

Report of the Corporate Director of Planning and Community Services

Address: SWAKELEYS HOUSE, ICKENHAM

Development: APPLICATION TO ERECT 25,092 SQUARE FEET OF
OFFICES TO PROVIDE FURTHER FUNDS TO RESTORE
THE BUILDINGS AND GROUNDS OF SWAKELEYS HOUSE

LBH Ref Nos: 23202/F/81/1435
APP/R55/10/A/83/004491

Drawing Nos: N/A

**Date application
approved at
Committee** 29th May 1984 – at appeal

S52 Agreement Dated 12 July 1984

CONSULTATIONS

Conservation: This variation has been drawn up following discussions with officers, concerning amendments to the requirements for public access to Swakeleys House.

The owner has provided evidence supporting his contention that the public access requirements have prevented successful marketing of the house in recent years, with the result that it has lain empty. Moreover, he has provided evidence that the public access days have not been well attended.

For those having an academic architectural interest in the building, a dedicated web site with virtual tour would provide a resource for those studying local history, or the Jacobean period of architecture. This would illustrate those limited parts of the interior previously accessible to the public: the entrance hall, staircase and first floor chamber above.

However, this, in itself, was not considered sufficient for those wanting to visit the house. Thus provision has been made for public access to the exterior of the house and surrounding grounds during the Open House Weekend. This would enable guided tours to take place with leaflets for

visitors. This is a weekend of some standing and the House is likely to generate much interest.

These arrangements are considered reasonable, both in the interests of ensuring that the building is occupied one more and in reaching the greatest number of people with a potential interest in the architecture and history of Swakeleys House.

1.0 SUMMARY

1.1 This report seeks a variation to the Heads of Terms of the s52 agreement for Swakeleys House, Ickenham that was approved at appeal on the 29th of May 1984.

2.0 RECOMMENDATION

2.1 That authorisation be given for the Council to vary the Heads of Terms of the s52 agreement for Swakeleys House in Ickenham, to enable the following:

- i. To delete clause 1.7.
- ii. To delete plan A from the s52 agreement and replace with a new Plan A attached to this deed.
- iii. To insert a new clause 1.7 to read:
“Those parts of Swakeleys shown coloured blue on Plan B and parts shown hatched green on Plan A annexed hereto will be open for public access as follows:-
 - i. The above mentioned areas of Swakeleys shall be open for inspection by persons having an interest in the architectural or historical value of Swakeleys on one or both days of the Open House Weekend (or by whatever name this event may subsequently be known);
 - ii. The details of opening times and arrangements in relation to the Open House Weekend are to be determined by the Applicant in consultation with the Council.

1.7.1 The applicant shall produce a leaflet which provides a brief architectural description and history of Swakeleys, together with illustrations, to be made available to those visiting during the Open House Weekend, the content of which is to be agreed with the Council in advance of distribution.

1.7.2 Immediately upon completion of this Deed the Applicant shall provide details of the design and content of a standalone website to be provided for members of the public to view 365 days a year.

1.7.3 As a minimum, the website shall include;

- a home page;
- historical and architectural descriptions of Swakeleys;
- plans, photographs and views of Swakeleys;
- a virtual tour with sixteen viewpoints linked to floorplans;
- links to relevant websites of interest.

1.7.4 Prior to the launch of the website, the applicant must first obtain written approval from the Council regarding the contents, format and design of the website”.

3.0 KEY PLANNING ISSUES

- 3.1 Planning permission was granted following an appeal under section 36 of the Town and Country Planning Act 1971 to allow an application to erect 25,062 square feet of offices (“the new office development”). This was to provide further funds to restore the buildings and grounds of Swakeleys House which the council required from time to time, be open for access by the public.
- 3.2 The s52 agreement signed on the 12th of July 1984 made provision, inter alia for:
- i. The grounds to be open on one day a year for the Ickenham festival
 - ii. The provision for certain areas of the house to be open to the public on three specified days in the year and at other times by written appointment.
- 3.3 The application for variation relates to restricting the public access to the property. This has been requested on the basis that the property has been empty for 5 years and evidence has been submitted to support their view that the access arrangements have deterred prospective purchasers and tenants. Additional evidence supports their contention that the open days have not been well attended of late.
- 3.4 The public access arrangements have been an integral part of the granting of planning permission for the restoration of Swakeleys House and the associated enabling development in the past. In mitigation of the proposal to remove these rights from the public the applicants have agreed to the following:
- 3.5 For the deletion of clause 1.6 relating to public access the map identifying this area of land is amended to only include the bowling club. The bowling club will remain open with access from The Avenue.
- 3.6 For the deletion of clause 1.7 relating to access by the public to the interior of the house itself it is proposed that a virtual tour of the interior of the house will be provided on a stand alone website. This will be designed by Alan Baxter Associates, in association with “eye revolution” and would include a home page; a historical and architectural description of the house with plans, photographs and views; a virtual tour with sixteen viewpoints, linked to floor plans and link pages to relevant websites.
- 3.7 The grounds to the house will also be opened as part of the ‘Open House Weekend’, with the agreed opening times, staffing arrangements, methods of opening, information available in the form of leaflets and insurance and health and safety policy, to be confirmed – see Open House Leaflet.

