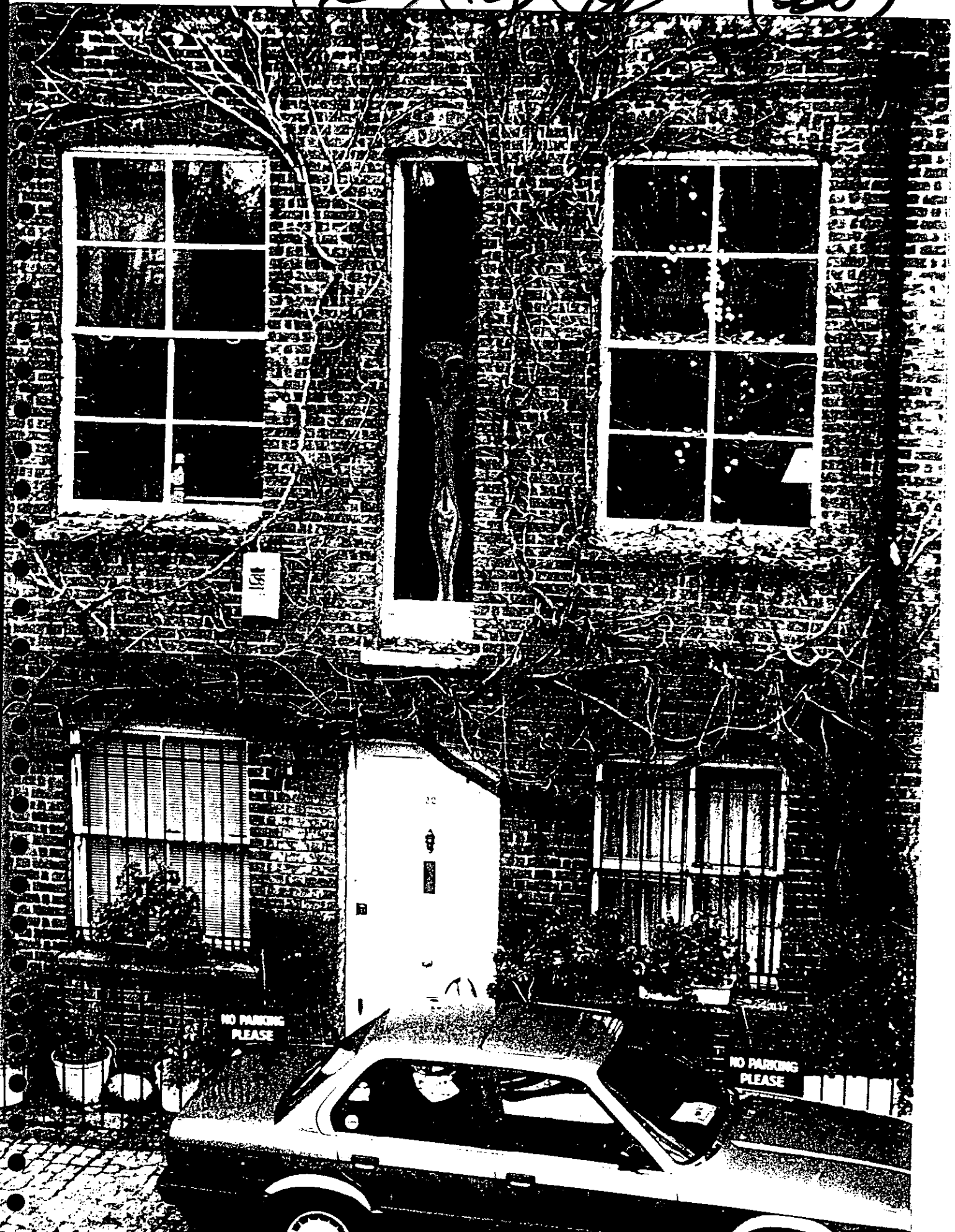
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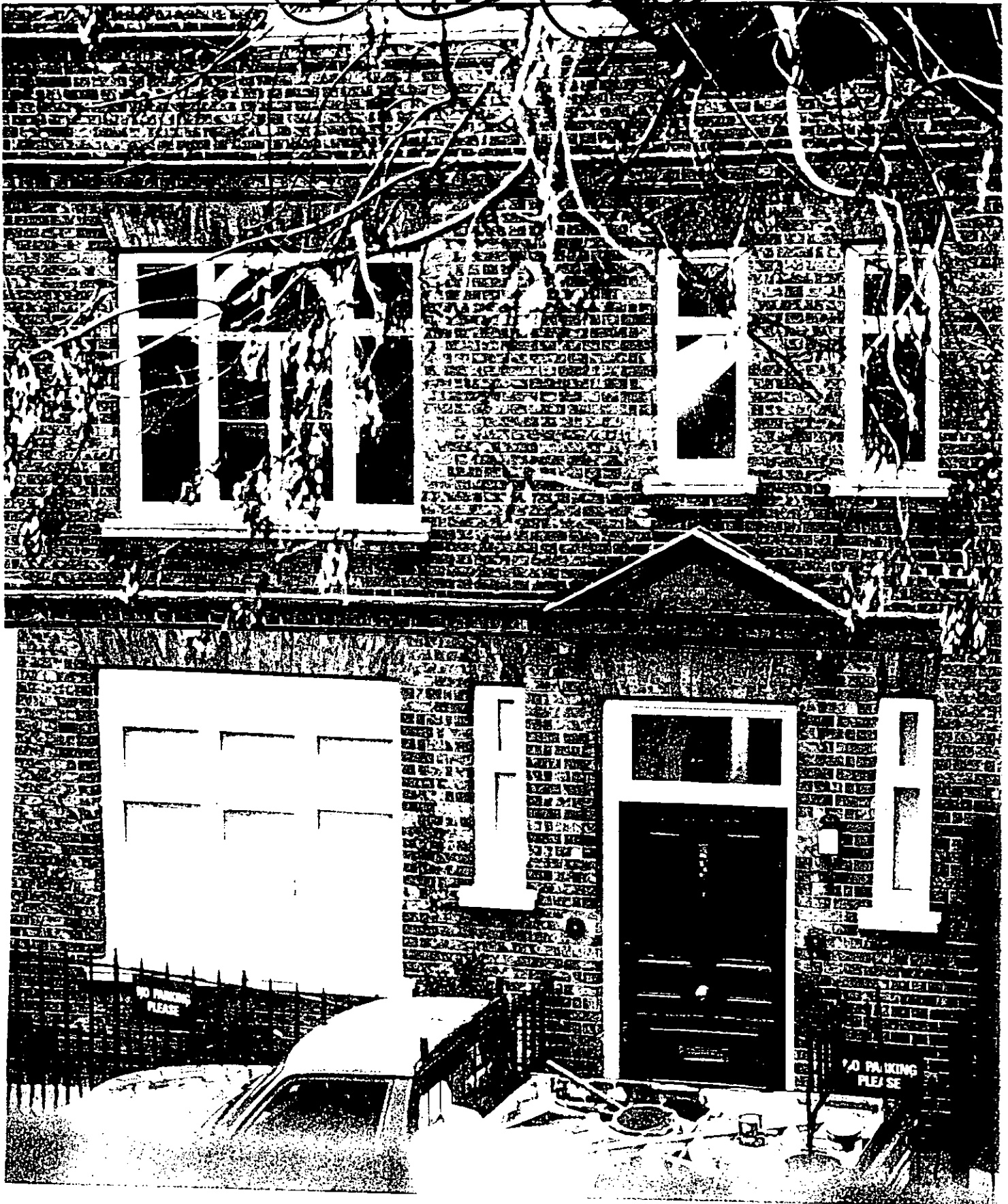
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PLEASE

