include an allowance for visitor parking based on 0.1 spaces per dwelling and 10% disabled spaces.

3.3.3 The full car parking requirement for the current scheme is calculated as follows:

19 houses at 2 per dwelling	38 spaces
48 flats at 1 per dwelling	48 spaces
Visitor parking at 0.1 per dwelling	7 spaces
Total	93 spaces

A reduced number of parking spaces is permissible for affordable housing based on a ratio of 0.66 spaces per dwelling. Applying this to the 17 affordable units reduces the overall parking requirement by 5 spaces to a total of 88 spaces.

3.3.4 Parking layouts showing both 88 spaces and 93 spaces have been prepared by Broadway Malyan (their drawing Nos 110A and 100B respectively). It has been agreed with the Council that either layout would meet their parking standards. However only drawing 110A is formally part of the application.

3.4 TRAFFIC GENERATION AND DISTRIBUTION

3.4.1 For the purposes of preparing the TIA, trip generation by the proposed development was estimated using trip rates from the TRICS database. More details are given in Section 5.4 and Appendix A of the Traffic Impact Assessment, and predicted peak hour traffic is set out below:

	08.00 - 09.00			17.00 - 18.00		
	Arr	**Dep**	**Total**	**Arr**	**Dep**	**Total**
48 Flats	4	13	16	11	8	19
19 Houses	2	4	6	5	5	10
Total	6	16	22	16	13	29

The figures have been updated to reflect 5 extra flats included in the development since the Traffic Impact Assessment was prepared. It is expected that an Agreed Statement will be submitted on this issue.

3.4.2 Since the preparation of the TIA, discussions have been held with RBKC to identify other recent residential developments, similar in character to the appeal proposals, such that the TRICS trip rates could be calibrated. Peak hour traffic surveys were undertaken at the St Marys Gate site in Marloes Road and the Brompton Park Crescent development in Seagrave Road on 27 April 1999. The results were presented in TPK's letter to RBKC dated 1 June 1999 (copy in Appendix G) and demonstrate that trip generation is likely to be much lower than predicted in the TIA.

3.4.3 Based on the St Marys Gate trip rates, the appeal proposals would be expected to generate 9 vph AM and 8 vph PM, around one-third of the TIA forecasts of 22 vph AM and 29 vph PM. Trip rates from the Brompton park Crescent site were even lower. It is therefore clear that the TRICS rates used in the TIA represent a worst case assessment. It can be seen by reference to the plan in Appendix H that both of these sites have similar levels of public transport accessibility to the appeal site. It is therefore reasonable to assume that residents car use on the appeal site will be similar.

3.4.4 Details of trip distribution are given in Section 5.5 of the Traffic Impact Assessment. Site-generated traffic flows, based on worst case TRICS trip rates are shown on Figure 5. The total turning movements with existing and site-generated traffic are shown in Figure 6.

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3.5 TENNIS CLUB

3.5.1 The total number of tennis courts will be unchanged following development, therefore no net change in peak traffic is envisaged. It is noted that existing tennis club traffic is already present on the road network and is therefore included within the traffic counts shown on Figure 2. It is also noted that the traffic associated with the tennis club will not enter the proposed development.

3.5.2 The LRC survey at the tennis club shows that in May the usage of the club resulted in an average of 10 vph at weekends and around 7 vph on weekdays. In order to estimate the maximum amount of traffic that might be generated by the club I have assumed that all the courts are in use for doubles matches with a further 80 people waiting to play or using the clubhouse. This gives a maximum of 132 people on site. Using the results of the survey (reproduced in Appendix A) I have calculated that the club was operating at around 43% of its theoretical capacity on Wednesday 12 May and 57% on Saturday 8 May. By applying these factors to the maximum number of cars generated by the club on the days of the surveys I have calculated that the theoretical maximum generation from the site could be 25vph on weekdays and 35vph on weekends.

weather? day + eve.?

3.5.3 Further information on tennis club usage is contained in TPK's letter to RBKC dated 14 June 1999 (copy in Appendix G), and Campden Hill Lawn Tennis Club's letter to RBKC dated 23 April 1999 (copy in Appendix F).

3.5.4 It should be noted that the traffic flows associated with the tennis club will be spread around the surrounding road network and therefore the number of vehicles using Aubrey Walk or other roads will be significantly less than the total figure.

Met office 242 3663

3.5.5 There are four existing floodlit courts which are used throughout the year. This means that the club generates some traffic in the evenings throughout the year. The new club will retain four floodlit courts to enable members to continue playing outside in the evenings. It follows that traffic associated with these courts will remain the same. Additionally I am advised by the tennis club that currently the only time the tennis club is empty and courts not used is during periods of exceptionally bad weather or when the courts are frozen. In practice this is limited to a few days in the year. Therefore the main effect of any additional traffic associated with the appeal proposals will be associated with the indoor courts but limited to the hours of darkness in the evenings or when the outdoor courts would not normally be available due to bad weather.

3.5.6 I have therefore estimated the likely traffic generation for the indoor courts based upon the LRC surveys. As the indoor playing capacity is half that of the existing number of courts, it follows that the average traffic generation will be half of the existing given in paragraph 3.5.2 above, i.e. 5 vph at weekends and 4 vph on weekdays. Similarly, the maximum traffic generation will be half of the existing at 18 vph at weekends and 13 vph on weekdays.

