

MEMORANDUM

To: Planning and Conservation

From: The Director of Legal Services

My ref: LP/MS
Room No: 313

Your Ref: Lloydon McBarnette

Ext: 2180

Date: 1 October 1996

BROMPTON HOSPITAL NORTH BLOCK

Please find attached a copy of a Section 106 Agreement completed in respect of the above land.
Please could you arrange for the agreement to be placed on the register.

LeVerne Parker

LeVerne Parker
For Director of Legal Services

Enc

THIS PLANNING OBLIGATION BY AGREEMENT is dated the 30th day of ~~September~~

One thousand nine hundred and ninety-six BETWEEN

(1) THE MAYOR AND BURGESSES OF THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA of The Town Hall Hornton Street London W8 7NX

("the Council") (2) THE SECRETARY OF STATE FOR HEALTH whose address is

Richmond House 79 Whitehall London SW1A 2NS ("the Owner") (3) LONDON

RESIDENTIAL INVESTMENTS LTD. ~~LIMITED~~ whose registered office is situated at Sir

Walter Raleigh House The Esplanade St Helier Jersey Channel Islands ("the

Developer")

WHEREAS

(1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 ("the Act") for the area within which the land known as Royal Brompton Hospital North Block Fulham Road London SW3 ("the Land") (shown for identification purposes outlined in red on Plan 1 attached hereto) and the land known as 95-99 Ladbroke Grove London W11 (shown for identification purposes outlined in red on Plan 2 attached hereto) ("the Second Land") is situated

(2) The Owner has the freehold interest in the Land which is part of the land registered at H.M. Land Registry under Title No. NGL635475

(3) The Developer has a beneficial interest in the Land by virtue of an agreement to acquire the Land dated 20 May 1996 and joins into this Agreement to consent to the binding of the Land by the terms of this Agreement

(4) On 31 March 1995 Tremerton Limited submitted a planning application reference no TP/95/0899 ("the Application") to the Council for permission to develop the Land by change of use of the North Block Building to provide residential accommodation the conversion and the erection of two new residential blocks to Foulis Terrace and Sumner Place providing a total of 60 units (including 3 staff flats) together with the provision of an

underground carpark and means of access from Foulis Terrace Sumner Place and Fulham Road ("the Development")

(5) On 31 March 1995 Tremerton Limited submitted an application for listed building consent reference number TP/95/0900/Z/40 ("the Listed Building Application") to the Council for works of demolition and alterations in connection with the Development

(6) On 31 March 1995 Tremerton Limited submitted an application for conservation area consent reference number TP/95/0901/ZZ/40 ("the Conservation Area Application") to the Council for demolition of non listed and temporary buildings on the Land in connection with the Development.

(7) On 24 November 1995 the Council granted planning permission under reference no. TP/95/0757 for the development of the Second Land its change of use and conversion to provide 15 flats ("the Second Development")

(8) The Notting Hill Housing Trust of 26 Paddenswick Road London W6 OUB ("the Trust") is interested in carrying out the Second Development on the Second Land

(9) The Council is a local authority for the purpose of Section 111 of the Local Government Act 1972 and is satisfied that the arrangements made in this Agreement will facilitate be conducive to and be incidental to the Council's functions

(10) The Council's planning policy contained in its Unitary Development Plan ("the UDP") is to seek the provision and retention of affordable housing where indicated in the Schedule of Major Sites with Development Opportunities set out in the UDP and the said Schedule of Major Sites with Development Opportunities indicates that the Land is a site to which this policy applies and affordable housing is defined in the UDP as that which is approximately equivalent in cost to the occupier as that provided by housing associations working in the Royal Borough of Kensington and Chelsea

(11) The Council is satisfied that the Development is such as may be approved by the Council under the Act subject to the Owner and the Developer first entering into this Agreement

(12) The Owner and the Developer have therefore agreed to enter into this Agreement in order to secure the Council's objectives

(13) In this Agreement

"Executive Director" means the Council's Executive Director of Planning and Conservation and shall be deemed to mean the Officer for the Council from time to time holding that appointment or (if no Officer holds that appointment) carrying out the duties of the appointment

"Housing Association" means a housing association or housing trust registered by the Housing Corporation under the Housing Associations Act 1985 or as a social landlord under the Housing Act 1996 and approved in writing by the Executive Director

