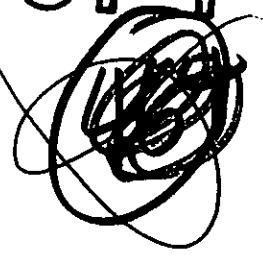




764

COPY



LAWRENCE GRAHAM

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

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

5 March 1999

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 attach a copy letter from Sellwood Planning to yourself of 3<sup>rd</sup> March from which you will note that we have been instructed in this matter. Can you please ensure that any future correspondence relating to this appeal is sent to myself. I would be grateful if you could also pass a copy of this correspondence to the chart room in order that they also send all correspondence to myself regarding Inquiry dates.

Yours sincerely

**TREVOR BLANEY**

RECEIVED BY PLANNING SERVICES								
EX DIR	NDC	N	C	SW	SE	ENF	AO ACK	
				- 8 MAR 1999				
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES		

Copy Derek Taylor – Royal Borough of Kensington & Chelsea (361 3463)

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 Internet: http://www.lawgram.com

3<sup>rd</sup> March 1999

Ref: RMS/StJ/CAM/99036

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

765 460

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

**FAX & POST**

Dear Sir

**TOWN & COUNTRY PLANNING ACT 1990  
PLANNING (LISTED BUILDINGS & 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**

Please note that our clients, the appellants, St James Homes Ltd, have instructed solicitors in relation to the appeal. I would be grateful, therefore, if you could ensure that all future correspondence is directed to Mr Trevor Blaney, Lawrence Graham Solicitors, 190 Strand, London, WC2 (Tel: 0171 379 0000, Fax: 0171 379 6854). I am copying this letter to the Royal Borough of Kensington & Chelsea.

Yours faithfully

**R M Sellwood**

cc. D.Taylor  
T Blaney

## MEMORANDUM

DT

766

To: Planning &amp; Conservation

From: Director of Legal Services

cc: Head of Development Control  
Lesley Wyatt-JonesPlanning & Conservation  
David McDonald  
Steve Davies  
Phil Hughes  
Helen DivettTransportation & Highways  
Gillian Palmer

RECEIVED BY PLANNING SERVICES							
FX DIR	HDC	N	C	SW	SE	ENF	AO ACK
16		12 MAR 1999					
		ARB	FWD PLN	CON DES	FEES		

My ref: LP  
Room No: 313

Your Ref: Derek Taylor

Ext: 2180

Date: 10 March 1999 ✓

**Campden Hill Reservoir**

The Conference with David Holgate QC has been arranged for 11.30 a.m. on Thursday 15 April 1999 in Chambers at 4 Breams Buildings.

I am proposing to send the papers to him on 7 April so that he has enough time to consider them properly before the Conference.

I thought it would be helpful to give you plenty of notice of the documents I will need to send to David Holgate which are as follows:-

1. Application forms for the Appeal Scheme (i.e. for Planning Permission and Conservation Area Consent).
2. Application drawings as submitted.
3. Any revised drawings which are likely to be substituted for the appeal drawings by the Appellant.
4. Traffic Impact Assessment submitted with the Application.
5. Gillian Palmer's assessment of the Traffic Assessment Report and her further work with regard to the tennis club.
6. Draft Reports to Committee on the Appeal and Revised Schemes.
7. Draft Statement of Case.
8. Bundle of objection letters from residents.
9. Bundle of correspondence between Council and the Appellant.

If you have any queries in connection with the above please do not hesitate to contact me. Have you any clear idea about a possible Committee date? Have you spoken to the Appellant and the Planning Inspectorate about the late submission of the Statement of Case?

*LeVerne Parker*

LeVerne Parker for

*Director of Legal Services*

467

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## CAMPDEN HILL RESERVOIRS

### EXISTING AND PROPOSED - A COMPARISON

#### ADVANTAGES

##### Existing

Open appearance/feel  
Green boundary  
Planted bank to Aubrey Walk  
Little or no noise from site  
Little vehicular activity during winter  
Contrasts pleasantly with busier areas nearby

##### Proposed

62 new res. units provided  
17 affordable units prov.  
All year round recreation  
New boundary planting  
Better design for W.T.H  
Opportunity to control  
use by Condition

#### DISADVANTAGES

##### Existing

Poorly designed W.T.H  
Redundant use  
Uncontrolled tennis club

##### Proposed

Built up site/less open feel  
All year round activity  
Greater traffic levels  
Less planting to A.Walk

# MEMORANDUM

768  
~~768~~

Date: 31 March 1999  
To: Leverne Parker/John Zukowski  
CC:  
From: R.B.K.C.  
RE: Campden Hill Reservoirs

---

As you are aware, I have recently received revised plans for the current application for redevelopment of the above site for the purposes of tennis club and housing.

The revised plans adjust the arrangement of the units on site, and amend the external design of the Campden Hill Road block of flats. Adjustments are also made to the landscaping of the proposed development.

There is no change to the number of units, the overall arrangement of houses around a square and two blocks of flats, the provision of 12 tennis courts, provision of underground parking. No new uses are introduced to the scheme, and no new planning considerations generated.

I would be very grateful for your advice on the following questions:

- (1) Is there strength in the argument that the revised plans might be so different to those originally submitted so as to be unacceptable as revisions, and to be treated as a new planning application?
- (2) In the event that we concluded that the revisions must be treated as a new application, would such a course be likely to achieve any practical benefit in terms of the forthcoming Public Inquiry? Would the Inspectorate put much store in such a stance taken by the Council?

Thankyou for your assistance in this.

M. J. French  
Executive Director, Planning & Conservation

MEMORANDUM

769 (circled) (circled scribble)

To: Derek Taylor  
Planning & Conservation

From: Director of Legal Services

Our Ref: LP  
Room No: 313

Your Ref: Derek Taylor  
Planning & Conservation

Ext No: 2180

Date: 18 May 1999

Campden Hill Reservoir

Please find attached a copy of the further note I have sent to David Holgate QC.

I have given to Phil Hughes copies of the documents relevant to the issue of affordable housing, including the report to committee in connection with 552 Kings Road.

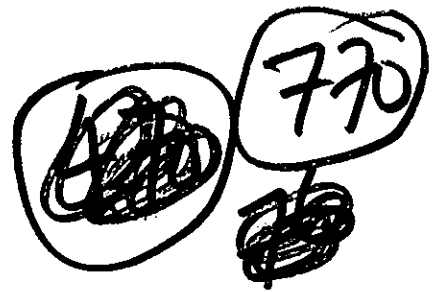
*Letter PW*

LeVerne Parker  
for Director of Legal Services

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
20 MAY 1999							(circled initials)
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES	

**IN THE MATTER OF SECTION 78**  
**THE TOWN & COUNTRY PLANNING ACT 1990**

**AND IN THE MATTER OF CAMPDEN HILL**  
**RESERVOIR LONDON W8**



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**NOTE TO LEADING COUNSEL**

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Further to Instructing Solicitor's previous note to Leading Counsel, the draft Statement of Case is now included herewith (document 35).

Leading Counsel also has the following additional documents for the consultation at 11 a.m. on Friday 21 May 1999:-

49. Letter dated 13 May 1999 from Lawrence Graham with enclosed draft Section 106 Agreement;
50. Letter dated 13 May 1999 to Lawrence Graham from Instructing Solicitor in connection with the draft Section 106 Agreement;
51. Report to Planning & Conservation Committee dated 29 April 1999 in connection with 552 Kings Road;
52. Minute of Planning & Conservation Committee of 29 April 1999;
53. Letter dated 13 May 1999 from Lawrence Graham re Council's Statement of Case;
54. Letter dated 14 May 1999 from Lawrence Graham enclosing Appeal form;
55. Instructing Solicitor's letter dated 17 May 1999 to Planning Inspectorate in connection with Second Appeal.

Leading Counsel will note that in the letter dated 13 May 1999 Lawrence Graham refer to the site at 552 Kings Road in respect of which the Planning & Conservation Committee was minded to grant planning permission subject to the completion of the Section 106 Agreement in connection with affordable housing. Leading Counsel has (document 57) a copy of the Report to Planning & Conservation Committee in connection with that site. The Section 106 Agreement has yet to be completed and the Application for Planning Permission is still subject to a holding direction from the Secretary of State. The Secretary of State is still considering whether or not the Application should be called in.

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If Leading Counsel has any queries in connection with these further papers or needs any further information prior to the consultation he should not hesitate to contact LeVerne Parker on telephone number 0171-361 2180.





**IN THE MATTER OF SECTION 78**  
**THE TOWN & COUNTRY PLANNING**  
**ACT 1990**  
**AND IN THE MATTER OF CAMPDEN**  
**HILL RESERVOIR LONDON W8**

---

**NOTE TO LEADING COUNSEL**

---

David Holgate QC  
4 Breams Buildings  
LDE: Box No: 1042

A G Phillips  
Director of Legal Services  
The Royal Borough of Kensington and  
Chelsea  
DX 84015 Kensington High Street 2

Ref: LP


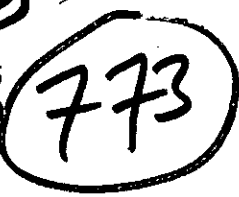
Tel: 0171-361 2180



# The Planning Inspectorate

Room 10/03  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ

Direct Line 0117-987 8105  
Switchboard 0117-987 8000  
Fax No 0117-987 8443  
GTN 1374 8105

  
copy  


Lawrence Graham  
190 Strand  
London WC2R

Your Ref: TDB

Our Ref: APP/K5600/E/99/1016054

APP/K5600/A/99/1016055

FAO Mr T Blaney

Date: 14 April 1999 ✓

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990  
APPEALS BY ST JAMES HOMES LIMITED  
SITE AT FORMER THAMES WATER RESERVOIR AND TOWER HOUSE,  
CAMPDEN HILL ROAD, KENSINGTON, LONDON W8**

Thank you for your letter of 12 April with enclosures.

Before deciding whether to consider the amended proposals, the Inspector must satisfy himself that they are not substantially different from the original applications, and that to proceed would not bypass the normal consultation process. This is a matter for the appointed Inspector to consider at the inquiry.

A copy of this letter goes for information to the Royal Borough of Kensington & Chelsea.

