

**The Wimbledon & Putney
Common Conservators**

**Access Rights Over Putney Lower Common,
London SW15**

**Retrospective Valuation as at 14th February 2012 to
establish whether the consideration agreed for the Deed
of Easement dated 13th August 2014 represented best
value.**

November 2016

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1. Brief

- 1.1 In accordance with the instructions issued by Charles Russell Speechlys (CRS) within the Briefing Note dated 28th September 2016, the letter and documents provided on 12th October 2016, emails dated 31st October, 2nd and 7th November 2016 and in-line with our signed Terms of Engagement dated 9th November 2016, we have been instructed to consider whether the consideration agreed at 14th February 2012 ('Valuation Date') and received for the Deed of Easement dated 13th August 2014 represented best value for The Wimbledon and Putney Commons Conservators ('WPCC').
- 1.2 We have been specifically instructed to consider other factors which may have a bearing on the valuation and what weight should be attributable to each. We have outlined below the matters set out in CRS's letter of 12th October 2016 and email of 2nd November 2016; namely:
- 1.2.1 the value to WPCC of the works to the Common which Wandsworth Borough Council (WBC) agreed to carry out;
 - 1.2.2 the value of the land transferred to WPCC under the Stag Lane Agreement and whether it should be taken into account as part of the total consideration. Did the £8,000 represent the true value of the land or an undervalue?
 - 1.2.3 the extent to which matters taken into account in connection with the 2010 Agreement were still relevant and/or taken into account in entering into the 2012 Agreement. The land acquired under the 2010 Agreement could not be consideration for any subsequent agreement. The rights granted under the 2010 Transfer were to be provided by WPCT under the Section 106 Agreement. Could these works constitute consideration under the 2012 Agreement?
 - 1.2.4 the possibility of the land becoming subject to a Compulsory Purchase Order by the local authority on less favourable terms for the WPCC if an agreement was not reached voluntarily;
 - 1.2.5 the WPCC's principal objective was the preservation of the commons and so they had an interest in returning land to the common; limiting the size and scope of any development and ensuring that a development proceeded for the benefit of the common; ensuring parking issues were addressed and having regard to the political repercussions of any perception that the development had failed because of objections by the WPCC;
 - 1.2.6 the fact that as at the Valuation Date, the grant of the Deed of Easement was conditional on planning consent for the primary school and residential units, there was no longstop date for the transaction and the payment of the consideration was deferred, should all be taken into account as part of our valuation;
 - 1.2.7 the extent to which the widening of the rights of access under the 2012 Agreement were critical to the development to be undertaken by WBC and therefore provided a ransom position for the WPCC;
- 1.3 We confirm that this report has been prepared by [REDACTED], Senior Partner of this firm, a development surveyor and head of the not-for-profit team in the firm. He has over forty years' experience in the Central London property market and has specialised in development matters for the last fifteen years.

2. Background Information

2.1 In order to inform our opinion of value, we have been provided with the following by CRS and for clarification note below the information we have had reference to, where appropriate the weight we attribute to the information and our general observations:

Documents	Taken into account	Comments *
The Wimbledon and Putney Commons Act 1871	Yes	Background legal context only
Relevant extracts of the Commissioners Clauses Act 1847	Yes	Background legal context only
Official copies of the registers to the Conservators titles to the Wimbledon and Putney commons, title numbers TGL220263, TGL317693 and TGL197398	Yes	Establishes ownership
Official copy of the register to the site known as Putney Hospital, Comondale, London SW15 1HW, title number TGL337634	Yes	Establishes ownership
Transfer dated 8 July 2010 between the Conservators and Wandsworth Primary Care Trust ("WPCT") ('2010 Transfer')	Yes	In our opinion the Transfer was a material consideration in assessing market value within the 2012 Agreement.
Section 106 Agreement dated 8 July 2010 between the Mayor and Burgesses of the London Borough of Wandsworth (1) Wandsworth Primary Care Trust (2) and The Wimbledon and Putney Commons Conservators (3) ('Section 106 Agreement')	Yes	Establishes planning context
The Agreement dated 14 February 2012 between the Conservators and the Wandsworth Borough Council ("WBC") ('2012 Agreement')	Yes	Sets out terms agreed and highly relevant
The Deed of Easement dated 13 August 2014 between the Conservators and WBC ('2014 Deed of Easement')	Yes	No material change to 2012 Agreement, although WPCC have covenanted to grant such wayleaves and or easements as may be required by any statutory utility undertaker.
The Agreement for Sale dated 14 February 2012 between the Conservators and WBC relating to the acquisition of land on the North East of Stag Lane (completed on 31 March 2015) ('Stag Lane Contract')	No	Stand alone arrangement
The Court of Appeal decision in Evans v Wimbledon and Putney Commons Conservators and the London Borough of Wandsworth [2014] EWCA Civ 940 dated 9 July 2014	Yes	Confirms rights of access to the land prior to the 2010 & 2012 Agreements. Highly significant.
Letter dated 18 July 1911 from Percy H Clarke & Son re prospective changes to the access roads. (Referred to in the Court of Appeal decision referred to above)	Yes	Clarifies historic access rights although accuracy of plans annexed is questionable.
Licence for further right of way at Putney	No	Terminated or capable of termination

Documents	Taken into account	Comments *
Hospital dated 23 February 1935 between the Conservators (1) and The Board of Management of Putney Hospital (2)		(confirmed by CRS)
Licence to maintain a pathway bounding the Hospital Site dated 19 July 1947 between the Conservator (1) and The Board of Management of Putney Hospital (2)	No	Terminated or capable of termination (confirmed by CRS)
Licence to make and use a car park on site between the Lower Richmond Road and the Hospital Site dated 17 October 1956 between the Conservators (1) and Battersea and Putney Group Hospital Management Committee (2)	No	Terminated or capable of termination (confirmed by CRS)
Licence to extend and improve and use the roads leading to and from the car park to the Hospital Site dated 3 September 1957 between the Conservators (1) and Battersea and Putney Group Hospital Management Committee (2)	No	Terminated or capable of termination (confirmed by CRS)
Copy counterpart licence to erect hoarding dated 19 December 2008 between the Conservators (1) and South West London Health Partnerships Limited (2)	No	Terminated or capable of termination (confirmed by CRS)
Deed of grant of easement for electric lines at land at and adjoining the Former Putney Hospital, Lower Richard Road, London SW15 dated 31 March 2015 and made between the Conservators (1) The Mayor and Burgesses of the London Borough of Wandsworth (2) and London Power Networks pic (3)	No	Post Valuation Date but granted as a consequence of Deed of Easement.
Extracts from the files of Drivers Jonas Deloitte advisors to the Conservators on valuation issues prior to the 2010 Transfer and the 2012 Agreement	Yes	Highly relevant, provides background information and context as to how terms were agreed.
Extracts from the files of Gregsons solicitors to the Conservators at the time of the 2010 Transfer, the 2012 Agreement and the 2014 Easement	Yes	Highly relevant, provides background information and context as to how terms were agreed.
The report of Montagu Evans of 9 September 2015 with letter of 3 August 2015 setting out the basis of their instructions	Partially	Valuation is based on the false premise that the land had no rights of access prior to the grant of the easement. Appendix 4 is of significant import and Appendix 8 provides useful background information.

