

APPENDIX F

11 NETHERHALL GARDENS, HAMPSTEAD LONDON

Notes of meeting 17th March 2004 at Camden Council

Present

Mr D C Blayney - MSA
Mr M Scott - MSA
Mr J Howlett - Andrew Firebrace Partnership
Mr Charles Thuaire - Camden Planning Department
Mr Mortimer Mc Sweeney - Conservation Officer

Introduction

The meeting began with DCB explaining the history of the site to C Thaire, the current Planning Officer who knew little if anything of the site.

Engineering

- Mr J Howlett explained why the building would need to be fully underpinned following further movement towards the end of 2003. Neither the Conservation Officer or Charles Thuaire could explain what the query on the Planning Appeal was concerning the underpinning. However, the Conservation Officer would not accept that the building needed underpinning, but could not explain why. J Howlett explained the other structural issues which needed addressing and the consequential costs associated with the work.
- J Howlett also explained that the building had to be mortgageable. Their response was "its not our problem"
- It was obvious that neither the Planning Officer or the Conservation Officer were willing or technically able to provide a reasoned response and that they would need to seek technical advice. It was agreed that the report would be sent to their in house Building Control team following the fresh Planning Application.
- DCB asked about their statement "other alternatives had not been explored." The Conservation Officer stated this was related to alternatives into not underpinning the building. J H stated if the building was more important or significant eg The Tower of London, the building would be repaired at almost any cost. The building was not listed and it was uneconomic to spend vast quantities of money on a building of its stature. There was no option but to underpin the whole building in its present condition and specialist soil testing had been undertaken by independent laboratory analysis to confirm our findings.
- DCB also reiterated that the original instruction was to repair the building. Unfortunately as well as underpinning the post war work to convert the building into flats had been undertaken in a poor manner which meant major internal structural repairs to the dividing walls and floors were required. Major elements of the fabric were worn out and needed extensive repair and restoration.
- The conservation Officer conceded that there had been unsympathetic repairs carried out to the building which had caused damage to the fabric and the cost in rectifying the work would be costly. DCB agreed to provide these details in our re-submission. CH also confirmed these would be taken into account when our fresh application was submitted.
- It was then agreed that the engineer would leave the meeting as no further input would be required.

Costings

- M Scott explained how repair costs had been established. Once again neither party were willing or able to provide a reasoned response and that they would need to seek further advice from their Building Control Officers.

Revised Design

- If the existing building is allowed to be demolished it was clear that the Planner and Conservation Officer wanted a similar building put in its place.
- However, the new design and style was a more acceptable proposal.
- Underground parking was acceptable as it addressed the parking on the forecourt. This was agreeable. [The only plans shown were the one showing 22 car parking spaces] Double stacked cars were acceptable providing these were for a single large flat.
- Retention of the forecourt was met favourably as was our disabled access design with a ramp at the front of the building .
- The building was located on the old footprint and was no longer pushed back on the site as on the previous application. This was agreeable.
- The building was still too bulky. This is a major issue. The Conservation Officer was unhappy with four floors, simply because there was currently three. The Conservation Officer does not want change. DCB confirmed the need to increase the number of flats was simply to help with the cost of re-building and to lessen the financial burden on the owners and current leaseholders. Only four flats would be offered on the open market to sell. The revised PPG 3 had expressed development densities were too low and these needed to be increased. MM thought the intensity of development was important to consider due to the buildings position within the Conservation Area. Also by fitting in three floors the front elevation looked squashed. DCB confirmed he would revise the front elevation and deepen windows accordingly.
- The design of the lower roofs to the rear were commented upon with possibly these being of lean-to design rather than hipped, but it was less of an issue. A brief discussion took place concerning the rear extension design adjoining No 13 and the general pattern of development along Netherhall Gardens. DCB stated this was only a 4.0M extension and the O.S Map of the area was scanned. Whilst adjoining streets had a regimented design with all rear of buildings in a straight line Netherhall Gardens differed in this approach with a random pattern of development reflecting the diversity and age of buildings along the street. DCB wanted to maximise the value of the plot and no aspects of overshadowing or overlooking affected the adjoining properties.
- They also expressed their concern over the ridge and eaves height adjoining No 9 and asked if it could be lowered. DCB agreed to look at the roof design and symmetry of the front elevation.
- Charles Thuairé stated that the council would generally want 50% family accommodation i.e. flats with three bedrooms and a number of these would have to be on the ground floor with amenity space. DCB confirmed the present mix of accommodation but would look into providing a greater number of three bedroomed apartments. This would have to be discussed with the management company who would be the future occupants.
- DCB confirmed he would forward revised drawings prior to re-submission of the Planning Application. A meeting would be set up for the Planning Officer to visit the building in early April to be confirmed.