Yours faithfully

MISS C RICHARDSON

## LEGAL SERVICES

THE TOWN HALL, HORNTON STREET, LONDON W8 7NX

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

FAO: Trevor Blaney Esq  
Lawrence Graham  
DX 39 London Chancery Lane WC2

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

**BY DX & FAX: 0171 480 5156**

11 May 1999

My reference:

LP/10018473

Your reference:

TDB

Please ask for:

LeVerne Parker

Dear Mr Blaney,

### **Campden Hill Reservoir**

Thank you for your letter of 7 May 1999.

Following our telephone conversation on Friday I have spoke to Miss C. Richardson who was the author of the letter of 14 April 1999 from the Planning Inspectorate.


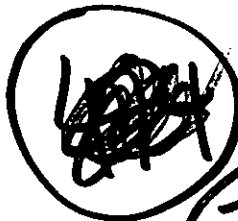
She confirmed my understanding that the application currently before the Inspectorate is as it was appealed ie not subject to the amendments.

The earliest time at which the scheme before the Inspector can formally be changed is following the submission of the appeal in respect of the second application and the Inspectorate has accepted that this appeal may be considered at the inquiry starting on 20 July 1999. The Council is prepared to support your request that the second appeal is considered at the inquiry in the interests of ensuring that all parties, including third parties, are clear at the earliest opportunity in respect of which scheme they are preparing evidence. This is preferable to leaving such clarification to a date closer to the inquiry when submissions would need to be made to the Inspectorate about amendments to the first appeal.

I note that if the Inspectorate agrees to consider the second appeal at the inquiry starting on 20 July, you will ask for the first appeal to be withdrawn. I confirm that the second application was received on 19 March 1999.

As you are aware the applications are scheduled to be reported to the Planning Services Committee on 8 June 1999. I can confirm that the recommendation of the Executive Director, Planning and Conservation, is likely to be that planning permission should be refused. Until the Committee has considered the applications, the officers cannot prepare a statement of case reflecting the consideration of the applications by Members. I am prepared however to let you have a statement of case, albeit without prejudice to the Committee's consideration of the applications, on Monday 24 May 1999 which will be in good time for the pre-inquiry meeting. I would also mention that, in our telephone conversation on Friday, I did not agree that in the absence of the Council's statement of case, you would be obliged to consider preparing evidence on all fronts, but I said this was something that the Council

LP/10.05.Blaney



T Blaney Esq

Lawrence Graham

clearly wanted to avoid happening and therefore this is why I am prepared to let you to have a statement of case on 24 May albeit before the Committee has considered the applications.

I enclose for copies of third party objections received after the despatch of the appeal questionnaire.

I understand Mr Zukowski has faxed to you a precedent for one of the Council's standard Section 106 Agreements relating to affordable housing.

Yours sincerely,

LeVerne Parker  
for Director of Legal Services

cc: Planning and Conservation - Derek Taylor

MEMORANDUM

776 DT

To: See Below  
cc:

From: Director of Legal Services

Your Ref:

My Ref: LP/10018473  
Ext: 2180

Date: 17 May 1999

Campden Hill Reservoir

Please find attached copies of the following documents in preparation for the consultation with Mr David Holgate QC at 11.00 am on Friday 21 May 1999 in Committee Room 6:-

- 1. Instructions to Leading Counsel;
- 2. Draft report to Committee;
- 3. Draft reasons for refusal;
- 4. Draft statement of case.

I should be grateful if you could read through the draft report, reasons for refusal and statement of case so that we can discuss any comments that you may have at the consultation. This will be the last opportunity to discuss the report with Mr Holgate before it goes to committee and the statement of case needs to be sent to the Appellant immediately after the consultation.

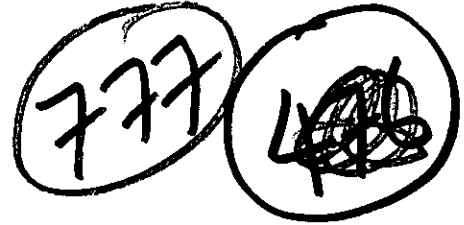
*LeVerne Parker*  
LeVerne Parker  
for Director of Legal Services

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
18 MAY 1999 34							
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES	

- Planning and Conservation - Derek Taylor (Instructions only)
- Planning and Conservation - David McDonald/Steve Davis
- Planning and Conservation - Phill Hughes
- Transportation & Highways - Bill Mount/Gillian Palmer

**IN THE MATTER OF SECTION 78**  
**THE TOWN & COUNTRY PLANNING ACT 1990**

**AND IN THE MATTER OF CAMPDEN HILL**  
**RESERVOIR LONDON W8**



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**NOTE TO LEADING COUNSEL**

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Leading Counsel has herewith copies of the following documents:-

31. Instructing Solicitor's Memo of 26 April 1999;
32. Instructing Solicitor's Letter of 26 April 1999;
33. Appellant's Solicitor's Letter of 8 May 1999;
34. Instructing Solicitor's Letter of 11 May 1999;
35. Draft Statement of Case;
36. Letter from Planning Inspectorate dated 5 May 1999;
37. Draft Report;
38. Reasons for refusal;
39. Denis McCoy's Experience;
40. Letter dated 23 April 1999 from Derek Taylor to English Heritage;
41. Letter dated 28 April 1999 from English Heritage;
42. Fax from London Research Centre;
43. Letter dated from Tennis Club and note of telephone conversation;
44. Letter dated 23 April 1999 from Derek Taylor to Selwood Planning;
45. Letter dated 8 May 1999 from Sellwood Planning;
46. Memo dated 23 April 1999 from Derek Taylor to Council's Arboriculture Officer;
47. Bundle of correspondence;
48. Bundle of correspondence and consent to works re: trees;

**Site Visit and Consultation 22 April 1999**

Leading Counsel has (document 31) a copy of Instructing Solicitor's Memo of 26 April 1999 setting out action points following the conference and site visit on 22 April 1999.

**Procedure**

Instructing Solicitor has spoken to the Planning Inspectorate about their letter of 14 April 1999. The Inspectorate confirmed that the scheme currently before the

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Inspector is the scheme originally appealed. Leading Counsel has (document 32) a copy of Instructing Solicitor's letter to the Appellant's Solicitors of 26 April 1999 and a copy of the Appellant's Solicitor's response of 8 May 1999 (document 33). Leading Counsel will note that the Appellant proposes to appeal the second application on 14 May 1999 and ask for this appeal to be considered at the inquiry in July and to withdraw the first appeal. The Planning Inspectorate have indicated that this course of action would be acceptable if the Council agrees. Leading Counsel has a copy of Instructing Solicitor's letter to the Appellant's Solicitors of 11 May 1999 (document 34).

Leading Counsel will see from the correspondence that the Appellant's Solicitors are pushing for the Council's Statement of Case which Instructing Solicitor proposes to send out as soon as possible following the consultation with Leading Counsel.

Leading Counsel has (document 35) a copy of the revised draft Statement of Case for his consideration.

A pre-inquiry meeting has been arranged for 2.00 pm on Monday 14 June 1999.

Leading Counsel has (document 36) a copy of the letter in connection with the pre-inquiry meeting from the Planning Inspectorate.

#### **Report to Committee and the Council's Evidence**

Leading Counsel has (document 37) the amended report together with (document 38) suggested reasons for refusal.

The Council has retained Mr Denis McCoy of McCoy Associates to give the planning and design evidence (except for the affordable housing evidence) at the inquiry.

Leading Counsel has (document 39) the opening paragraph of a previous proof of

779



evidence which sets out Mr McCoy's experience and qualifications. Either Derek Taylor or Phil Hughes will be dealing with the affordable housing evidence.

Following the last consultation with Leading Counsel Derek Taylor wrote to English Heritage (document 40) and he received a response from Mr Stabb of English Heritage on 28 April 1999 (document 41).

A survey is being carried out at the tennis club by LRC to find out the amount of travel etc to the club (document 42). Gillian Palmer has received (document 43) a letter dated 23 April 1999 from the Chairman of the tennis club describing how it operates.

The residents have instructed Mr Nick Bursey of Colin Buchanans to consider the traffic impact assessment and presumably appear at the inquiry.

Gillian Palmer is hoping to meet with Mr Bursey and can update Leading Counsel at the consultation.

Derek Taylor has written to the Appellant's Planning Consultant asking for details of the entrance gates (document 44) and received a response dated 8 May 1999 (document 45).

Leading Counsel has (document 46) a copy of a memo from Derek Taylor to the Council's Borough Arboriculture Officer about the impact about the retained trees may have on the development. Leading Counsel will be updated on any response at the consultation.

The Executive Director, for Planning and Conservation, met with local residents opposed to the scheme last week and has agreed that the Council would commission a



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sunlight and daylight report on the impact of the development on houses in Aubrey Walk. Derek Taylor will update Leading Counsel at the consultation.

The Appellant has indicated that the Aubrey Walk block would be made available for affordable housing. A draft Section 106 Agreement is expected from the Appellant's Solicitors and this will be forwarded to Leading Counsel when received.

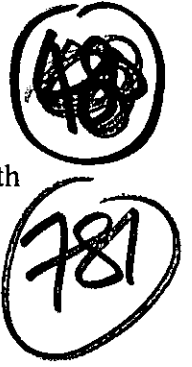
The Appellant has indicated that the service charge for each flat is likely to be in the region of £5,000 per annum because the development is decked over a car park and thus has implied that a housing association might not be interested in the site. Housing associations were invited by the Council to express interest in the site and as a result a number have replied. The housing department are considering the submissions this week and will select who the nominated housing association for this site will be. If the affordable housing is not secured on site by an appropriate S.106 obligation, it might be helpful to call somebody from the chosen housing association to give evidence.

**Other Matters**

Leading Counsel has an updated bundle of correspondence between the Council and the developer (document 47). It now includes correspondence between the Council's Transportation Officer and TPK, the Appellant's Traffic Consultants. The Arboriculture Officer has not written directly to the Appellant or its agents but Leading Counsel has by way of background copies of correspondence with local residents and consents for works to trees on the site (document 48).

Leading Counsel did ask for outline proofs for the consultation and, if ready, these will be forwarded to Leading Counsel for the consultation.