NO PARKING  
PLEASE



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MEMORANDUM

*(Handwritten initials and circled numbers)*  
426

To: Planning & Conservation  
cc:

From: Director of Legal Services

Your Ref: Helen Divett

My Ref: LP  
Ext: 2180

Date: 17 May, 1999

Campden Hill Reservoir

The Appellant has now appealed the Second Application and asked for it to be <sup>heard</sup> ~~put~~ at the Inquiry due to commence on 20 July 1999. I attach a copy of a letter dated 14 May 1999 with enclosures from the Appellant's solicitors Lawrence Graham.

I also attach a copy of my letter to the Planning Inspectorate dated 17 May 1999.

*LeVerne Parker*

LeVerne Parker  
for Director of Legal Services

Encs

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
32		18 MAY 1999					
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES	

**LEGAL SERVICES**

THE TOWN HALL, HORNTON STREET, LONDON W8 7NX

DIRECTOR OF LEGAL SERVICES      A.G.PHILLIPS LLB, SOLICITOR


Mr D Shorland, Planning Inspectorate  
Room 1003  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ

TELEPHONE      0171-361-2180  
FACSIMILE      0171-361-3488  
DX      84015 Kensington High Street 2  
INTERNET      tellsp@rbkc.gov.uk

**By Post & Fax No: 0117-987 8406**

17 May, 1999

My reference:  
LP/10018473

Your reference:  
App/K5600/E/99/1016054  
App/K5600/A/99/1016055

Please ask for:  
LeVerne Parker

Dear Mr Shorland

**Campden Hill Reservoir**

I refer to the letter dated 14 May 1999 from Lawrence Graham. I confirm that the Council agrees with the proposal for this second Appeal to be heard at the Inquiry due to open on 20 July 1999. Lawrence Graham have confirmed that if the second Appeal is to be considered at the Inquiry beginning on 20 July, the first Appeal will be withdrawn.

