



Appeal Decisions

Inquiry held on 7-9 October and
17-18 November 2009

Site visits made on
6 and 18 October 2009

by **Paul Jackson** B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
14 December 2009

Appeals: APP/X5990/E/09/2104912 & APP/X5990/A/09/2104913 St Mark's Church, North Audley Street, London W1K 6ZA

- The appeals are made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent and under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeals are made by Hammer Holdings Ltd against the decisions of the City of Westminster Council.
- The applications Ref 07/09241/LBC & 07/09240/FULL, dated 15 October 2007, were refused by notices dated 11 December 2008.
- The development proposed consists of alterations to provide fire escapes and to accommodate use as a 'Wellness Centre'.

Preliminary matters

1. During the Inquiry, revised drawing ref 1308/C/PL28C was provided indicating corrections to the south elevation where it is proposed that doors currently providing access to the exterior of the building would be replaced with windows. I have taken this into account in considering the appeals.

Decisions

2. For the reasons given below, the appeals are dismissed.

Main issues

3. The main issue in respect of the application for listed building consent is the effect of the proposed works on the architectural character and historic interest of St Mark's Church, which is a listed building at Grade I.
4. In respect of the application for planning permission, the main issues are whether the proposed development would preserve or enhance the character or appearance of the Mayfair Conservation Area; and whether the proposed change of use is acceptable, having regard to development plan policies that seek to retain community facilities.

Reasons

Background

5. St. Mark's Church lies in the Mayfair Conservation Area between Oxford Street and Grosvenor Square. It was designed by John Peter Gandy-Deering in the neo-classical Greek revival style and constructed between 1825 and 1828.
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The North Audley Street frontage consists of a high flat Ionic portico in Bath stone which is a striking feature in the street, despite being quite narrow amid the brick frontages of the adjoining Victorian and Edwardian residential and retail buildings. The main part of the interior was completely re-modelled in 1878 in a more embellished Romanesque style by Sir Arthur Blomfield using polychrome brick and open timber construction, but the deep narthex, except for a new mosaic floor, remains as designed by Gandy-Deering in the simple manner of a Greek temple. The crypt is also largely unaltered. The building is acknowledged to be of exceptional architectural and historic significance, justifying the Grade I listing, because of the quality of the differing architectural treatment of entrance and narthex and the main body of the interior, reflecting the changes in architectural fashion in the 19th century.

6. The fabric of the building has been deteriorating since the 1960s. Declining attendances after the war eventually led to the church being declared redundant in 1974 pursuant to the Pastoral Measure. The adjacent Rectory and the church hall to the rear were sold. New uses were sought. Of nine planning applications since then, seven have been refused. Those allowed, in 1986 and 1988 for an art gallery and art auction house, were never implemented. Whilst regular public worship under the auspices of the Church of England ceased, the building continued to be used by other Christian groups including most notably the Commonwealth Christian Fellowship (CCF). However, the funds necessary to repair the building proved to be beyond this group.
7. A Certificate of Lawful Use or Development (CLOPUD) was granted in 2006 for use as a 'wellness and therapy centre' on the basis of basic indicative plans and that on the balance of probabilities, the proposed use constituted a medical/health service within Use Class D1. The current appeals follow refusal of a detailed application which the Council considered included elements of a leisure use.
8. The building has been included on English Heritage's 'at risk' register since 1988 and is categorised as class C 'slow decay with no solution agreed'. The building is suffering from water penetration and rot, most noticeably in the area between the narthex and the northern part of the nave, but also more generally due to the deterioration of slates and lead coverings, made worse by short term inappropriate repairs. The stonework of the west front to North Audley Street and the bell tower are exposed to the weather and display a significant amount of spalling. The building now requires a comprehensive programme of repairs.
9. The appellant has concluded a 112 year lease with the London Diocesan Fund (LDF) which includes an obligation to repair and maintain the fabric. A section 106 (S106) agreement has been completed which in my opinion meets the requirements of Circular 05/2005 *Planning Obligations* and has the effect amongst other things of ensuring its restoration and providing limited public access.
10. Holy Trinity Brompton (HTB) is an Anglican church and part of the Diocese of London. It operates from Kensington but since 2007 has been eager to provide a facility for worship, outreach and community work from St Mark's.