2.2 A site inspection was undertaken on 8th November 2016, following which the original plans annexed to Percy H Clarke's letter of 18th July 1911 were inspected at The Ranger's Office.

2.3 **There is nothing in the papers to suggest contamination was an issue so we have assumed this does not need to be reflected in our advice.**

3. Description and status of the site of the former Putney Hospital as at the Valuation Date

In order to formulate our valuation advice, it is crucial that we assimilate all relevant information, so as to assess the exact circumstances applying at the Valuation Date.

- 3.1 We calculate by plotting the Land Registry plan onto CAD (regrettably accurate Promap information is not available) the site area to be approximately 1.27 acres (0.514 ha). It is located within the London Borough of Wandsworth, situated within Putney Lower Common (an area of Metropolitan Open Land, MOL) to the west of Comondale and north of the Lower Richmond Road. It also appears that some of the site itself is within the same MOL designation. The surrounding location is predominately residential with a bowling club to the north.
- 3.2 The site is not within a conservation area itself but adjacent to the Putney Lower Common Conservation Area. Seven trees on the site have a TPO and there is a group TPO on the woodland adjoining the western boundary.
- 3.3 The site comprised the (former) Putney Hospital and a separate building for the nurses' accommodation (part-built outside the site described at 3.1) to the north of the site, and before that contained two large semi-detached houses, West Lodge and Elm Lodge, and a row of terraced cottages to the far north, known as Waller's Cottages.
- 3.4 The cottages were demolished for the hospital scheme which was constructed in 1911 and became derelict and vacant since 1999. Prior to this, the site was subject to a number of licences:
- a licence dated 23rd February 1935 to extend the existing right of way on the eastern side of the hospital building. The licence allows for 'The Board of Management of Putney Hospital to hold and enjoy the said liberty unto and by the Hospital at the will of the said Conservators'. We have assumed and are advised this licence has been, or is capable of being, terminated.
 - a licence dated 19th July 1947 'to make and maintain on Putney Lower Common a pathway along the road bounding the hospital on the western side thereof and leading from the southern extremity of the hospital to the nurses home to be used as an additional entrance way for out-patients and an approach for ambulances and sitting case cars'. The licence states that 'if this licence shall be revoked and put an end to by the Conservators prior to the 19th January in any year the Conservators will refund to the Hospital the sum of one shilling'. We have assumed and are advised this licence has been, or is capable of being, terminated.
 - a licence dated 17th October 1956 to make a car park for the use of visitors to Putney Hospital. The licence states that 'the Conservators shall be at liberty to terminate this agreement at any time on giving to the Committee (the Hospital) six months' notice in writing. We have assumed and are advised this licence has been, or is capable of being, terminated.
 - a licence dated 3rd September 1957 to 'extend and make improvements to the roads leading from and to the car park at Putney Hospital. The licence states that 'the Conservators shall be at liberty to terminate this agreement at any time on giving to the Committee (the Hospital) six months' notice in writing. We have assumed and are advised this licence has been, or is capable of being, terminated.

Whilst the access roads have been altered in accordance with these licences, and therefore reflect what was on site at the Valuation Date, according to the summary above we have assumed they have all been terminated and are therefore of no consequence to our valuation.

- 3.5 It therefore follows that at the Valuation Date the site relied solely on the access routes in place pre-1871 (before the Common was vested with WPCC) which are shown coloured brown in Plan A (see Appendix I). We have had reference to the hard copy original plan which shows a scale of one inch to twenty two feet. The extent of the carriageway is largely coloured brown, rather than edged brown and it is therefore very difficult to accurately seek a dimension. The widest extent of the colouring scales to approximately 11ft or about 3.3m (see Appendix II). We have subsequent to our instructions also been provided with a plan prepared by AYH Plc reference 11522/1/03 and dated 22nd April 2005, which is captioned "PCT Proposed Registered Title including historic tracks". This has been copied many times, but scaling it produces very similar results to those described above. The only plan available showing the access road onto Commondale is not to scale, but having researched historic OS maps, it appears to be of similar width to those leading onto Lower Richmond Road. This is though the only information available to us (with all on site evidence of historic access extinguished) and we have no choice but to rely on it. **If this is subsequently proved to be inaccurate, it has a significant bearing on our findings.**
- 3.6 Having regard to the Court of Appeal Judgment in **Evans v Wimbledon and Putney Commons Conservators and the London Borough of Wandsworth [2014] EWCA Civ 940** dated 9 July 2014, it clearly states that the owner will be limited to relying on the rights of way over the pre-1871 access roads and therefore the site cannot be deemed to be land locked. Whilst this judgement was not in existence at the Valuation Date, we would have expected the advisers involved to have sought clarity in this regard as it establishes the base position for valuation purposes. This may have necessitated taking Counsel's opinion, or even resorting to litigation, but the fact no such action was taken cannot be considered a material consideration in formulating this advice.
- 3.7 In furtherance of the qualification stated at 3.5 above, we would highlight in paragraph 29 of the Judgement the statement, inter alia, that: "*That this would include a right of vehicular access to Commondale as against the footpath under the present scheme and would give the owner of the site as dominant owner, the right to enter the Common and to construct a way or ways suitable for the right it enjoys.....The Conservators would have no ability to prevent the construction of a metalled surface for that purpose*". If the Court had access to plans and/or information we have not seen in reaching this conclusion, we would like to review the information in order to establish if it has an impact on our advice.
- 3.8 Very limited information is available to us in regard to the former hospital buildings and we are only told they were "derelict" not whether they were incapable of beneficial use. The Design and Access statement appended to the planning application for the new school and 24 private apartments refers to the main hospital, nurses' accommodation and outbuildings having a gross external floor area of 6,900 m².
- 3.9 The site had the benefit of an historic (albeit "live") planning consent (ref 2006/2866) submitted and registered on 3rd July 2006, approved with conditions on 8th July 2010 for a primary care trust building and 24 private residential apartments.
- 3.10 On the same date (8th July 2010) Wandsworth Primary Care Trust (the owners at the time) had entered into a Transfer with WPCC, the key details can be summarised as follows (please also see plans at Appendix III):

		Comments
Transferor	WPCT	
Transferee	WPCC	
Land to be transferred	Edged red on the plan (Plan 1) together with any rights title and interest that the Transferor may have in the yellow land.	Land outlined in red was the land which was originally built on at the far north of the site but which overlapped the Common.