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31 October 2002

My ref: 361. Your ref:

Mortimer McSweeney,
The Conservation Department,
London Borough of Camden,
Town Hall,
Argyle Street,
London WC1H 8ND

020 7974 1975

Dear Sir,

re: 11, Netherhall Gardens, London NW3 – Application No. PWX0202527

I acted on behalf of six of the owners of leases at the above property and set up, on their instructions, the company, 11 Netherhall Gardens Management Company Limited, which purchased the freehold of the property as part of the settlement of litigation with the estate of the former owner of the freehold.

I have seen a copy of the letter written by Mayer Hillman, apparently on behalf of the Netherhall Neighbourhood Association, and was concerned to note that Dr. Hillman appeared to imply that the deterioration of the building was attributable to neglect by the current owners and that it might be that such neglect was in some way deliberate so that the owners would succeed in their application for permission to demolish the existing building. Nothing could be further from the truth.

The building appears to have been divided into ten self contained flats approximately fifty years ago. I am able to state this because, among the deeds is a copy of the licence granted by Sir George Percy Maryon Maryon-Wilson to convert the building into ten self contained flats.

Originally relatively short leases were granted but between 1962 and 1965 nine of the flats were sold off on long leases. The remaining flat, Flat 4, was let on a lease for fourteen years from 24th June 1956 to Max Andrée and in March 1970 the freehold was transferred to Max and Fanny Andrée and almost immediately thereafter it was transferred into the sole name of Mrs. Andrée.

The building suffered damage from subsidence following the hot summer of 1976 and an insurance claim was initiated but never properly followed through. Mrs. Andrée's then surveyor was hesitant to undertake underpinning, which was the insurance company's preferred solution, and it was agreed that the insurance company would settle the claim at 1976 prices when Mrs. Andrée and her surveyor decided on the course of action to take. Papers showing the amount and basis of the eventual deal struck by Mrs. Andrée have been lost by her then solicitors but it would appear that a sum in the region of £85,000.00 was paid to her in the early 1990's. No details of the work to be covered by this sum have been forthcoming.

Before his death Max Andrée undertook what management took place of the building and after his death no management appears to have taken place at all. I have seen the old files of correspondence and minutes of meetings showing the attempts by the long lessees to persuade Mrs. Andrée to undertake her duties to manage the building or to hand it over to the lessees. On occasion Mrs. Andrée agreed to hand over the management of the building and signed instructions to this effect to her solicitors but thereafter she appears to have changed her mind. The paperwork seems to show that her solicitors talked her out of this but the lessees informed me that she claimed to have discussed the matter with her, by then deceased, husband who counselled against the transfer of powers.

Reluctantly the nine lessees instructed solicitors to issue proceedings against Mrs. Andrée seeking an order that she maintain the building, that she pursue the insurance claim and that a Receiver be appointed to manage the building. I have seen the relevant files for the period and judgment was obtained summarily for damages. What the lessees were not told was that their solicitors and Counsel had used the wrong procedure to bring about what they wanted and that there would have had to have been a full trial to obtain the appointment of a Receiver to manage the property.

Mrs. Andrée's solicitors then agreed to negotiate but the negotiations led to nothing whereafter Mrs. Andrée died. Mrs. Andrée had appointed her solicitors as executors but they had retired and partners at the successor firm actually handled the estate. They took the view that they could do nothing with the building, even if the most urgent repairs were needed, as it might make the executors personally liable. The beneficiaries of the estate were two charities and the solicitors representing the charities simply sought to obtain as much money as possible from the estate.

When I took over the litigation files in October 1998 they were in a mess. Papers were missing and no formal steps had been taken in the litigation since the judgment in 1991. Three of the lessees had sold their flats and abandoned the litigation and the remaining six lessees were extremely surprised when I advised them that they were at risk of having their claim struck out. As far as they had been aware, the solicitors who had had conduct of the matter had been pressing on with the claim and had been met with continuous obstruction by Mrs. Andrée and her estate.

In July 2000 we managed to reach agreement, the effect of which was that the freehold was transferred to the management company together with what remained of the insurance monies. With those funds the company has been able to pay for detailed surveys of the property which I think speak for themselves. The conversion was poorly carried out and the subsequent neglect has exacerbated the attendant problems.

Dr. Hillman appears to doubt the independence of the structural survey. I can assure you that my clients have only ever talked to me about saving their homes. They have certainly not sought a biased report to enable them to demolish the building. I think that Dr. Hillman has lost his sense of perspective and has adopted a kneejerk NIMBY attitude to my clients' proposals.

OCTOBER 31, 2002

I hope that this letter clarifies the position in respect of the present owners of the building so that the application for permission for the building to be demolished will be treated on its merits and not as if my clients were devious and scheming property developers. My clients presently live in Netherhall Gardens and, as far as I am aware, they wish to continue to do so. The scheme being put to the Council appears to give them the best opportunity to afford to continue to do so.

Some of the lessees at 11 Netherhall Gardens are members of the Netherhall Neighbourhood Association but their opinions were not sought before Dr. Hillman wrote his letter of opposition. Dr. Hillman doubts whether my clients' structural survey is independent. I doubt whether the views that he expresses are those of anyone other than himself.

Yours Sincerely,

BERNARD CORDELL