"Affordable Housing" means housing approximately equivalent in cost to the occupier as that provided by a Housing Association working in the Royal Borough of Kensington and Chelsea

"Affordable Housing Scheme" means the development of Affordable Housing in the Royal Borough of Kensington and Chelsea involving the conversion or change of use of premises or the erection of new buildings (including redevelopment) provided that the Affordable Housing is created without loss of an existing dwelling hostel or house in multiple occupation which is in beneficial use or capable of such use

"Planning Permission" means the planning permission intended to be granted by the Council in response to the Application such permission to be in the form of draft annexed hereto marked "A"

"Conservation Area Consent" means the conservation area consent intended to be granted by the Council in response to the Conservation Area Application such consent to be in the form of the draft annexed hereto marked "B"

"Listed Building Consent" means the listed building consent intended to be granted by the Council in response to the Listed Building Application such consent to be in the form of the draft annexed hereto marked "C"

"Implementation Date" means the date on which the Planning Permission is implemented by the carrying out of a material operation (as defined in Section 56(4) of the Act) save that the demolition of the unlisted buildings and structures shown shaded on drawing number 905 051 attached hereto and site clearance shall be disregarded

"Chapel" means the Chapel of St Luke shown edged red on Plan 3 annexed hereto

NOW IT IS AGREED as follows:-

1. This Planning Obligation by agreement is made pursuant to
 - (a) Section 299A of the Act
 - (b) Section 111 of the Local Government Act 1972 and
 - (c) Section 16 of the Greater London Council (General Powers) Act 1974to the intent that it shall bind the Owner and the Developer and his/their successors in title to each and every part of the Land and their assigns as provided in these sections
2. This Agreement shall be enforceable by the Council but no waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner
3. No person or company shall be liable for any breach of this Agreement unless it holds an interest in the Land in respect of which such breach occurs or held such an interest at the date of breach
4. The provisions of this Agreement shall become binding upon the Land upon the granting by the Council of the Planning Permission, the Conservation Area Consent and the Listed Building Consent
5. Nothing in this Agreement shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or under any other appropriate power or Authority pursuant to the provisions of the Act or any statutory amendment or re-

enactment thereof and this agreement shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been issued by the Council or any other appropriate person or authority pursuant to the provisions of the Act or any statutory amendment or re-enactment thereof

6. On completion of this Agreement the Developer shall pay the Council's reasonable legal costs for the preparation and completion of this Agreement

7. The Owner and the Developer confirm that they have obtained all necessary permissions and consents required from any covenantee or any other person to his entering this Agreement

8. The Owner covenants with the Council as follows:-

a) Before the Implementation Date:-

- (i) to pay to the Council the sum of six hundred thousand pounds (£600,000) ("the First Contribution") to be used by the Trust for the carrying out of the Second Development save that if by the Implementation Date the Trust has not acquired an interest in the Second Land enabling it to proceed with the Second Development the First Contribution may be used by a Housing Association for an Affordable Housing Scheme
- (ii) to pay to the Council the sum of one hundred thousand pounds (£100,000) to be used by a Housing Association for an Affordable Housing Scheme ("the Second Contribution")
- (iii) to submit a schedule of repairs to the Chapel ("the Schedule") a programme for carrying out such repairs ("the Programme") and a management plan for the maintenance and upkeep of and arrangements for public access to the Chapel ("the Management Plan") for approval by the Executive Director

- b) **Not to implement the Planning Permission until:-**
- (i) the Owner has complied in full with clause 8(a) of this Agreement to the satisfaction of the Executive Director and such compliance has been confirmed by him in writing (such compliance not to be unreasonably withheld or delayed)
 - (ii) the Schedule the Programme and the Management Plan have been approved in writing by the Executive Director (such approval not to be unreasonably withheld or delayed)
- c) Not to occupy nor permit the occupation of any of the residential units forming part of the Development until the repairs to the Chapel have been carried out in accordance with the Schedule and Programme to the satisfaction of the Executive Director and confirmed by him in writing (such confirmation not to be unreasonably withheld or delayed)
- d) To maintain the Chapel and to make arrangements for public access to the Chapel in accordance with the Management Plan
- e) To allow members of the public access to the Chapel by prior appointment one day per week between the hours of 10am and 4pm in accordance with the Management Plan