3.5.7 It should also be noted that the club has advised that summer usage is likely to decline as their members prefer playing outdoors and with the appeal proposals fewer outdoor courts will be available.

4.0 TRANSPORT EFFECTS OF DEVELOPMENT

4.1 TRAFFIC

4.1.1 A comparison of the difference in traffic between existing, existing plus potential and proposed uses, excluding the tennis courts, of the site is shown below:

	08.00 - 09.00			17.00 - 18.00		
	Arr	**Dep**	**Total**	**Arr**	**Dep**	**Total**
(i) Existing flats	1	4	5	3	2	5
(ii) Existing flats plus office and depot floorspace	18	6	24	4	17	21
(iii) Proposed (excl tennis courts)	6	16	22	16	13	29
(iii) - (i)	+5	+12	+17	+13	+11	+24
(iii) - (ii)	-12	+10	-2	+12	-4	+8

4.1.2 The above table excludes tennis club traffic which is already present on the road network. Traffic associated with the tennis club is unlikely to change over most of the year. I comment further on the days when there will be a change in Section 4.4 of my proof.

4.1.3 The table above shows that even using "worse case" trip generation rates and ignoring the potential re-use of existing office and industrial floorspace, the maximum hourly increase in traffic flows is 24 vehicles. This represents an average of one vehicle every 2-3 minutes. The impact of this small increase in traffic flow will be negligible. If the peak hour trip rate of 0.13 per dwelling from the St Mary's Gate survey is applied to the 15 existing flats and the 67 proposed dwellings, the net traffic increase becomes 7 vehicles and is even less significant in terms of the adverse impact that might be caused.

4.2 JUNCTION ASSESSMENTS

4.2.1 The TIA submitted with the planning applications contains details of capacity analyses for the Campden Hill Road/Notting Hill Gate and Campden Hill Road/Aubrey Walk/Kensington Place junctions. Whilst no concerns have been raised in respect of junction capacity I have, for completeness, updated the capacity analyses to take account of the five additional flats which are now proposed. Updated summary tables for the revised junction assessments are included in Appendix E. The conclusions of the original junction assessments are unchanged in that the impact of site-generated traffic is not material.

4.3 PARKING

4.3.1 As explained in Section 3.3, parking for the proposed residential development is to be provided in accordance with the standards in RBKC's Unitary Development Plan. As adequate off-street parking will be provided for new residents and their visitors, there will be no additional demand for on-street parking.

4.3.2 Section 3.3 also explains that, although three on-street parking spaces will need to be relocated to make way for the new access, there will be no change in the total number of on-street spaces.

4.3.3 I understand that parking for the tennis club is of concern to local residents. No parking is provided at the club, and all members and guests who travel by car need to park in the surrounding streets. This will remain the case following development. A letter dated 23 April 1999 from the Chairman of Campden Hill Lawn Tennis Club is included as Appendix F to this proof. This explains that members are asked not to park in Aubrey Walk.

4.3.4 As referred to in paragraph 2.4.8, the parking beat surveys (Appendix B) show there is spare parking capacity on surrounding streets for both resident permit holders and non-permit holders. Whilst there is greatest pressure on Aubrey Road and Hillsleigh Road, there is ample spare capacity in Campden Hill Road and Campden Hill Square.

4.3.5 Following development, 6 of the 12 outdoor tennis courts will be replaced by indoor courts. There will be no increase in the total number of courts. At worst, there will be no change in the peak summer demand for parking. Indeed, as the Club Chairman suggests in his letter, in summer there may be less use of the club than at present. However, six indoor courts will attract more players in poor weather. Nonetheless, parking demand due to indoor courts in poor weather is unlikely to be more than 50% of the current peak summer demand. As a proportion of the parked cars recorded in the summer parking beat survey are associated with the tennis club, it follows that parking availability will be greater in the winter.

4.4 AMENITY

4.4.1 Reason for Refusal No 5, quoted in paragraph 1.2.4 of this proof, is based on the argument that the development would result in a significant reduction in the levels of amenity presently enjoyed by those who reside near the site. This point is expanded upon in paragraphs 4.99 to 4.102 of the Officer's report to the Planning Services Committee on 8 June 1999. The provision of six indoor courts will even out the peaks and troughs in activity. This alteration in the existing balance is considered by the Council to be to the detriment of local residential amenity.

4.4.2 It is not possible to measure precisely the impact of traffic on residential amenity. However guidance on the environmental impact of traffic is set out in the document 'Guidelines for the Environmental Assessment of Road Traffic' published by the Institute of Environmental Assessment, in an attempt to bring some element of objectivity to a subjective area. Paragraph 3.15 of this document provides advice on the area to be covered by an assessment. Two rules are provided which I set out below:

> **"Rule 1: Include highway links where traffic flows will increase by more than 30% (or the number of heavy goods vehicles will increase by more than 30%)."**
>
> **"Rule 2: Include any other specifically sensitive areas where traffic flows have increased by 10% or more."**

4.4.3 As the site is in a conservation area it could be argued that Rule 2 should apply.

4.4.4 Paragraph 3.16 of the guidelines goes on to say:

> **"Traffic forecasting is not an exact science and the accuracy of projections is open to debate. It is generally accepted that accuracies greater than 10% are not achievable. It should also be noted that the day to day variation of traffic on the road is frequently at least some plus or minus 10%. At a basic level it should therefore be assumed that the projected changes in traffic of less than 10% create no discernible environmental impact. (My underlining) The cumulative effect of a number of developments attracting less than 10% of additional traffic may need to be assessed at a broader strategic policy level."**

4.4.5 The effects of the appeal proposals will not in my view give rise to a net increase in traffic flows of more than 10% on any parts of the network in the vicinity of the site. In light of the advice contained in the IEA guidelines I do not believe it is necessary for an Environmental Assessment of Road Traffic to

be carried out on any parts of the adjacent road network. This was also the view of the Borough as expressed in paragraph 4.124 of the committee report. The relevant extract states:

> **"....the proposals are not considered to present any significant environmental implications and an EIA is not considered to be necessary here".**

4.4.6 I acknowledge that concern has been raised about the potential impact of traffic from the tennis club on the days of the year when members will be taking advantage of the indoor courts where currently they would not be able to play.

