

DATED

17<sup>th</sup> May

2010

**(1) SAFRAN HOLDINGS LIMITED**

and

**(2) THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF CAMDEN**

**A G R E E M E N T**

relating to land known as

**WITANHURST**

**41 HIGHGATE WEST HILL, LONDON N6 6LS**

**pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and  
Section 278 of the Highways Act 1980**

**Planning Application: 2009/3192/P (Basement)**

Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9LP

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CLS/COM/JL/1685.266

THIS AGREEMENT is made the

17<sup>th</sup>

day of

May

2010

**BETWEEN:**

1. **SAFRAN HOLDINGS LIMITED** (incorporated in British Virgin Islands) of PO Box 139, 9-12 The Grange, St Peter Port, Guernsey (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

**WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL517259.
- 1.2 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Planning Application and the Application for Listed Building Consent for the development of the Property were submitted to the Council and the Council's Development Control Sub-Committee refused permission on 3 December 2009.
- 1.4 An appeal under Section 78 of the Act in respect of the Planning Application was submitted by the Owner to the Planning Inspectorate and was given reference number APP/X5210/A/09/2119330.
- 1.5 An appeal under Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of the Application for Listed Building Consent was submitted by the Owner to the Planning Inspectorate and was given reference number APP/X5210/E/09/2119329.
- 1.6 The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated and considers it expedient in the interests of the proper planning of its area that the Development should be restricted or regulated in accordance with this Agreement.

- 1.7 As local highway authority the Council considers the Highways Works to be carried out pursuant to this section 278 Agreement to be in the public benefit.
- 1.8 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.9 The Owner and the Council have also entered into the Boundary Wall Section 106 Agreement and the Orangery Section 106 Agreement in respect of the overall redevelopment of the Property.

2. **DEFINITIONS**

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

- |     |   |   |
|-----|---|---|
| 2.1 | "the Act"                                     | the Town and Country Planning Act 1990 (as amended)   |
| 2.2 | "the Agreement"                               | this Planning Obligation made pursuant to Section 106 of the Act  |
| 2.3 | "the Application for Listed Building Consent" | an application for listed building consent in respect of the Development submitted to the Council and validated on 8 September 2009 under reference number 2009/3195/L  |
| 2.4 | "Boundary Wall Development"                   | means in the event the Secretary of State grants planning permission reference 2009/2597/P and listed building consent referenced 2009/2595/L the development (comprising the repair and reconstruction of the boundary wall with associated tree removal and replanting on southern boundary facing Highgate West Hill) to be carried out pursuant to such planning permission and listed building consent |

2.5 "Boundary Wall Section 106 Agreement"

an agreement entered into pursuant to the Section 106 of the Act by the Parties in respect of the Boundary Wall Development under planning reference 2009/2597/P and the application for listed building consent referenced 2009/2595/L

2.6 "the Certificate of Practical Completion"

the certificate issued by the Owner's project manager certifying the Development has been completed

2.7 "the Council's Considerate Contractor Manual"

the document produced by the Council from time to time entitled "Guide for Contractors Working in Camden" relating to the good practice for developers engaged in building activities in the London Borough of Camden

2.8 "Construction Management Plan"

a plan based on the draft plan set out at the First Schedule hereto (subject to any additional consents for the lowering of any ground levels (if required) being granted) setting out the measures that the Owner will adopt in undertaking the demolition of any existing buildings or structures and any works of excavation or construction on the Property in connection with the Development the Boundary Wall Development and the Orangery Development using good site practices in accordance with the Council's Considerate Contractor Manual to ensure the Construction Phase of the Development can be carried out safely and with minimal impact on and disturbance to the surrounding environment and highway network together with any

amendments as agreed by the Parties in writing from time to time and for the avoidance of doubt amendments will be required if the lowering of any ground levels requires additional consents and such consents have been refused

2.9 "the Construction Phase"

the whole period between

- (i) the Implementation Date and
- (ii) the date of issue of the Certificate of Practical Completion

and for the avoidance of doubt includes any demolition of the existing buildings or structures and excavation works on the Property in connection with the Development

2.10 "Crossover Works"

the creation of a permanent crossover on Highgate West Hill and reinforcement of the footway in order that it can take the load of heavy vehicles for the Permanent Access as shown on Plan 2 (subject to any changes arising out of the detailed design stage as set out in clause 5.2)