		Comments
Accessway	A vehicular accessway leading from the Lower Richmond Road to the boundary of the Retained Land and located on that part of the Transferee's land shown shaded brown on Plan 2.	This in effect gave a right of access from the Lower Richmond Road along the east side of the development with footpaths leading towards Comondale.
Commencement of Development	Has the same meaning as is defined in the S106 Agreement. No material change to 2012 Agreement, although WPCC have covenanted to grant such wayleaves and or easements as may be required by any statutory.	
Development	Development permitted by 2006/2866.	
Perpetuity Period	80 years from the date of the transfer.	
Disposal	Transferor covenants with Transferee that it will not dispose of its interest in the Retained Land or any part thereof except to a disponee who has covenanted with the Transferee by a separate deed of covenant to comply with clause 12.10 of this transfer.	
12.10	No later than 56 days prior to the Commencement of the Development the Transferor shall as further consideration for the Rights pay £250,000 to the Transferree (£249,999 in relation to rights granted for benefit of Green Land and £1 in relation to rights granted for Pink Land.	
First Schedule	<p>Transferree hereby grants to the Transferor and its successors in title to, inter alia:</p> <ol style="list-style-type: none"> 1. The right at any time within the Perpetuity Period to enter the land to construct the Accessway and Footpaths. 2. For the benefit of the Pink Land, the right at all times with or without motor or other vehicles to pass and re-pass over and along the Accessway provided that such right shall be limited to the use of the Pink Land as a primary care centre substantially providing health services free at the point of delivery under the direction of 	

		Comments
	<p>and as part of the services provided by the NHS (or any successor thereto) and provided further that the said primary care centre shall be no higher or larger in its external dimensions than as specified in planning permission reference 2006/2866.</p> <p>3. For the benefit of the Green Land, the right at all times with or without motor and other vehicles to pass and re-pass over and along the Accessway provided that such rights should be limited to the use of Green Land for residential purposes containing no more than 24 flats to be constructed with the external materials and to be no higher or larger in any of its external dimensions than as specified in planning permission reference 2006/2866.</p> <p>4.</p>	
Second Schedule	<p>The Transferee covenants with the Transferor as follows:</p> <p>1. Not to construct any temporary or permanent buildings or to plant tree or bushes etc which obstruct or may obstruct the traffic sight lines or visibility splays from time to time on either side of the Accessway at the junction with the Lower Richmond Road.</p> <p>2. Not without the prior consent of the Transferor to enter into any agreement with any third party that permits any third party to link up with or use the Accessway</p> <p>3. Not to do anything which could in anyway interfere with the exercise of the rights set out in the First Schedule.</p> <p>4. Within 10 working days of receipt of a proper request made by the Transferor to provide the certificate referred to in clause 12.11.2 (Land Registry related).</p>	

		Comments
	<p>The Transferor covenants with the Transferee as follows:</p> <ol style="list-style-type: none"> 1. To keep the Accessway properly maintained surfaced and in good and substantial repair and condition. 2. Implement a car parking policy over both the Retained Land and the Accessway that is consistent with the principles of good estate management. 3. To use all reasonable endeavours to prohibit car parking on the Accessway 4. Not to permit the Occupation or Operation of the Pink Land or Green Land until any buildings have been demolished and cleared. 5. To keep the Transferee indemnified of all actions, claims etc arising from any breach of the Owner's obligations in the S106 Agreement. 	

- 3.11 The intention to sell the site to WBC was in the public arena and the specific terms are set out in Capital Management Group's paper of 31st August 2011 (Appendix 4 of Montagu Evan's report of 9th September 2015). We are not certain this document would have been available to the valuer at the Valuation Date, but even if it was not, we believe it would have informed the negotiating stance adopted by the surveyor representing WBC. In formulating our advice, we assume this information was either available, or the relevant elements could have been extracted by negotiation.
- 3.12 We are advised in the aforementioned note that the intention was to sell for £4,450,000 but it is not known why this then decreased to £4.4 million. The sale was conditional on agreeing with WPCC the improved access routes to the site, although it was stated that the WPCC should be amenable to agreeing similar rights as it had done to WPCT and so the risk was deemed minimal by WBC. We have seen nothing within the documents provided to clarify why such an assumption was made.
- 3.13 Subsequent to the sale of the site to WBC, it was their intention to submit an application for demolition of the existing buildings and erection of a two storey primary school (with roof top playground) for 420 pupils with associated parking and drop off/pick up area; erection of part three/part four storey building. The plans of which were annexed to the Agreement. The application comprised a primary school and a part three, part four storey apartment block housing 24 private residential apartments, with external terraces and balconies and a communal roof terrace at third floor level. The scheme was described to be an enabling development where the private apartments (known as 100 Putney Common) will be sold to fund the development of the school.

4. Outline of terms agreed under the Deed of Easement

The 2014 Deed of Easement incorporates the terms agreed at the Valuation Date and seeks to reflect the heads of terms issued by Drivers Jonas Deloitte to WPCC on 22nd December 2011. It is therefore important for us to consider these terms and their relevance to our valuation.