Policy Guidance

11. National policy guidance, policies of the London Plan, and policies of the Westminster Unitary Development Plan (UDP) of 2007 pertain to the proposal. I refer to those which are most relevant. UDP policy DES 10 advises that a proposal for development involving the extension or alteration of a listed building should demonstrate that it would respect its character and appearance and serve to preserve, restore or complement its features of architectural or historic interest. In an effort to find a new use that would rectify the continuing decay of the building, the Council adopted in 2003 Supplementary Planning Guidance (SPG) in the form of a Planning Brief. This says that the retention of the use of the building as a place of worship would be the preferred option for both the Council and the Diocese. Paragraph 5.4 of the SPG says that in considering alternative uses, there should be an assurance that there is still no demand for worship or other community uses that could also ensure the satisfactory restoration of the building. This advice reflects national guidance in Planning Policy Guidance Note 15 *Planning and the Historic Environment* (PPG15) which indicates that the best way of securing the upkeep of historic buildings is very often the use for which the building was originally designed and that this should be the first option. However, a change of use may also be permitted where it would contribute economically towards the restoration of a listed building without adversely affecting the special architectural or historic interest of the building or its spatial or structural integrity. At that time, it was unlikely that a religious use could be found that would guarantee the necessary finance to restore and preserve the building.
12. UDP policies STRA 28 and DES 9 seek to preserve or enhance the character or appearance of conservation areas. The Council is seeking to retain some form of social and community facilities and public access. UDP policies STRA 19 and SOC 1 seek to protect local community facilities and shops which will meet the needs of residents, workers and visitors. The explanatory notes to STRA 19 say that community uses including religious buildings have to compete with strong pressure to change to other more metropolitan uses.

Change of use

13. Use as a 'wellness centre' would include many activities that would fall within one definition of Use Class D1 as 'the provision of any medical or health services'. However, the proposed use would be very different from the commonly accepted concept of a health centre or doctor's surgery. Whilst considered by many to be beneficial to health, activities such as yoga, meditation classes, pilates, a therapy pool, water massage, hydrotherapy, an outdoor sauna and plunge pool, massage and herbal mud treatments, would also have a recreational or leisure element and are marketed as such. Group activities such as pilates and yoga would take place in the main body of the church where, on those occasions, I consider it would be the dominant activity. In my opinion, the proposed use would not be solely D1 'Non-residential institutions' (the existing use) but would also include D2 'assembly and leisure', falling outside the CLOPUD.
14. There would also be ancillary retail and refreshment activities. A single use comprising a number of different component activities which are dependent one upon the other is a composite use. Circular 03/2005 indicates that where

the primary use of land is a mixture of different uses, such mixed use does not fall into any of the classes set out in the amended Use Classes Order and would be 'sui generis'. On the balance of probabilities, I consider that that is the case here.

15. The proposed wellness centre would consist of an essentially private commercial operation. Apart from those visiting the ancillary retail activity in the narthex, which would be open to the street, the rest of the building would only be accessible to those paying for one of the various consultations, therapies and treatments offered. The appellant has undertaken to provide free public access at other times by means of S106 agreement, but that would not provide public access in the manner that local people would have been accustomed to in the past or even, on the basis of evidence at the Inquiry, what has been available in more recent years. There is some doubt that the building itself was open for much of the working week, but that could be explained by the remoteness of the office accommodation from the North Audley Street entrance; in common with many other urban churches, the door would have to be kept secure. I heard that access was generally made available for visitors to come in for prayer and for other religious purposes whenever necessary.
16. The appeal proposal would provide private health facilities, but there are already other private health facilities in the area. By contrast, church use has the potential to provide a resource which is capable of serving the community in other ways. The CCF provided community support in a number of ways to local people and vulnerable groups such as young people and the elderly up to 2008, when they were given notice after failing to put in place adequate insurance. A limited number of local residents would use the facilities of the wellness centre but the special needs of these groups are unlikely to be served. However, it is not apparent that other local churches are unable to fill this gap.
17. I conclude on this issue that the wellness centre would not provide the range of community facilities that would be available from a church use, especially to the more needy; and this weighs against it. Overall, however, the proposed change of use would not seriously conflict with the wording or general aims of UDP policies SOC 1 and STRA 19.