9. The Council further covenants with the Owner that:-

- a) Upon receipt of the First Contribution and the Second Contribution it will deposit the First Contribution and Second Contribution in a separate interest bearing account in the name of the Council ("the Designated Account")
- b) The First Contribution and Second Contribution will be held on trust and the Second Contribution will be applied towards an Affordable Housing Scheme to be developed by a Housing Association and the First Contribution paid to the Trust for the carrying out of the Second

Development provided that if at the Implementation Date the Trust has not acquired an interest in the Second Land enabling it to proceed with the Second Development the First Contribution will be applied towards an Affordable Housing Scheme to be developed by a Housing Association

- c) The First Contribution (together with any interest earned thereon within the Designated Account) will be paid to the Trust to carry out the Second Development or in whole or in part or parts to a Housing Association towards the costs of an Affordable Housing Scheme and the Second Contribution (together with any interest earned thereon within the Designated Account) will be paid in whole or in part or parts to a Housing Association towards the costs of an Affordable Housing Scheme provided that any payment shall be made by the Council on such terms and conditions as may be necessary to secure and retain the provision of affordable housing
- d) It will forthwith notify the Owner and the Developer of all payments attributable to the First Contribution and the Second Contribution made from the Designated Account and in the event that the money is not paid to the Trust in order to carry out the Second Development details of the Affordable Housing Scheme to which such monies will be applied and the identity of the Housing Association
- e) If at the end of a period of ten (10) years from the date of receipt by the Council of the First Contribution and the Second Contribution the First Contribution and the Second Contribution or any interest arising therefrom remains in the Designated Account such sums shall immediately be repaid by the Council to the owner of the Land at that time

10. Where the context so requires:-

- (a) The singular includes the plural and vice versa and one gender includes all other genders
- (b) References to any party shall include the successors in title of that party
- (c) Where a party includes more than one person any obligations of that person shall be joint and several
- (d) Reference to any enactment includes any statutory provisions amending consolidating or replacing it

11. This Agreement shall only be delivered as a deed upon being dated

IN WITNESS of which the Parties have executed this planning obligation by agreement as a deed on the date first above written

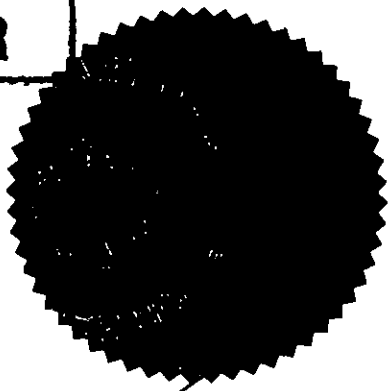
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042400

THE COMMON SEAL of THE MAYOR)
AND BURGESSES OF THE ROYAL)
BOROUGH OF KENSINGTON AND)
CHELSEA was hereunto affixed)
in the presence of:-

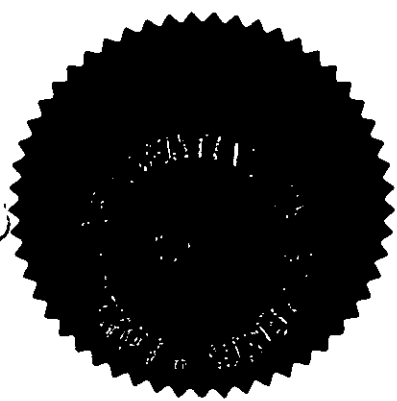
**PRINCIPAL
SOLICITOR**

THE OFFICIAL SEAL of THE)
SECRETARY OF STATE FOR HEALTH)
hereunto affixed in)
authenticated by:-)



[Handwritten signature]

SIGNED as a DEED and DELIVERED)
by the said LONDON RESIDENTIAL)
INVESTMENTS ~~LIMITED~~ LTD.)
in the presence of:-)



Director - Michael Simpson

[Handwritten signature]
Director - Michael Harrison

DATED 30th September 1996

THE MAYOR AND BURGESSES
OF THE ROYAL BOROUGH OF
KENSINGTON AND CHELSEA

- and -

THE SECRETARY OF STATE FOR HEALTH

- and -

LONDON RESIDENTIAL
INVESTMENTS ~~LIMITED~~ LTD.