- 3.8 The grounds will remain open for the Ickenham Festival as agreed in clause 1.8 of the original s52 agreement. However it is considered that the additional opening at the Open House Weekend will given adequate opportunity for those with an academic interest to visit the house, view the frontage and receive verbal and written information about its outstanding architectural and historical importance.
- 3.9 Given the importance of securing the future of Swakeleys house and enabling it to become occupied and properly used again, this variation is considered acceptable.

4.0 OBSERVATIONS OF THE BOROUGH SOLICITOR

- 4.1 When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.
- 4.2 In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).
- 4.3 Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.
- 4.4 Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.
- 4.5 Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

5.0 OBSERVATIONS OF THE DIRECTOR OF FINANCE

- 5.1 There are no financial implications resulting from this request for variation to the s52 agreement relating to Swakeleys House.

Background Documents:

- a) s52 agreement
- b) Draft Deed of variation

Contact Officer: VANESSA SCOTT / CHARMIAN BAKER
Telephone No: 01895 556167 / 01895 5588107

THIS AGREEMENT is made the *1st* day
of *July* One Thousand Nine Hundred and Eighty
Four BETWEEN SWAKELEYS HOUSE LIMITED whose
registered office is situate at 174 King Street
Hammersmith London W6 0RA (hereinafter called "the
Applicant") of the one part and the MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF HILLINGDON of Civic Centre Uxbridge
in the said Borough (hereinafter called "the Council") of
the other part

WHEREAS

1. The Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1971 for the administrative area of the said Borough

2. The Applicant owns the freehold interest in land known as "Swakeleys" Ickenham in the said Borough (hereinafter referred to as "Swakeleys") registered respectively under Title Numbers MX17025 and MX317026 shown on Plan A annexed hereto and thereon edged red situate wholly within the administrative area of the said Borough

3. The Applicant has obtained planning permission (Local Authority reference number 3N04SSH/JMA/80/1688) to develop Swakeleys by the making of a material change of use of Swakeleys House to use as offices with ancillary

car parking provisions to the extent shown on the said Plan A

4. The Applicant has obtained planning permission (Local Authority reference number ~~2302E/F/81/1435~~ ^{23202/F/81/1435}) and listed building consent to carry out alterations to Swakeleys House and to construct a new extension to Swakeleys House for use as offices ("the extension") and to construct a new vehicular access to Milton Road Ickenham

5. The Applicant was granted consent on 29th May 1984 following an appeal (reference APP/R55/10/A/83/004491) under Section 36 of the Town and Country Planning Act 1971 (hereinafter called "the Appeal") into an application to erect 25,092 square feet of offices ("the new office development") to provide further funds to restore the buildings and grounds of Swakeleys House and the Council is desirous that the buildings and grounds of Swakeleys House be restored and from time to time open for access by the public

NOW THEREFORE THIS DEED WITNESSETH as follows:-

1. In pursuance of Section 111 of the Local Government Act 1972 Section 33 Local Government (Miscellaneous Provisions) Act 1982 and Section 16 of the Greater London Council (General Powers) Act 1974 in the

event of the new office development taking place in accordance with the permission granted on the Appeal (or at the option of the Applicant (Swakeleys) in any event) it is hereby agreed as follows:-

- 1.1 The Applicant shall expend the sum of One Million Seven Hundred Thousand Pounds (£1,700,000.00) or thereabouts in restoring in accordance with the specification and Bills of Quantity contained in a Contract between the Applicants and W.S. Try (pursuant to a Letter of Intent dated 8th August 1983) (a copy of which for inspection purposes is retained at the offices of Messrs. Lovell White & King of 21 Holborn Viaduct London EC1A 2DY) and brief details of which specification are set out in the Schedule attached hereto the fabric of the main building of Swakeleys House and its outbuildings including all features of architectural and historic interest as set out in the list compiled by the Secretary of State for the Department of the Environment under the Town and Country Planning Act 1971 as amended and for the avoidance of doubt a certificate by the Applicants' Architect that the sum of £1,700,000 or thereabouts has been laid out in carrying out the works briefly described in the Schedule hereto shall be conclusive proof of satisfaction of this clause.