2.11 "the Development"

means the redevelopment of the Property comprising

(i) in respect of the Planning Permission:

Construction of a basement in front forecourt area for ancillary residential use as part of the Property including associated planting, forecourt reinstatement and landscaping plus permanent vehicular access from Highgate West Hill (Class C3) as shown on drawing numbers Drawing Nos: 3966/HYD\_02 rev P1; PP1; 601-OS-000; 601-E-001; 601-E-002; 601-E-009; 601-E-010;

601-E-001E; 601-P-002; 601-P-003; 601-P-010; 601-P-011; 601-P012; 601-P-014; 601-P-022; 601-P-001A\_001; 601-P-040\_000; 601-P-040\_001; 601-P-041-000; SJA TPP05 rev B; 601-SK-021\_000; Sustainability Assessment Report for Basement (June 2009), Construction Management Plan Rev C (Nov 2009), Structural Report on the garden Structures (May 2009), Structural Report in Connection with Planning Application (June 2009), Site Investigation Report (May 2009), Planning, Design and Access statement (July 2009), Site History and Building Development (July 2009), Structural Engineer's Feasibility report (June 2009) and Supplementary information (Sep 2009), Historic Landscape Survey (May 2000); Permanent Construction Management Statement; Landscape design statement (July 2009) and Tree Report (June 2009)

(ii) in respect of the Listed Building Consent:

Construction of a basement in front forecourt area for ancillary residential use as part of Witanhurst House including terrace area, associated planting, forecourt reinstatement and landscaping plus permanent vehicular access from Highgate West Hill (Class C3) as shown on drawing numbers Drawing Nos: 3966/HYD\_02 rev P1; PP1; 601-OS-000; 601-E-001; 601-E-002; 601-E-009; 601-E-010; 601-E-001E; 601-P-002; 601-P-003; 601-P-010; 601-P-011; 601-P012; 601-P-014; 601-P-022; 601-P-001A\_001; 601-P-040\_000; 601-P-040\_001; 601-P-041-000; SJA TPP05 rev B; 601-SK-021\_000; Construction Management Plan Rev C (Nov 2009), Structural Report on the garden Structures (May 2009), Structural Report in

Connection with Planning Application (June 2009), Site Investigation Report (May 2009), Planning, Design and Access statement (July 2009), Site History and Building Development (July 2009), Structural Engineer's Feasibility report (June 2009) and Supplementary information (Sep 2009), Historic Landscape Survey (May 2000); Permanent Construction Management Statement; Landscape design statement (July 2009) and Tree Report (June 2009)

2.12 "the Highways Contribution"

the sum of £19,662 (nineteen thousand six hundred and sixty two pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in event of receipt for carrying out the Highways Works all works will be subject to final measure and for the avoidance of doubt the Council in accepting this sum does not undertake any responsibility in connection with any required statutory undertakers works and excludes any statutory undertakers costs.

2.13 "the Highway Works"

the Crossover Works and the Repaving Works

2.14 "the Implementation Date"

the date of implementation of the Planning Permission by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly

2.15 "the Listed Building  
Consent"

means the listed building consent granted by the Secretary of State or the Planning Inspectorate pursuant to the appeal filed in relation to the Application for Listed Building Consent under reference number APP/5210/E/09/2119329

2.16 "Main Building"

the main dwelling house forming part of the Property the garden elevation of which consists of 2 storeys plus attic floors shown edged red on Plan 3;

2.17 "Monitoring Fee"

the sum of £2,450 (two thousand four hundred and fifty pounds) (£350 per head of term) to be applied by the Council in the event of receipt towards the monitoring of the obligations in this Agreement and the Planning Permission or any other planning requirements relating to the Property arising out of this Agreement, the Planning Permission or the Orangery Section 106 Agreement or the Boundary Wall Section 106 Agreement or such related planning permissions;

2.18 "Occupation Date"

the first date when any part of the Development is occupied for the purposes of residential accommodation which for the avoidance of doubt shall not include occupation for construction, fit out, security or site management purposes and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