The effect on the Mayfair Conservation Area

18. There is no formal audit of the conservation area although the Council has prepared a short leaflet. It seems to me that the character of the area stems mainly from the historical development of the area as a residential suburb, onto which has gradually been imposed a substantial amount of retail and business use. The residential origins of many of the nearby buildings, many of which were houses but are mostly now flats, are still apparent. The area is still lived in by a wide variety of people, though substantially less than in the 19th century when St. Mark's was a busy parish church.
19. Insofar as the appearance of the area is concerned, the change of use would have little impact. The west front would remain unaltered except for the installation of metal gates. I do not consider that would have any harmful effect. Gates are not uncommon features of city centre churches and they would be open for most of the time. The proposed retail and commercial

function of the building would be readily apparent to passers by and compared to the existing church use this would diminish the variety of uses in the street, which includes much other commercial retail. Having said that, the classical entrance portico is not ostensibly religious in form and this would not in my view seriously compromise the contribution the church makes to the appearance of the area. More significantly, the development would lead to the restoration of the façade and the fabric of the building and I regard this to be of very significant benefit to the appearance of the conservation area.

20. Turning to the effect on character, there would be an impact in terms of the change in the function of the building as a traditional centre for worship and community use. The building would no longer be available for baptisms, church weddings, funerals and other ceremonies associated with religious belief nor would it cater for the desire of individuals for a place of solace and prayer. Whilst recognising that these activities have been in decline in St Mark's for many years, that does not mean that the local community would not experience a sense of loss. However, there are other churches in the area including St. George's Hanover Square, the church which due to overflowing congregations, inspired the building of St. Mark's in the first place. I conclude here overall that the character of the Mayfair Conservation Area would be preserved and its appearance would be enhanced; and there would be no conflict with the conservation area protection aims of UDP policies STRA 28 and DES 9 or national guidance on conservation areas in PPG15.

The effect on the Grade I listed building

External alterations

21. The appellant seeks to use a space in the roof void for storage purposes, introducing a door in the brick gable wall and an external staircase which would also provide a means of escape from the gallery via another new door opening. The stair would be contained in a contemporary metal and glass enclosure on the corner of the west gable wall of the church. The brick external envelope of the church is difficult to see from any public space, although it can be seen from some nearby buildings. The new stair would also involve the removal of a short flight of steps from the ground floor to the exterior. The openings in themselves would be relatively simple alterations but in my view, the modern stair enclosure in a quite different architectural style would not be a minor feature as suggested in the Planning Brief for this purpose. It would rise to eaves level. I consider that it would detract from the building's special interest which as far as the external envelope is concerned, derives from its pleasing homogenous four-cornered brick construction which remains largely unaltered from the early 19th century. A discordant addition does not have to be in plain sight to affect a building's special interest. Whilst safety considerations suggest that a new escape from the gallery is desirable, that would not require a tower of the height proposed or the disparate materials suggested. I appreciate that the appellant may need additional storage space but that functional requirement on its own does not seem to me to justify this addition, which although only visible to a few, would detract from the building.
22. The introduction over the roof of the narthex of a shallow therapy pool, decking and a small wc, together with a health bar under the tower, would largely cover over the existing butterfly style roof, but this is utilitarian in form and materials

and has been patch repaired many times over the years. The existing roof is hard to see from any nearby building, but the unseen and functional parts of a listed building are still important and should be preserved if possible. The means by which the indirect rooflights that illuminate the narthex would remain in place are unclear and are not shown on the application drawings, but I am satisfied that this could be ensured by submission of details. The majority of the existing structure would be opened up and repaired. The pool would be supported on separate new beams. The installation would be reversible. Although an alien element in a grade I listed 19th century church, I do not consider the small therapy pool would be unacceptable in the context of a new use which would enable repair and maintenance of the listed building.

23. Other minor external alterations such as the installation of an extract duct and changes to the accommodation to provide a kitchen are uncontroversial.