1.2 The said sum of £1,700,000.00 or thereabouts shall be expended and the fabric of the main building of Swakeleys House and its outbuildings shall be restored as specified in sub-clause 1.1 above before any part of Swakeleys House its outbuildings and the extension or the new office development is occupied

1.6

1.3 A comprehensive tree survey will be carried out to the satisfaction of the Local Planning Authority showing the position condition and branch spread of the principal trees at Swakeleys and proposals will be made to the Council indicating which trees are intended to be removed and which are intended to be retained together with comprehensive proposals for further planting and where necessary tree surgery

1.7

1.4 The said tree survey and proposals will be approved by the Council before any part of the development is commenced and will be fully implemented within 8 months of the occupation of Swakeleys House its outbuildings and the extension or the said new office extension

1.5 Comprehensive hard and soft landscaping proposals for that part of Swakeleys shown edged blue on the said Plan A will be prepared and approved by the

Council before any part of the development is commenced and will be fully implemented within 8 months of the occupation of Swakeleys House and its outbuildings and the extension as offices or the said new office extension

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1.6 Those parts of Swakeleys shown coloured yellow on Plan A shall be open for public access daily from 9.00 a.m. in the forenoon until one hour before sunset for informal recreational use ~~and limited sports use respectively~~ subject to the observance of such rules and regulations as to such access as may be made from time to time by the Appellant and approved by the Council

1.7 Those parts of Swakeleys shown coloured blue on Plans B1 and B2 and those parts shown hatched green on Plan A annexed hereto will be open for public access as follows:-

(i) on three days each year by agreement with the Council so as to enable the public at large to view areas of special architectural or historic interest within Swakeleys House

and

(ii) upon such other days in each year (the

frequency and timing of which to be determined in the unfettered discretion of the Owners) for the inspection of the said areas of Swakeleys House by representatives of recognised societies or other bodies or persons having an interest in the architectural or historic aspect of Swakeleys House who shall have made a prior application in writing to the Owners and any such day (without prejudice to the unfettered discretion referred to above) will be not longer than one month after the receipt of such application in writing

- 1.8 ✓ Those parts of Swakeleys shown hatched green on Plan A attached hereto shall be open for public access on one day a year to coincide with the Ickenham Festival
2. Regulations 9 - 16 inclusive of the Town and Country Planning (Control of Advertisements) Regulations 1969 shall not apply to Swakeleys
3. Each party to this Agreement will bear their own costs in connection with the preparation and completion of this Agreement
4. This Agreement shall be registered in the Local Land Charges Register

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5. Subject as herein provided the expressions "the Council" and "the Applicant" will where the context so admits include their respective successors in title and assigns and covenants and obligations made or entered into by either of them shall be deemed to be made or entered into on behalf of such successors in title and assigns

6. In the event of this Agreement becoming unconditional the Agreements dated 8th June 1981 and 5th November 1981 between the Applicant and the Council shall become null and void and of no further effect and shall be removed from the Register of Local Land Charges

7. The Applicants hereby covenant with the Council that they will not in perpetuity develop the land hatched green on Plan A

wn null & void
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8. That area shown yellow hatched black on Plan A attached hereto shall be leased for a term of 21 years at a peppercorn rent by the Applicant to Swakeleys Bowling Club for use as a bowling green

9. In the event of any dispute arising between the parties as to the interpretation or application of any provisions of this Agreement such dispute will be referred to arbitration in accordance with the

the Arbitration Act 1950 The Arbitrator shall be President for the time being of the Royal Town Planning Institute or his nominee and his decision shall be final and binding on both parties

The Schedule before referred to

SWAKELEYS HOUSE

(a)	<u>House</u>	£
	Demolitions and Alterations	38,631
	Concrete work in floors	8,189
	Work to external elevations	136,818
	Work to roof	67,936
	Work in refurbishing/ strengthening the structure	100,588
	Internal partitions and fittings	11,112
	Work to windows	38,223
	Work to doors	26,943
	Work to lift shaft and staircases	20,802
	Plumbing and Mechanical Services	97,743
	Electrical Services	109,234
	Panelling	99,675
	Mural	28,375
	Finishings	104,260
	Decorations	53,450
(b)	<u>Stables and Cottages</u>	
	Demolitions and Alterations	47,666
	Foundations and concrete work	8,304
	Brickwork and blockwork	17,873
	Roofing	33,428
	Woodwork	39,103
	Structural Steelwork	5,411
	Plumbing and Mechanical Services	26,182
	Electrical Services	33,074
	Finishings	13,856
	Glazing	3,111
	Decorations	5,569

(c) Links and Pavilions

Foundations and concrete work	15,152
Brickwork and Blockwork	9,807
Asphalt work	2,458
Roofing	8,449
Woodwork	25,431
Structural Steelwork	3,352
Plumbing and Mechanical Services	17,183
Electrical Services	12,449
Finishings	180
Glazing	6,671

(d) General works relating to the House

Drainage and external services	13,888
External works	21,594
Provisional Sums and Daywork	78,450
General Contractors Preliminaries, Overheads profits etc	<u>140,861</u>
	£1,531,491

Allowance for inflation from June 1983 until January 1985	<u>134,500</u>
	£1,665,991

IN WITNESS whereof the parties hereto have hereunto set
their hands and seals the day and year first above
written

THE COMMON SEAL of SWAKELEYS)
HOUSE LIMITED was hereunto)
affixed in the presence of:-)

Director

Secretary

THE COMMON SEAL of THE)
MAYOR AND BURGESSES)
OF THE LONDON BOROUGH)
OF HILLINGDON was)
hereunto affixed by Order)