4.1 We summarise below the salient and relevant terms (please also see the plan at Appendix IV) of the 2014 Deed of Easement (granted as a condition of the Agreement dated 14th February 2012) and where applicable, compare the “Agreed Works’ as per the 2014 Deed of Easement to the specific Section 106 requirements attached to the 2010 consent. The S106 Deed includes a description of Agreed Works with the WPCC and accompanying plans. However, we have noted that some of the works described specifically within the 13 points of Agreed Works, also feature within the main document itself. We have therefore outlined which works are ‘extra’ to the ones required by the S106 document:

	2014 Deed of Easement	2010 Section 106 Agreement
Date	13 th August 2014.	
Parties	WPCC (the Conservators) and London Borough of Wandsworth (LBW) (the Grantee).	
Access Payment	<p>£350,000.</p> <p>In consideration of the Access Payment the WPCC to grant to WBC and its successors in title the Rights as follows;</p> <p>For the benefit of the Pink Land (the hospital site), the right at all times with or without motor or other vehicles to pass and re-pass over and along the Accessway provided that such right shall be limited to the use of the Pink Land as a school substantially providing education free at the point of delivery under the provisions of the current and subsequent legislation relating to the public provision of education to the community and provided further that the said school shall be no higher and shall be no more than 5% larger in its external volume than as shown on the drawings.</p> <p>For the benefit of the Green Land, the right at all times with or without motor and other vehicles to pass and re-pass over and along the Accessway provided that such right should be limited to the use of the Green Land for residential purposes containing no more than 24 flats to be no higher or larger in its external volume than as shown on the drawings and constructed with the external materials as shall be</p>	

	2014 Deed of Easement	2010 Section 106 Agreement
	specified in the Planning Permission.	
WPCC Covenants	<p>Not to construct any temporary or permanent buildings or to plant tree or bushes etc which obstruct or may obstruct the traffic sight lines or visibility splays from time to time on either side of the Accessway at the junction with the Lower Richmond Road.</p> <p>Not without the prior consent of the Grantee to enter into any agreement with any third party that permits a link up with or use the Accessway other than for the purpose of maintenance of the commons.</p> <p>Not to do anything which could interfere with the exercise of the rights by the Grantee.</p> <p>If requested to grant such wayleaves and/or easements as may be required.</p>	
LBW's Covenants	<p>To keep the Accessway properly maintained surfaced and in good and substantial repair and condition.</p> <p>To put in place and then to implement at its own cost no later than the date upon which the school on the Pink Land is first occupied a management plan for traffic and prevention of parking on the Accessway including the installation and maintenance of a lifting arm barrier etc.</p> <p>To use all reasonable endeavours to prevent car parking on the Accessway.</p> <p>Not to permit the occupation or operation of either the Pink Land or the Green Land until any buildings located on the Property at the date of this agreement have been demolished.</p>	
Common Land Works Specification	The Grantee will procure that the following works are carried out, inter alia;	Common Land Works Deposit - £215,000.
	1. Location of main road access as per plan 1.	The main road access has changed since the S106, but the general position is shown on the plans.

	2014 Deed of Easement	2010 Section 106 Agreement
	2. Arrangement location and materials of the access footpaths across common land as shown on Plan 2.	Included in Plan 4.
	3. Reclamation of hard surfaces and over grown areas to form common land, areas shaded green as per Plan 2.	Some of the areas are included within Plan 7, however this is mainly limited to the footpath leading to Commondale. The WPCC in their Agreed Works are requiring the land transferred in the 2010 Transfer to be reclaimed as common land.
	4. Milestone to remain in its current location as per Plan 2.	Additional Works
	5. All trees on common land are considered fully protected and no work to be carried out on them without prior consent.	Additional Note
	6. Location of temporary hoarding as per plan.	Included in Plan B
	7. A grass/wildflower sward is to be kept mown to aid security of new buildings. Areas to be mown are to the west and north of the new buildings. The width of these areas should be not less than 4 to 5m from the agreed security fence or wall. These grass areas to be cut twice a year and the cost of these operations are to be shared equally between the operators of the new development and the Conservators.	Additional Works
	8. Existing areas of hard surface and tarmacadam, which are due to be reclaimed as grass sward, are to be removed and the hardcore base is to be retained to promote drainage. A mixture of low quality soil is to be added and then sown with a mixture of native grasses and wildflowers.	Included in plan 7 as part of Off-Site Highway Works
	9. The redundant access road is to be closed and reclaimed to form a verge.	Included in Plan 4 as part of Off-Site Highway Works
	10. Restrained lighting is to be provided along the main access paths. The quality and design of the lights is to be agreed between the Conservators and Grantee. Maintenance and	Included in Plan 4 as part of Off-Site Highway Works

	2014 Deed of Easement	2010 Section 106 Agreement
	supply of electricity to be at Grantees or school operator's cost. Existing redundant lighting columns to be removed by the Grantee at no cost to the Conservators.	
	11. Areas abutting the footpaths running along the frontage of Lower Richmond Road are to be mounded with low mounds to match existing, to prevent access by unauthorised vehicles. Oak bollards to be placed on each side of the pedestrian crossing at the entrance to the new development. A combination of mounding and oak bollards is to be placed in area 'C', also to prevent unauthorised vehicular access.	Additional Works
	12. A management plan for the areas of the land adjacent to the Pink Land and Green Land is to be prepared or procured by the Grantee. Except for the Accessway, the Conservators will maintain all other areas of the land.	Additional Works
	13. A woodland management plan is to be prepared by the Grantee and agreed with the Conservators for the area of woodland to the west of the new buildings.	Additional Works
Extra provisions which are not part of the stipulated works		Bus and Countdown facilities contribution of £43,000. CPZ Contribution of £50,000. Off-Site Highway Works Deposit of £83,400.

4.2 From the table above, it is clear that many of the obligations in the 2014 Deed also arose within the S106 document. Those that do not, involve the land to the west and north of the site and some works to the entranceways to prevent unauthorised access. We address the relevance of this comparison in Clause 5.2 below.

5. Additional matters to be taken into account in the valuation

5.1 In accordance with our instructions and as summarised in 1.2 above, we specifically comment below on the itemised points before confirming our valuation advice under heading Opinion of Value and Methodology.

5.2 *The value to WPCC of the works to the Common which WBC agreed to carry out.*

It is clear that the terms agreed between Wandsworth Primary Care Trust and Wandsworth Borough Council are not subject to planning and thus the price paid can be regarded as net of all obligations, other than the compensation to WPCC for the grant of the 2014 Easement. In addition, one can regard the majority of the obligations originally imposed within the Section 106 and largely duplicated in the 2014 Easement as typical developer costs for a development of this nature.

5.3 *The value of the land transferred to WPCC under the Stag Lane Agreement and whether it should be taken into account as part of the total consideration. Did the £8,000 represent the true value of the land or an undervalue?*

We have seen nothing in the correspondence provided to suggest that either party considered the sale of this land to be at anything other than market value. It is only obliquely referred to in the heads of terms and the Stag Lane Agreement is a free-standing document. Tellingly, this agreement also incorporates a long-stop date of three years at which point WPCC would be obliged to purchase the land. There is no such provision in the 2014 Agreement, which is conditional on planning without time limitation.