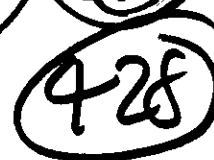
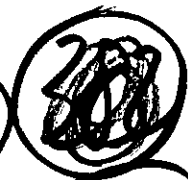
Yours sincerely

LeVerne Parker  
for Director of Legal Services

cc:      Planning & Conservation - Derek Taylor  
            Lawrence Graham - Trevor Blaney



LAWRENCE GRAHAM

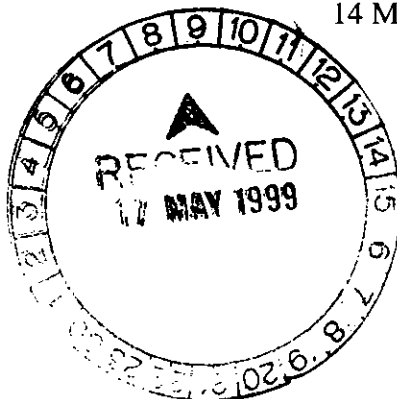


Attn: Ms L Parker  
The Royal Borough of Kensington and Chelsea  
Legal Services  
The Town Hall  
Hornton Street  
London W8 7NX  
**SENT FAX AND POST:-**

Our Ref: TDB

Your Ref: LP/10018473

14 May 1999



Dear Ms Parker

**CAMPDEN HILL RESERVOIR**

I attach copy letter to the Planning Inspectorate and Appeal Form. You will note that I have asked for the second appeal to be heard at the Inquiry on 20<sup>th</sup> July. I would suggest that you write to the Inspectorate as soon as possible informing them that you are in agreement with this proposal.

Yours sincerely

**TREVOR BLANEY**

190 Strand London WC2R 1JN Tel: 0171-379 0000 Fax: 0171-379 6854 Telex: 22673 DX: 39 London Chancery Lane WC2  
and  
61 St Mary Axe London EC3A 8JN Tel: 0171-621 1141 Fax: 0171-480 5156 Telex: 887133 DX: 1072 London City CDE

E-mail: [info@lawgram.com](mailto:info@lawgram.com) Internet: <http://www.lawgram.com>

ASSOCIATED WITH FIRMS IN AMSTERDAM BEIRUT BRUSSELS HAMBURG HONG KONG MADRID MILAN NAPLES NEW YORK PARIS ROME STOCKHOLM VARNA AND MARIUPOL  
962470.01  
MEMBER OF ABLE (ASSOCIATED BUSINESS LAWYERS IN EUROPE)  
SOLICITORS AUTHORISED BY THE LAW SOCIETY TO CONDUCT INVESTMENT BUSINESS. A LIST OF THE PARTNERS NAMES IS OPEN TO INSPECTION AT THE ABOVE ADDRESS



4929

COPY

LAWRENCE GRAHAM

Handwritten scribbles in circles

Mr D Shorland  
Planning Inspectorate  
Room 1003  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ  
**SENT BY FAX 0117 987 8406  
AND POST**  
14 May 1999

Our Ref: TDB  
Your Ref:  
App/K5600/E/99/1016054  
App/K5600/A/99/1016055

Dear Mr Shorland

**TOWN & COUNTRY PLANNING ACT 1990  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990  
APPEALS BY ST JAMES HOMES LTD  
SITE AT FORMER THAMES WATER RESERVOIR AND TOWER HOUSE,  
CAMPDEN  
HILL ROAD, KENSINGTON, LONDON W8**

I enclose further Planning Appeal in relation to the above site.

Can you please confirm that this appeal can be heard at the Inquiry which is currently set down to commence on 20<sup>th</sup> July. I look forward to hearing from you.

Yours sincerely

**TREVOR BLANEY**

*Copy* Ms L Parker – Royal Borough of Kensington & Chelsea

190 Strand London WC2R 1JN Tel: 0171-379 0000 Fax: 0171-379 6854 Telex: 22673 DX: 39 London Chancery Lane WC2  
and  
61 St Mary Axe London EC3A 8JN Tel: 0171-621 1141 Fax: 0171-480 5156 Telex: 887133 DX: 1072 London City CDE

E-mail: [info@lawgram.com](mailto:info@lawgram.com) Internet: <http://www.lawgram.com>

# The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

## PLANNING APPEAL

FOR OFFICIAL USE ONLY  
Date received

The appeal must reach the Inspectorate within 6 months of the date of the Notice of the Local Planning Authority's Decision, or within 6 months of the date by which they should have decided the application.

### A. INFORMATION ABOUT THE APPELLANT(S)

Full Name: St James Homes Ltd

Address: 102 The Green, Twickenham, Middlesex

Postcode: TW2 5AG

Reference: .....