The consultation has been arranged for 11.00 am on Tuesday 21 May 1999 in  
Committee Room 6 at the Town Hall. LeVerne Parker will be attending together with  
Derek Taylor, David McDonald, Phil Hughes, Gillian Palmer, Bill Mount and  
Denis McCoy.



The main matters that need to be discussed at the consultation are:-

- i) Draft report to Committee;
- ii) Reasons for refusal;
- iii) Draft statement of case;
- iv) Outlines for proofs of evidence.

If Leading Counsel has any queries in connection with these instructions or needs any  
further information prior to the consultation he should not hesitate to contact  
LeVerne Parker on telephone number 0171 361 2180.

782

~~782~~

**IN THE MATTER OF SECTION 78**  
**THE TOWN & COUNTRY**  
**PLANNING ACT 1990**  
**AND IN THE MATTER OF**  
**CAMPDEN HILL RESERVOIR**  
**LONDON W8**

---

**NOTE TO LEADING COUNSEL**

---

David Holgate QC  
4 Breems Buildings  
LDE: Box No: 1042

A G Phillips  
Director of Legal Services  
DX 84015  
KENSINGTON HIGH STREET 2  
Ref: LP  
Tel: 0171 361 2180

MEMORANDUM

783  
~~DT~~  
DT

To: Planning & Conservation  
cc:

From: Director of Legal Services

Your Ref: Derek Taylor

My Ref: LP  
Ext: 2180

Date: 17 May, 1999

Campden Hill Reservoir

Please find attached copies of the following:-

1. Letter dated 14 May 1999 from Lawrence Graham with enclosures
2. 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	J	SW	SE	ENF	AO ACK
18 MAY 1999							30
APPEALS	IO	REC	ARB	FWD PLN	CON DES	FEES	

**LEGAL SERVICES**

THE TOWN HALL, HORNTON STREET, LONDON W8 7NX

784



**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**      tcllsp@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

785  
~~785~~

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>



LAWRENCE GRAHAM

786

COPY

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>

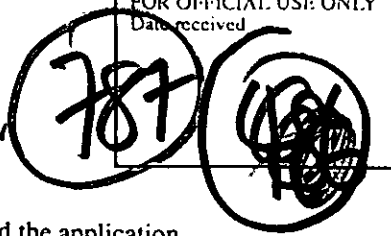
ASSOCIATED WITH FIRMS IN AMSTERDAM BEIRUT BRUSSELS HAMBURG HONG KONG MADRID MILAN NAPLES NEW YORK PARIS ROME STOCKHOLM VARNA AND MARIUPOL  
904805  
MEMBER OF ABLE (ASSOCIATED BUSINESS LAWYERS IN EUROPE)  
SOLICITORS AUTHORISED BY THE LAW SOCIETY TO CONDUCT INVESTMENT BUSINESS. A LIST OF THE PARTNERS NAMES IS OPEN TO INSPECTION AT THE ABOVE ADDRESS

# 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)

(✓)

788 (✓) ~~107~~

- 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.

### 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

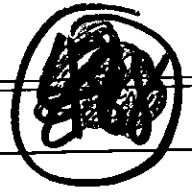
A copy of each of the following should be enclosed with this form.

- 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



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.

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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

**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.

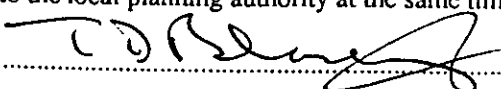
The appeal arises from the Council's failure to determine the application within the eight week period.

~~4/13~~  
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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  (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.**

- This form signed and fully completed.
- Any relevant documents listed at Section E enclosed.
- Full grounds of appeal/outline of case set out at Section G.
- Relevant ownership certificate A, B, C or D completed and signed.
- Agricultural Holdings Certificate completed and signed.

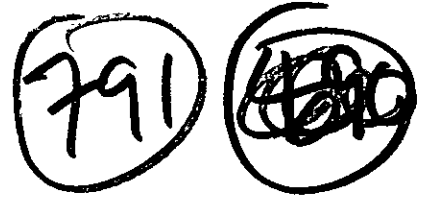
◆ **1ST COPY:** Send one copy of the appeal form with all the supporting documents to:

The Planning Inspectorate  
Appeals Registry  
Tollgate House  
Houlton Street  
BRISTOL  
BS2 9DJ

◆ **2ND COPY:** 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.

◆ **3RD COPY:** For you to keep

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

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

Signed  (Lawrence Graham Solicitors)

On Behalf of St James Homes Limited

Date 14 May 1999

MEMORANDUM



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To: Planning & Conservation

From: Director of Legal Services

cc. Planning & Conservation -  
David McDonald  
Steve Davis  
Phil Hughes

Executive Director of Planning  
& Conservation -

Mike French

Head of Development Control -

Lesley Jones

Transportation & Highways -

Gillian Palmer

Housing & Strategic Development -

Stan Logan

Legal Services -

Alun Phillips  
John Zukowski

Our Ref: LeVerne Parker  
Room No: 315

Your Ref: Derek Taylor

Ext No: 2180

Date: 16 April 1999

**Campden Hill - Consultation with David Holgate QC**

Following the consultation yesterday, there are a number of matters that need to be dealt with as soon as possible. I set these out below in no particular order:-

1. A further consultation and site visit.

This has been arranged for Thursday 22 April at 11:00am - Committee Room A. The site visit needs to be arranged with the developer.

Action DT

2. Bundle of correspondence and notes of meetings with the developer and the Council in date order needs to be prepared. This needs to be sent to David Holgate before the conference on Thursday.



Action DT/LP

3. Send to David Holgate a copy of the proposed modifications to the Affordable Housing policies.

Action LP

4. Find out details of the rents paid by the residents of Water Tower House, the terms on which they are occupied and where the residents are to be rehoused.

Action LP

5. In the light of the above, to reconsider whether flats in Water Tower House should be considered as Affordable Housing and therefore included in the calculation for the amount of Affordable Housing to be provided.

Action DT/JZ/SL

6. Housing Association needs to be on board as soon as possible. Confirm result of meeting on Affordable Housing on 22/4/99.

Action DT/SL

7. Check with developers and Planning Inspectorate whether the revised scheme is to be considered at the inquiry. Need to know before consultation on Thursday.

Action DT

8. Look at trip generation rates again and taking into account other comparables, such as Earls Terrace.

Action GP

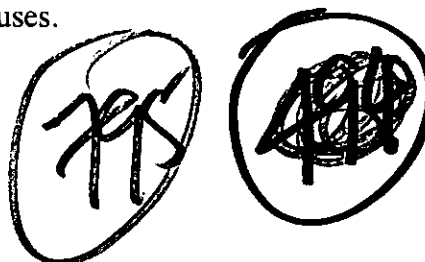
9. Note on drawings for David Holgate on how the scheme has evolved.

Action DT

10. Check the habitable room calculation, not including the tennis courts but including studios.

Action DT

11. Contact Arboriculture Section to advise them to reconsider the impact of the development on future wellbeing of TPO trees. In particular, are there likely to be future requests to fell/lop TPO trees because of the impact on amenity of new houses.



Action DT

12. CAPS to David Holgate.

Action LP

13. Reconsider the bulk and height of the block of flats and whether Kensington Heights should be a reference to this block. Consider why Kensington Heights is described as it is in the CAPS.

Action DMcD/SD

14. Chase English Heritage for a more helpful response.

Action DMcD/SD

15. Examine critically whether the existing buildings are likely to attract a B1 User. Need a surveyor's report from the Valuer on the condition of these buildings.

Action DT/LP

16. Re-examine traffic generation on assumption that the existing use rights are unlikely to be taken up again.

Action GP

17. Re-examine the impact of more traffic from the development in Aubrey Walk and the resulting impact on the conservation area. What traffic increase will there be from the enhanced tennis courts?

Action GP/DT

18. Find out who the residents are proposing to instruct to deal with their traffic case and make contact.

Action GP/DT

19. More conclusive evidence/obs. on emergency access, deliveries, refuse collection.

Action GP/DT

20. An assessment of the pros and cons of the revised scheme to forward to David Holgate.

Action DT/GP/DMcD/SD



21. Planning and transportation officers to consider their own professional positions with regard to supporting a refusal of planning permission on appeal. Consider need for consultants.

*LeVerne Parker*

LeVerne Parker  
for Director of Legal Services

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~~45~~

**HERBERT SMITH**Exchange House  
Primrose Street  
London EC2A 2HSTelephone 0171 374 8000  
Fax 0171 374 0888  
Dx 28**FAX TRANSMISSION**

This fax is confidential and may be covered by legal professional privilege. If you are not an addressee and have received this fax in error, please contact us immediately; you should not copy the fax, nor should you use the fax or copy its contents to any other person. Thank you. If you do not receive all pages clearly, please telephone 0171 496 0067.

TO	Derek Taylor	FAX NO	0171 361 3463
COMPANY	Royal Borough of Kensington and Chelsea		
FROM	Vanessa Allen	OUR REF	
DDI	0171 466 2449		
DATE	1st June 1999	TOTAL PAGES	13

Dear Mr Taylor

**CAMPDEN HILL RESERVOIR**

Henry Manisty has asked me to fax you the attached appeal decision relating to a former Thames Water reservoir at Honor Oak Road, SE23.

Yours sincerely

  
VANESSA ALLEN

London Bangkok Brussels Hong Kong Paris Singapore

A list of the names of the partners and their professional qualifications is open to inspection at the above office. The partners are either solicitors or registered foreign lawyers.

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**The Planning Inspectorate**

Room 1404  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ

Direct Line 0117-937 8927  
Switchboard 0117-937 8000  
Fax No 0117-937 8139  
GTN 1374-5927  
E-mail ENQUIRIES.PINS@OTNET.GOV.UK

RECEIVED BY  
**COMPASS**  
GENERAL MANAGER FROM HANCOCK  
COURTESY SERVICES

Avril McNamara  
Town Planning Consultancy Ltd  
118 Southwark Street  
London  
SE1 0SW

Your Ref: AM/97462  
Our Ref: T/APP/C5690/A/98/300053/P4  
Date: 1 MAR 1999

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 & SCHEDULE 6  
APPEAL BY THOMAS WRENN HOMES LTD  
APPLICATION NO: 43123/OUT**

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the failure of the Council of the London Borough of Lewisham to determine within the required period an outline application for residential development comprising 36 flats, car parking and landscaping with vehicular and pedestrian access from Canonbie Road on land at 116 Canonbie Road and the former Thames Water reservoir, Honor Oak Road, London SE23. I held a local inquiry on 2-4 February 1999.