AGREEMENT

Under Section 229A of the
Town and Country Planning Act 1990
(as amended by the Planning and
Compensation Act 1991)

Re: Royal Brompton Hospital North Block
Fulham Road London SW3

A.G. Phillips
Director of Legal Services
The Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
LONDON
W8 7NX

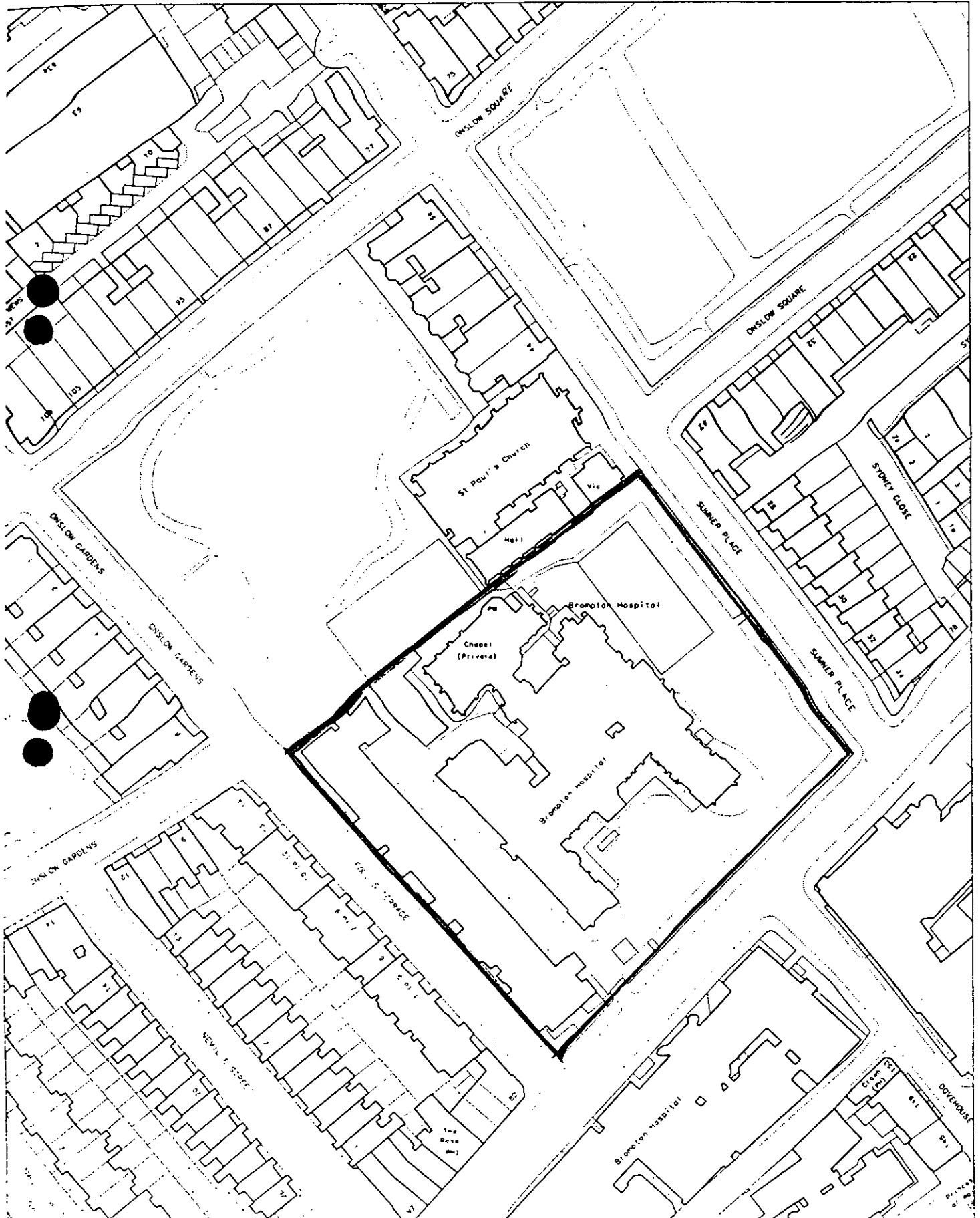
My Ref: LP/PDEV/cr

Tel: 0171-361 2180

PRINCIPAL SOLICITOR

PLAN 1

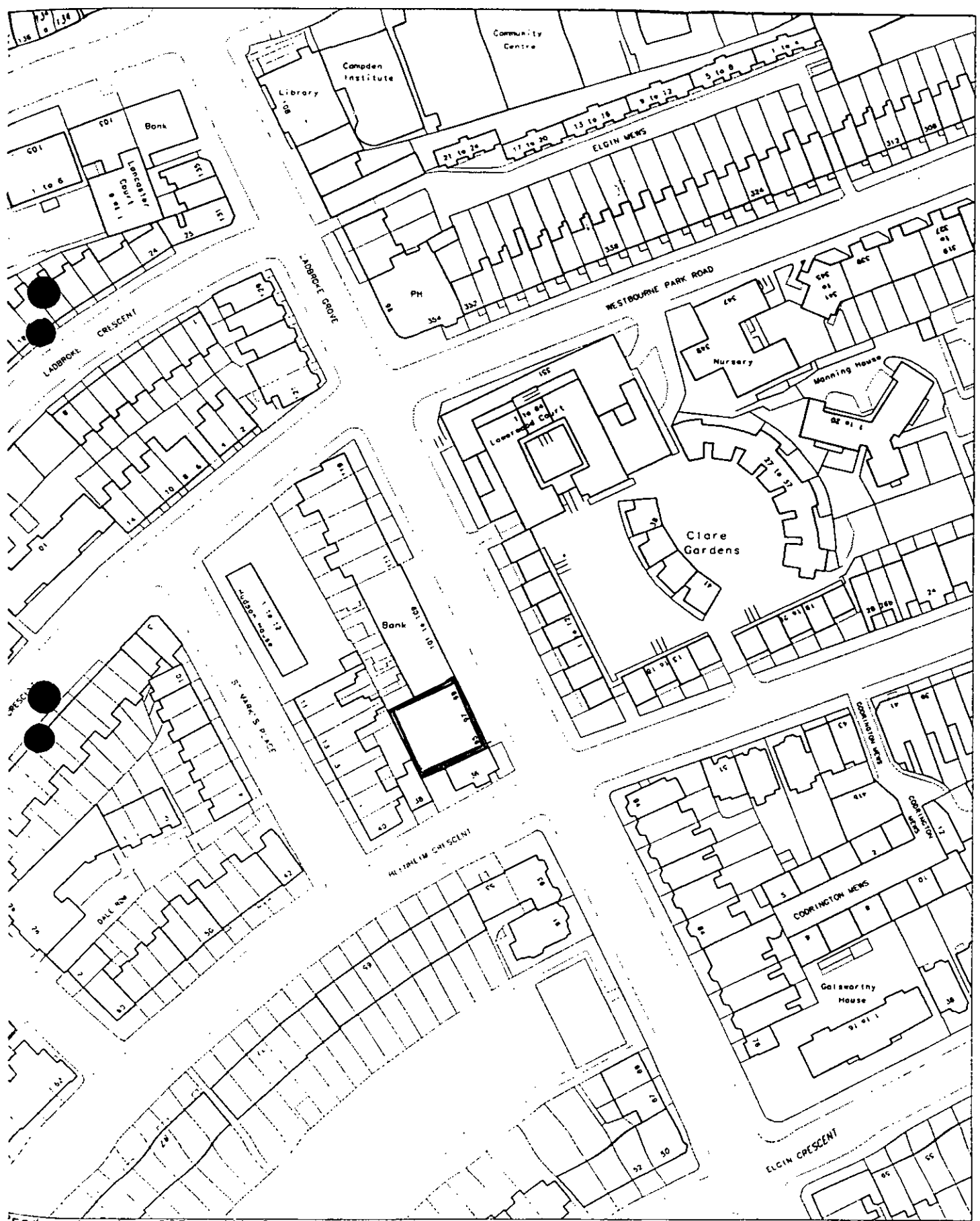
Calder



PRINCIPAL SOLICITOR

Colburn

PLAN 2



Colson

**PRINCIPAL
SOLICITOR**