4.4.7 I set out in paragraph 3.5.6 above that the theoretical maximum number of cars that might be generated by the tennis club under these circumstances is 18 vph. However, not all of all of this traffic would use Aubrey Walk as members are told that they cannot park in Aubrey Walk and are therefore likely to search for parking spaces away from the site. I have, nonetheless, looked at traffic count data for Aubrey Walk and compared this with the peak arrival and departure times of the tennis club. From this analysis I conclude that the appeal proposals would not breach the 10% threshold set out in the guidelines.

4.4.8 Nonetheless, I have gone on to consider what the consequences might be if I am wrong on this point. There are two impacts identified in the IEA guidelines that might be relevant. They are: "Pedestrian Amenity" and "Impacts on Heritage and Conservation Areas".

4.4.9 Pedestrian amenity is covered at paragraph 4.39 where it states:

> **"The term pedestrian amenity is included in the MEA. It is broadly defined as the relative pleasantness of a journey and is considered to be affected by traffic flow, traffic composition and pavement width/separation from traffic. This definition also includes pedestrian fear and intimidation and can be considered to be a much broader category including consideration of the exposure to noise and air pollution and the overall relationship between pedestrians and traffic. The MEA suggests that a tentative threshold for judging the significance of changes in pedestrian amenity would be where the traffic flow (or its lorry component) is halved or doubled."**

4.4.10 There are no circumstances where traffic associated with the tennis club could reach this threshold.

4.4.11 Paragraph 4.59 of the guidelines sets out issues to be considered in heritage and conservation areas. It states:

> **"The assessment of the full set of impacts described in the preceding paragraphs will need to draw particular attention to any areas of conservation and heritage value (including both the man-made and natural environment which might the affected.) This may require the assessment to be more detailed in the vicinity of such areas. Particular importance should be given to any noise intrusion on both the settings and the feature of any area and any increase in severance between the main area and its setting with particular concern for pedestrian movement.**

4.4.12 It is generally accepted for there to be an adverse environmental impact associated with traffic noise there has to be a doubling in the amount of traffic. There are no circumstances of traffic associated with the tennis club that could lead to a doubling in traffic flows along Aubrey Walk or elsewhere in the conservation area.

4.4.13 In view of the above I conclude that by any normally accepted criteria there will be no reduction in the amenity to residents who reside near the site and accordingly I do not believe Reason for Refusal No 5 is justified.

5.0 NEGOTIATIONS WITH THE HIGHWAY AUTHORITY

5.1 Following the submission of the original planning applications (and TIA) in November 1998, a series of discussions and meetings were held with highways officers of RBKC. These discussions resulted in some small revisions to the traffic study using different trip distribution assumptions and updated base traffic flows. The 16 March 1999 TIA takes account of these revised assessments.

5.2 Meetings were held on 19 January and 23 February 1999 to discuss on-site design issues and off-site transport impact. Meeting Notes are contained in Appendix G.

5.3 As a result of further discussions with RBKC, additional surveys were undertaken in April 1999. These included surveys at the St Mary's Gate development in Marloes Road and the Brompton Park site in Seagrave Road to verify residential trip rates, plus another count at the Aubrey Walk/Campden Hill Road junction. The results are set out in a letter to RBKC dated 1 June 1999 (Appendix G).

5.4 As a result of these meetings and discussions, there are no outstanding concerns regarding the Transport Impact Assessment. This is confirmed by paragraphs 4.93 to 4.99 of the Officer's report to the Planning Services Committee on 8 June 1999.

6.0 CONCLUSION

6.1 The proposed development will result in a small net increase in traffic flows compared with the existing use of the site. It is agreed with the highway authority that the additional trips associated with the proposed development would not be significant and would not justify a reason for refusal of planning permission.

6.2 I have demonstrated in my evidence that based on normally accepted criteria for assessing the environmental impact of traffic, residential amenity on roads adjacent to the site will not be significantly reduced. I therefore conclude that Reason for Refusal No.5 is not justified and there are no traffic related reasons why these appeals should not be allowed.

Tucker Parry Knowles Partnership
Transportation & Infrastructure Consultants

THE REDEVELOPMENT OF WATER TOWER HOUSE AND THE FORMER CAMPDEN HILL RESERVOIR SITE

SUMMARY PROOF OF EVIDENCE OF P T PARRY MSc CEng MICE MCIT

THE REDEVELOPMENT OF WATER TOWER HOUSE
AND THE FORMER CAMPDEN HILL RESERVOIR SITE
SUMMARY PROOF OF EVIDENCE OF PHILIP T PARRY MSc CEng MICE MCIT

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1.0 INTRODUCTION

1.1 This evidence examines the transport aspects of the proposed redevelopment of Water Tower House and the former Campden Hill Reservoir site in Campden Hill Road, West London. The proposals for the appeal site comprise the removal of existing site uses including 15 apartments, 702 sqm office floorspace, 625 sqm industrial floorspace plus 12 outdoor tennis courts and their replacement with 19 new houses, 48 new apartments and 12 new tennis courts (6 indoor and 6 outdoor).

