



Terrace Lodge, Admiral's Walk, London NW3 6RS
Statement in support of application for a Certificate of
Lawfulness for Existing Development under section 191 of
the Town & Country Planning Act 1990 (as amended)

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AZ URBAN STUDIO

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for a Certificate of Lawfulness for
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Planning Act 1990 (as amended)

Terrace Lodge, Admiral's Walk, London NW3 6RS

Client:

Mr & Mrs R Seaton

Reference: AZ1511
Status: SUBMISSION
Date: 01.09.15

Name Author:
Signature Martin Harradine BA MA MSc MRTPI

Telephone: 020 7234 0234
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Position
Director (Planning)

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1. Introduction

- 1.1. This statement has been prepared in support of an application made under section 191 of the Town and Country Planning Act 1990 (as amended) ("the Act") for a Certificate of Lawfulness for existing development consisting of building and engineering operations at Terrace Lodge ("the Site") that were carried out without the benefit of planning permission.
- 1.2. The Certificate is sought on the basis that the development undertaken (as set out in detail below) was substantially completed more than four years prior to the date of this application.

2. Background and planning history of the Site

- 2.1. Terrace Lodge is a detached house of two storeys above ground, built in the 19th Century. The house is located on ground that is elevated significantly from local street level to the south and west, and is set back from the street behind dense planting and a modest front garden. To the north and east lies Grove Lodge and its gardens.
- 2.2. Terrace Lodge was statutorily listed on the 11th August 1950 at Grade II, with the list description providing the following:

TQ2686SW ADMIRAL'S WALK 798-1/16/10 No.15 11/08/50 Terrace Lodge
(Formerly Listed as: HAMPSTEAD GROVE No.15 Terrace Lodge)
GV II

Detached villa. Early C19 with later extensions. Stucco with tiled roof, gabled to left hand bay. 2 storeys, 3 windows. "Gothic" style. Wood trellis porch and panelled door. To right, 2-pointed light window with colonnette; to left, 3-light sash with traceried top panes and shutters. 1st floor under gable a canted bay oriel with traceried top panes. Other windows pointed with drip-moulds.

INTERIOR: not inspected.

- 2.3. As noted in the list entry description the house had, by 1950, been the subject of later extensions, namely to the rear (east) of the original building where historic map regression identifies that such development took place between 1915-1934 and resulted in single storey buildings to the rear that

were subsequently integrated with the rest of the house by way of a glazed conservatory.

2.4. LB Camden planning register contains information relating to later, post-1950, development at the Site, including the following:

13th May 1980 – Listed building consent granted subject to conditions (ref DB/13/5/HB2390) for *Minor alterations involving demolition of gate and garden sheds and construction of extension to kitchen, glazing of conservatory and re-opening of first floor window.*

12th November 1987 – Listed building consent granted subject to conditions (ref HB/8770369) for *Formation of a window in the north wall of first floor to provide maintenance access to roof, as shown on drawing nos. 87/01/01 and 87/01/02.*

14th May 2004 – Full Planning Permission Granted subject to conditions (ref 2004/1213/P) for *Replacement of part of single storey element of the house with part single storey part 2-storey extension at the rear, roof alterations to the remaining single storey part of the house, including new glazed roof, 3 roof lights and elevational alterations to existing secondary entrance to the house, and erection of a new skylight on the main roof of the house.*

14th May 2004 – Listed building consent granted subject to conditions (ref 2004/1215/L) for *Partial demolition, internal and external alterations and erection of a two storey rear extension.*

17th May 2005 – Approval of details granted (ref 2005/5430/P) in relation to conditions 5, 7, and 8 upon planning permission 2004/1213/P.

17th May 2005 – Approval of details granted (ref 2004/5445/L) in relation to conditions 6, 8 and 9 upon listed building consent 2004/1215/L.

3. The development undertaken for which the Certificate is now sought

Sequence of events

- 3.1. As set out above, full planning permission and listed building consent were granted in 2004 (both subject to conditions) to demolish and rebuild in a different and enlarged form the various 20th century elements at the rear of Terrace Lodge, together with various minor internal and external alterations to the original 19th century parts of the house. Some conditions upon the planning permission and listed building consent requiring approval of details were discharged, whilst others were not.

- 3.2. During design development of the proposals following planning approval a structural engineer (Mr David Warren of INGealtior) was engaged, and investigations made into appropriate foundation design for the part single, part two storey extension at the rear of the Site. As part of the same engineering consideration of the site, concerns were raised regarding the dilapidated and failing state of the retaining wall in LB Camden ownership to the south of Terrace Lodge, adjacent to the highway. Due to the elevated position of the house relative to the street, and its close proximity, the steep banked edge to the highway was and remains an important structural element effectively holding in place the land upon which the house is sited. No works to the bank or retaining wall were included in the planning application submitted in 2004, as at the time of submission its structural importance and poor condition were not known.