Daytime Telephone No: 0181 755 2345

Fax No: 0181 755 3355

Agent's Name (if any): Lawrence Graham Solicitors

Agent's Address: 190 Strand, London

Postcode: WC2R 1JN

Reference: TDB

Daytime Telephone No: 0171 379 0000

Fax No: 0171 379 6854

### B. DETAILS OF THE APPEAL

Name of the Local Planning Authority (LPA): The Royal Borough of Kensington & Chelsea

#### Description of the Development:

Redevelopment to provide nineteen houses and forty three apartments plus twelve tennis courts (six in lower level and six open courts), a practice court, basement car parking, new access points for pedestrians and vehicles and landscaping.

#### Address of the Site:

Former Thames Water Reservoirs and Water Tower House, Campden Hill Road, Kensington, London

Postcode: W8

Failure to provide the postcode may cause delay in processing your appeal.

National Grid Reference (see key on OS map for Instructions).

Grid Letters: Grid Numbers  
eg TQ:298407

TQ249801

Date and LPA reference number of the application you made and which is now the subject of this appeal:

19th March 1999

Date of LPA Notice of Decision (if any): NONE

Are there any outstanding appeals for this site eg Enforcement, Lawful Development Certificate etc? If so please give details and any DOE reference number here: Yes RefNos:- APP/K5600/E/99/1016054

set down for Public Inquiry on 20th July APP/K5600/A/99/1016055

### C. REASON FOR THE APPEAL

THIS APPEAL IS AGAINST the decision of the LPA:-

(\* Delete as appropriate)

(✓)

1. to \*refuse/grant subject to conditions, planning permission for the development described in Section B.
  2. to \*refuse/grant subject to conditions, approval of the matters reserved under an outline planning permission.
  3. to refuse to approve any matter (other than those mentioned in 2 above) required by a condition on a planning permission.
- Or the failure of the LPA:-
4. to give notice of their decision within the appropriate period on an application for permission or approval.

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### D. CHOICE OF PROCEDURE

CHOOSE ONE OF THE FOLLOWING TYPES OF PROCEDURE - These are described fully in the booklet 'Planning Appeals - A Guide' which accompanied this form.

1. WRITTEN REPRESENTATIONS   
If you have chosen the written representations procedure, please tick if the whole site can clearly be seen from a road or other public land. (An unaccompanied site visit will be arranged if the Inspector can adequately view the site from public land.)
2. LOCAL INQUIRY Please give reasons why an inquiry is necessary ..... Complexity of case, need for evidence to be tested under cross-examination; local interest and requirement for this appeal to be co-joined with that set down for Inquiry on 20th July.
3. HEARING Although you may prefer a hearing, the LPA need to agree to this procedure and the Inspectorate must consider your appeal suitable.

### E. ESSENTIAL SUPPORTING DOCUMENTS

A copy of each of the following should be enclosed with this form.

1. The application submitted to the LPA;
2. The site ownership details (Article 7 certificate) submitted to the LPA at application stage;
3. Plans, drawings and documents forming part of the application submitted to the LPA;
4. The LPA's decision notice (if any);
5. Other relevant correspondence with the LPA;
6. A plan showing the site in red, in relation to two named roads (preferably on an extract from the relevant 1:10,000 OS map). (Failure to submit this can delay your appeal).

Copies of the following should also be enclosed, if appropriate:

7. If the appeal concerns reserved matters, the relevant outline application, plans submitted and the permission;
8. Any plans, drawings and documents sent to the LPA but which do not form part of the submitted application (eg drawings for illustrative purposes);
9. Additional plans or drawings relating to the application but not previously seen by the LPA. Please number them clearly and list the numbers here:.....

**F. APPEAL SITE OWNERSHIP DETAILS**

~~2/12/99~~

~~2/12/99~~

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IMPORTANT: THE ACCOMPANYING NOTES SHOULD BE READ BEFORE THE APPROPRIATE CERTIFICATE IS COMPLETED. CERTIFICATES A AND B ARE GIVEN BELOW. IF NEEDED, CERTIFICATES C AND D ARE ATTACHED TO THE GUIDANCE NOTES.

**SITE OWNERSHIP CERTIFICATES**

PLEASE DELETE INAPPROPRIATE WORDING WHERE INDICATED (\*) AND STRIKE OUT INAPPLICABLE CERTIFICATE

**CERTIFICATE A**

I certify that:

On the day 21 days before the date of this appeal ~~nobody~~, except the appellant, was the owner (see Note (i) of the guidance notes) of any part of the land to which the appeal relates.

OR

**CERTIFICATE B**

I certify that:

I have/the appellant has \*given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner (see Note (i) of the guidance notes) of any part of the land to which the appeal relates, as listed below.