Internal alterations

24. Parts of the main body of the church would be sub-divided by means of boarded partitions and glazed screens to provide changing areas, therapy and consulting rooms. Other alterations are proposed to conceal much of the rake in the gallery and introduce a new raised glass balustrade. The gallery cubicle walls would be angled against the external walls and designed in such a way as to allow the windows to provide daylight, but this would be somewhat curtailed and it would be hard to see all the windows at once or to appreciate the form and function of the galleries as originally intended.
25. The ground floor partitions would be behind the main column supports of the nave which would help to retain a sense of its special quality and structure, but the windows at this level would not be easily seen. Although the partitions would be transparent in nature with some clear and some obscured glass, I consider that for reasons of privacy, the use of changing cubicles of limited height within these spaces is likely to lead to a strong perception, if not an actual overlooking issue from the galleries above. The locations and heights of the windows into the nave are such that this would be difficult to deal with adequately without introducing more obscured glass, curtains or by raising the height of the cubicles. The transparency of the partitions would be eroded and over time, the reading of the original architecture of the church would be seriously compromised. This would be very difficult to control.
26. At both levels in the nave, the existing finishes to ceilings and walls where partitions would be installed are flat except for a simple moulded dado rail. The nave itself will remain open from east to west but the partitioning off of the aisles and the installation of consulting rooms along the galleries on each side would substantially alter perception of the quality of the whole central space. The alterations would be reversible, but I consider they would be a serious intervention in the main body of the church, which would lose much of its coherence and special architectural character.
27. There are other aspects of the internal alterations which would be irreversible and would, in my view, have a damaging effect on the building's architectural character and historic interest. The proposed reversal and rebuilding of the flights of the south narthex stair to incorporate a wheelchair lift in the well would completely change the character and form of the stair. This would

remove an important element of symmetry which is part of Gandy-Deering's original design at the critical junction of the neo-classical and Victorian elements of the building. Moreover, the extension of this altered stair to the crypt below would substantially interfere with existing brick tunnel and groin vaults which remain as originally constructed. The mirrored pair of stairs to the gallery comprises one of the building's most interesting elements and would not be preserved.

28. In the same general area, the proposed removal of the short flight of steps from the nave to the exterior together with the nearby linked stair to the crypt and their replacement with toilets and a disabled therapy room is an alteration which would significantly change the plan form of the building and the external elevation. This would be a permanent loss. The replacement of this access with an awkward sequence of a short and long flight of steps up through an existing window and then down to the outside at the east end of the nave to get to the proposed external sauna would appear distinctly unsympathetic, in my view. It would be at odds with the traditional layout of a church, which would not normally have steps up and out through an aisle window. Although this would be reversible, I consider even the temporary installation of this feature, given that it may be in place for very many years, would appear very peculiar and would detract from the building's special interest.
29. Annex C to PPG15 advises at paragraph C.58 that the plan of a building is one of its most important characteristics and that interior plans and individual features of interest should be respected and left unaltered as far as possible. The removal or alteration of any historic staircase is not normally acceptable. Whilst I appreciate the benefits to the appellant of providing easy vertical circulation, I am not convinced that if a lift is necessary, the chosen location is the most appropriate. I do not share the view that the chosen location is no more detrimental than elsewhere; the Planning Brief suggests that the former coffin lift on the north side of the narthex may be suitable. Moreover, use of a motorised 'Chairmaster' conveyor designed to ascend and descend stairs of the sort proposed for the main entrance at St. Mark's and employed at Holy Trinity Marylebone (restored by the appellant) suggests that there may be other means of access which could be used as part of a disabled access strategy that would satisfy the Building Control Officer. I am not persuaded that safe evacuation in case of fire inevitably necessitates substantial intervention in the historic fabric of a Grade I listed building, whatever use it is put to. PPG15 advises that a listed building may sustain alterations necessary as a means to achieving the wider goal of full restoration; but the alterations to the stairs would be destructive and permanent.
30. Turning to the crypt, the wellness centre use would include excavations and adaptations to provide a sunken cold pool, thermal treatment rooms and other rooms for various therapies. The restoration of the tiled floor of the former mortuary chapel is a welcome enhancement of the building, but the other alterations proposed involve solid partitions across the vaults and alterations to enable heat and humidity to be properly dealt with. In my view, these changes would prevent the whole space being properly appreciated. Whilst acceptable as part of a scheme that would otherwise ensure complete restoration of the building, they would be regrettable.

31. The proposal incorporates re-siting of one of the rare mort safes in a location where it can be seen and its historical interest appreciated. Moving historical fittings that are built into the fabric involves a degree of risk, but this raises no serious objection as part of a comprehensive restoration.
32. English Heritage (EH) considers that the proposed alterations have an adverse impact but conform to the guidance in PPG15 in the context of the proposed use, which would enable repairs and maintenance to take place. That is contingent on the unavailability of a less damaging use. The EH position remains that if an ecclesiastical user is capable of demonstrating that they are both willing and capable of addressing the condition of the building and meeting ongoing maintenance costs, that they should be regarded as a preferred user for the building. The Georgian Group and the Victorian Society take a similar standpoint. The overriding concern is the desirability of preserving the listed building and any features of special architectural or historic interest which it possesses. I agree that all the alterations proposed would be acceptable, if no other use is available which would have a lesser impact. In this case, there is the possibility of continuing church use which I consider below.