2.19 "Orangery Development"

means in the event the Secretary of State grants planning permission reference 2009/3171/P and listed building consent referenced 2009/3174/L the development (comprising the demolition of the service wing



and associated remodelling of the front façade and construction of an Orangery building) to be carried out pursuant to such planning permission and listed building consent

2.20 "Orangery Section 106 Agreement" means an agreement entered into pursuant to Section 106 of the Act by the Parties in respect of planning application 2009/3171/P and the application for listed building consent 2009/3174/L

2.21 "the Parties" mean the Council and the Owner

2.22 "Pedestrian Environment Contribution" the sum of £50,000 (fifty thousand pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt towards the Pedestrian Environment Improvements

2.23 "Pedestrian Environment Improvements" means improvement works within the area shown circled in blue on Plan 4 and such improvements shall include (but not be limited to) the following:-

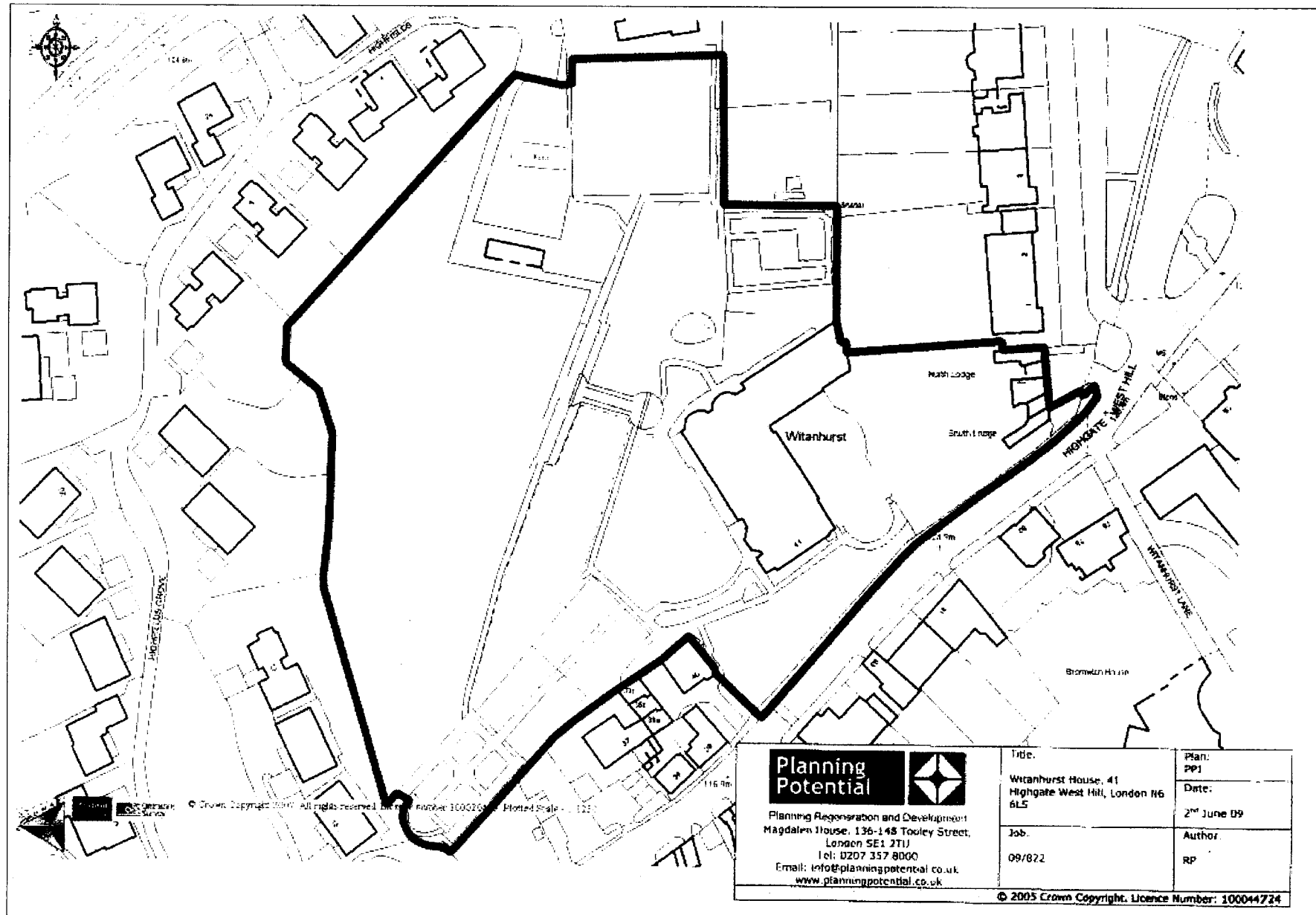
- (a) improved crossing facilities;
- (b) replacing footway with bound gravel;
- (c) repaving vehicular crossover to the Gatehouse with granite sets;
- (d) reducing street clutter; and
- (e) aligning and consolidating street furniture to increase the effective width available for pedestrians