Owner's Name	Address at which notice was served	Date on which notice was served
--------------	------------------------------------	---------------------------------

See attached sheet

I further certify that:

**AGRICULTURAL HOLDINGS CERTIFICATE (TO BE COMPLETED IN ALL CASES WHERE A, B, C OR D OWNERSHIP CERTIFICATE HAS BEEN COMPLETED)**

\*\* None of the land to which the appeal relates is, or is part of, an agricultural holding.

OR

~~\*\* I have/the appellant has \*given the requisite notice to every person other than my/him/her\* self who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates, as follows:~~

Tenant's Name	Address at which notice was served	Date on which notice was served
---------------	------------------------------------	---------------------------------

\* Delete as appropriate. If the appellant is the sole agricultural tenant the first alternative should be deleted and "not applicable" should be inserted below the second alternative.

Signed T. J. Blundell (on behalf of) St James Homes Ltd

Name (in capitals) LAWRENCE GRAHAM SOLICITORS Date 14 MAY 1999



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**G. GROUNDS OF APPEAL** If the written procedure is requested, the appellant's FULL STATEMENT OF CASE MUST be made - otherwise the appeal may be invalid. If the written procedure has not been requested, a brief outline of the appellant's case should be made here.

The appeal arises from the Council's failure to determine the application within the eight week period.

*(Handwritten scribbles in circles)*

Continue on a separate sheet if necessary

**PLEASE SIGN BELOW**

I confirm that a copy of this appeal form and any supporting documents relating to the application not previously sent to the LPA has been sent to them. I undertake that any future documents submitted in connection with this appeal will also be copied to the local planning authority at the same time.

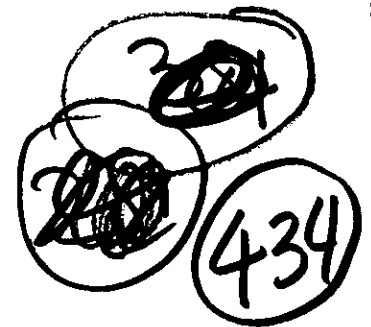
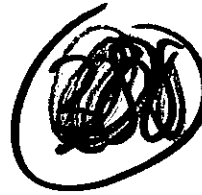
Signed *(Signature)* (on behalf of) St James Homes Ltd

Name (in capitals) LAWRENCE GRAHAM SOLICITORS Date 14 MAY 1999

**CHECKLIST - Please check this list thoroughly to avoid delay in the processing of your appeal.**

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>● This form signed and fully completed.</li> <li>● Any relevant documents listed at Section E enclosed.</li> <li>● Full grounds of appeal/outline of case set out at Section G.</li> <li>● Relevant ownership certificate A, B, C or D completed and signed.</li> <li>● Agricultural Holdings Certificate completed and signed.</li> </ul> | <ul style="list-style-type: none"> <li>◆ <b>1ST COPY:</b> Send one copy of the appeal form with all the supporting documents to:<br/>The Planning Inspectorate<br/>Appeals Registry<br/>Tollgate House<br/>Houlton Street<br/>BRISTOL<br/>BS2 9DJ</li> <li>◆ <b>2ND COPY:</b> Send one copy to the LPA, at the address from which the decision on the application (or any acknowledgements, etc) was received, enclosing any supporting documents not previously submitted to them as part of the application.</li> <li>◆ <b>3RD COPY:</b> For you to keep</li> </ul> |
|---|---|

CERTIFICATE B



I hereby declare that:

I have given the requisition notice to everyone else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below.

	<b>Owner's Name</b>	<b>Address at which notice was served</b>	<b>Date on which notice was served</b>
(a)	Campden Hill Lawn Tennis Club	9 Aubrey Walk, Kensington, London W8 7JH	14.5.99
(b)	I B Kathuria	Cosmur Group, 27 Emporors Gate, London SW7 4HS	14.5.99
(c)	Thames Water Utilities Ltd	Gainsborough House, Manor Farm Road, Reading RG2 0JN	14.5.99
(d)	Mr J Britnell	1 Water Tower House, 97 Campden Hill Road, London W8 7BA	14.5.99
(e)	Mr L A King	2 Water Tower House, 97 Campden Hill Road, London W8 7BA	14.5.99
(f)	Mr R G Ling	3 Water Tower House, 97 Campden Hill Road, London W8 7BA	14.5.99
(g)	Mr R R Plumridge	5 Water Tower House, 97 Campden Hill Road, London W8 7BA	14.5.99
(h)	Mr R Frayne	6 Water Tower House, 97 Campden Hill Road, London W8 7BA	14.5.99
(i)	Mr J M Shield	8 Water Tower House, 97 Campden Hill Road, London W8 7BA	14.5.99
(j)	Mr P Wilcock	9 Water Tower House, 97 Campden Hill Road, London W8 7BA	14.5.99

