

RE: Chester Terrace Balustrades

**Subject:** RE: Chester Terrace Balustrades

**From:** Nick Packard [REDACTED]

**Date:** 15/06/2022, 09:48

**To:** Richard Loftus [REDACTED]

**CC:** Allan Murry-Jones [REDACTED] Flora Lickiss [REDACTED] Chair  
[REDACTED]

Dear Richard

Thanks for your e mail, my apologies for the delay I had the Board meeting on 26 May and was then on leave for over a week.

I did include the first two e mails in the pack for the Board who were in agreement with my responses.

I have also received your subsequent e mail of 13 June 2022 to which I will respond covering any points not addressed below.

My comments in red respond to yours in blue below.

Kind regards

Nick

Nick Packard  
Director (Clerk & Treasurer to Commissioners)

**Crown Estate Paving Commission**

12 Park Square East  
Regent's Park  
London NW1 4LH  
[REDACTED]

**W:** [www.cepc.org.uk](http://www.cepc.org.uk)

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**From:** Richard Loftus [REDACTED]

**Sent:** 24 May 2022 13:55

**To:** Nick Packard [REDACTED]

**Cc:** Allan Murry-Jones [REDACTED] Flora Lickiss [REDACTED]

**Subject:** Re: Chester Terrace Balustrades

Dear Nick

My comments below in blue.

Warm regards

Richard

On 19/05/2022 10:25, Nick Packard wrote:

Dear Richard

Thank you for your e mail.

The Commissions previously decided that the works relating to the wall/foundations are paid for from the Paving Fund to which a wide constituency of rate payers in Regent's Park contribute. Similarly they decided the works to the balustrade are paid from the Chester Terrace Garden fund to which only Chester Terrace rate payers contribute. I would have thought in addition to the balustrade's stone elements, the fixing elements including those between components and to the wall below would form part of the works to the balustrade.

No, I disagree completely. The balustrade starts at the stone plinth which is at road/pavement level. The retaining wall is part of the foundations that have failed. It is not part of the balustrade. I think there is a misunderstanding here. I agree that the retaining wall is part of the foundations and hence a Paving Fund cost. The point I am trying to make is that the balustrade is made up of individual stone elements (plinths, bottles, copings) each of which need fixing together. The fixings between the stone elements and into the wall would be part of the balustrade works, which is a Chester terrace garden fund cost.

As to whether we have one contract or two, we have not yet made any decision. My instinct at the moment is that one contract has the advantage of ensuring there is one main contractor with ultimate responsibility for delivering the whole project. I think we have in the past discussed with HP+M having a nominated sub contractor for the new balustrade, which may be advantageous in getting the best quality product yet retaining one contractor with overall responsibility. Either way, as we have done to date we will need to allocate shared costs between the two funds plus allocate 100% of costs that only apply to one element of the works. With shared costs we have so far referred to the QS's view on splitting shared costs depending on the type of project under consideration. Now that we have decided on an Option 4 type solution (new wall/foundations and new balustrade) we are using the QS's 22:78 (balustrade:wall/foundations) split for shared costs such as the structural engineer's advice. All I think the Commission can do is ensure there is good information in the tender/contract and invoices on the nature of the work then review carefully and record the decisions made on apportionment of costs. I do not think that we can agree them with any third party – I am not sure who that would be.

If you have one contract then you will immediately have a dispute with residents about allocating preliminaries (which are a significant sum). Moreover, given the nature of the piling and foundation works, there will inevitably be extras due to unanticipated soil conditions and claims for extensions of time. These will have nothing to do with the balustrade contracts. Any work that has nothing to do with the balustrade works will be a wall/foundation cost which comes from the Paving Fund.

We should have a fixed price contract for the balustrade works - there is no reason why not as the work is known, and we must have three independent quotes as part of the tender process. The contract should simply set out a timetable, which should be flexible, i.e. balustrade in section X to be installed within Y days of foundations in Section X being completed. I am relaxed about the balustrades being a separate contract or part of the main contract AS LONG AS THE BALUSTRADE CONTRACT IS A FIXED PRICE CONTRACT IN ALL RESPECTS.

I would accept the principle that all professional fees are allocated on the basis of the final cost of the balustrade works to the final cost of the foundation, balustrade works, and the associated garden

works.

Noted what you say about the balustrade element being a fixed price contract. As per the previous comment, it is not clear to me who the Commission could agree any apportionment with. All the Commission can do is review carefully and apportion any shared costs. We are currently working on the basis that shared costs will be split 22:78 balustrade:wall/foundations which is based on the QS's assessment of shared costs in the Option 4 scenario. This analysis has been shared with all ratepayers.

For my part I have always been of the view that in managing funds one should provide a full account of the expenses to those who have the obligation to pay and would propose to do the same with this project.

Any garden works that would not have otherwise arisen from the works to the wall/foundations will form part of the Paving Fund costs. This would not extend to garden works generally and we will need to analyse this carefully. From memory the QS included a significant element of landscaping in the Option 4 costs apportioned to the Paving Fund.