*The proposed development and deemed reasons for refusal*

2. The appeal application form indicates that approval is only sought for the means of access at this stage with all other matters reserved and the application drawings which show layout, siting, design and external appearance are clearly marked as illustrative only. I have, therefore, only had regard to this further information to the extent that it is generally indicative of the broad intentions of the nature of development currently envisaged.

3. In the context of the appeal, an amended layout drawing No 95/1845/10D was submitted which shows corrected and amended levels along the proposed access road through the site of No 116 Canonbie Road, together with amended sections of the development (95/1845/16B) and new sections across the access road both in relation to Nos 114 and 118 Canonbie Road and to preserved tree No Tc at the rear of No 114 (95/1845/18 and 19). As these drawings show variations in proposed ground levels, including raising the level of the proposed carriageway by about 1.5 metres towards the rear of the site of No 116 and a transference of the proposed footway from the east to the west sides of the access road, together with proposed screening and landscaping works, none of which have been subject of public consultation, it was agreed at the inquiry that only the first 13 metres or so of the proposed access road should be for determination at this stage (shown edged red). As this length is sufficient to define the proposed access to Canonbie Road and the amendments in this length are either to relate the works correctly to existing levels or otherwise would not prejudice adjoining occupiers, I have determined the appeal on this basis, with other information shown on the remainder of these amended drawings treated as illustrative only.

4. Also in the context of the appeal, the Council indicated that had the decision remained under their jurisdiction, they would have refused permission on the grounds of serious effect on the reservoir designated site of nature conservation importance, because of detriment to



the amenities of the occupiers of No 118 Canonbie Road through provision of an access road through No 116 and because of the likely loss of protected trees.

#### *The Issues*

5. From the evidence at the Inquiry, the written representations and my inspection of the site and its surroundings, I consider that the main issues in this appeal are firstly, the effect of the proposed development on nature conservation interests. A second main issue is the effect on tree preservation in the context of its significance for the character and amenities of the surrounding area. Further main issues are the effect on the living conditions of adjoining occupiers, particularly in relation to the proposed access through the site of 116 Canonbie Road and the effect on the setting of the listed building at the rear of 23 Liphook Crescent.

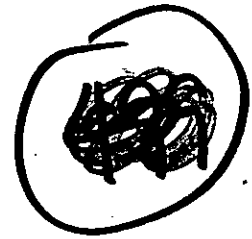
#### *The development plan*

6. The development plan for the locality is the adopted L B Lewisham Unitary Development Plan 1996. Policy GEN.NAT.ENV3 indicates that the Council will promote the conservation and enhancement of the environment and seek to protect wildlife in the Borough. The former reservoir site is listed in schedule 2 to the UDP and shown on the Proposals Map as covered by Policy NAT.ENV14 'Areas of Nature Conservation Importance' (ANCIs). The Policy indicates that such areas, including SSSIs and Local Nature Reserves (LNRs), will be protected in accordance with Policy NAT.ENV16 and also indicates that further LNRs will be designated from amongst areas of local significance either in terms of wildlife habitats or which allow residents opportunity of ready access. Policy NAT.ENV16 indicates that development will not be permitted within or affecting ANCIs except where an ecological assessment indicates that there would be no actual or potentially damaging impact on the value of the area for nature conservation. Any permitted schemes for development or management would be expected to show that they would preserve or enhance the existing elements of importance to nature conservation and take account of the needs of wildlife in the future management of the site. Policy BLT.ENV4 indicates that the Council will seek to maintain, protect and increase the number and quality of trees in the Borough including through the use of Tree Preservation Orders (TPOs).

7. Policy NAT.ENV6 indicates that in areas of local public open space deficiency as identified on Maps 4.1 and 4.2 of the UDP (Plans G/1 and G/2) the Council will look favourably on proposals which will make available additional open space, public or private. The appeal site is within the area of local open space deficiency identified on Maps 4.1 and 4.2, but the Council has not specifically identified the reservoir as a means of overcoming the perceived deficiency through designation as Local Open Land (LOL) under Policy NAT.ENV5. The supporting text does indicate that land currently considered or known to be of significant existing or potential value to the local community is designated and that most such areas have been identified. However, it also acknowledges that not all such land has been identified and that designations will need to be kept under review.

8. As for policies relating to housing development, Policy HSG18 indicates that the Council will seek to improve and safeguard the character and amenities of residential areas by ensuring appropriate siting. Policy HSG19 requires housing layouts to safeguard the amenities, stability and security of adjoining communities. Finally, specifically in relation to backland development, Policy HSG22 indicates that this form of development will

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generally be resisted, ie development which is spatially separated from existing housing and located on areas of garden land to the rear or side of existing dwellings. Schemes should retain sufficient garden depth for existing dwellings and there must be a proper means of access which is convenient and safe for both drivers and pedestrians.

9. Attention was also drawn to the need to maximise housing within the Borough in accordance with government guidance in RPG3. However, Policy GEN.HSG2 indicates that in making provision for additional dwellings in line with government guidance, this should be without detriment to the quality of the existing housing stock or existing residential environments, an objective reinforced in Policy GEN.HSG5. The Regional Guidance current during the preparation of the UDP has now been replaced and the figure of 11,000 additional dwellings to be provided under Policy HSG7 contained in the UDP for the period from 1987-2001 is an increase over the earlier RPG figure of 10,000. The current RPG3 figure is for a minimum of 8,400 additional dwellings over the period 1992-2006. The supporting text to Policy HSG7 states that there is a severe shortage of affordable housing in the Borough and Policy HSG8 indicates that there will be a presumption in favour of the redevelopment of smaller sites in existing residential areas for housing and small scale community uses and also refers to the use of windfall sites, although indicating that such proposals need to be considered against the value of the existing use. Policy HSG29 refers to a target of 2500 affordable housing units.

10. In the evidence to the inquiry for the appellants, considerable stress was laid on the process by which the former reservoir site came to be subject to an ANCI designation. However, no suggestion was made that the Council had in anyway failed to comply with statutory requirements in the adoption of the UDP including this designation. Consequently, the designation, is as a matter of fact, part of an up-to-date development plan. Any conflict with the provisions of Policy NAT.ENV16 for its protection would, therefore, need to be justified under the provisions of Section 34A of the Act on the basis of support from other policies or because other material considerations outweigh the provisions of the development plan.

#### *Emerging Policies*

11. A review of the L B Lewisham UDP has been commenced but no proposals have yet been issued for consultation or placed on deposit. The Council indicated, however, that one of the matters which is under consideration is more closely aligning ANCI and LOL designations. In the absence of any published document very little weight can be afforded to such possibilities in accordance with the advice of Paragraph 48 of PPG1. However, it would not indicate any material change from the provisions of the adopted UDP.

#### *The value of the reservoir site as an Area of Nature Conservation Importance*

12. Notwithstanding the statutory situation, the process whereby the former reservoir site came to be included within the UDP as an ANCI was argued as a factor justifying a lesser degree of protection. There was no dispute between the parties that the site was not included in the initial Consultation Draft UDP and that the London Ecology Unit had not made a specific comment on its omission at that stage, although there was an objection from the London Wildlife Trust. However, when the site was not included in the Deposit Draft, both the London Ecology Unit and the London Wildlife Trust made formal objections and the Council put forward Proposed Changes to include this and a number of other sites in the UDP in 1993. The Inspector considering objections to the UDP commented in his report with regard to the proposed changes to Schedule 2, that these should not be included in the UDP without a review being undertaken of the 1984 ecological survey.

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13. It was argued for the appellants that there had been no new survey covering the site prior to the Council's resolution to modify the UDP to include the site as an ANCI. A survey by the London Wildlife Trust had not apparently included it. However, the evidence on behalf of the Council was that the London Ecology Unit had reviewed all available survey material and this had included telephone discussions with a local botanist, Mr Bertrand, who had surveyed the site in the late 1980s and again in 1992 and noted certain additional species which had helped in the appreciation of the significance of the site as containing both acid and neutral grassland. The London Ecology Unit (LEU) had, therefore, included the site in their 1994 consultation Map and Schedule of Sites of nature conservation importance in Lewisham, a document intended ultimately to replace the 1986 Greater London Ecology Unit Handbook No 4 which included Lewisham and which had not referred to the site. Neither the former owner, Thames Water, nor the appellants, having been alerted to the intended ANCI status by the Council in a letter to the auctioneers in February 1995, made any comment on the draft LEU document or any objection to the formal modifications to the UDP when these were published later in 1995.

14. In addition, although not directly related to the UDP adoption process, in the summer of 1995, the London Ecology Unit did survey the site. Thus, prior to the actual adoption of the UDP in 1996, the Council's ecological advisers had confirmed their previous judgement of the ecological value of the site. The unit made a further survey of the site in 1998 and the current position is that in a final consultation which is shortly to take place on the document which will detail the sites of nature conservation in Lewisham, the London Ecology Unit are raising the possibility that the classification of the site might be upgraded from a site of Borough-wide importance for nature conservation grade II, to one considered to be of grade I significance. Consequently, although I appreciate that the importance of the site was not recognised immediately following the initial 1984 survey, it appears to have been perceived as of steadily increasing significance by the London Ecology Unit and the Council in all subsequent reviews and actions to date.

15. On behalf of the appellants, it was suggested that the criteria used by the London Ecology Unit to select sites of Nature Conservation Importance for London were at variance with those nationally recognised by English Nature (and its predecessor) as set forth in the Nature Conservation Review. However, as English Nature are represented on the Management Board of the London Ecology Unit and the Unit provides expert ecological advice for the great majority of the London Boroughs, including Lewisham, I was not persuaded that the differences in criteria are anything other than an adaption of generally recognised criteria to the particular circumstances of London.