5.4 *The extent to which matters taken into account in connection with the 2010 Agreement were still relevant and/or taken into account in entering into the 2012 Agreement. The land acquired under the 2010 Agreement could not be consideration for any subsequent agreement. The rights granted under the 2010 Transfer were to be provided by WPCT under the Section 106 Agreement. Could these works constitute consideration under the 2012 Agreement?*

We agree that the land acquired under the 2010 Agreement is not a consideration in our valuation. We have addressed the consideration point under 5.2 above.

5.5 *The possibility of the land becoming subject to a Compulsory Purchase Order by the local authority on less favourable terms for the WPCC if an agreement was not reached voluntarily:*

There is nothing in the correspondence provided to suggest Compulsory Purchase was being seriously contemplated. This could be because there was an assumption WPCC would agree to similar terms to the 2010 Agreement and contention was not contemplated. It is though worthy of mention that when the originally granted planning permission (29th October 2012) was quashed by a Consent Order dated 16th May 2013, an order of this nature provides a Local Authority with compulsory purchase powers. There is though legal precedent in terms of the compensation granted in such circumstance and, in our opinion, this scenario has no material impact on our findings, other than that described under Heading 6 below.

5.6 *The WPCC's principal objective was the preservation of the commons and so they had an interest in returning land to the common; limiting the size and scope of any development and ensuring that a development proceeded for the benefit of the common; ensuring parking issues were addressed and having regard to the political repercussions of any perception that the development had failed because of objections by the WPCC:*

In our opinion, there is no connection between WPCC adhering to its charitable objectives and the separate obligation to achieve best value when making a disposition.

- 5.7 *The fact that as at the Valuation Date, the grant of the Deed of Easement was conditional on planning consent for the primary school and residential units, there was no longstop date for the transaction and the payment of the consideration was deferred, should all be taken into account as part of our valuation:*

We agree that the Easement was unfavourable to WPCC in this regard and the lack of a long-stop or any indexing provision, for example, should be reflected in the valuation.

- 5.8 *The extent to which the widening of the rights of access under the 2012 Agreement were critical to the development to be undertaken by WBC and therefore provided a ransom position for the WPCC:*

The rights historically subsisting and described under 3.5 above would not allow the development contemplated within the 2012 Agreement to proceed. WPCC therefore had a ransom position, but as we describe in 6.6 below, we believe this is fettered by the 2010 Agreement.

6. Opinion of value and methodology

Taking account of all the narrative above and qualifications/assumptions we have highlighted, we set out below in chronological order how we have arrived at our conclusions. Our objective is to arrive at an independent opinion of the sum we believe should have been payable for the grant of the 2014 Easement, at the Valuation Date, taking account of all the circumstances then appertaining.

- 6.1 It is a matter of fact that the price agreed between PCT and LBW for the sale of the freehold interest of the former Putney Hospital site is £4,400,000. Whilst one could debate the fact that PCT might have achieved a higher figure in the open market, it is this disposal which is relevant because the negotiations relate to this transaction only. We also know £350,000 was paid for the grant of the Easement. Thus, the value of the site with the required rights of access was £4,750,000.
- 6.2 One then has to compare this value with the value of the site with the historic access only in order to establish the ransom value. It is virtually impossible to identify an accurate comparable, but we have first-hand experience of the sale of back land within a quarter of a mile of the site being sold for private amenity space to a consortium of householders. This transaction completed about four years before the Valuation Date and was for a smaller site. The agreed price reflects on a pro-rata basis a value of £1.25m per acre. In our opinion, the value would not have materially changed over the period, but economies of scale need to be applied. We also have first-hand experience of independent schools/private sports clubs bidding aggressively to try and secure freehold sites in the local area and some of these requirements could have been accommodated on this site, with only the historic access. Finally, one has to consider speculators who would have been interested in an opportunity of this nature and dare we say it, potentially WPCC to secure additional land for the Commons. We conclude therefore that the land would have had a value at or about £850,000 per acre, namely (on a rounded basis) approximately £1,100,000. We are conscious that we have not addressed the fact a building was on the site. We believe though this would have little impact on a speculator's attitude and one has to consider the second hand value of the materials which would have mitigated the demolition cost.
- 6.3 The assessment of the existing and proposed values allows one to assess the ransom value. The ransom is calculated on the value realised by foregoing the rights solely enjoyed by one party and, in this instance, the sum is £3,650,000 (£4,750,000 less £1,100,000). There is considerable precedent in the open market for the percentage to be adopted and one has always to benchmark this against the oft quoted **Stokes v Cambridge** case where within a compulsory purchase a rate of 33% was adopted. One has then to take into account two additional factors: firstly, that there is some uncertainty over the exact extent of the historic access and secondly, that the development scheme relied for its principal access on land owned by WPCC, rather than within the site itself, thus allowing a greater density to be achieved. Taking all these factors into consideration, we believe 35% of the value of the ransomed land should be adopted. This provides a figure of say £1,275,000.
- 6.4 There is then another aspect to consider as highlighted under 5.7 above. The 2012 Agreement allowed LBW to pay for the grant of the consent once it had received satisfactory planning permission and was open-ended. Whilst the expectation may have been to receive planning consent relatively quickly, we believe this advantageous position needs to be reflected in the ransom payment and would add 5% to reflect this unusual circumstance. The sum therefore increases to say £1,350,000.
- 6.5 One then comes to another highly significant point. It is abundantly clear that nobody involved in the negotiations for the 2010 Agreement, or leading up to the 2012 Agreement, was truly aware of the exact extent of the access arrangements to the site of the former Putney Hospital, despite the fact that with due enquiry and proper due diligence, the circumstances could have been established. One has therefore, for the purposes of this valuation, to consider the impact of these changed circumstances being disclosed which, for the sake of argument, we will assume to have arisen at the point Drivers Jonas Deloitte were re-instructed by Gregsons on 17th October 2011. The entire approach to negotiations would have changed dramatically at this point, and both parties would have had to

carefully assess their positions.