- 3.3. A site meeting was held on the 7th October 2004 between the applicant's architect and engineer, and Mr John Barker of LB Camden Highway Engineering and Traffic section to discuss a proposal issued to LB Camden on the 11th September 2004 by Mr Warren for the applicant to stabilise the retaining wall with gabions and replacement facing brickwork. A subsequent letter dated 26th November 2004 from Mr Martin Reading, Team Manager, Highways Engineers (LB Camden) confirmed that the Council had no objection to the works, and that the ownership and future maintenance of the bank and wall structure would remain with the Council.

- 3.4. The structural investigations for the foundations for the (replacement) extension to the rear of the house concluded that piling was necessary. A

decision was taken that as piling was necessary, a contiguous piling approach could be employed that would then allow the excavation of the soil within the piled perimeter to form basement accommodation as part of the new build extension to the rear of the house.

- 3.5. No further or modified planning permission nor listed building consent were sought for the excavation of a basement. The development carried out also differed from that approved under the planning permission and listed building consents granted in other areas, as set out below.
- 3.6. Works began on site on the 29th November 2004 with strip-out and demolition, and a main contract for the building works was let on the 24th January 2005.
- 3.7. Works continued throughout 2005 and into 2006, and a Certificate of Practical Completion was issued on the 11th May 2006 when the works were completed. Building control records held by Camden indicate that completion of the works (Building control ref 05/5/0019) was 11th July 2006. It is not clear why the Council's recorded completion is two months later than Practical Completion.

The variance from the approved development

- 3.8. The development carried out on site is materially different from that approved in the 2004 grant of planning permission and listed building consent.
- 3.9. A separate application for listed building consent for the works carried out is submitted concurrently to this application made under section 191 of the Act.
- 3.10. The development carried out on the site differs from that granted full planning permission in 2004/1213/P in the following way:
 - a. Excavation of a single storey basement (3m depth) below new build rear extension providing 36sqm of floorspace (GIA)
 - b. Obscured glass pavement lights (3m x 1.2m) constructed to south of new build rear extension to provide light to basement

- c. Glazed roof lantern to new single storey rear extension built smaller than approved
- d. Timber door (opening) with glazed panels inserted in south elevation where 'glazed panel' approved
- e. Bespoke metalwork boundary fence and gate erected to south and west garden boundaries
- f. Small wooden shed with sedum roof erected immediately north of the garden entrance gate

3.11. The above items were carried out together with other elements of development that were identical to those approved in 2004/1213/P.

3.12. The actual development carried out on the site can be described for the purposes of this application as:

'Replacement of part of single storey element of the house with part single storey part 2-storey extension at the rear, excavation of single storey basement below replacement single storey element, obscured glass 'pavement' lights to basement, roof alterations to the remaining single storey part of the house, including new glazed roof, 3 roof lights and elevational alterations to existing secondary entrance to the house, erection of a new skylight on the main roof of the house, replacement of wire fence with metal fence and new gate, and erection of garden shed with sedum roof.'

3.13. The resulting development can be seen in full on the existing drawings of the Site (plans, sections and elevations) as submitted with this application, and of course also upon inspection of the site.

4. Evidence

4.1. A Certificate of Practical Completion was issued in relation to the works on the 11th May 2006, at which point the development was substantially completed.

4.2. Building control records held by Camden indicate that completion of the works (Building control ref 05/5/0019) was 11th July 2006.

5. Statutory provisions

- 5.1. Section 171A of the Town and Country Planning Act 1990 defines a breach of planning control as carrying out development without planning permission or failing to comply with a condition or limitation subject to which planning permission had been granted.
- 5.2. Section 171B(1) of the Act provides that for a breach of control consisting of the carrying out of operational development no enforcement action can be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- 5.3. Section 191(2) of the Act confirms that operations are lawful if no enforcement action can be taken against them, and Section 191(1) provides for an application to be made to the Local Planning Authority to confirm as lawful any such operations.

6. Interpretation and assessment

- 6.1. Works of operational development consisting of building and engineering operations took place at the Site from the 29th November 2004 and were substantially completed by the 11th May 2006.
- 6.2. From the outset of works commencing upon the site the development carried out differed materially from that approved in the planning permission granted (2004/1213/P), most notably by virtue of the excavation of a modest basement to the rear of the original house as an integral part of the works.
- 6.3. It is well established that where works are carried out other than in accordance with the approved plans, the development is unlawful. The case of *Sparkes v Secretary of State for the Environment, Transport and the Regions* [2000] 3 PLR 39, for example, provides a useful summary.
- 6.4. In the case of the development described in section 3 above at Terrace Lodge, it follows that the full planning permission 2004/1213/P was never commenced and has now long since expired. What was carried out at the

site was a different form of development for which no planning permission existed, and was substantially completed on the 11th May 2006.