2.24 "Permanent Access" The new permanent access for the Property off Highgate West Hill to be created pursuant to the

Planning Permission as shown edged in red on Plan 5

- 2.25 "Plan 1" the plan marked "Plan 1" annexed hereto showing the Property
- 2.26 "Plan 2" the drawing numbered 2219-01 marked "Plan 2" annexed hereto showing the Crossover Works
- 2.27 "Plan 3" the drawing numbered 2219-02 marked "Plan 3" annexed hereto showing the Main Building
- 2.28 "Plan 4" the plan marked "Plan 4" annexed hereto showing the area within which the Pedestrian Environment Improvements will be undertaken
- 2.29 "Plan 5" the drawing numbered 2219-03 marked "Plan 5" annexed hereto showing the Permanent Access
- 2.30 "Plan 6" the drawing numbered 2219-04 marked "Plan 6" annexed hereto showing the Repaving Works
- 2.31 "the Planning Application" a planning application for the Development submitted to the Council and validated on 8 September 2009 under reference number 2009/3192/P
- 2.32 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to Section 106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 7.1 hereof
- 2.33 "the Planning Permission" means any planning permission granted by the Secretary of State or the Planning Inspectorate pursuant to the appeal filed in relation to the

Plan 1: The Property



**Planning  
Potential**



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Title:

Witanhurst House, 41  
Highgate West Hill, London N6  
6LS

Plan:

PP1

Date:

2<sup>nd</sup> June 09




Job:

09/822

Author:

RP

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	 <p>ADL Traffic Engineering Ltd. ADL House The Oaklands Business Park Yate, Bristol BS37 5NA Tel : 01454 332100 Fax : 01454 327983 E-Mail : CAD@ADLTRAFFIC.CO.UK</p>	<p><b>NOTES</b></p> <p>1. FOR ILLUSTRATIVE PURPOSES ONLY.</p> <p>2. DO NOT SCALE FROM THIS DRAWING.</p> <p>3. ALL DETAILS TO BE CONFIRMED ON SITE.</p> <p>4. BACKGROUND PLAN IS BASED UPON 601-P-022_001.</p>	<p>AMENDMENTS</p> <table border="1"> <thead> <tr> <th>REV.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>		REV.	DATE	DESCRIPTION										<p> EXTENT OF CROSS OVER WORKS</p>	<p>Project</p> <p>Witanhurst Highgate</p>
			REV.	DATE	DESCRIPTION													
<p>This</p> <p>Cross over works Proposed Access</p>																		
<p>Date</p> <p>14 Apr 2010</p>	<p>Drawn</p> <p>A.Miles</p>																	
<p>Checked</p> <p> </p>	<p>Date</p> <p> </p>																	
<p>Scale</p> <p>1:150</p>		<p>Orig No.</p> <p>2219-01</p>	<p>Rev.</p> <p> </p>															



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T B A F F L O

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## NOTES

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## AMENDMENTS

REF.	DATE	DESCRIPTION



 EXTENT OF CROSS OVER WORKS

ADL Job No.