1.2 Although appeals were lodged on the grounds of non-determination the Council has subsequently resolved, at it's Planning Services Committee on 8 June 99, that it would have refused planning permissions for seven reasons. Reason for refusal No.5 relates to the effects of vehicular and pedestrian activity on the amenity of local residents.

1.3 Paragraph 4.99 of the Officers Committee report clarifies that there is no technical objection relating to traffic capacity but goes on to argue that alterations to the patterns of traffic activity would be detrimental to the amenity of local residents.

2.0 EXISTING TRANSPORT CONDITIONS

2.1 The site is located in Aubrey Walk to the west of Campden Hill Road. Parking and waiting restrictions apply on all roads in the vicinity of the site. The majority of on-street parking space is dedicated to resident permit holders although a number of public parking meters are also provided.

2.2 Currently there are two existing vehicular access roads servicing the site from Aubrey Walk with a third vehicular access serving a small gated parking area.

2.3 Existing weekday peak hour traffic volumes on Aubrey Walk vary but are typically in the region of 130 to 160 vehicles per hour. Peak hour flows on Campden Hill Road vary from 700 to 860 vehicles per hour.

2.4 The site is located within 500m and 700m of Holland Park and Notting Hill Gate tube stations respectively. The latter forms an interchange between District, Circle and Central lines and is also served by Seven bus services.

2.5 Footways are provided along both sides of all roads in the vicinity of the site. There is a zebra crossing on Campden Hill Road adjacent to it's junction with Airlie Gardens and pedestrians are able to cross Notting Hill Gate at the junction of Campden Hill Road within the protection of the traffic signals.

2.6 Existing cycle routes are provided along Holland Walk to the west of the site and along Holland Park Avenue/Notting Hill Gate to the north. Further cycle routes are proposed along Kensington Church Street and Kensington High Street.

2.7 Accident statistics for the area show a broad scatter of mainly slight accidents with no particular patterns or concentrations of accidents. The frequency, distribution and severity of accidents is typical of an urban road network and indicates there are no abnormal safety risks.

2.8 The site contains existing office and industrial floorspace which is not currently in full use but has the potential to operate on a more intensive basis without the need for planning permission. Together with the tennis club and

the 15 existing flats in Water Tower House and Aubrey Walk, these existing site uses could generate 24 to 30 vehicle movements per hour in the AM and PM peak periods respectively.

3.0 DEVELOPMENT PROPOSALS

3.1 Access to the development is proposed from Aubrey Walk via a new T junction approximately 15m west of Campden Hill Gardens. All existing vehicular accesses will be permanently closed. Off-street parking for residents and visitors will be provided in accordance with RBKC adopted parking standards.

3.2 Using the vehicle trip generation rates set out in the TIA, the proposed residential development is estimated to produce 22 to 29 vehicle movements per hour during AM and PM peak periods respectively. However these are worst case forecasts using very robust trip rates. Surveys carried out at other developments containing similar housing types with similar public transport accessibility show that the actual traffic generation from the site is likely to be substantially lower, approximately 8-9 vehicle movements per hour in peak periods.

3.3 Recent surveys of the tennis club commissioned by RBKC and undertaken by the London Research Centre show that the club currently generates an average of around 10vph at weekends and 7vph on weekdays. The theoretical maximum traffic activity associated with the 12 tennis courts is calculated as 35vph at weekends and 25vph on weekdays; this allows for up to 132 people using the club at any one time with 52 playing and 80 more waiting or using the club house. These traffic movements are distributed around the road

network and therefore the number of vehicles using Aubrey Walk or other roads will be less than the total figure.

3.4 The maximum playing capacity of the club will be unchanged and therefore no overall increase in tennis related traffic is envisaged. In fact the club operators anticipate a reduction in usage in fine weather due to the preference of members to play outdoors. The 6 proposed indoor courts are estimated to generate an average of 5vph at weekends and 4vph on weekdays with a theoretical maximum traffic generation at 18 vph at weekends and 13vph on weekdays.

4.0 TRANSPORT EFFECTS OF DEVELOPMENT

4.1 Using the worst case traffic generation rates from the TIA, the residential element of the development is estimated to result in a net increase of 17vph to 24vph in the AM and PM hours respectively. This represents an average of one vehicle every 2-3 minutes and ignores the effects of any possible re-use of the existing office and industrial floorspace. Using the more probable trip rates based upon the St Mary's Gate site, the net increase in residential traffic is likely to be 7vph in peak hours.

4.2 There will be little change in tennis related traffic activity as the maximum playing capacity of club is unchanged. Furthermore, the availability of 4 floodlit courts is to be maintained in the new club. Year round outdoor play will therefore continue, as at present, except when weather conditions are too bad to enable play to continue, i.e. in freezing conditions or strong winds. The greatest change in traffic activity will therefore be associated with the indoor tennis courts but limited to the hours of darkness in the evenings or when the outdoor courts would not be available due to bad weather. At such times the

average traffic increase would be 5 vehicle movements per hour up to a theoretical maximum of 18vph at weekends. Lower flows are forecast on weekdays. These additional vehicle movements will be distributed around the surrounding road network.