6.5. By operation of Section 171B(1) of the Act, no enforcement action may be taken in respect of that operational development after the expiry of the period of four years from that date.

6.6. The building operations were completed on the 11th May 2006 as confirmed by the evidence provided and therefore became immune from enforcement action from 12th May 2010. Accordingly the Lawful Development Certificate applied for under Section 191 can be granted on application.

6.7. This application does not include those works undertaken to the highway bank and retaining wall as that land falls within LB Camden ownership.

6.8. As noted earlier in this statement, a separate application for listed building consent has been simultaneously submitted to LB Camden to seek consent for those works at the Site carried out that may be considered to fall outside of the listed building consent previously granted.

Appendices

Appendix 1: Photographs of the works



Decorative metalwork gate and mail chute, with garden shed to left concealed by hedge



Interior of small basement excavated on site

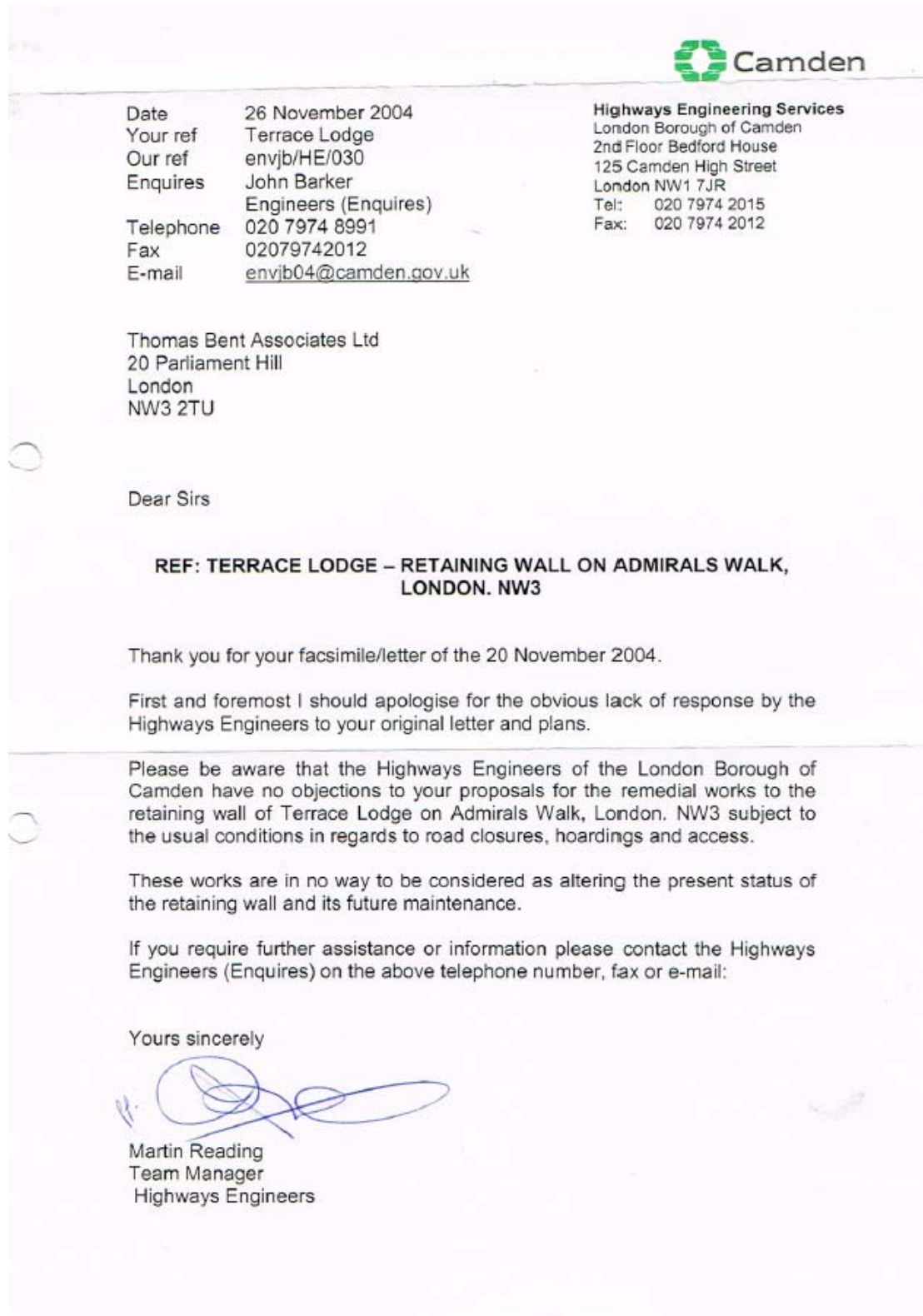


Glazed roof lantern built smaller than approved (length reduced)