- 6.6 Putting to one side the need for both WPCT and WBC to undertake due diligence, they would have, without doubt, sought to establish which mitigating measures were available to them in the face of potentially having to pay a figure about five times that expected. In our opinion, their priority would have been to review their rights under the 2010 Agreement and this is in our opinion of great import. The planning consent (ref 2006/2008) had been granted, the judicial review period had passed and it was capable of implementation. Thus, WPCT could have paid £250,000, with an attached notice to state that in no less than 56 days, the development would commence. Such action would then provide WPCT with the rights envisaged for their scheme and the ransom would, to all intents and purposes, have been eradicated. Implementation would have had to go beyond demolition but, as the residential element of the scheme was virtually identical to the 2012 scheme, the construction works to achieve implementation (in the eyes of the planning authority) would not have been materially abortive. Continuing this hypothesis further, all that WPCT and its successors in title would have had to negotiate is the turning circle (as this is the only material variation between the two schemes) and consent to change the use of the building to educational.

The 2010 Agreement also presented another risk to WPCC. In our opinion, the revised circumstances would have significantly heightened the risk of compulsory purchase powers being utilised. Whilst the principles are not materially different, we are concerned that the terms agreed in 2010, at arm's length between two properly advised parties, could be construed as representing market value at this time. It seems inconceivable that WPCC could defend the action taken because it was not aware of its historic rights, despite the fact that if proper due diligence had been undertaken they would have been established. These two aspects represent significant risk for WPCC and, in our opinion, both parties would have had to carefully "weigh up" their options to reach a sensible conclusion. The classic arrangement in such circumstances is to split the difference 50/50 and thus, in our opinion, the ultimate settlement should have been in the order of £675,000. In reaching this conclusion we have also had reference to Wandsworth PCT's business case referred to earlier. This document states the profit on sale (ignoring payment for the Easement) was £950,000 (£900,000 to reflect the revised purchase price). Whilst this paper was founded on questionable assumptions regarding the assessment of market value, it would have had significant impact on the negotiating stance adopted.

- 6.7 **In summary therefore, we conclude that, as at the Valuation Date, our independent valuation of the Easement granted in accordance with the terms of the 2012 Agreement is at, or about, £675,000 (six hundred and seventy five thousand pounds).**

7. Conclusion

- 7.1 We trust the contents of this report comply with the brief and are clear. We would be pleased to address any matters arising, or to assist further as required.
- 7.2 Finally, we must emphasise that this report is for the sole use of the Wimbledon and Putney Common Conservators, together with Charles Russell Speechly LLP and must not be disclosed to any third party, without our prior written approval.

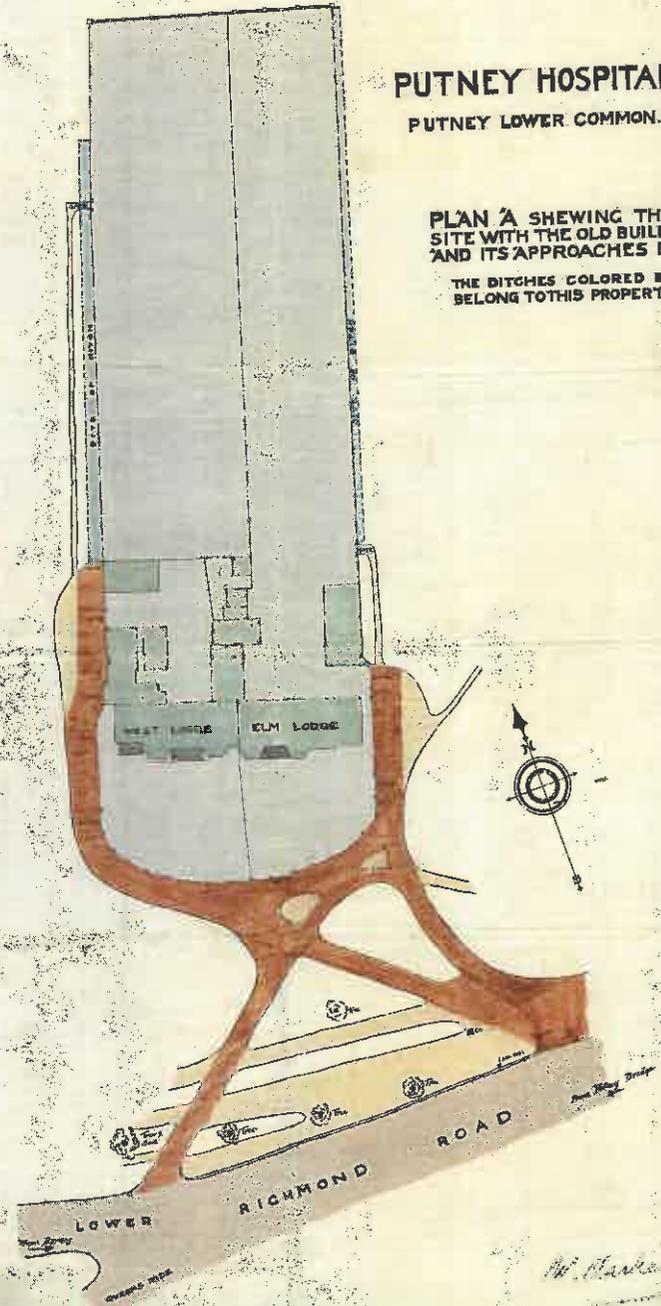
APPENDIX I

PUTNEY HOSPITAL

PUTNEY LOWER COMMON.SW.

PLAN A SHEWING THE
SITE WITH THE OLD BUILDINGS
AND ITS APPROACHES ETC.

THE DITCHES COLORED BLUE
BELONG TO THIS PROPERTY



Scale of 1 inch = 100 feet

W. Parker
KEITH D. YOUNG F.R.S.B.A.
GEOFFREY H. JONES
GEOFFREY H. JONES F.R.S.B.A.
LAWRENCE R. H. V. C.
LAWRENCE R. H. V. C. Putney Hill E.C.