Member of the Council

Assistant Chief Executive



15807

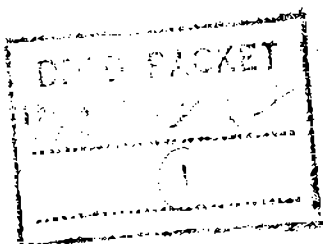
DATED *12th July* 1984

SWAKELEYS HOUSE LIMITED

and

LONDON BOROUGH OF HILLINGDON

SECTION 52 AGREEMENT



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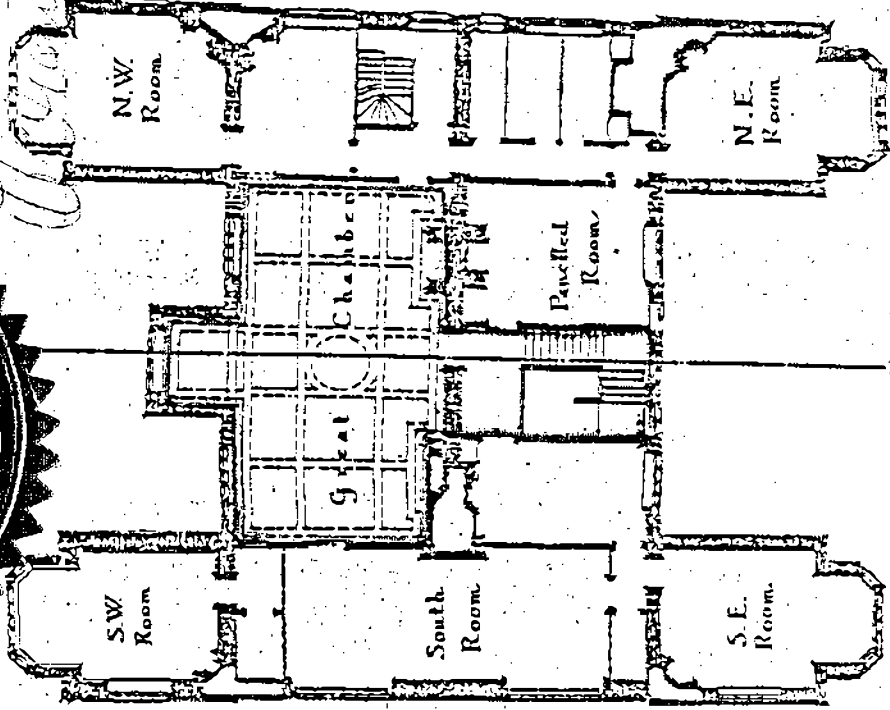
Messrs. Lovell White & King,
21 Holborn Viaduct,
London, EC1A 2DY

Ref: 3/LAB



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FIRST FLOOR PLAN

See Building Book of ...

AKELEYS
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PROPOSED
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ROOMS TO
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PUBLIC VIEW
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PLAN B I

THE ARCHITECTS
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MAYHEW & CO. LTD.

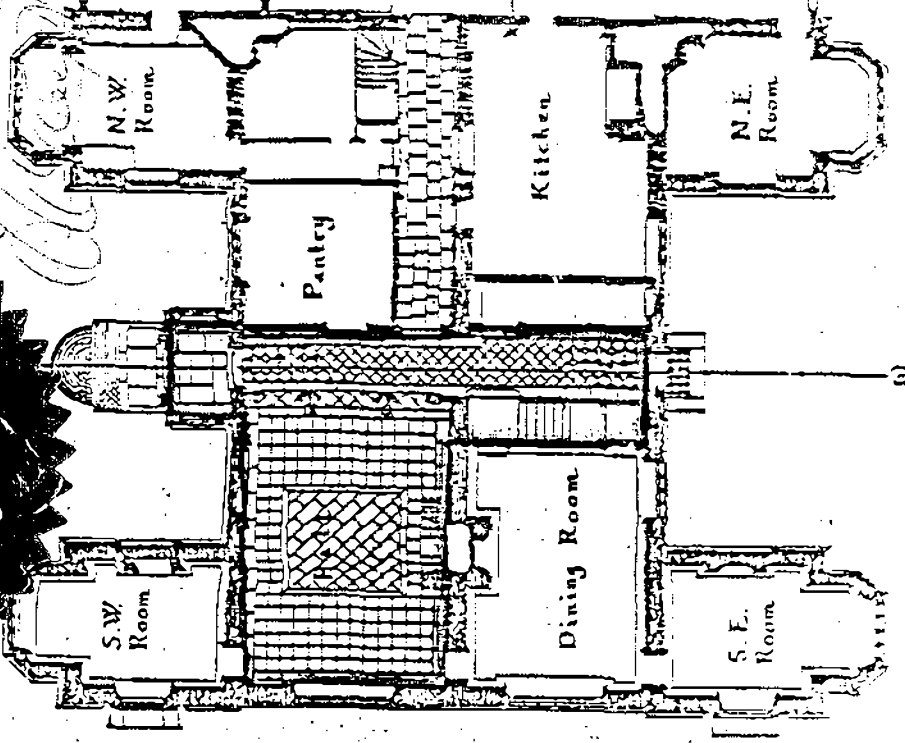


SWAKELEYS
ICKENHAM

PROPOSED
PRINCIPAL
ROOMS TO
BE OPEN TO
PUBLIC VIEW
EDGED BLUE

PLAN B 2

THE FIRBY ADRIE
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FOR
SWAKELEY'S HOUSE LTD.