435  
2002  
[scribble]  
[scribble]

- (k) Mr A P Wiles 10 Water Tower House, 97 Campden Hill Road, London W8 7BA 14.5.99
- (l) Mr K P Hart 12 Water Tower House, 97 Campden Hill Road, London W8 7BA 14.5.99
- (m) Mr & Mrs J M P de Cusmao Fuiza 3 Aubrey Walk, London W8 7JH 14.5.99
- (n) Mr R T Dalby 5 Aubrey Walk, London W8 7JH 14.5.99
- (o) Mr & Mrs M P Taylor 7 Aubrey Walk, London W8 7JH 14.5.99
- (p) London Electricity plc Templar House, 81/87 High Holborn, London WC1V 6NU 14.5.99
- (q) Kennet Properties Ltd c/o Thames Water Properties Ltd, Reading Bridge House, Vastern Road, Reading, Berks RG1 8PR 14.5.99

Signed  (Lawrence Graham Solicitors)

On Behalf of St James Homes Limited

Date 14 May 1999



# The Planning Inspectorate

Room 1003  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ

Direct Line 0117-9878000  
Switchboard 0117-9878000  
Fax No 0117-9878443  
GTN 1374 8930

RECEIVED BY PLANNING SERVICE

EX SIR HDC SE ENF AO ACK

486

35

Ms H Divett  
Kensington And Chelsea R B C  
Dept Of Planning & Conservation  
Department 705  
The Town Hall  
Hornton Street  
LONDON W8

Your Ref:

Our Ref:  
APP/K5600/A/99/1022704

18 May 1999

Dear Madam

**TOWN & COUNTRY PLANNING ACT 1990  
APPEAL BY ST JAMES HOMES LTD  
SITE AT FORMER THAMES RESERVOIRS, AND WATER TOWER HOUSE,  
CAMPDEN HILL ROAD, KENSINGTON, LONDON, W8**

I have received a fresh planning appeal form and accompanying documents for this site. I am checking the papers and if I need further information, or if for legal reasons the appeal is not acceptable, I will write again.

As you know, the appellant has asked for this appeal to be dealt jointly with appeals 1016054/5 at the inquiry arranged for 20 July, which we are agreeable to. The date of this letter is the 'relevant date' from which the timetable for the inquiry procedure starts.

The timetable for sending documents

- ◆ You should send the appellant and me:  
**Within the next 14 days** - your completed appeal questionnaire.
- ◆ You should send the appellant, me and any 'statutory parties':  
**Within the next 6 weeks** - your statement of case. The appellant is also required to serve a statement of case on you, me and statutory parties no later than 9 weeks from the date of this letter. This should enable them to take your case into account when finishing their own.  
**No later than 3 weeks before the inquiry** - proofs of evidence and summary where appropriate.
- ◆ The appellant has to send you, me and any 'statutory parties':  
**Within the next 9 weeks** - their statement of case.

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D  
D  
No later than 3 weeks before the inquiry - proofs of evidence and summary where appropriate.

Remember that you must send the appellant a copy of any correspondence you send to me.

You will be giving details of any 'statutory parties' at application stage at question 15b of the appeal questionnaire. If we become aware of any other 'statutory parties' at appeal stage, I will let you have their names and addresses before your statement of case is due.

I must receive your proofs of evidence and summary, where appropriate, on time whether or not you have received the appellant's. If a proof of evidence is more than 1,500 words long, it must be accompanied by a summary, which itself should not exceed 10% of the length of the proof. The summary should reflect the contents of the proof and should not introduce new evidence. Where a summary is provided, only that will be read at the inquiry. It is unfair to other parties and the inspector, if proofs/summaries are not received on time and together. There is the possibility of postponement if you do not comply.

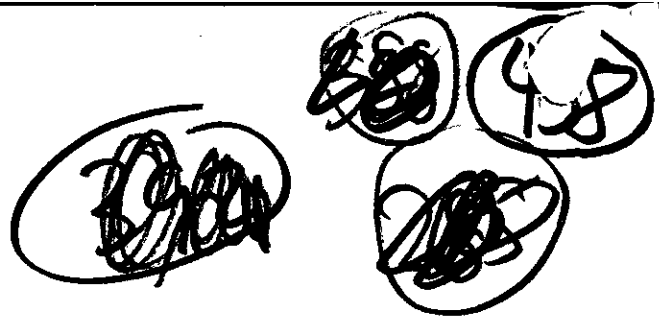
If you hear that an appeal is to be withdrawn, I would be grateful if you would let me know.

Although the appeal is now under way, we recommend that discussions between you and the appellant should continue, in case it is possible to sort out any differences before the inquiry.