4.3 Parking for the tennis club will remain unchanged. There is no club car park and members who travel by car have to park on surround streets. Parking surveys show that there is spare parking capacity for both resident permit holders and non-permit holders. Although parking pressure is greatest on Aubrey Walk and Hillsleigh Road, there is adequate spare capacity in Campden Hill Road and Campden Hill Square.

4.4 Whilst it is not possible to measure directly the impact of traffic on residential amenity, guidance on the environmental impact of traffic is contained in the document "Guidelines for the Environmental Impact of Road Traffic" published by the Institute of Environmental Assessment. This document provides guidance on the assessment of pedestrian amenity and indicates that the threshold for judging the significance of change is a doubling or halving of traffic flow (or its lorry component). There are no circumstances where traffic associated with the proposed development could reach this threshold.

4.5 The IEA guidelines also advise that when assessing the impact of traffic on heritage and conservation areas consideration should be given to noise intrusion. It is generally accepted that for there to be an adverse environmental impact associated with traffic noise there has to be doubling of traffic flow. Again there are no circumstances where the proposed development could lead to a doubling of traffic flow on Aubrey Walk or any other road in the conservation area.

5.0 NEGOTIATIONS WITH THE HIGHWAY AUTHORITY

5.1 A series of discussions have been held with highway officers since the submission of the original planning applications in November 1998. As a result of these discussions a number of small revisions to the traffic study have been undertaken an a position has been reached where there are no outstanding concerns in relation to technical highways matters. It is only the planning officers concerns on residential amenity that remain. It is anticipated that an agreed statement relating to existing and future traffic flows will be submitted prior to the inquiry.

6.0 CONCLUSIONS

6.1 The proposed development will result in a small net increase in traffic flows compared with the existing use of the site. It is agreed with the highway authority that the additional trips associated with the proposed development would not be significant and would not justify a reason for refusal of planning permission.

6.2 I have demonstrated in my evidence that based on normally accepted criteria for assessing the environmental impact of traffic, residential amenity on roads adjacent to the site will not be materially reduced. I therefore conclude that Reason for Refusal No.5 is not justified and there are no traffic related reasons why these appeals should not be allowed.

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SP Sellwood Planning

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

Planning Policy Report

on behalf of

St James Homes Limited

March 1999

CONTENTS

1. INTRODUCTION

1.1 This planning policy statement is submitted on behalf of St James Homes Ltd. Its objective is to provide a planning policy context against which the current redevelopment proposals for the Thames Water land holdings at Campden Hill Road and Aubrey Walk can be assessed. Transportation issues are dealt with in the separate TIA prepared by TPK.

1.2 Although many of the people who submit representations in respect of the St James Homes applications will have an essentially local perspective on the scheme, it is also necessary to consider how the proposals reflect national policy issues such as promoting sustainable development and the desirability of maximising the housing potential of urban land.

1.3 In order to address these factors, this report is subdivided into five sections. Section 2 deals with national and regional guidance in the PPG's and RPG's which are of relevance to this site. This is followed in Section 3 by an analysis of the development plan context provided by the Kensington & Chelsea UDP. In recognition of the conservation importance of this local area, Section 4 evaluates the Conservation Area Statement for the Kensington Conservation Area. Finally, the conclusions of this policy analysis are drawn together in Section 5.

2. NATIONAL POLICY

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

(a) to provide for the needs of development

(b) use already developed areas in the most efficient way whilst making them more attractive places to live and work.

(c) to protect and conserve cultural and natural resources

(d) adopt development patters which minimise the need to travel.

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

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

(a) To encourage a pattern of land use and transport which minimises harm to the environment and reduces the need to travel

(b) To promote urban regeneration, particularly in areas requiring physical improvement

(c) To maximise housing provision consistent with maintaining environmental quality

(d) To maintain and improve the urban environment.

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

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

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

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

3. THE KENSINGTON & CHELSEA UDP

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

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

(a) To give priority to the protection and enhancement of residential character and amenity (STRAT 1)

(b) To see an increase in residential accommodation and encourage residential development on appropriate sites (STRAT 2)

(c) To support economic growth and change (STRAT 3)

(d) To seek an efficient and environmentally acceptable transport system in the Borough (STRAT 4).

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

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

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

(a) a satisfactory residential environment cannot be reasonably achieved; or

(b) the land is needed for social or community use or

(c) the site is required to replace existing commercial floor space.

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

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

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

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

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

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

(a) nature conservation (CD77 and CD80)

(b) archaeology (CD81 to CD84)

(c) loss of formal open space used for sports and recreation (LR1)

(d) loss of open space (CD21)

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

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

Archaeological Services. They have advised that at the time of construction of the reservoir, foundations were dug to a depth of 6 metres. This would have destroyed any archaeological deposits. Similarly, the construction of Water Tower House in the late 1960's would have had the same result. The separate archaeological report addresses this issue in more detail.

3.12 Since the roof of the covered reservoir has for many years been used by the Campden Hill Lawn Tennis Club, the loss of this facility or a reduction in its size would be directly in conflict with Policy LR1 which seeks to resist the loss of playing fields and other recreational provision.