2219

	Project
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Witanhurst  
Highgate

	Tide
--	------

Cross over works  
Proposed Access

Date

14 Apr 2010

A. Miles

Checked

Date
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Approved
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Date:

Scale  
1:150

Drug No.	2219-01
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Row.	
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Plan 3: The Main Building



**ADL**  
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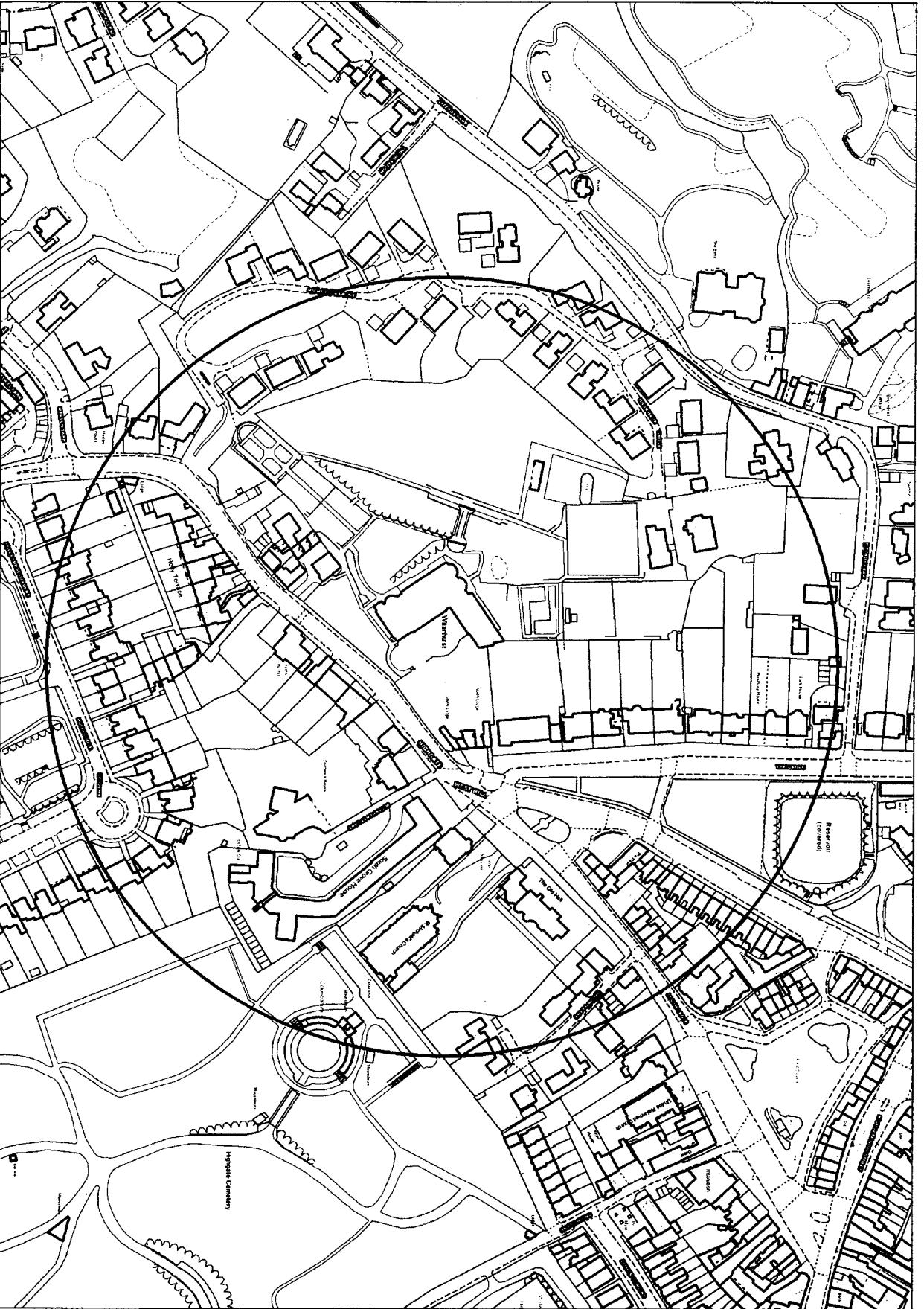
**AMENDMENTS**

REF.	DATE	DESCRIPTION

ADL Job No: 2219

Project: Witanhurst Highgate			
Title: Main Building			
Date: 14 Apr 2010	Drawn: A.Miles		
Checked:	Date:	Approved:	Date:
Scale: 1:500	Orig No: 2219-02	Rev:	

Plan 4: The area within which the Pedestrian Environmental Improvement Works will be undertaken



Plan 5: The location of the new Permanent Access in relation to the rest of the site and the local surrounding area