GROUND FLOOR PLAN

Scale 1/4" = 1'-0"

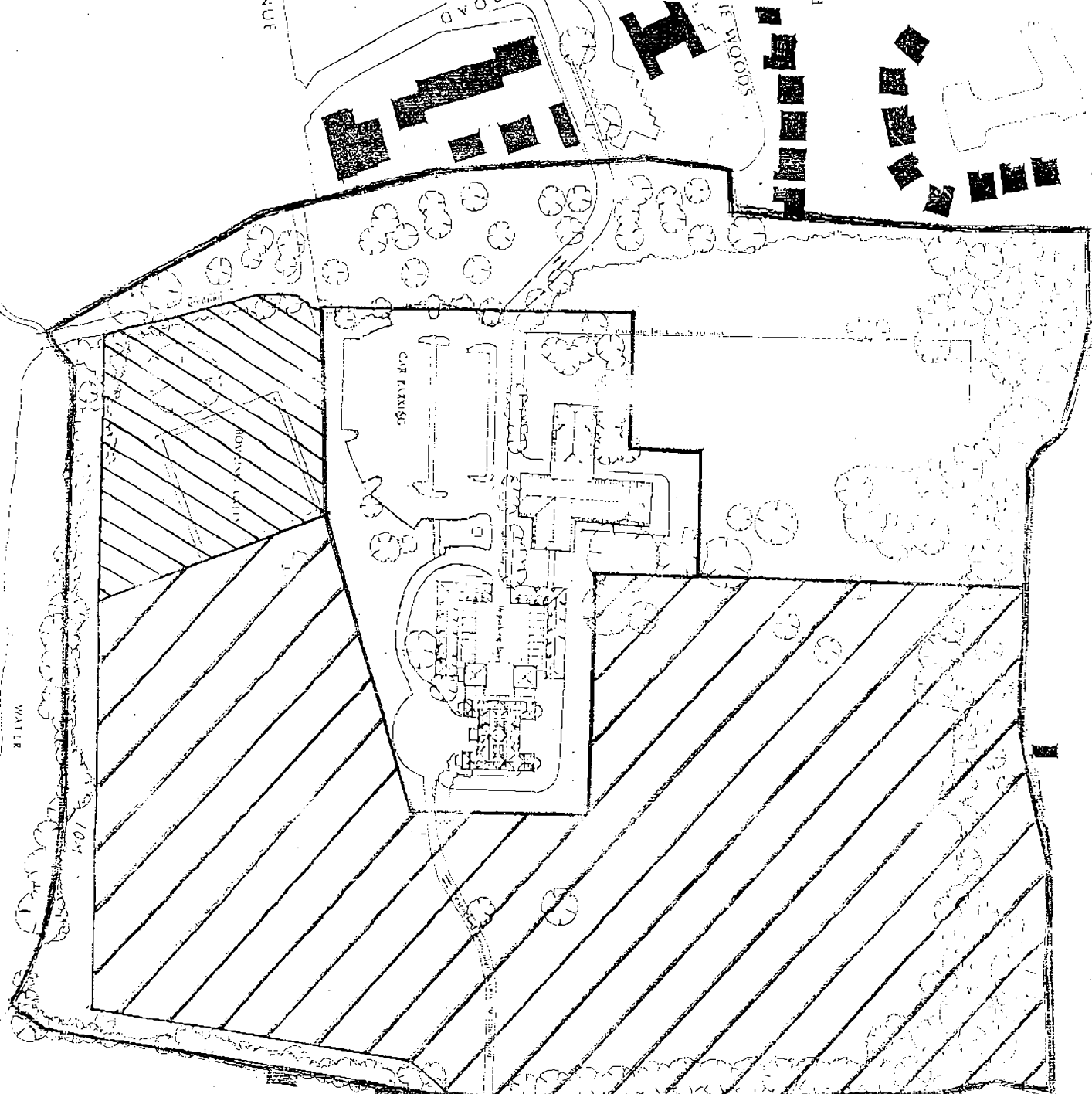
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SWAKELEYS
PLAN A

DATED

2009

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HILLINGDON

and

CES PROPERTIES (ICKENHAM) LIMITED

and

THE ROYAL BANK OF SCOTLAND PLC

DEED OF VARIATION PURSUANT TO
SECTION 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990
RELATING TO THE DEVELOPMENT OF LAND AT