16. Consequently, I do not agree that there is anything in process by which the site has come to have its present designation which would warrant the relevant policies of the development plan for its protection as an ANCI as in anyway being given less than their due statutory significance.

17. Turning to the actual nature conservation importance of the site, the London Ecology Unit and the Council refer to both acid and neutral grassland habitats, though the acid habitat is given greater prominence as such are uncommon in Lewisham. For the appellants, Mr Kelsey argued that the identification of an acid grassland habitat on the higher terrace, ie the on the reservoir 'lid', is incorrect as many of the species cited by the London Ecology Unit as characteristic of acid grassland are also found on neutral or improved grasslands. This was not directly disputed by Dr Dawson. However, I found his argument persuasive that it is not simply a matter of looking at particular species to determine whether grassland is acid or not but rather the total community of species which are present as compared to those which are absent. Moreover, I agree with the Council that it is significant that until the context of this

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appeal there had been no response to the identification of the upper terrace as acid grassland which had questioned this conclusion.

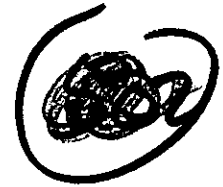
18. Nevertheless, even if the conclusion of the London Ecology Unit on this point were incorrect or Mr Kelsey's suggestion correct that, if acid grassland occurs its presence only arises from imported material being used to cover the reservoir, rather than, as argued for the Council, this having arisen from recolonisation from surrounding undeveloped land after the construction of the reservoir was completed, this would not necessarily render the site of no ecological value. The London Ecology Unit point to value arising from the presence of 7 plant species, as well as two insect species identified by Mr Richard Jones, the entomologist, who was commissioned to survey the site in 1995 by the Tewkesbury Lodge Estate Residents' Association. I appreciate that the seven plant species cited may not be particularly rare on a nationwide basis. However, the evidence of the London Ecology Unit clearly points to the majority being rare in London, is a justification for its significance as a site of Borough-wide importance for nature conservation. As for the 2 insect species, one, the 'picture-winged fly' [*Acinia corniculata*], is listed in the 'Red book' as endangered and the evidence of Mr Jones is that his sightings on the site in the summer of 1995 are the last recorded sightings in the United Kingdom [see Photograph 5].

19. For the appellants, it was argued that whether or not these species had been identified in the past on the site, the current management regime involving horse grazing is already likely to have resulted in the loss of some of the more significant species from the site. In particular, 'early hair grass' and 'heath grass' have not been recorded since Mr Bertrand's surveys of 1988 and 1992. Moreover, even if the larvae of the 'picture-winged' fly have adapted to living on 'common knapweed' as recorded on the site rather than on 'brown knapweed' its traditional host, a plant species which has not been recorded on the site, the horse grazing which has left much of the site bare of vegetation and heavily poached, is likely to have resulted in its loss from the site. The same would apply to 'Roesel's Bush Cricket' as it is a species found on un-managed grassland. As for the endangered 'picture-winged fly', it was argued, firstly, that invertebrate species are under-recorded in surveys so that the fly may not be in danger of extinction or as rare as the limited recorded sightings imply. Secondly, if it does now breed on common knapweed, other sites in London where this plant is found should be studied.

20. It was also argued that the 'fig-leaved goosefoot' is a species common to disturbed ground and so may only have arisen because of the recent horse grazing. The 'cowslips', 'hart's tongue fern' and, if necessary, the 'dog's mercury' could be relocated into parts of the site which would be unaffected by development such as the avenue of lines which run down to Honor Oak Road. The offered planning obligation reserves that land as amenity open space. In addition, at least some of the grasses perceived as of interest could be included in seed mixes within the development. Finally, it was suggested that if permission were not to be forthcoming, the appellants might seek to 'improve' the grassland by new sowing in order to maximise the grazing potential and that this, without any breach of planning control, would again lessen if not eliminate the nature conservation interest.

21. In response, the residents gave evidence that the site had been periodically grazed over the last 40 years and that this had not prevented the site having the ecological interest recorded in the summer of 1995 and the attractive appearance evident at that time [see Photograph 4]. It was accepted that the former Thames Water grazing licences had restricted grazing to a maximum of two horses or ponies and in evidence it was stated that up to 4 had been present on the site in the recent past, though only one was present at the time of my inspection. It may be, therefore, that the site has been more intensively grazed in the recent past than previously. However, I was not persuaded that there would not be a possibility of

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most if not all of the previous ecological interest returning in summer conditions if grazing were kept to reasonable levels. It was agreed that some form of management whether by grazing or mowing would be necessary to maintain the perceived interest and keep scrub encroachment in check.

22. I witnessed the presence of at least three of the plant species of interest on my site inspection and although there was evidence of heavy grazing over the whole site, the worst poaching was in the area previously occupied by staff housing ('the cottage' - see Document 5/Appendix 7) and in the adjoining area close to the original access to Honor Oak Road where there were previous hardstandings or accessways. The least damaged area appeared to be the upper terrace where acid grassland is argued to be present. Moreover, the areas of scrub encroachment remained and in the margins of these areas, the Council argued that knapweed is still likely to be present. Taking all these factors into account, I consider that the nature conservation interest which led to the designation of the site as an ANCI in the adopted UDP remains to a sufficient degree to warrant application of the relevant UDP policies and national guidance.

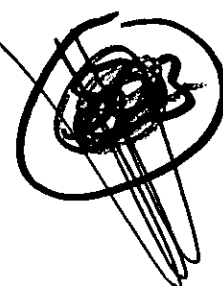
23. I recognise that 'improving' the grassland to maximise grazing potential could be undertaken without need for any planning permission and that this could harm the nature conservation interest. However, given the relatively small area available for grazing, as the site as a whole including the original and proposed access points is only 0.49 ha, I am not convinced that this would be a likely scenario were permission to be refused for a development across the majority of the site as opposed to an attempt to pursue the approach offered by the Council of 'some limited development' [Document 13/Appendix 3] coupled with management of the remainder of the site in a way which would enable public appreciation of the nature conservation interest. In order to equate the traffic generation to previous levels, if using the original access to Honor Oak Road which has very restricted visibility to the south because of the presence of a street tree, the Council gave their interpretation of 'some limited development potential' as being one or two houses. Certainly one or two houses located broadly in the vicinity of the former 'cottage' and using the original access would seem to minimise any effect on the ecological interest of the site.

24. I have considered whether much of the ecological value could be recreated by relocating the particular specimens of interest into future landscaped areas around the proposed flats and including an appropriate seed mix in grassed or other soft-landscaped areas, including the area of the original access through the avenue of lime trees to Honor Oak Road which would be retained. However, I share the judgement of the Council's witnesses that this would not be safeguarding the nature conservation interest to a sufficient extent to comply with the policies of the development plan. The species which might be retained or reintroduced would no longer be within their natural context and part of the habitat whose conservation is sought. I accept that Paragraph 18 of Planning Policy Guidance PPG9 does indicate that local authorities should take care to avoid unnecessary constraints on development. However, Paragraph 1 of that guidance refers to the United Kingdom's obligations under the Bio-diversity Convention and Paragraph 2 to the objectives of government policy. These are to ensure that its policies contribute to the abundance and diversity of British wildlife and its habitats or minimise the adverse effects on wildlife where conflict of interest is unavoidable.

25. In my judgement, the extent of residential development proposed would inevitably harm the nature conservation interest which undergirds the designation of the site under Policy NAT.ENV14 of the adopted UDP so that there would be conflict with Policy NAT.ENV16. I do not consider that the mitigation measures canvassed would sufficiently



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offset that harm so that there would be likely to be a reduction in bio-diversity not only contrary to the provisions of the development plan but also in conflict with national policy.

### *Tree Preservation*

26. Although an aspect of the ecological interest of the site, I have considered the issue of the effect on tree preservation separately as there is no suggestion that the trees on the site are of particularly rare species. Their interest is primarily in terms of their amenity contribution to the character and appearance of the area. Points were made on behalf of the appellants on the process undertaken by Council in initially placing an area order on the former reservoir site before replacing it by an order specifically to safeguard specimen trees and the group of lime trees which form an avenue to Honor Oak Road and also in relation to the timing of the very recent order made to protect oak Tc at the rear of No 114 Canonbie Road. However, I cannot see that Council have departed materially from the advice of the 1994 DoE Guide to the Law and Good Practice in relation to Tree Preservation Orders where trees are believed to be at risk.

27. Turning to the substance of the matters at issue, there is little different in the assessment of the present quality and health of the trees on the site between Mr Kelsey for the appellants and Mr Harvey for the Council. Thus, it is accepted that a number of trees covered by the detailed TPO on the site should be removed as a matter of good arboricultural practice, including 2 of the limes in the avenue, the largest preserved chestnut T2 on the boundary with Rocombe Crescent and a pear near the site of the former 'cottage'. There is also no dispute that the two lime trees within the lower terrace, one of which is probably the most significant tree on the site in terms of its amenity value, should be able to be retained without any threat from construction by minor adjustments to the site works shown on the illustrative drawings.

28. The most significant area of disagreement concerns some trees, which are probably rightly characterised according to BS5837:1991 as trees which 'could be retained - low category' [c] and also in respect of the off-site tree Tc, which Mr Harvey assesses as a tree 'where retention is desirable - moderate category' [b], but which Mr Kelsey only assesses as category c. In the south-west corner of the site, the remaining chestnuts covered by the TPO, T3 and T4, are located close to the side wall of the underground reservoir, such that its edge comes well within the protection distances recommended in BS5837 even after allowing for a one-third reduction which is accepted as able to be lost from root systems on one side of a tree. Some roots could have been deflected down outside the reservoir wall, as suggested by Mr Kelsey. However, as the 'lid' is covered by 300-500 mm of soil and on site it was generally not possible to identify the edge of the underground structure, I share the conclusion of Mr Harvey, that it is almost certain that the roots of these and other trees along the south and west boundaries of the site stretch over the reservoir. Thus, in order to proceed with the appeal development in anything like the form illustrated, which involves a removal of the reservoir 'lid' and construction of a block of 24 flats over underground parking within its confines, would involve significant root loss from these trees. I accept that the two preserved trees are currently suppressed by the larger but dangerous chestnut T2, so that there could an argument for replacing these trees as well as T2 in the short-term. However, were all or even an appreciable number of the mature and semi-mature trees along these boundaries to be lost, I consider that there would be harm to the character of the area and also to the amenities of surrounding residents. In my judgement, the appeal proposal would give rise to significant risk that such loss would occur.