Yours faithfully

D Shorland

Mr D Shorland  
301



## INQUIRY & HEARING DATES

We have improved the time taken to fix a date for an inquiry or hearing. Most inquiries are now arranged within 25 weeks from confirmation of procedure, and hearings are within 15 weeks. Appeals dealt with by written representations and a site visit are decided much quicker. If both parties agree to this option, please let the case officer know immediately.

## SECTION 106 AGREEMENTS

If you intend to rely on an obligation made under Section 106, we must receive a completed, signed and dated copy before the date of the inquiry. We will not delay the issue of the decision letter to wait for the completion of a Section 106 obligation.

NEW APPEAL

*(Handwritten initials)*

*(Handwritten number 489)*

DATE: 19.5.99.

TO: ROY THOMPSON

/

*(Handwritten initials)*  
DEREK TAYLOR

PAUL KELSEY

/

BRUCE COEY

A NEW APPEAL HAS BEEN RECEIVED, WHICH FALLS IN YOUR AREA. THE SITE ADDRESS IS:

*C. H. Reservoir.*

THE APPEAL FILES ARE ATTACHED

1. PLEASE INDICATE THE OFFICER WHO WILL BE DEALING WITH THIS APPEAL:

*DT.*

2. PLEASE INDICATE THE PROCEDURE BY WHICH YOU WISH THE APPEAL TO BE DETERMINED:

◆ WRITTEN REPRESENTATIONS

◆ HEARING

◆ PUBLIC INQUIRY

PLEASE RETURN THIS SHEET AND THE ATTACHED FILE(S) TO THE APPEALS SECTION **WITHIN 24 HOURS**

THANK YOU

---

**PLANNING AND CONSERVATION**

THE TOWN HALL HORNTON STREET LONDON W8 7NY

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

---

**THE ROYAL  
BOROUGH OF**



**KENSINGTON  
AND CHELSEA**

---

Department of the Environment  
Room 1003  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ

Switchboard: 0171-937-5464

Direct Line: 0171-361-2057

Extension: 2057

Facsimilie: 0171-361-3463

Date: 20 May 1999

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My Ref: DPS/DCC/PP/99/00733/DT

DETR's Reference: App/K5600/A/99/1022704

Please ask for: Ms. P. Abdelrahman

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING ACT 1990**

**Appeal relating to: Former Thames Water Reservoir and Water Tower House, 97  
Campden Hill Road, W.8**

With reference to the appeal on the above premises, I return the completed questionnaire, together with supporting documents. In the event of this appeal proceeding by way of a local Inquiry the Inspector should be advised that Committee Rooms in the Town Hall must be vacated at 5.00 p.m. unless prior arrangements have been made for the Inquiry to continue after 5.00 p.m.

Yours faithfully,

**M.J. FRENCH**

Executive Director, Planning and Conservation

Enc.



**441** ~~441~~

PLANNING, LISTED BUILDING CONSENT OR CONSERVATION AREA CONSENT APPEAL

APPEAL REF. APP/ K5600/A/99/1022704 R.B.K.C. REF: PP/99/0733/DT.

APPEAL BY: St James Homes Ltd. GRID REF: \_\_\_\_\_

SITE: Former Thames Reservoirs, + water tower house, Campden Hill Road, London W8

PLEASE SEND THE COMPLETED QUESTIONNAIRE (TOGETHER WITH ANY ENCLOSURES) TO THE INSPECTORATE AND TO THE APPELLANT OR AGENT WITHIN 14 DAYS OF THE DATE YOU RECEIVED THE APPEAL FORM.

If notification or consultation under an Act, Order or Departmental Circular would have been necessary before granting permission and has not taken place, please inform the appropriate bodies of the appeal now and ask for any comments to be sent direct to the Inspectorate within 28 days of the date you received the appeal form.