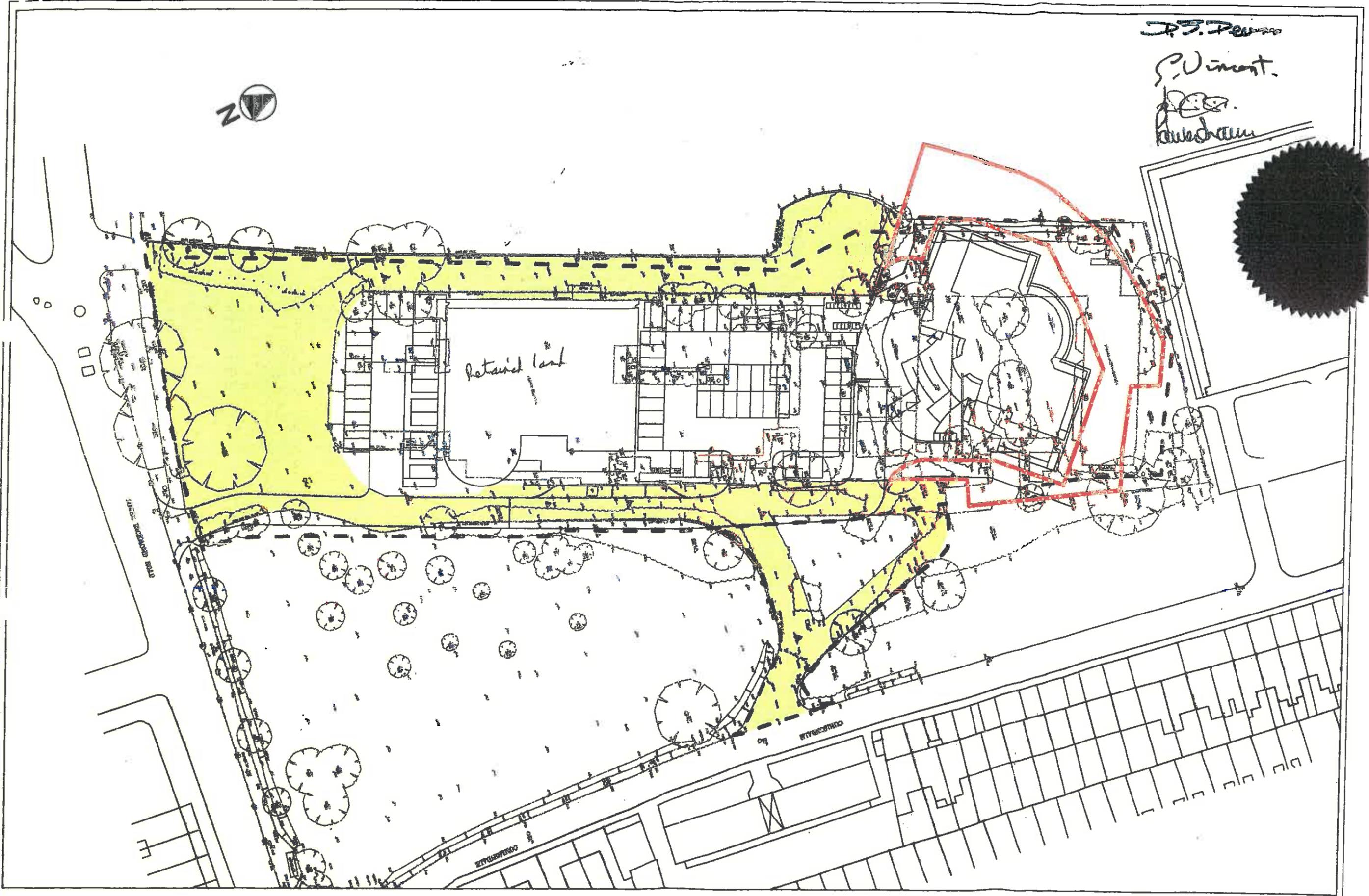
APPENDIX II

1869 Map



APPENDIX III

J.S. Peano
S. Vincent
R. B. B. B. B.
B. B. B. B. B.



PUTNEY PCC

Client:
South West London Health Partnership Ltd
Support Services Partnership South West London

Project Architects:
Buckley Huxley Ltd

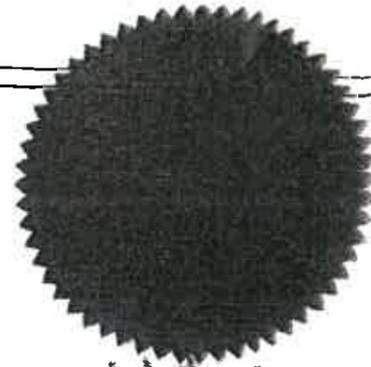
Landscape Architects:

The London School of Architecture

Drawing Title:

Plan 1

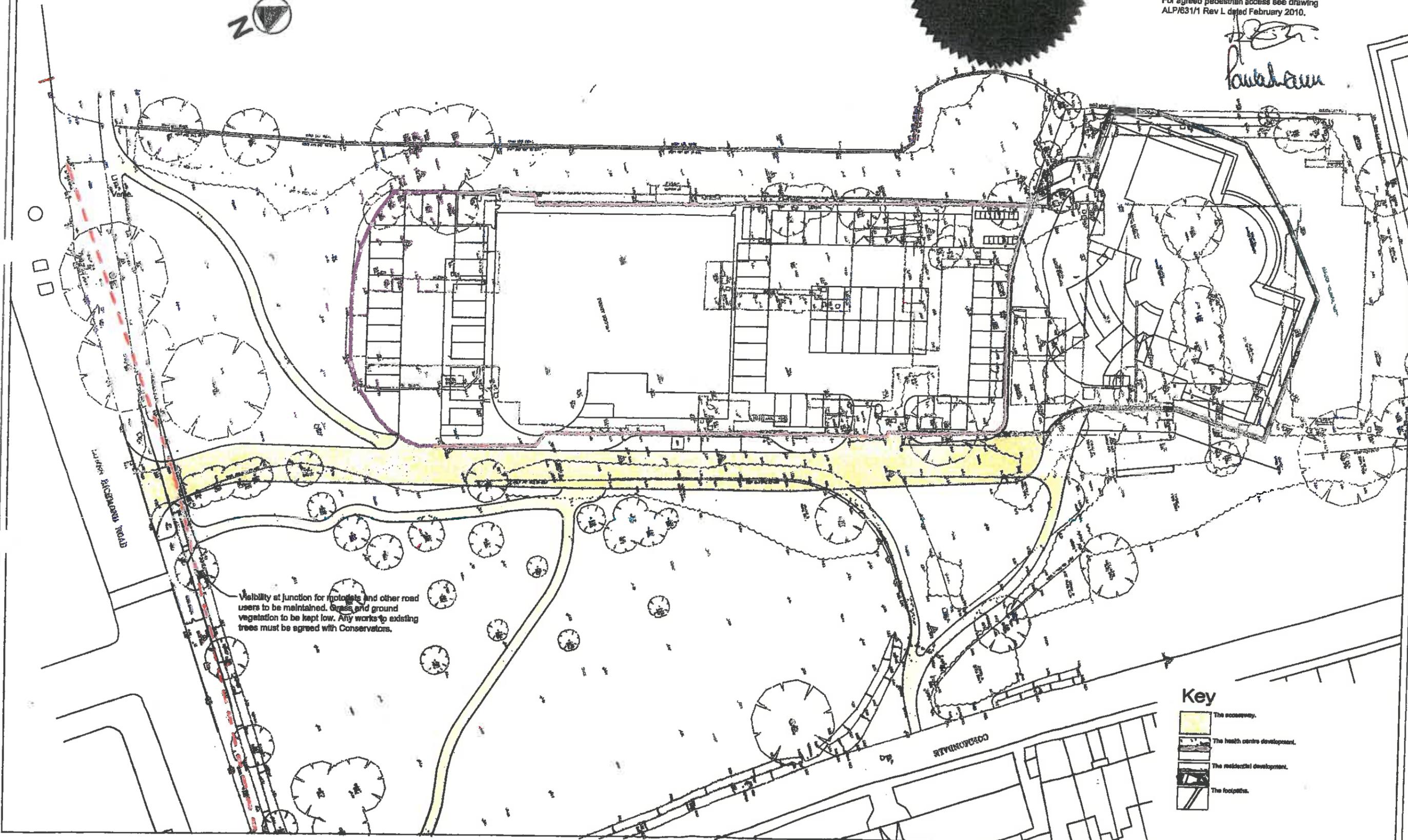
Scale:
1:800 @A1 and 1:800 @A3
Drwg no. Date:
AUTHOR: hkf March 2010