29. Close to the northern boundary of the site near the rear boundary with No 114 Canonbie Road, there are two lime trees T10 and T11. On the revised levels which would



satisfy the Council as highway authority in respect of gradients of the proposed access road, there would be excavation of 0.5 -1 m within the spread of these trees. In the case of the better tree T10, the excavation would be likely to be deeper and to come within about 1.5 metres of the trunk. It is acknowledged that these trees would require considerable surgery if they are to be retained. However, in my judgement, again the appeal proposal would be likely to put these trees at risk as the potential for varying the illustrative appeal layout would be constrained by highway authority requirements, if access is to be gained to underground parking within the reservoir structure.

30. As for tree Tc, I am inclined to support the assessment of Mr Harvey, that the tree should be regarded as in category b. The oak, although only of moderate size is of upright form with only modest amounts of deadwood in its crown, and, as far as could be ascertained with ivy around its lower trunk, has no basic defects. I accept that correction of the property boundaries, as shown on drawing No 95/1845/19, would mean that there should be a greater distance between the base of the tree and the proposed access road as it would curve into the reservoir site from the rear garden area of 116 Canonbie Road. However, the revised levels shown in Drawing No 95/1845/10D, to satisfy the highway authority over internal gradients, indicate that the land to the east of the tree would be raised by between 0.5-1.5 metres and to the south of the tree there might need to some excavation within its spread if not within the recommended protective distance. Thus, as the land north and west of the tree has already been raised to facilitate the construction of garages at the rear of 114 Canonbie Road, there would be very little natural ground level left around this tree.

31. Reference was made to the use of 'no-dig' construction methods to safeguard the tree [Document 20]. However, I share the judgement of Mr Harvey that the depth of fill apparently required to raise the access road east of the tree would not be to follow the advice of the relevant Arboricultural Practice note. Given the evidence concerning clay movement on the hillside, substantial construction works would seem to be required to construct the proposed access road with significant changes from natural ground level. I accept that Mr Harvey conceded that it would not be impossible to safeguard the tree were special measures to be taken, but these were stated to include bridging over the area where roots might present to avoid the compaction inherent in such depths of fill. Given these circumstances, I consider that there must be a very serious risk of the loss of this tree which would be harmful to the character of the area and the amenities of neighbouring residents.

32. A further oak T5 is indicated as to be removed from the reservoir embankment as it would be close to the face of the proposed flats within the structure. While this tree would require considerable surgery to produce a shape suitable for long-term retention, that its removal is regarded as necessary implies that most if not all of the other sapling or semi-mature oaks further north along the reservoir embankment would also need to be removed, trees which would appear to have substantial future potential to contribute significantly to the landscape.

33. Overall, even if the possible loss of trees T10 and T11 were to be accepted, the risk to trees T2, T3 and Tc and to other trees not specifically protected but of some existing or potential value would, in my judgement, mean that there would be a conflict with Policy BLT.ENV4 of the adopted UDP. I do not consider that the possibilities for replanting, even if semi-mature trees were to be included together with other new landscaping, would sufficiently mitigate the potential harm so as to avoid conflict with the relevant provision of the development plan.



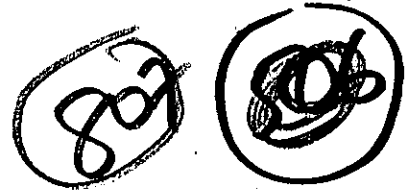
*The effect on the living conditions of neighbouring occupiers*

34. Residents living adjacent to the reservoir site argued that the appeal proposals would involve a significant loss of both privacy and outlook. The Council, indicated that they do not have particular dimensions enshrined in either the local plan or supplementary planning guidance for the distance that should be provided between windows of habitable rooms and boundaries, but that overall the distances between the proposed positions of the two blocks of flats as shown on the illustrative drawings and surrounding dwellings would be satisfactory. I do not disagree with this conclusion, though it is clearly somewhat unfortunate that the greater part of this distance would be within the gardens of the surrounding properties. Thus, where there is either no existing tree screening or there would be a risk of loss of that currently existing, there would be an effect on both the outlook of adjoining residents and the privacy of their rear gardens. This emphasises the need to avoid any unnecessary tree loss on the site. However, subject to appropriate landscaping, I accept that as far as the generality of the relationship to surrounding properties is concerned the appeal development would not give rise to such adverse effects as to warrant rejection on such grounds.

35. The situation with regard to the proposed access through 116 Canonbie Road is somewhat different and it is the focus of the Council's concern in their deemed reasons for refusal. In the plans submitted with the application, the access road was shown apparently at ground level through the site of 116 Canonbie Road, but in the revised drawing No 95/845/10D produced for the appeal, which corrects the levels at the junction with the highway, it is made clear that the ground level towards the rear of 116 Canonbie Road would have to be raised by up to 1.5 metres in order to produce an acceptable gradient along the length of the access road. The footway is also shown relocated from adjoining No 118 to adjoining No 114. There would also be provision of a screen wall and landscaping proposals which are shown on sections comprising drawing No 95/1845/18.

36. At the inquiry, Mr Isaacson indicated an expectation that these revisions should overcome concerns with regard to privacy or the effect of headlights, but was still concerned at possible disturbance from the noise of vehicles using the access road. As no evidence was given on anticipated noise levels, I accept that would not be appropriate to give significant weight to this concern. However, on the site visit even from the existing ground level, I was struck by the height which users of the proposed access road would be above the rear area of the nursing home at No 118 Canonbie Road. Although it was agreed that the revised drawings should only be regarded as illustrative for the length of road beyond 13 metres from the highway, if raising of the land by as much as 1.5 metres were to be required to produce an acceptable gradient, I find it difficult to envisage it being possible to avoid harm to the occupiers of No 118 in terms of privacy and possible disturbance from headlights. I appreciate that a screen wall is envisaged and that could be higher than illustrated, but the evidence of problems in maintaining the structural stability of walls in the vicinity was very evident on the site inspection, as well as in the photographs provided by residents. I also note the intended planting, but that would be unlikely to be instantly effective.

37. Consequently, although the difference in levels and the adjoining garage access on No 114 ought to prevent harm in that direction, in relation to No 118, I am far from convinced that there would not be harm to the living conditions of its occupiers were an access road to be run through the site of No 116. I note that the occupiers of that property have not raised any objection and I also agree with you that technically, the terms of Policy HSG22 on 'Backland development' would not be applicable. Nevertheless, I consider that there would be some conflict with Policies HSG18 and HSG19 in relation to the siting of the access road and the amenities of adjoining occupiers.



*The effect on the setting of the listed 'folly' at the rear of 23 Liphook Crescent*

38. Although this issue only arose shortly before the inquiry, when English Heritage expressed the opinion that the appeal development would harm the setting of the listed 'folly' [Document 4], Section 66(1) of the Town and Country Planning (Listed Buildings and Conservation) Areas Act 1990 statutorily requires the effect on the setting of a listed building to be taken into account. While I agree that the additional comment in the letter that there could be some effect on the backcloth of views of the city skyline cannot be substantiated, I do not consider that this invalidates the concern in respect of the setting of the 'folly'. I had the opportunity to climb to the top of the building during my site visit and experienced the commanding view obtained to the north and east towards the Thames.

39. While, the residential development on the Tewkesbury Lodge Estate has crept up the hill to the south and west, the individual houses have not encroached so close in those less critical directions as to cause the original concept of a vantage point to be lost. To the north, mature trees tend to mask part of the view from the tower, but they also mask the dwellings in Canonbie Road including the flats known as Barr Beacon at No 110. In my judgement, if the proposed block of 24 3-storey flats were to be built within the reservoir structure as envisaged, there would be a significant effect on the setting of the listed building. The most important remaining vista from the 'folly' would no longer be a prospect which would be substantially unaffected by buildings. In my judgement, the harmful effect would be so significant that I am doubtful whether simply reducing the height of the proposed block by one-storey, as suggested by English Heritage, would sufficiently lessen the impact so as to make the proposal acceptable. Rather, I consider that safeguarding the setting of the listed building reinforces the need to retain undeveloped grassland over the 'lid' of the reservoir.

*The value of the development in meeting the housing objectives of the UDP, Regional Guidance for London and more recent government advice*

40. It was argued for the appellants that any harm in relation to nature conservation or other environmental objectives would be more than offset by the value of the proposed housing in meeting the objective of maximising housing provision in London and on 'brownfield' land in urban areas in general. Attention was drawn to the declining trend of completions in recent years in Lewisham. However, the Council were able to provide the figure for completions over the whole of 1998, namely 509. This substantiates their view that completions are still continuing at between 500-600 annually. This compares favourably with the average outstanding requirement of 422 per year cited by the appellants based on Lewisham's own figures as necessary to achieve the current RPG3 figure for Lewisham of 8400 for the period 1992-2006, as well as the provision figure contained in the adopted UDP.

41. I recognise that figures obtained from LPAC imply that higher rates of completions might be necessary to achieve the RPG3 figure. However, I am persuaded by the evidence of the Council that there is no reason why reliance should not be placed on the Council's figures. The Council's figures are ultimately the source of the LPAC figures and the main discrepancies can be explained by a known computing problem.

42. I also accept that RPG3 indicates that the provision figures for the London Boroughs should be regarded as minima. Encouragement is also given to achievement of higher proportions of development on recycled land in other government publications such as 'Planning for the new Communities of the Future' (February 1998) and the Government's Response to the Environment, Transport and Regional Affairs Committee (October 1998). This advice also encourages housing development on sustainable development sites, in those accessible by public transport or well-located in relation to town centres. It is not disputed that the appeal site complies with such locational guidance. Nevertheless, RPG3 makes clear that achievement of additional housing provision should not be at the expense of other

environmental objectives and all policies of the UDP need to be taken into account. Moreover, although in one sense the former reservoir site meets the definition of a 'brownfield site', as it has been previously developed, I also accept that it is an unusual site in that category. Apart from the now demolished 'cottage' and related structures, and minor access and vent structures related to the reservoir, all other built development is buried underground so that the site has the appearance of undeveloped open space. Thus, although provision of additional housing provision on the appeal site would not be inconsistent with the generality of the housing policies of the UDP, I do not consider that this consistency would outweigh the specific conflict with the environmental policies previously referred to, particularly as Policies GEN.HSG2 and GEN.HSG3 refer to environmental considerations and Policy HSG8 refers to weighing additional housing against the value of the existing use.