HTB

33. The ability of HTB, all other things being equal, to carry out the necessary repairs and maintain the building is undisputed. The LDF is completely satisfied that HTB has sufficient funds. No-one questions HTB's track record of restoring churches of similar size with similar difficulties to St. Mark's. No doubt is cast by anyone on the potential of HTB to gather a congregation and contribute substantial sums to the Diocese in the future.
34. Although there would be a need for some changes to the fabric and fittings in order to meet current access and escape requirements, and to accommodate a contemporary style of worship, indicative drawings suggest that those alterations are highly unlikely to be as extensive as the changes required by the appellant to operate a wellness centre. Most significantly, the main body of the church would be virtually unchanged. Although the mirrored stairs would be adapted to access the crypt, they would be extended in their current form and would be accessed and visible from the narthex as they are now. There would be no therapy or cold pools. I do not regard the removal of pews to be a serious disadvantage to appreciating the building. There may be a minor impact on some aspects of special interest, but there is a great difference between changes necessary due to the evolution of ecclesiastical use as has happened in many other traditional church buildings (and in St Mark's itself), and changes necessary as a result of a completely different use for which the building was not originally designed.
35. Against the case in favour of HTB is the strong commitment of the appellant who has leased the building in good faith following negotiations with the Council and the LDF over several years. A substantial sum has been paid to the Diocese and there is the prospect of rent, potentially for many years, which will support the Church's work elsewhere. There is no doubting the appellant's resolve to restore the building and bring it back into use.

36. I have to have regard to the merits of the arguments in terms of the planning issues now. It does not matter that more than 30 years have passed since the church was declared redundant. The reasons for the failure to find an alternative use in that time which was capable of securing its upkeep are now historic and of little relevance to the evidence placed before me. The harm to special interest resulting from all the proposed alterations to this Grade I listed building to convert it into a wellness centre would be very significant. There is nothing to suggest that a continuation of use as a church is not, at the present time, a viable option for the building's future. That would comply fully with the aims of all the relevant policies and moreover, would provide the more comprehensive and accessible community resource desired by local residents and workers. Whether that is a practical possibility depends on the probability that the lease can be surrendered or another arrangement made.
37. The lease has been entered into willingly by the appellant, despite not having the necessary consents, at risk. A commercial judgement was made, but this cannot influence unduly assessment of the planning merits. If planning permission or listed building consent were to be refused, the commercial aspects are capable of resolution in accordance with commonly accepted business practice; in other words, it would not be reasonable to expect a substantial asset to lie unused without producing a return when there is a proven demand for that asset. For that simple reason I do not doubt, on the balance of probabilities, that refusal would lead to negotiations between the Diocese and the appellant. That will involve a delay in resolving the future use of the building. There will be a cost. Having regard to the length of time the building has been at risk, and its current 'slow decay' condition, I do not consider those concerns to be as significant as the prospect of, potentially, more than a hundred years in the future during which the building would be unacceptably altered, when there is still a demand for church use for which it was originally intended and which would comply fully with the aims of all the relevant policies. I am not concerned that the building will continue to deteriorate, because the lease obliges the appellant (in the form of Mayfair Land Ltd) to keep the premises in good repair and condition, whatever the result of these appeals. That is simply a factor to be considered in the negotiations.
38. Importantly, the Church Commissioners, who are responsible for managing the historic assets of the Church of England, recognising in their statement of 20 July 2009 that (in my words) much water had passed under the bridge, now believe that the Diocese of London should seek to enter negotiations to secure a settlement such that the building could be brought back into use as a church. The Bishop of London leads the Diocese of London, is one of the Church Commissioners and is supportive of HTB taking on St. Mark's. In evidence, the LDF representative confirmed that the preference of the Diocese is that the building should be used by another Christian body. Their reticence on this point up to then derives from a clause in the agreement with the appellant which binds the Diocese not to take any step which might prejudice the efforts of the appellant to obtain planning permission and listed building consent.
39. I give very substantial weight to these expressions of support. None of those making them would have been unaware of the commercial implications of retreating from the contract with the appellant. That suggests to me that there

is a real prospect of negotiations being successful. Moreover, there is no serious suggestion that use of the building by HTB would fail to receive the other ecclesiastical approvals necessary or that listed building consent would not be forthcoming for the limited works likely to be necessary.