Agreed. To avoid any disputes the garden works should be clearly specified and costed BEFORE the foundation works commence on site. Any of those garden works that are not related to the foundation works should be identified and their costs agreed with the residents. At this stage my focus is on the balustrade wall/foundations element of the project and that would include any landscaping that is required as part of the wall/foundations = Paving Fund cost. As we discussed with the Working Group there is a follow-on element to relandscape the garden which would be a Garden Fund cost. We suggested a third party landscape consultant lead this although I recall there was little discussion on this with residents/ratepayers when we had the virtual meeting in March 2021. Perhaps when we are further on with the balustrade and wall/foundation elements we should revisit it?

I do not think the Commission would be able to give the undertaking you mention related to future costs of the balustrade as we are not able to predict the future. I doubt the current Commissioners could bind their successors in such a manner.

If the Commissioners do not agree to this fundamental principle then there will, I assure you, be a major argument with the residents.

The Chester Terrace residents are obliged to pay the full cost of a new balustrade due to the fact that the CEPC predecessors constructed unsatisfactory foundations. These new piled foundations are designed to provide a 40/50 year life for the new balustrade which will have all the required movement joints to deal with thermal expansion and minor movements in the foundations.

If the balustrades require any work whatsoever during say the first 25 years - other than routine cleaning and replacing mastic - then the Chester Terrace residents should NOT pay.

As above I do not think the Commissioners could or would give such an undertaking.

Nick, if you do not agree with the points I make above then I believe that these all need to be discussed and agreed with the Chester Terrace residents BEFORE they are considered by the Commission. If not, there will be yet more delays in starting this project.

Hope the above is clear and reasonable. I shall include this correspondence in the papers for the upcoming Board meeting so the Commissioners have sight of it and revert should there be any substantive difference in their view and mine.

Kind regards

Nick

Nick Packard  
Director (Clerk & Treasurer to Commissioners)

RE: Chester Terrace Balustrades

**Crown Estate Paving Commission**

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Regent's Park

London NW1 4LH

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**From:** Richard Loftus [REDACTED]

**Sent:** 16 May 2022 12:05

**To:** Nick Packard [REDACTED]

**Cc:** Loretta Home [REDACTED] Allan Murry-Jones [REDACTED]

**Subject:** Chester Terrace Balustrades

Dear Nick

My responsibility on the committee was to look at the balustrade issue 'in the round'. I believe that now the decision has been made to carry out the replacement of the balustrade and all of the foundations, I have a duty to protect the interests of the Chester Terrace residents who I was appointed to represent, even though they have shown little appreciation for my efforts!

The agreed principle is, I understand, that the Chester Terrace residents will be responsible for all costs relating to the replacement of the balustrade via their CEPC rates, whilst all costs relating to the new foundations and associated garden works are to be paid by the CEPC from the rates paid by all residents in Regents Park.

Assuming my understanding is correct, then:

1. We need to define the 'balustrade works'. I believe this should be the visible stone base, that rests on the top of the foundations and supporting walls, and all masonry above.

The 'balustrade works' will therefore include demolition and disposal of the current balustrades and will include the new gates to the garden area. I would strongly suggest that the 'balustrade works' form part of a separate contract even if they are carried out by one contractor who is carrying out both the foundation works and balustrade works.

However, if it is one contract, we will need to carefully analyse the costs, and in particular the apportionment of preliminaries, any additional costs not included in a fixed price contract and any costs incurred as a result of contractors' claims for delays, etc. I would strongly recommend two separate contracts.



2. Fees

We need to agree a formula for the allocation of both the fees incurred to date and the significant fees that will be incurred for the project.

There are two options:

- (a) allocation by reference to the bills from the various consultants which should be accurately split between the balustrade and foundation works.
- (b) apportioning total fees incurred in relation to the cost of the balustrade works as a percentage of the balustrade costs in relation to the total project cost.

3. Also, I believe that all the garden costs - removal of trees and plants, due to piling and foundation works, should be included in the foundation costs as they would not have been necessary had the Commissioners decided to carry out one of the lower cost proposals for balustrade only replacement or repair.

4. I also believe that the residents should not be obliged to pay any future costs relating to the balustrade for say the first 20 years of the new balustrade other than periodic cleaning.

If it transpires that repairs are required to the new balustrade due to a failure of any part of the foundations during, say, the first 20 years, then these should be paid by the CEPC Park Residents, not exclusively by Chester Terrace residents.

I would be grateful if you could let me have a formal reply to the above once you have discussed it with your colleagues and we can then decide how to inform the Chester Terrace residents.

Warm regards

Richard

--  
Richard Loftus

Loftus Family Property  
55 Blandford Street,  
London W1U 7HW

Please note that the information contained in this email is intended solely for t

--  
Richard Loftus

Loftus Family Property  
55 Blandford Street,  
London W1U 7HW

RE: Chester Terrace Balustrades



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