43. Slightly different considerations arise in relation to affordable housing in so far as the Council conceded that there is no realistic prospect of achieving their aspirational target for affordable housing units over the remainder of the plan period. Indeed, the shortfall could well be several hundred units as the average rate of achievement over the plan period to date is under half the outstanding annual requirement necessary to achieve the figure of 2500 which is contained in Policy HSG29. In such a context, the offered obligation to provide 25% of the habitable rooms in the form of affordable dwellings would obviously be a welcome contribution towards meeting the affordable housing target. Nevertheless, as the affordable provision in the development would probably be less than 10 units, it would not substantially reduce the extent of shortfall currently envisaged. Thus, although this element of the proposal would be a positive feature, I do not regard it as sufficient to offset the harm identified in relation to nature conservation, tree preservation and the amenities of neighbouring occupiers.

*Other considerations including highway safety and ground stability*

44. Local residents argued that the proposed access to Canonbie Road would be a hazard both because of the steepness of the road and the extent to which the road is used by children travelling to and from local schools. However, the Council raise no objections in relation to highway safety in respect of the revised details of the proposed junction as shown on drawing No 95/1845/10D or to the traffic generation implicit in the appeal proposals.

45. The distance to the crest of Canonbie Road to the west from the proposed junction is less than the minimum visibility recommended for an access to a road subject to a 30 mph speed limit in PPG13. However, I witnessed the slow speeds of traffic on the road both as a result of the steepness of the gradient and the relatively close proximity to the junction with Honor Oak Road to the east. At my accompanied site inspection, I also witnessed the build-up of schools-related traffic, but did not see anything which is untypical of areas in the vicinity of schools. Consequently, I do not consider that there is anything in relation to highway safety which would add to the justification for rejecting this appeal.

46. Residents also expressed concerns over the stability of the ground conditions and the possible effect on surrounding properties from the removal of the reservoir lid and providing new foundations for development through its base, given the record of structural damage experienced in the area [eg Photograph 3], particularly when major building works had been taking place. I saw the evidence of distorted means of enclosure, apparent reconstructions of elevations of nearby properties and cracks in the front, rear and particularly the west elevations of No 116 Canonbie Road. I have no reason to doubt that these problems are caused by movements in the underlying clay and water courses within it and PPG14 makes clear that the effect of ground instability is a material planning consideration.

47. However, the particular issue of whether No 116 is capable of being underplanned and repaired is not before me and both the Council and the appellants agreed that structural

(809) (808)

stability could be safely left to the Building Regulations stage under the London Building Acts, should permission be granted. I am not entirely convinced that this would be the most desirable approach given the evident concern of the District Building Surveyor over the changes in stresses which would exist if the 'lid' were to be removed from the reservoir and the advice in PPG14 that there could be circumstances in which refusal of permission could be justified rather than the imposition of conditions if there is insufficient evidence available on which to base a judgement that engineering solutions would remedy any perceived problems. Nevertheless, given the agreement of the principal parties to dealing with the issue by way of a condition, I accept that this matter should not be regarded as a determining factor.

48. I have considered all other matters raised at the inquiry or in written representations including the long-term structural integrity of the underground reservoir and the possibility that the brick vaults of the reservoir may be a place in which bats hibernate. I accept that without maintenance, at some future date issues could arise in relation to the safety of the reservoir structure, though it no longer contains water and no current evidence of any structural problems was apparent at the site inspection. The situation does, however, emphasise the need for agreement between the land-owner and the Council on a future for the site which will have regard to this matter as well as nature conservation and tree preservation issues. As for bats, I saw no indication of their presence nor was any actual evidence given on this matter as opposed to conjecture. Thus, while I agree that it would be desirable for a check to be undertaken to establish the facts in relation to possible bat occupation beyond doubt, I have not taken the possibility of the presence of bats into account in reaching my conclusions. Nevertheless, neither in these nor in any other matter do I find anything to outweigh the considerations which led me to my conclusions.

#### Overall Conclusions

49. I have found that there would be conflict with the policies in the development plan in relation to nature conservation and tree preservation and to a limited extent in relation to those for the protection of the amenities of adjoining occupiers. I have also found that although some support can be drawn from other policies in the adopted UDP and government guidance for increased housing provision in London and, in particular, for development which would help offset the projected shortfall in the supply of affordable housing in Lewisham, I do not regard these positive attributes of the development as outweighing the specific conflicts with the environmental policies of the UDP and the harm which would arise in relation to nature conservation and the setting of the adjoining listed building. Consequently, I consider that to reject this appeal would be determination in accordance with the provisions of the development plan and I do not consider that material considerations indicate otherwise.

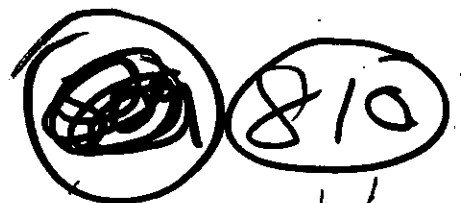
#### The formal decision

50. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal, and refuse outline planning permission for residential development comprising 36 flats, car parking and landscaping with vehicular and pedestrian access from Canonbie Road on land at 116 Canonbie Road and the former Thames Water reservoir, Honor Oak Road, London SE23.

Yours faithfully

*P. G. Robottom*

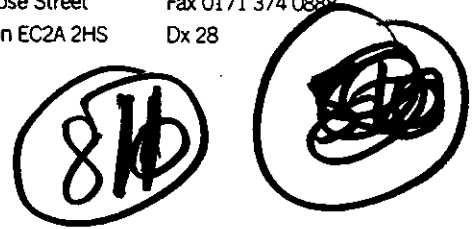
PETER G ROBOTTOM MA(OXON) DipTP MRTPI MIMgt  
Inspector



- Council didn't count this reservoir as 'open space'!
- The reservoir 'lid' in this case was covered with 300-500mm of soil, and rare grassland/habitat? A designated ANCI....
- Similar in that site has appearance of open space

# HERBERT SMITH

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The Planning Inspectorate  
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Your Ref APP/K5600/E/99/1016054  
APP/K5600/A/99/1016055  
APP/K5600/A/99/1022704  
Our Ref 2087/2449  
Date 3rd June 1999

Dear Sir,

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

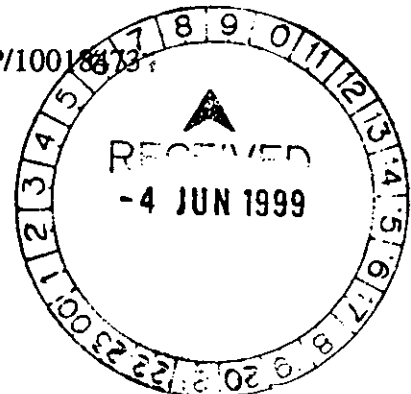
We have been instructed by a number of local residents in connection with their objection to the planning applications which are the subject of the above appeals, to be heard at an inquiry commencing on 20th July 1999.

We understand that a pre-inquiry meeting will be held at 2pm on Monday, 14th June at the Town Hall, Kensington. We confirm that both we and Counsel will be attending on behalf of the local residents and that Counsel will also be instructed to appear at the inquiry.

Should you have any queries, please contact Vanessa Allen of this firm.

Yours faithfully,

cc: The Royal Borough of Kensington & Chelsea – Ref: LP/10018813  
Mr M Sims, Land Director - St James Homes Limited  
Mr T Blaney - Messrs. Lawrence Graham



London Bangkok Brussels Hong Kong Paris Singapore

A list of the names of the partners and their professional qualifications is open to inspection at the above office. The partners are either solicitors or registered foreign lawyers.





# The Planning Inspectorate

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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/99/1016055

10 June 1999

Dear Madam

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

I am writing to tell you that the appeal reference number APP/K5600/A/99/1016055 has been withdrawn and we will be taking no further action on it.

Please note that appeals K5600/E/99/1016054 & K5600/A/99/1022704 have not been withdrawn and will proceed to the inquiry on 20 July as scheduled

Yours faithfully

*David Shorland*

Mr D Shorland  
208B

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14/06/99

Pre - Inquiry Meeting



Colin Thompson - Architect/Planner

813

Appeal A - "second" planning application  
Appeal B - CAC (0733)

Q Any changes to plans since March?  
(DT answered no - but basement car park will be before the P.I.)

Appellants + conservation architect  
Planning/architecture/daylight/sunlight  
landscape - witnesses for each of these (?)

Interested Parties

- Three witnesses ① Visual impact ② Amenity ③ Loss of privacy + daylight (all under Hereward Philpott)
- <sup>George</sup> ~~Anthony~~ Law - CHR Assoc. - wider range of issues than above
- Stephen Mason (Counsel) calling 1 witness from CH Lawn Tennis Club supporting the application
- Cdr. Christopher Buchmaster - speaking primarily for himself as a resident of the ward

• TO DO

## Requirements

- ✓ Disabled Access
- check Induction Loop
- Consultation Room for appellants
- Inspectors Retiring room
- Photocopying facilities
- Telephone
- Boards for display of plans
- Programme Officer? Contract Officer (confirm 24hrs)

~~814~~  
814

Tues - Thurs 10.00 - 17.00

Friday 9.30/14.30 closing 15 min lunch break

8 days should be Ok.....

### Main Issue

- Impact upon character + appearance of the CA area, and setting of the listed buildings

### Other matters of substance

- Impact upon residential amenity
- Safe + convenient use of the public highway
- provision of housing in the Borough, including affordable housing
- principle of public access to the site

Site Visit as first day(?)

815 ~~819~~

Inspector wishes to deal with main issue first  
Appellants want planning witness first  
followed by the specialist witnesses  
We prefer to take the two cases rather  
than a topics based inquiry

So, agreed, we have ① Appellants  
② Council ③ Interested Parties

Agreed / common matters

① Planning History — is none

• ② Traffic figures should be agreed

• ③ Principle of housing use?