40. I appreciate that the Diocese, between 2006 and 2009, consistently chose to favour a commercial let. The LDF has a duty to find without any unnecessary delay an alternative use for a church redundant under the pastoral measure. It is entirely understandable, given the long delay in finding an alternative use and the merits of the appeal proposal, that the agreement for lease would be phrased as it was and indeed, that the lease would be executed as it finally was on 4 September 2009 following the issue of the sealed scheme of redundancy by the Closed Churches Committee. However, that should not unduly sway my judgement of the planning merits having heard the arguments. The financial consequences of surrendering the lease are a material consideration but no more than that; my main concern is that the listed building is preserved.
41. There are relevant facts that help to explain why HTB were not more forward in their claim to the building. For reasons of confidentiality stemming from the terms agreed with the appellant as referred to above, the LDF sought to prevent HTB from making any comment on the applications. This was against the spirit of the planning brief, which expresses a preference for continuing church use. I recognise that many years have elapsed since the building was declared redundant during which HTB and others could have expressed greater interest, but for much of that time, the building was occupied by CCF who made repeated commitments to securing its upkeep. It is entirely understandable that HTB might have been unaware of their true situation and/or were unwilling to intervene. I appreciate that the Diocese may have other properties which it considers suitable for use by HTB instead of St. Mark's but without any details, I cannot give this any significant weight. In the final analysis, HTB have expressed a strong desire to re-use St. Mark's which is now strongly supported by the Church.
42. I have taken into account all the other matters raised including case law referred to by the main parties, but this pertains to very different circumstances and while certain principles are established they do not bear any direct relationship to the particular balance that I have to make on the merits of re-use of a redundant Grade I listed church for its original purpose.

Conclusion

43. It has been demonstrated that church use for worship and community facilities is still viable and on the balance of probabilities, a realistic prospect. This represents a preferred use for the building which would comply with all the relevant policies and guidance and would secure its repair and maintenance. The wellness centre would not conflict with the wording of policies seeking to retain community services, but church use would have more far reaching and inclusive benefits for the local population, visitors and workers in the area. The proposed development would preserve the character and enhance the appearance of the Mayfair Conservation Area, but the harm to the special architectural character and historic interest of the building itself would be substantial and would seriously conflict with the listed building protection aims of policy DES 10, SPG and national guidance in PPG15. The case made for

continuing church use is compelling and involves significantly less intervention. The listed building concerns are of sufficient gravity to persuade me that there are no changes that could be made without needing a new application; and planning permission must also be refused.

Paul Jackson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Hereward Phillpot

He called

Kenneth Costa &
Rebecca Stewart

Paul Quayle BSc MSc
DipUD MRTPI

Robert Ayton BA (Hons)
MA UD MScTBC MRTPI
IHBC

Church Warden &
Chief Operating Officer

Holy Trinity Brompton Church

Assistant Area Team leader, Central Team.

Westminster City Council

Head of Design and Conservation, Central Area
Team, Westminster City Council

FOR THE APPELLANT:

Christopher Lockhart-Mummery

He called

Michael Bye

Brian Waters MA

DipArch(Cantab) DipTP

RIBA MRTPI ACArch

FRSA

Diocese of London

The Boisot Waters Cohen Partnership

FOR THE SAVE ST MARKS ACTION GROUP (SSMAG):

John Pugh-Smith

He called

John Parmiter FRICS

FRSA MRTPI

Partner, Roger Tym & Partners

INTERESTED PERSONS:

The Rev W E R Wilkinson

Peter Martindale

Baroness Stefania von Kories zu

Goetzen

George Johnstone

The Hon Alderman Ann

Mallinson

Sally Rickard

Ronald Cottee

Father William Pearsall SJ

Ron Bishop

Matthew Olley

DOCUMENTS

Day 1

- 1 Letter of notification.
- 2 Bundle of representations from the Victorian Society and others.
- 3 Copy of a letter with attachments from Streathers Solicitors, submitted by SSMAG.
- 4 Copies of letters from Peter Martindale, submitted by the Council and SSMAG.
- 5 Officers report relating to the application for a Certificate of Lawful Use (CLOPUD) ref 05/09033/CLOPUD, submitted by the appellant.
- 6 Copy of draft S106 Agreement, submitted by the appellant.
- 7 Copy of the objectives of the Bishop's Council, submitted by Westminster Council.
- 8 Copy of Lease dated 4 September 2009, submitted by the appellant.
- 9 Copy of Management Services Agreement dated 9 September 2009 between Mayfair Land Ltd and Hammer Holdings Ltd, submitted by the appellant.

Day 2

- 10 Copy of letter from The Residents Society of Mayfair and St James's dated 7 October 2009, submitted by the appellant.
- 11 Strategic Development Maps, showing churches within 1, 2 and 3 miles of the appeal property, submitted by the appellant (2).
- 12 Legal commentary on Conveyance of 7 February 1824, submitted by the appellant.
- 13 Copies of correspondence from the Archdeacon of Charing Cross, Lady Sainsbury and Nicky Gumbel, dated 10 March 2009, 11 March 2009 and 13 March 2009, submitted by SSMAG.
- 14 Copy of officer's report and planning permission for continued temporary use of the building for function use (sui generis) ref 09/02959/FULL, submitted by SSMAG.
- 15 Bundle of letters and information regarding use of the appeal property by the Commonwealth Christian Fellowship, submitted by SSMAG.
- 16 Copy of unsigned Lease dated 22 April 2008, submitted by the appellant.
- 17 Copy of signed Lease dated 4 September 2009, submitted by the appellant.
- 18 Copy of Legal Charge of a registered estate (Norfolk House, Temple Street, Bristol) submitted by the appellant.
- 19 Letter from Cluttons to Michael Bye dated 16 October 2009 commenting on valuations on property offered as security.

Day 3

- 20 Copy of Lease dated 8 May 2006, submitted by the appellant.
- 21 Copy of the Church Commissioners 'Redundant Churches in the Church of England' A Guidance Note for Local Authorities, submitted by SSMAG.
- 22 Copy of email correspondence between Westminster Council and

the LDF, supplied by the Council.

- 23 Alterations to the Agreement to Lease, from the appellant.
- 24 Copy of letter from Cluttons regarding property offered as security, supplied by the appellant.

Day 4

- 25 Deed of Rectification of Lease dated 16 November 2009, submitted by the appellant.
- 26 Letter submitted by Rev Roderick Leece, St George's Church, Hanover Square.
- 27 Copy of draft S106 Agreement with comments from Peter large, Westminster Council Head of Legal Services.
- 28 Final list of suggested conditions.
- 29 Suggested revised planning condition regarding use of the building, submitted by SSMAG.
- 30 Suggested revised listed building condition regarding details of parts of development, submitted by the Council.
- 31 Copy of Officers report and recommendation relating to an application for planning permission and listed building consent for restoration of Holy Trinity Church, 1 Marylebone Road, submitted by SSMAG.
- 32 Extract from Pastoral Measure, supplied by the Council.

Day 5

- 33 UDP policies CENT 1 and CENT 4 including tables 1.1 and 1.2, submitted by SMAG.
- 34 DCLG *Further Guidance on Fire Risk Assessment and Fire Precautions* Appendix C relating to fire risks in historic buildings, submitted by the Council.
- 35 Statutory Instrument 2005 No. 1541 The Regulatory reform (Fire Safety) Order 2005, submitted by the appellant.
- 36 DCLG *Further Guidance on Fire Risk Assessment and Fire Precautions* General Principles, submitted by the appellant.
- 37 Article from Evening Standard 17 November 2009, submitted by SMAG.
- 38 Signed and sealed S106 Agreement.

PLANS

- A1 1308 C/PL/25, timber screen details.
- A2 1308 C/PL/27, showing internal narthex elevation.
- A3 1308 C/PL/28, corrected south elevation.
- A4 C/PL/16 D, section through screen with guidance on visibility at ground floor.
- A5 C/PL/16 E section showing corrected ground floor structure.

PHOTOGRAPHS

- P1 & P2 Photographs of Holy Trinity Church, 1 Marylebone Road, before restoration, submitted by the appellant.