SWAKELEYS HOUSE THE AVENUE ICKENHAM

Environment and Property Team

London Borough of Hillingdon
Civic Centre
High Street
Uxbridge
Middlesex
Ref: 3E04/S106/53230/33
Tel: 01895-250861

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BETWEEN:

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HILLINGDON**
of the Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW ("the Council")
- (2) **CES PROPERTIES (ICKENHAM) LIMITED** of 4 Manchester Square, London, W1M
5RE ("the Applicant")
- (3) **THE ROYAL BANK OF SCOTLAND PLC** of 36 St Andrews Square, Edinburgh, EH2
2YE ("the Mortgagee")

BACKGROUND

- A The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 ("TCPA 1990") in respect of Swakeleys.
- B The Applicant has the freehold interest in Swakeleys.
- C The Mortgagee has an interest in Swakeleys by way of a legal charge dated 23 June 2003 and is willing to be a party to this Deed.
- D The Applicant obtained planning permission under the Council's reference number 3NO4SSH/JMA/80/1688 to develop Swakeleys by the making of a material change of use of Swakeleys to use as offices with ancillary car parking provisions to the extent shown on Plan A.
- E The Applicant also obtained planning permission under the Council's reference number 2302E/F/81/1435 and listed building consent to carry out alterations to Swakeleys House and to construct a new extension to Swakeleys House for use as offices and to construct a new vehicular access to Milton Road Ickenham.
- F The Applicant was granted consent on 29 May 1984 following an appeal under reference number APP/R55/10/A/83/004491 to erect 25,092 square feet of offices to provide further funds to restore the buildings and grounds of Swakeleys House.
- G The Applicant has implemented the permissions pursuant to the above planning applications.
- H On 11 February 2009 the Applicant wrote to the Council requesting a variation to the Section 52 Agreement to restrict access to Swakeleys due to issues surrounding privacy and security on site.

The purpose of this Deed is to vary the Section 52 Agreement in the manner described below.

IT IS AGREED AS FOLLOWS:-

1. INTERPRETATION AND DEFINITIONS.

1.1. In this Deed, unless the context otherwise requires:

“the Council”	Means the Council or any authority which may succeed to its function of enforcing the terms, provisions and planning obligations created by this Agreement;
“this Deed”	Means this Deed of Variation;
“Open House Weekend”	Means the annual event organised by Open House London in which historic buildings not usually accessible to the public are opened for one or both days on a particular weekend;
“Plan A”	Means plan A annexed to this Deed;
“Plan B”	Means plan B annexed to this Deed;
“the Section 52 Agreement”	Means the legal agreement made under Section 52 of the Town and Country Planning Act 1972 between the Council (1) and the Applicant (2) on 12 July 1984;
“Swakeleys”	Means the land edged red on the attached plan known as Swakeleys House Ickenham registered under Title Numbers MX17025 and MX317026;

1.1 This Deed is supplemental to the Section 52 Agreement.

1.2. In this Deed, unless the context otherwise requires:

1.2.1. References to clauses paragraphs and schedules are references to those in the Section 52 Agreement; and

1.2.2. Words and phrases whose meanings are not varied by this Deed have the same meanings as in the Section 52 Agreement.

1.3 This Deed is made pursuant to the statutory provisions and in consideration of the covenants contained herein and for the avoidance of doubt it is agreed and declared that the said covenants are ones to which section 111 of the Local Government Act 1972, section 16 of the Greater London Council (General Powers) Act 1974, section 106 of the TCPA 1990 and all other powers so enabling apply.

1.4 This Deed contains planning obligations made pursuant to the Section 52 Agreement which is enforceable by the Council and which binds each and every part of Swakeleys.

2. VARIATION OF THE SECTION 106 AGREEMENT

2.1 The parties agree that except as varied by this Deed, the Section 52 Agreement shall remain in full force and effect.

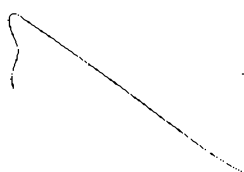
2.2 Nothing in this Deed affects the validity or effect of the Section 52 Agreement or the Council's powers in respect of any antecedent breach or omission in relation to the Section 52 Agreement.

2.3 The parties agree that upon completion of this Deed the Section 52 Agreement shall be varied by deleting the Plan A attached to the Section 52 Agreement and replacing it with the Plan A attached to this Deed.

2.4 The Section 52 Agreement shall be varied by deleting clause 1.7 in its entirety and replacing it with the following:

"1.7 Those parts of Swakeleys shown coloured blue on Plan B and those parts shown hatched green on Plan A annexed hereto will be open for public access as follows:-

(i) the above mentioned areas of Swakeleys shall be open for inspection by persons having an interest in the architectural or historical value of



Swakeleys on one or both days of the Open House Weekend (or by whatever name this event may subsequently be known);

- (ii) the details of opening times and arrangements in relation to the Open House Weekend are to be determined by the Applicant in consultation with the Council.