3.13 St James Homes recognise that the Campden Hill Lawn Tennis Club is an important and well used local facility. In view of this, extensive discussions have taken place between the Club and Thames Water about ways of retaining the club and upgrading its facilities whilst also achieving the redevelopment of part of the site. The result of these discussions is a scheme which retains the same number of courts (12). Six courts of club standard will be provided at the lower level in the western part of the former reservoir. These will be enclosed and will provide a facility which can be used throughout the year and in the evenings. On the upper level six new championship size courts will be provided. Of these, four will be floodlit and will replace the existing floodlit courts. In addition, a practice court will be constructed at the rear of the site. These arrangements are fully supported by the Club which has recently signed an agreement for a new lease, which is conditional on the grant of planning permission. This will secure the continued presence of the Tennis Club on this site well into the next century.

3.14 The conclusion to be drawn from the above is that the current proposal cannot be regarded as being in conflict with Policy LR1 since the overall quantity of on site recreational provision is maintained and its quality is enhanced. Furthermore, the new agreement for lease with the Tennis Club ensures the long term presence of the facility, which is greatly valued by the local community.

3.15 Policy CD21 is a wider policy than LR1 since it seeks to restrict the loss of private or public open space which is capable of making a contribution to an area's character. Whilst it cannot be doubted that much of the reservoir site appears to be an "open space" in the urban area, this ignores a number of particular characteristics which significantly reduce its value as open space. The first point is that the area is not an "open space" in any natural sense. What is seen is the roof of a partially submerged reservoir which is a massive brick structure. This is covered with an artificial surface and used as tennis courts.

3.16 As previously explained, the reservoir is also only partially below ground level, with the remainder forming a large embanked structure. This means that from surrounding public vantage points the view is not across an open space but of an embankment. This significantly reduces the perception of the site as an open space. For these reasons it would be more correct to regard this site as being almost wholly developed with the largest structure being an elevated reservoir with a large flat roof. The fact that it is used for tennis is little more than an accident of history.

3.17 In addition to retaining the western part of the site as six open tennis courts, the submitted scheme also creates areas of open space within the development.

3.18 Drawing together the aspects of this proposal which impact on the natural environment, it is clear that the massive form of the covered reservoir has led to the site having no recorded nature conservation importance or archaeological value. Similarly, it would be wrong to see the roof of a brick reservoir as an open space in any natural sense. The local importance of this site is largely limited to its use by the tennis club. This is recognised by St James Homes and the redevelopment proposals will succeed in maintaining the same number of courts whilst improving the quality of the facility. It is because of this that the proposals are supported by the Campden Hill Lawn Tennis Club.

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

Residential Design Standards

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

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

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

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

3.23 Policies H18 and H19 also strive to achieve a mix of unit sizes on larger developments. In the case of the submitted scheme, the development will range from small two bedroom flats (3hr) to substantial five bedroom houses (11 habitable rooms).

3.24 The Borough Council adopted an Interim Policy relating to affordable housing on the 11th January 1999. This lays out a sequential or cascade approach to the provision of affordable housing whereby the first preference of the Council is for on site provision. The second and third preferences are for (respectively) the provision of off site units and the payment of a commuted sum. Following discussions with officers, St James Homes are committed to entering into a S106 agreement which reflects this new approach in full.

3.25 The UDP design standards do not put forward rigid standards for sunlight and daylight, instead each case will be assessed on its merits. St James Homes have asked McBaines Cooper to consider the impact of the submitted scheme in terms of daylight, sunlight and rights of light. It is their advice that there are no actionable infringements of right of lights and the general impact on sunlight and daylight is within acceptable limits of amenity.

3.26 The scheme will utilise the base level of the covered reservoir to provide underground car parking. Spaces will be provided for all dwellings at the standard outlined in Table 5.1 of the UDP. The use of basement parking is both an efficient

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

4 KENSINGTON CONSERVATION AREA PROPOSALS STATEMENT

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

4.2 The overall character of the Conservation Area is defined in the Statement as follows;

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

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

4.4 The relationship between the land holdings of the various water companies and the rest of the area has continued to evolve over the last one hundred and ninety years. For example, as early as 1878, Airlie Gardens was built on surplus Water Company land. The first reservoir was constructed in 1845 on land now occupied by Water Tower House and Kensington Heights. This was followed later in the 19th Century by the reservoirs which still exist on the site. The earlier reservoir became surplus some years ago, thus allowing the erection of Water Tower House and Kensington Heights in the late 1960's and 1970's. It is clear, therefore, that as the functional land requirements of the various Water Companies have shrunk over the last hundred years, the surplus land has been redeveloped for housing, in accordance with the primary land use character of the area.

4.5 Turning to the detailed issues arising from the Conservation Area Statement which apply to this site, the following points are of relevance;

(a) **Water Tower House** is variously identified as 'a dreadful building in all townscape respects' (p31) and 'Water Tower House must regretfully be described as the Area's least appealing building' (p31). Given these unambiguous comments, it is hardly surprising that paragraph B3 (p46) encourages the redevelopment of the site 'with premises more responsive to the prominence of the site and better related to the character of the Area'.

(b) **Paragraph C7 (p50)** identified certain parts of Aubrey Walk as having 'never been properly considered in design terms'. In particular, the land owned by Thames Water next to 7 Aubrey Walk is highlighted as being 'featureless, but remains a prominent element in an otherwise attractive street'. It is noted that improvements to enhance the sense of enclosure along Aubrey Walk would be welcome.