1.	Does the Council agree to the written representations procedure? OR Does the Council wish to appear before and be heard by an inspector at: a. a local inquiry? <input checked="" type="checkbox"/> b. a hearing? <input type="checkbox"/>	YES <input type="radio"/> NO <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/>
2 a.	If the written procedure is agreed, could the inspector see the site clearly from a road or other public land?	YES <input type="radio"/> NO <input type="radio"/>
b.	From your knowledge of the issues, would the inspector need to enter the site for any reason eg to view/measure any dimensions from within it?	YES <input type="radio"/> NO <input type="radio"/>
3.	Does the appeal relate to an application for approval of reserved matters?	YES <input type="radio"/> NO <input type="radio"/>
4.	Was an Article 7 (Regulation 6 for listed building or conservation area consent) certificate submitted with the application?	YES <input type="radio"/> NO <input type="radio"/> NA <input type="radio"/>
5.	Was it necessary for the Council to advertise the proposals under Section 67 and/or Section 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990?	YES <input type="radio"/> NO <input type="radio"/>
6.	Is the appeal site within an approved Green Belt or AONB? Please specify which .....	YES <input type="radio"/> NO <input type="radio"/>
7.	Is there a known surface or underground mineral interest at or within 400 metres of the appeal site which is likely to be a material consideration in determining the appeal? (If YES, attach details).	YES <input type="radio"/> NO <input type="radio"/>
8 a.	Are there any other appeals or matters relating to the same site or neighbourhood still before the Secretary of State? If YES, please attach details and, where necessary, give the Department's reference numbers. <u>A/99/1016055 + E/99/1016054</u>	YES <input type="radio"/> NO <input type="radio"/>
b.	Where the development would affect a public right of way, please provide an extract from the Definitive Map and Statement for the area, and any other details.	YES <input type="radio"/> NO <input type="radio"/>
9.	Is the site within a Conservation Area? If YES, please attach a plan of the Conservation Area. (If NO, go to Q11.) <u>No. 6.</u>	YES <input type="radio"/> NO <input type="radio"/>
10.	Does the appeal relate to an application for conservation area consent?	YES <input type="radio"/> NO <input type="radio"/>
11 a.	Does the proposed development involve the demolition, alteration or extension of a Grade I/II*/II listed building? (Delete as appropriate)	YES <input type="radio"/> NO <input type="radio"/>
b.	Would the proposed development affect the setting of a listed building? If the answer to questions 11a or b is YES, please attach a copy of the relevant listing description from the list of Buildings of Special Architectural or Historic Interest. (If NO, go to Q13)	YES <input type="radio"/> NO <input type="radio"/>
12.	Has a grant been made under sections 3A or 4 of the Historic Buildings and Ancient Monuments Act 1953?	YES <input type="radio"/> NO <input type="radio"/>
13.	Would the proposals affect an Ancient Monument (whether scheduled or not)?	YES <input type="radio"/> NO <input type="radio"/>
14a.	Is the appeal site in or adjacent to or likely to affect an SSSI? If so, please attach the comments of English Nature.	YES <input type="radio"/> NO <input type="radio"/>
b.	Are any protected species likely to be affected by the proposals? If so, please attach details.	YES <input type="radio"/> NO <input type="radio"/>

15. Copies of the following documents must, if appropriate, be enclosed with this questionnaire



the number of documents enclosed      not applicable

*412*

- a) any comments of directions received from the Secretary of State, other Government Departments or statutory agencies / undertakers whether or not as a result of consultations under the GDO:
- b) any representations received as a result of an Article 7 (or Regulation 6) notice: *as per current appeals*
- c) a copy of any notice published under Section 67 and/or Section 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and / or Regulation 5:
- d) any representations received as a result of a notice published under Section 67 and/or Section 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (or Regulation 5): *as per current appeals*
- e) details of any other applications or matters currently before the Council relating to the same site; *as previous appeals per current*
- f) in the case of appeals against non-determination, details of considerations likely to have been relevant to the Council's decision; *TO FOLLOW*
- g) a list of any conditions or limitations the Council would favour if the appeal were to be allowed. If no conditions are included we will assume that none are required; *TO FOLLOW*
- h) any other relevant information or correspondence the Council consider the Inspectorate should be aware of. *TO FOLLOW*

FOR APPEALS BEING DECIDED BY THE WRITTEN REPRESENTATIONS PROCEDURE

- 16. a) Please confirm that, in accordance with Regulation 5 (1), you have notified details of the appeal to authorities and other persons who made representations to you about the application.  Yes  No
- b) What date did you give those notified at 16a for the submission of their representations? \_\_\_\_\_
- c) Copies of the following documents must, if appropriate, be enclosed with this questionnaire.
 

	the number of documents closed	not applicable
i) representations received from interested parties about the original application;	<input type="checkbox"/>	<input type="checkbox"/>
ii) the planning officer's report to committee;	<input type="checkbox"/>	<input type="checkbox"/>
iii) any relevant committee minute.	<input type="checkbox"/>	<input type="checkbox"/>
- 17. *Chapters 1-3.* Relevant plans and policies; Please enclose extracts of relevant policies and plans and explanations of these. Each extract should include the front page, showing the title of the plan and date of approval or adoption. Where plans and policies have not been approved or adopted, the stage and status of the plan should be given.

18. Do the documents listed above comprise the Council's full statement of case?  YES  NO

Council's reference: PP/99/0733/D/T.

I certify that a copy of this appeal questionnaire and any enclosures have today been sent to the appellant or agent  
 Signature *H. Divita* on behalf of *RBKTC* Council  
 Date of despatch *20.5.99*

NB: Please alert the Inspectorate to any changes in circumstances occurring after the return of this questionnaire.