1.7.1 The Applicant shall produce a leaflet which provides a brief architectural description and history of Swakeleys together with illustrations to be made available to those visiting during the Open House Weekend, the content of which is to be agreed with the Council in advance of distribution.

1.7.2 Immediately upon completion of this Deed the Applicant shall provide details of the design and content of a standalone website to be provided for members of the public to view 365 days a year.

1.7.3 As a minimum, the website shall include:

- a homepage;
- historical and architectural descriptions of Swakeleys;
- plans, photographs and views of Swakeleys;
- a virtual tour with sixteen viewpoints linked to floorplans;
- links to relevant websites of interest.

1.7.4 Prior to the launch of the website, the Applicant must first obtain written approval from the Council regarding the contents, format and design of the website”.

3. COSTS

- 3.1. The Applicant shall on the execution of this Deed pay the Council's costs incurred in the negotiation, preparation and settlement of this Deed in the sum of £*****.

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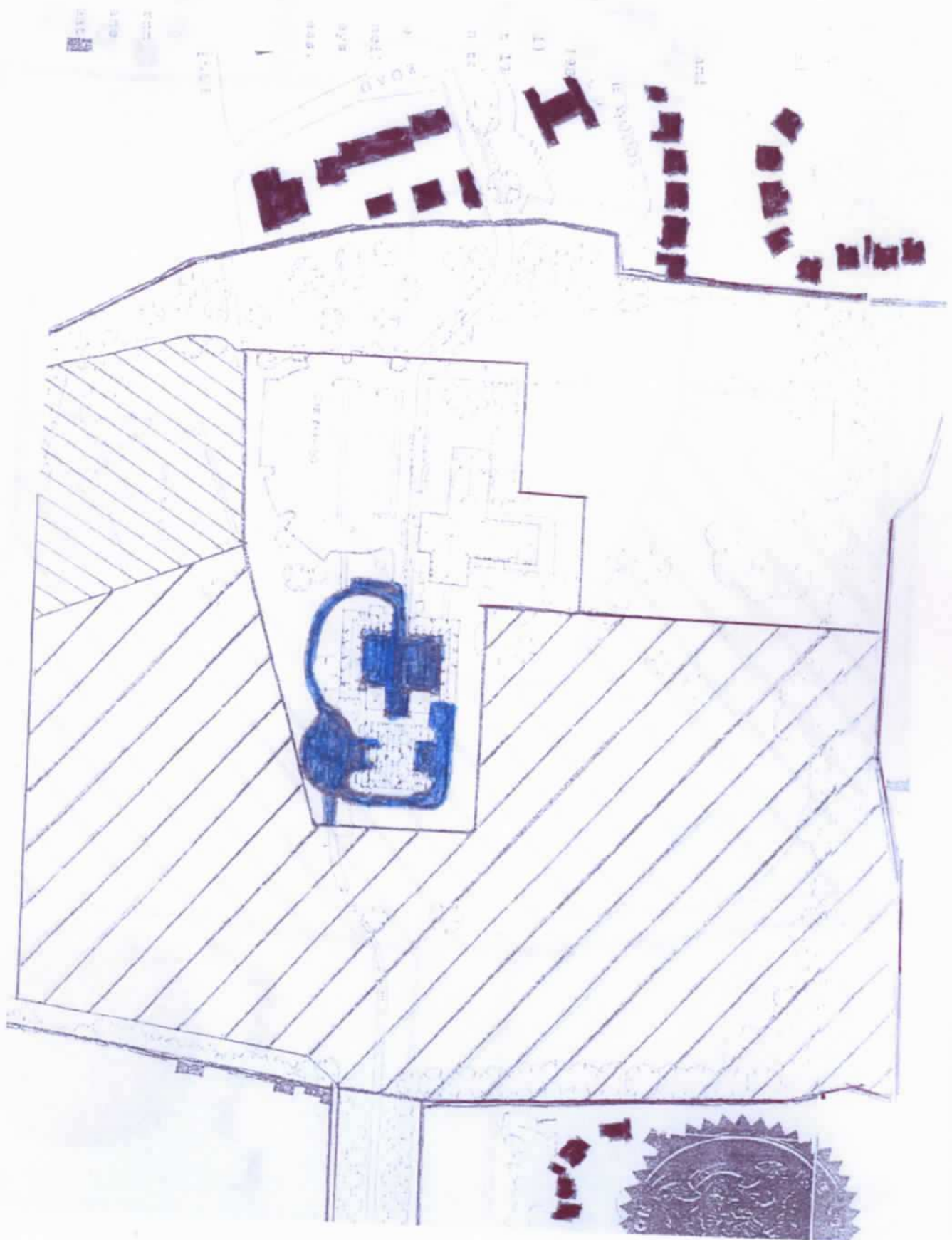


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PLAN B

11/11/09



Executed as a Deed and delivered once dated.