(c) **Paragraph E3/E4 (p51)** highlight the problems with the Thames Water frontages on both Campden Hill Road and Aubrey Walk. It is recommended

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

4.6 The Conservation Area Statement makes no reference to the townscape role or importance of the other buildings and structures on the application site. However, English Heritage has examined the application site. In their letter to Jeffrey George Associates dated the 25th February 1998 (see Appendix 4 of Archaeological Report), English Heritage has confirmed that, following consideration, listing has been rejected as an option.

4.7 If all the above conservation points are brought together in the context of the submitted application, the following conclusions can be drawn;

(a) The redevelopment of this Thames Water site for housing is the continuation of a process which began over 100 years ago whereby Water Company land holdings are limited to that necessary to meet functional needs.

(b) Water Tower House will be demolished and replaced by an appropriately designed building on this prominent site.

(c) The frontages to both Campden Hill and Aubrey Walk will be designed in a coordinated and comprehensive manner.

(d) The new buildings will create both an improved sense of enclosure plus a carefully designed new vista from Aubrey Walk southwards into the new square (see the Design Statement for a full description of the scheme).

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

5 CONCLUSIONS

5.1 It is not often that such a large redevelopment opportunity arises in this part of Kensington. St James Homes perceive the redundant Thames Water site as a tremendous opportunity to create a design which enhances the Conservation Area whilst retaining the tennis club.

5.2 The scheme will make the best use of the site by a design which will create a new Kensington Square of 19 houses with 43 apartments on the Campden Hill Road and Aubrey Walk frontages. Not only will this contribute to the UDP housing provision, but it wholly accords with the philosophy of the present Government to move towards a more sustainable pattern of development by maximising redevelopment opportunities within urban areas.

5.3 As a consequence, the scheme submitted by St James Homes succeeds in promoting a more sustainable pattern of development whilst also leading to an overall enhancement of this part of the Kensington Conservation Area.

CHLTC 1771

RE: APPEALS BY ST. JAMES HOMES LTD.

RE: SITE AT FORMER THAMES WATER RESERVOIR & TOWER HOUSE, CAMPDEN HILL ROAD, KENSINGTON, LONDON W.8

References:	**APP/K5600/E/99/1016054 (appeal (a))**
	APP/K5600/A/99/1022704 (appeal (b))
Inquiry date:	**20 July 1999**
Inspector:	**Mr C.A. Thompson**

SUMMARY

of evidence of J C T Foster

on behalf of CHLTC

INTRODUCTION

1. I am John Christopher Tijou Foster of 22 Kensington Park Gardens, London W11. I am the Chairman of CHLTC Ltd ("CHLTC"), a company limited by guarantee which functions as The Campden Hill Lawn Tennis Club ("the Club"). In my proof I explain that I have been a full playing member of CHLTC since 1975 and have played tennis for almost 50 years.

2. In my proof I explain why the Club supports the Appeals by St James Homes by describing the Club and its features, the Club's response to the development proposals and the Club's position if the Appeal were to fail.

CHLTC AND ITS FEATURES

3. The Club has been in existence as a tennis club since 1884 and is thus one of the oldest tennis clubs in Britain. It has 12 outdoor tennis courts 4 of which are floodlit, plus a practice court divided into 2 mini courts around a practice wall.

4. The Club is a members' club in that it is owned and run by its members for their benefit. It is non-profit-making. In the 1998/99 year, CHLTC had a total of 1252 members.

5. The other features of CHLTC are highlighted in my proof. Proficiency at tennis is a prerequisite for full playing membership. Courts cannot be booked, except for floodlit tennis and three courts on weekend

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mornings. Members are encouraged to "cut in" at the end of a set and play with others of similar standards. Its entry fee and annual subscription are low for an inner London tennis club and its membership is drawn from a wide cross-section of the community. Local schools use the Club's courts and it runs a Lawn Tennis Association junior tournament each year, open to non-members.

THE CLUB'S RESPONSE TO THE DEVELOPMENT PROPOSALS

6. The effect of the Club's current lease is that, at any time and for any reason, the Club's occupancy of its clubhouse and tennis courts could be brought to an end by its landlord Thames Water on 6 month's notice.

7. The overwhelming view of the membership present at the special meeting held in December 1997 was, on a show of hands, that the Committee should resist Thames' proposals and do all that was possible to ensure that the Club could continue to exist in its present form.

8. Following this meeting, negotiations were held with Thames for a new long-term arrangement for the Club and members were kept informed of progress. Eventually, Thames put forward the 12 court proposal which is, in part, the subject of the Appeal.

9. At an Extraordinary General Meeting of CHLTC on 28 July 1998, the voting was 192 votes for and 12 against entering into an agreement with Thames.

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10. This agreement with Thames was signed on 25 September 1998. This provides that on completion of the structure, CHLTC will take up a new lease of the new facility and the existing club house of just under 35 years with two options to renew, in all a total of 99 years. There would be no early termination rights for Thames under the new lease; use to be restricted to the Club; and the Club will be responsible for repairs (as it is at present).

11. The Committee's position remains that it supports the Appeal because of the prospect of a secure long-term lease replacing the insecurity of the Club's current tenure; and because the proposed quality tennis facility will enable the Club to operate just as it is now.

12. I note that concerns have been raised about feared higher levels of activity at the Club with the proposed facility. I do not believe that there would be an overall increase in the tennis usage at the Club from that at present. The Committee has no intention to increase the number of parties and functions or to increase the present opening hours.