'Pavement' lights to basement in terrace adjacent to modern part of the house

Appendix 2: Correspondence with LB Camden Highways re works to bank and retaining wall





Peter Blake
Service Manager
Engineering Services
Camden Council
Camden Town Hall 4th Floor
Argyll Street
London WC1H 8ND

Your ref: envjb/HE/0014
Our ref: Terrace Lodge

07 October 2004

Dear Peter Blake

Terrace Lodge Collapsed Wall Admirals Walk London NW3

We write following a meeting this morning, on-site with your colleague John Barker of the Highway Engineering and Traffic section.

This was in response to correspondence between our clients Mr & Mrs Seaton, the Highways dept, and our client's structural engineer David Warren of ING ealtoir.

John Barker confirmed that the long collapsed section and any other weak areas of retaining wall needed to be replaced. The engineering department had previously concluded the use of Gabions was appropriate for this remedial work if used in conjunction with a reinstated planting cover to the renewed embankment at the conclusion of the works. This method is exactly as proposed and submitted by David Warren on 11th September along with his report of Embankment Condition.

In order to undertake this work and protect the public it is necessary to construct a secure 2-3metre high hoarding for the length of the collapsed and vulnerable wall. This we have approximately indicated on the attached plan including retained road widths as suggested by John Barker.

It was also confirmed that following the remedial work the responsibility for this retaining wall would continue to be carried by Camden Council, and that our client was not accepting any responsibility or liability by having the work carried out at the same time as extensive works to their property Terrace Lodge, which are due to commence shortly. The contractor will shortly lodge a formal application for the hoarding.

We would appreciate your or Highways early confirmation that the submitted drawing from ING ealtoir is approved in principle and that you give consent to the works. Please advise if you seek any further detail clarification.

Please also advise as to the likely contribution level our clients may reasonably expect to receive from the Council to offset against their costs of undertaking this permanent remedial work.

We remain,
Yours sincerely,

Tom Brent
For and on behalf of TBAL

cc. Client
Highways – John Barker
David Warren ING ealtoir

Handwritten notes:
Called 28/10
John Barker informed
letter ok +
will confirm

Handwritten signature:
not
JWB

Appendix 3: Certificate of Practical Completion relating to the works

Architect: THOMAS BRENT ASSOC LTD.
 address: 20 PARLIAMENT HILL
 LONDON NW3 2TN

Employer: MRS MRS R. SEATON
 address: 6 ELDON GROVE LONDON NW3

Contractor: HEDDS CONSTRUCTION LTD
 address: 21 LINK LANE
 SPELMAN ST LONDON E15 6LX

Works situated at: TERRACE LODGE ADMIRAL'S WALK
 LONDON NW3

Nominated Sub-Contract Works: (if applicable)

Certificate of Practical completion of the Works OR of works executed by a Nominated Sub-Contractor

Job reference: SEATON

Serial No: 1

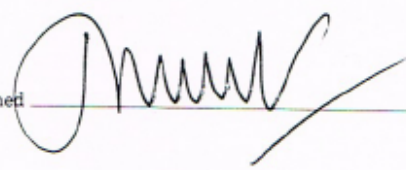
Issue date: 15.05.06

Under the terms of the Contract dated 29th JANUARY 2005

~~1~~ We certify that:

- *Delete as appropriate
- ~~*1. Practical Completion of the Nominated Sub-Contract Works referred to above, was achieved on:~~
 - *2. Practical Completion of the Works ^{OF THE INTERIOR} was achieved on: 11th MAY 2006

The Employer should note that as from the date of issue of this Certificate of Practical Completion of the Works the Employer becomes solely responsible for insurance of the Works.

Signed  Architect

Original to:	Copies to:	Nominated Sub-Contractors:	
<input checked="" type="checkbox"/> Employer	<input checked="" type="checkbox"/> Contractor	<input type="checkbox"/> Structural Consultant	<input type="checkbox"/> _____
	<input checked="" type="checkbox"/> Quantity Surveyor	<input type="checkbox"/> Services Consultant	<input type="checkbox"/> _____
	<input type="checkbox"/> Clerk of Works	<input type="checkbox"/> Electrical Consultant	<input type="checkbox"/> Site