THE COMMON SEAL of the
MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF HILLINGDON
was duly affixed to this Agreement
in the presence of:-

MEMBER OF
THE COUNCIL

AUTHORISED OFFICER

THE COMMON SEAL of CES PROPERTIES (ICKENHAM) LIMITED
was duly affixed to this Agreement
in the presence of:-

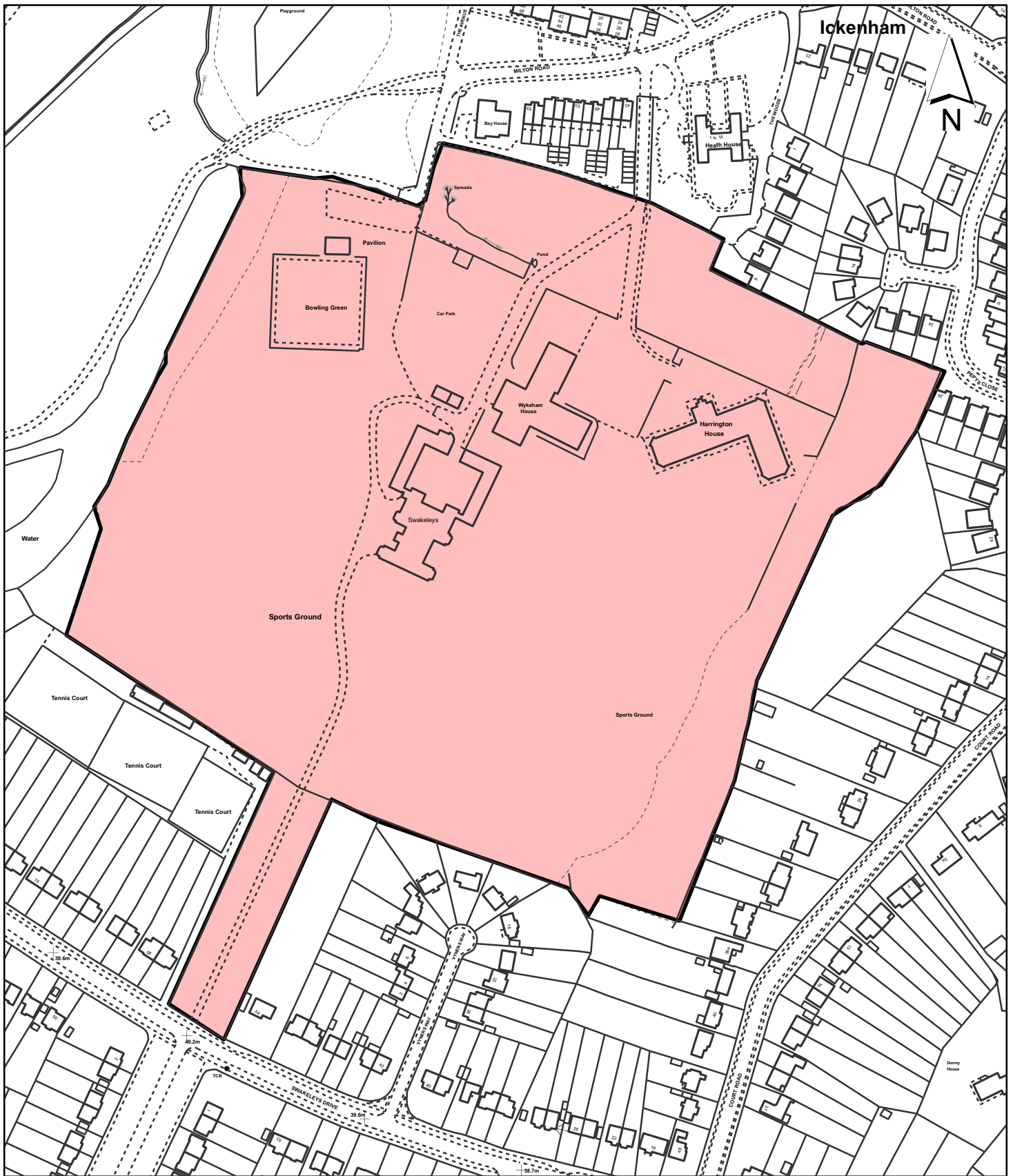
DIRECTOR

DIRECTOR/SECRETARY

SIGNED and delivered as a Deed
for and on behalf of
THE ROYAL BANK OF SCOTLAND PLC
By a duly authorised attorney:-

AUTHORISED SIGNATORY

AUTHORISED SIGNATORY



Notes

 Site boundary

For identification purposes only.

This copy has been made by or with the authority of the Head of Committee Services pursuant to section 47 of the Copyright, Designs and Patents Act 1988 (the Act). Unless the Act provides a relevant exception to copyright.

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Site Address

**Swakeleys House & Harrington House
Milton Road
Ickenham**

Planning Application Ref:

23202/F/81/1435

Planning Committee

North

Scale

1:2,500

Date

July 2009

**LONDON BOROUGH
OF HILLINGDON
Planning &
Community Services**

Civic Centre, Uxbridge, Middx. UB8 1UW
Telephone No.: Uxbridge 250111



HILLINGDON
LONDON