P.S. Parn
P. Vincent

NOTE:
For agreed pedestrian access see drawing
ALP/631/1 Rev L dated February 2010.

P. Vincent
P. Vincent



Key

-  The accessway.
-  The health centre development.
-  The residential development.
-  The footpaths.

PUTNEY PCC

Client:
South West London Health Partnership Ltd
Support Building Partnership South West London

Project Architects:
Balfour Beatty Ltd

Landscape Architects:

The Architects' Joint Practice Ltd

Drawing Title:

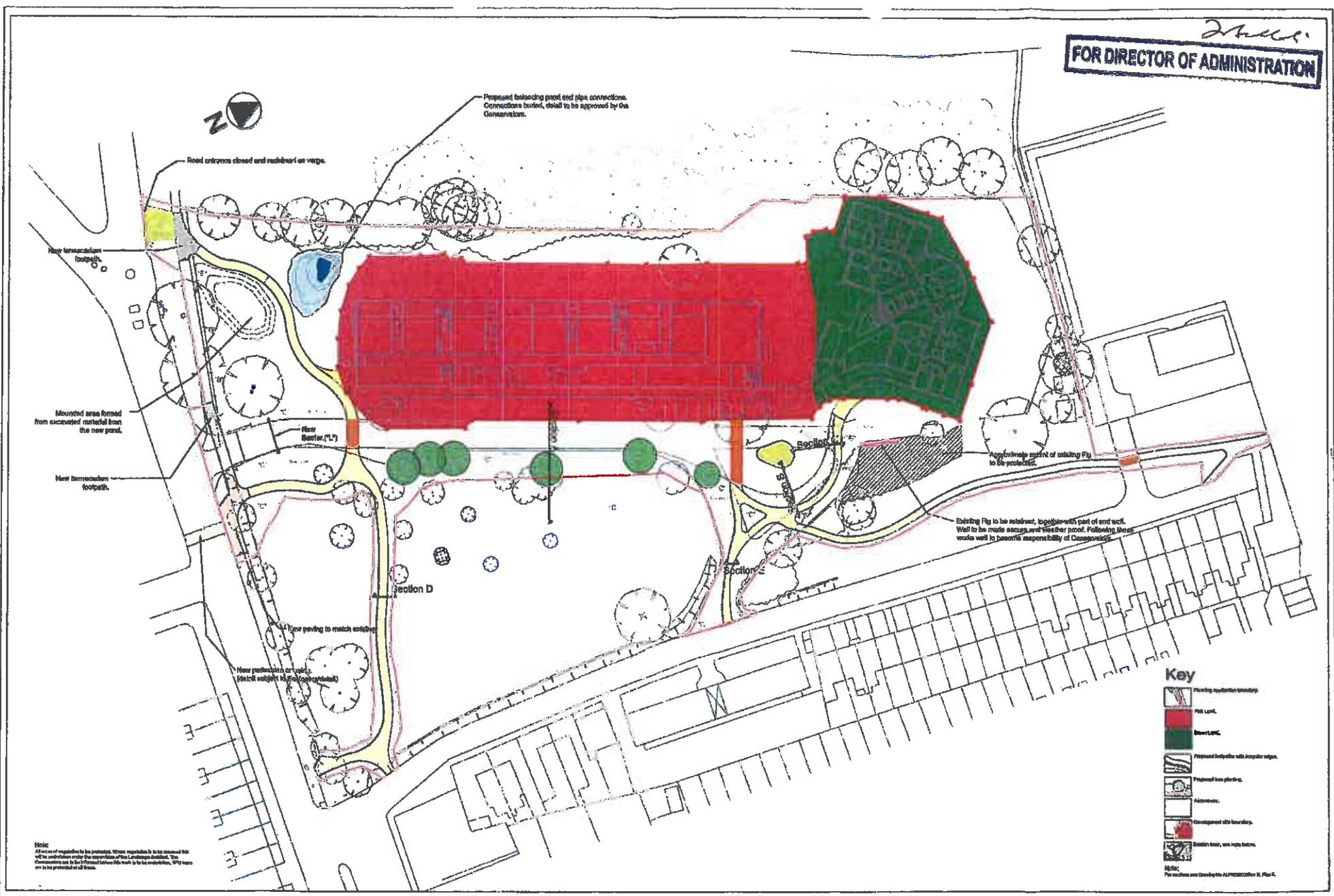
PLAN 2

Scale:
1:250 @A1 and 1:500 @A3

Drwg no. ALP/631/1/1
Date: March 2010

APPENDIX IV

Shelley
FOR DIRECTOR OF ADMINISTRATION



PUTNEY HOSPITAL SITE/NEW SCHOOL/NEW FLATS

Client:
Wandsworth Borough Council

Project Architects:
Devereux Architects

Landscape Architect:
Landscape Architect

Drawing Title:
PLAN 1 OVERALL

Scale:
1:500
Date:
Jan 2012