THE CLUB'S POSITION IF THE APPEAL FAILS

13. If the Appeal were to fail, the future of the Club would be, at the least, most uncertain. Members will be unwilling to make the necessary commitment for repairs to the courts with this uncertainty. At the worst, it could result in the end of the Club and thus the loss of an irreplaceable community asset which has existed at Campden Hill for some 115 years.

July 1999

REPORT

FORMER COVERED SERVICE RESERVOIRS AND PUMPING WORKS

OF

THAMES WATER UTILITIES Plc

AT

CAMPDEN HILL ROAD, NOTTING HILL.

REPORT ON RIGHTS OF LIGHT

AND

SUNLIGHT AND DAYLIGHT CONSIDERATIONS

Prepared by

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February 1999

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RIGHTS OF LIGHT

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

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

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

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

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

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

We have received the detailed proposal drawings and site survey showing the demolition of the existing buildings on the water site including the Receiving Office, flats and depot known as Water Tower House, the pumping station behind Water Tower House and the flats at Nos. 3, 5 and 7 Aubrey Walk. The Easternmost covered service reservoir is to be demolished and used as basement car parking and the new indoor tennis courts. A new building containing ~~100~~ private 62, residential units is to be built on the site. As private residential units, they will be reasonably large and this will entail the building being erected on several storeys.

KENSINGTON HEIGHTS

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

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

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

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

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

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

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

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

HOLLAND PARK SCHOOL

Holland Park School is set down the hill from the development site and we have not been able to examine the buildings on the site in any detail because of restrictions on access. We have examined the buildings from the reservoir site and conclude that the 1960s classroom blocks will not be adversely affected by the proposals at all. Thorpe Lodge forms the VI.th form library and IT classrooms and this building will be slightly affected. The existing fenestration is poor so that the light flows to the rooms are diminished accordingly. We believe that there may be a small amount

of damage caused to the building. We do not consider that this damage is injunctable but, by operation of *Shelfer –v- City of London Electric Light Co. 1895* any damage is of a compensatable nature

AIRLIE GARDENS

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

25 CAMPDEN HILL GARDENS

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

36 CAMDEN HILL GARDENS

The next building faces into Campden Hill Gardens but derives a flow of light over the development site to its side windows and its conservatory. We have considered the impact which the new buildings will have onto these windows and the first floor windows do not appear to be adversely affected. The conservatory receives part of its light from above and would be very difficult to injure. There are no new buildings facing this house and the present pump house roof is set at 49.8 AOD and there are trees and bushes on the berm. The new obstructions will rise to 40.2 AOD so that this building will derive significant increases in light flow. The building has a satellite dish mounted on the West wall facing over the site and set at a low angle to focus on the geostationary satellite. The new development should not distort or disrupt the signal because it will "see" the satellite through the gap in the buildings. While not a right of light, the Courts may now be tending towards granting relief from interruptions to television signals. The Canary Wharf case is before the Courts and much will depend on how it is resolved at appeal.

ST GEORGE'S CHURCH

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

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2 TO 6 AUBREY WALK

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

8-16 AUBREY WALK

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

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

18 AUBREY WALK

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

20 AUBREY WALK

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

22 AUBREY WALK

No 22 has two relatively small windows at ground floor level, lighting rooms either side of the entrance passage. These windows are already obscured by the bulk of Nos. 9 and 11 and, further away, by the gable end of No 7. The ground floor windows will suffer a slight diminution of light but

we consider the loss would not be actionable. The principal rooms are on the first floor and the windows to this floor are extremely large with a sculpture displayed in the centre window. These windows will still receive satisfactory flow of light over the reservoir and to the West of the new building.

24 AUBREY WALK

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

26 AUBREY WALK AND BEYOND

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

SUNLIGHT AND DAYLIGHT

We have used the BRE Code of Practice for daylight and sunlight 1991 as the basis for consideration of the effects of the new proposed development on the flats in Kensington Heights. Section 2,2 deals with the effects of developments on existing buildings and we have followed the decision chart given on p.7 of the Guide. In some instances, the new development does subtend an angle greater than 25° at the centre line of the lowest storey of windows so we have gone on to verify the actual vertical sky components (VSC).

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

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

HOLLAND PARK SCHOOL

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

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

KENSINGTON HEIGHTS

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

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

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

We have set out below a table of the results achieved at the various window positions and these are indicated on the attached working drawing. Care should be exercised as this drawing is scaled at 1:250 not 1:200 as the other drawings.

Position	Extg VSC	0.8 of extg	Prop VSC	Pass 27%	Pass 80%
A	25.71	20.57	22.727	Y	Y
B	26.06	20.848	23.21	N	Y
C	23.2	18.562	20.05	N	Y
D	31.81	24.945	28.177	Y	Y
E	21.6	17.28	18.177	N	Y
F	22.47	17.976	19.488	N	Y
G	40	32	32.096	Y	Y
H	40	32	31.746	Y	N

In the case of positions A, B and C, the 27% VSC is not attained as existing due to the oversailing balcony above. In positions E and F, the adjoining projections shield the windows from the sky. The proposed development reduces the VSC but the proposed value is still greater than 80% of the existing. In the case of position H, this relates to a first floor flat. This has an unobstructed outlook at present and the proposed situation will reduce the VSC to fractionally below the 80%. The remaining VSC of 31.746% is still very high in absolute terms and exceeds all the existing VSCs on the Ground floor. We consider that the flexibility of interpretation should be applied to this technical infraction of the Guide to accept that the light to position H will not be adversely affected by the proposals.

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