[Statement of common ground?  
DT to liaise with Bob. Sellwood?]

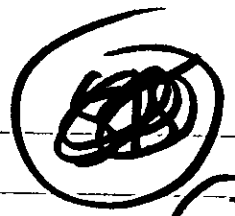
Proofs in 3 weeks before inquiry last  
deadline for Proofs / rebuttal statement  
29<sup>th</sup> June last day for submissions!

• ④ sunlight / daylight Model

⑤ trees / landscaping

⑥ Archaeology ⑦ Conditions?

## Contact Officer



816

- Library of all relevant documents/proofs
- Confirm dates/times procedures for any interested parties
- Photocopy as required
- Organise room(s), coffee, water etc

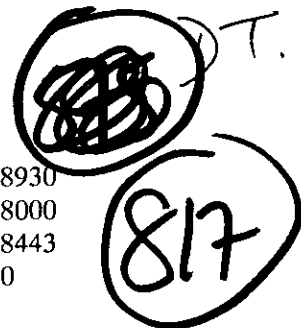


# The Planning Inspectorate

Room 1003  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ

Direct Line  
Switchboard  
Fax No  
GTN

0117-9878930  
0117-9878000  
0117-9878443  
1374-8930



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  
APP/K5600/E/99/1016054

17 June 1999

Dear Madam

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

I enclose copies of correspondence from 2 interested persons.

You need not reply to the correspondence, as any comments may be made at the inquiry.

Yours faithfully

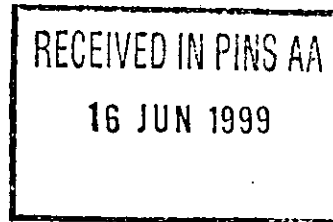
*David Shorland*

Mr D Shorland

211A

RECEIVED BY PLANNING SERVICES							
EX DIR	HDC	N	C	SW	SE	ENF	AO ACK
21 JUN 1999							
(hb)							
				JCS PRES			

11, Campden Hill Square  
London W8 7LB  
0171-727 3309



15<sup>th</sup> June, 1999

Dear Sirs,

Town & Country Planning Act, 1990 Notice of a Planning  
Appeal relating to: Former Thames Water Reservoir and Water  
Tower House, 97 Campden Hill Road, London W.8.

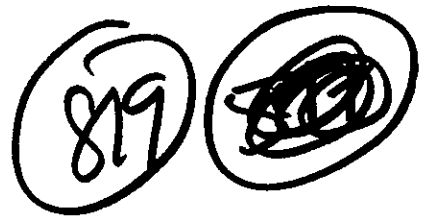
I write to reiterate my objections re. the above redevelopment and the damage to the environment that would be caused, totally altering the character of the comparatively peaceful surroundings, and particularly relating to traffic problems on already congested narrow streets.

Yours truly,

  
Leopold de Rothschild

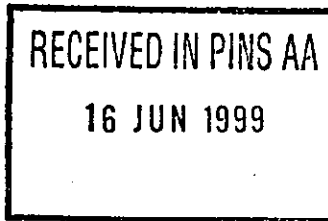
The Planning Inspectorate, (Room 1003),  
Tollgate House,  
Houlton Street,  
Bristol BS2 9DJ.

9 Bedford Gardens, London W8 7ED  
Tel 0171 727 8611 Fax 0171 727 8611  
e mail d.venables@mcr1.poptel.org.uk



June 15, 1999

The Inspector  
DETR  
Room 1003  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ



Dear Sir

Appeal Reference K5600/A/99/1022704

I understand that you will be hearing an appeal on July 20 from Thames Water/Berkeley Homes. This is against the Kensington and Chelsea Council's rejection of their scheme to build houses and flats on the Campden Hill reservoir site.

As a resident of Campden Hill Ward for twenty years I write to lodge an objection to the proposed redevelopment. The grounds on which I do so are:

1. It would bring an undesirable higher degree of density to what is a spacious urban area - the special character of this area of London. Everywhere we see developers taking advantage of areas such as this by acquiring un-built on land or sites not previously used for housing, filling them with houses and thus destroying the very character of the areas which they are selling.
2. Simultaneously, the development would remove valuable open space.
3. It would bring further traffic congestion to Campden Hill, and more pressure on parking.

I hope that you will reject the appeal and turn this proposed redevelopment down.

Yours sincerely

HUGH VENABLES



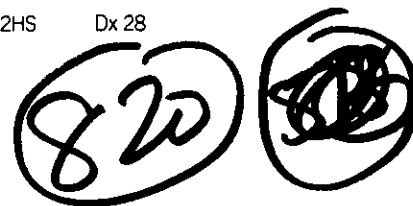
# HERBERT SMITH

Exchange House  
Primrose Street  
London EC2A 2HS

Telephone 0171 374 8000

Fax 0171 374 0888

Dx 28



Mr D Shoreland  
The Planning Inspectorate  
Room 1003  
Tollgate House  
Houlton Street  
Bristol  
BS2 9DJ

RECEIVED BY PLANNING SERVICES								EX	AO	
DIR	HDC	N	C	SW	SE	ENF	ACK	Cur	FE	
CS 22 JUN 1999							Date			
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				PLN	DES					

APP/K5600/A/99/1022704

APP/K5600/E/99/1016054

2087/2449/30798978

21st June 1999

Dear Mr Shoreland,

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

I refer to the Statement of Case which we submitted on 18th June on behalf of the local residents listed in Appendix 1.

I have since been informed that Mr and Mrs C Rowe wish their names to be removed from the list. Further, the reference to Dr and Mrs Perrott should in fact be to Dr B Perrott and Mr C Perrott (they are brothers).

For ease of reference, I enclose an amended confidential list of the names and addresses of the residents whom we are representing but, given that the substance of our Statement of Case remains unchanged, I do not propose to submit an amended version of this document.

Yours sincerely,

**VANESSA ALLEN**

cc: Mr T Blaney - Messrs. Lawrence Graham  
Mr D Taylor - Royal Borough of Kensington & Chelsea

Confidential

821

CAMPDEN HILL RESERVOIRS SITE - APPEAL BY ST JAMES HOMES LTD

NAMES AND ADDRESSES OF RESIDENTS REPRESENTED  
BY HERBERT SMITH AND MR HERWARD PHILLPOT

Sir Brian and Lady Neill	2	Aubrey Walk, W8
Ms M Evans	4	Aubrey Walk
Mr and Mrs P Stork	6	" " "
Mr and Mrs A Whyatt	8	" " "
Mr and Mrs P Mitchell	10	" " "
Mr and Mrs H Manisty	12	" " "
Mr and Mrs A Monnas	16	" " "
Mr P Brock	18	" " "
Mr and Mrs I Margaronis	26	" " "
Ms L Knopfler	34	" " "
Ms H Shute	42	" " "
Mr and Mrs R Whitehorn	44	" " "
Mr and Mrs S Orme	1	" " "
Mr B Restuccia	9	" " "
Mr P Cuniberti and Mrs A J Boen	12	" " "
Ms M Jebesen	15	" " "
Mr S Ahearne	20	" " "
Mr J G Ayers	3	Bedford Gardens, W8
Mr and Mrs T O'Rorke	38	" " "
Mrs S Bennett	39	" " "
Mr G Stevens	50	" " "
Mrs A Sever-Kretzmer	81	" " "
Mrs Scott	1	Campden Hill Square, W8
Mr and Mrs C Tack	3	" " " "
Mr and Mrs A Collins	4	" " " "
Mr and Mrs M Cunningham-Reid	7	" " " "
Mr and Mrs S Bakhshi	8	" " " "
Mr and Mrs R Carlson	9	" " " "
Dr and Mrs P Diggory	10	" " " "
Mr L de Rothschild	11	" " " "
Mr and Mrs H Tillman	12	" " " "
Lord Mark Fitzallan Howard	13	" " " "
Mr and Mrs P Hickman	14	" " " "
Mr and Mrs H Watson	15	" " " "
Sir Alastair and Lady Grant	16	" " " "
Mr G Thomas	17	" " " "
Mr Jose Maria Cano	18	" " " "
Mr and Mrs M Colclough	19	" " " "
Mr and Mrs M Hoffman	21	" " " "

822 (circled) (circled)

Mr C Wilson	23	" " " "
Mr and Mrs Pappadakis	24	" " " "
Mr and Mrs N Lykiardopulo	42	" " " "
Mr and Mrs B England	43	" " " "
Mr and Mrs I van Waesberghe	44	" " " "
Mr and Mrs J Leaver	45	" " " "
Mr and Mrs N Garthwaite	46	" " " "
Mr and Mrs A Willis	47	" " " "
Sir JCB Riddell	49	" " " "
Mr and Mrs K Meller	50	" " " "
Mr and Mrs H Harrod	51	" " " "
Mr H Pinter	52	" " " "
Mr and Mrs Smith	53	" " " "
Mr and Mrs M Lemos	1	Campden Hill Place, W11
Mr and Mrs W Otten	26	" " " "
Mr and Mrs J Johansson	29	" " " "
Mr and Mrs M Beloff	41	" " " "
Dr B Perrott and Mr C Perrott	Flat 4, 18	Campden Hill Gardens, W8
Mr and Mrs Rawes	81	Campden Hill Road, W8
Mr and Mrs J Singer	1	Hillsleigh Road, W8
Ms C Festing	3	" " "
Mr and Mrs B Munro	Hill Lodge, 14	" " "
Mr and Mrs Shah	16	" " "
Mr M C Johnson	19	" " "
Mr and Mrs D Sola	20	" " "
Mr C Moore	27	" " "
Mrs J Whitby	50	Peel Street, W8
Mr H Whitmore and Ms R McCullough	67	Peel Street, W8
Mrs P J Pearce	29	Kensington Place, W8
Mr G Gluck	2	Kensington Heights
Mrs M Marx	23	" "
Mr C Scott	36	" "
Mr W Spears	40	" "
Dame Anne Mueller	46	" "
Mrs R Dobie	51	" "
Mr J Goldhill	85	" "
Mrs P J Pearce	29	Kensington Place
Ms J Mulford		