

20 St Marks Road  
Bath BA2 4PA

6 June 2008

Planning Services  
Trimbridge House  
Trim Street  
Bath BA1 2DP

### **Planning Application 08/01423/FUL – 20A St Marks Road**

I am writing to **object** to this planning application, currently lodged with some documents missing.

My house at 20 St. Marks Road has the benefit of restrictive covenants registered on the title deeds for The Coach House at 20a St. Marks Road, and also on mine. These are held with the Land Registry and are also shown in the copy deed signed on the 22<sup>nd</sup> May 2005 and held by Withy King solicitors, on behalf of the developers. My neighbour at 19 St Marks Road also has control over that same restrictive covenant. These covenants unequivocally limit the building size and prevent the owners of The Coach House from building or developing it without both the owners of numbers 19 and 20 giving consent. I shall most certainly not be giving my consent, and a recent conversation with my neighbour suggests that they will not be doing so either, and have objected to the planning application.

Of particular importance, the covenants include a statement that there are to be no buildings erected on the southern end of the site, between the Coach House and a boundary line that now equates to the northern side of Calton Gardens. Thus the rear wall of the coach house forms the southern limit. Whilst covenants are not normally planning issues, the green area between Calton Gardens and the Coach House does become a relevant factor because Policy BH6 requires particular attention to be given to the retention of historic grain and spaces, and that green space has been protected since 1838.

To put my remaining comments into context, my property includes a flying freehold accommodating two bedrooms which extend over the low and narrow access to the Coach House. The terrace numbered 19-26 consecutively is of eight early nineteenth century terraced houses built for artisans that were Grade II listed in 1975, and the entire side of the street numbered 1-33 is regarded as a group listing by English Heritage. My particular house and its associated coach house was originally occupied by the doctor for the poor who served the Widcombe area. The Coach House was built to house his carriage and stable his horse, and the large ground floor doors to the Coach House were installed in the original structure for that purpose.

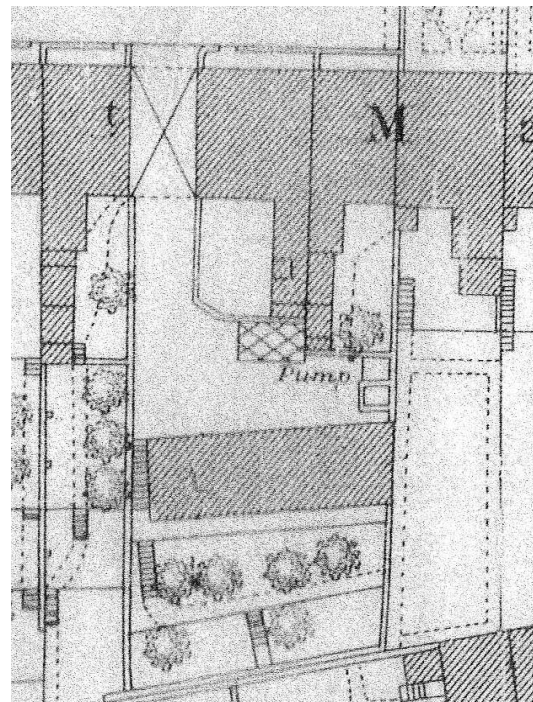
I am writing to object to this planning application and also to the council's assessment of the listed building status.

Taking the second point first, in correspondence dated 22 March 2005, the Senior Conservation Officer informed me that the former Coach House was not within the curtilage of my property, Number 20. I do not dispute that here, but point out that the building **is** within the curtilage of Numbers 18 and 22

PPG15 defines curtilage thus

Fixtures and curtilage buildings - ie. any object or structure which is fixed to the building, or is within the curtilage and forms part of the land and has done so since before July 1948 - are also treated as part of the building for the purposes of listed building control

The owner of Number 18 St Marks Road has been prevented from making any changes to his garden wall, because like the house, it is Grade II listed. That garden wall is integral to the Coach House side wall. The image on the right is from a large scale Ordnance Survey map of 1886 (well before the 1948 criterion in the PPG15 quotation above), and it clearly shows that the garden wall is the side of the Coach House.



The picture immediately below the map extract is a modern photograph taken during October 2006 from the garden of Number 18 and this pictorially demonstrates the same thing: that the listed garden wall and the end wall of the Coach House are one and the same structure, and out of shot, the wall continues past the Coach House to the end of Number 18's garden. In a hypothetical case where the owner of Number 18 gained listed building consent to demolish his garden wall, the Coach House would then have no east wall, because it is one and the same structure.

Likewise the garden wall of Number 22 is integral to the steps that form the western side of the Coach House. I have not arranged for photographs to be taken of that side, but could do if proof is needed that the same thing applies there.



Because the garden walls are listed, and they include the same stones that form the sides of the Coach House, then the Coach House MUST be a listed building. It is not logical to have a Coach House where two walls are listed and the rest isn't. It should also be relevant that the only access to this site

is through my wooden doors hinged on the structure of Number 20 which are specifically mentioned in the listing of this property:

Nos 19 to 26 (consec) ... Doors of 4 flush or fielded panels. 4 pane or marginal glazed rectangular fanlights. No 20 has one window and garage or coach house doors ground floor.

If the applicant claims ownership of those "coach house doors", then because the site includes them and they are listed, then the whole site and the Coach House is curtilage listed with those doors.

The earlier planning application 06/03265/LBA showed that at that time the applicant believed the Coach House was listed, presumably on the advice of Planning Services, which may have been based on the letter of 13 September 2004 from Planning Services (Andrew Rydall) stating that he understands from Mr Sutcliffe that the building is a listed building. Therefore, this current planning application should similarly be accompanied by one for Listed Building Consent. It cannot be determined without.

As far as the Design and Access Statement is concerned, it is disingenuous in quoting the views of a Case Officer that were overridden by both the Development Control Committee and a Planning Inspector; and it is incomplete. The text refers to Appendices that are not part of the

documentation provided. Each planning application should be complete in itself, and references to documents associated with other planning applications instead of providing a copy of the document, is unacceptable. There is also an omitted noise report by Fleming and Baron, which is likely to be meaningless because it compares the noise levels of the site as a builders yard, when it was never a builders yard (and the “operational use” described in the Design and Access Statement is an outright lie), it was just used by a builder for storage with only occasional access, always during daylight hours. Stored goods are completely silent, as any of my neighbours can confirm (and they will not appreciate being party to the applicant's lie that they have welcomed the fact that full scale use of the builders yard has ceased). If the current owners now start to create noise in an attempt to persuade my neighbours and I that B2 use is undesirable and a residential use would be preferable, then I will regard this as a deliberate nuisance and the neighbours en masse will expect the council to deal with it under the Environmental Health regulations.

The references to former granted planning applications is no precedent for today's decision: the Local Plan Policies are different, the Planning (Listed Buildings and Conservation Areas) Act 1990 has been enacted after those decisions were made, and proper guidance has been provided too, in the form of PPG15, clarifying the care that must be given to the environs of a listed building as well as the protection of listed buildings themselves. Since PPG15 was published, every planning application submitted for the Coach House has been refused. The existence of planning approvals that pre-date the current legislation is a complete red herring.

The application fails to mention that there is a difference in ground level of well over a metre between the No 20 side of the wall at the bottom of the garden of No 20, and the ground level on the other side of the wall in the application site, and the ground level rises still further between the wall and the front of the Coach House. This means that although the applicant claims that fitting obscure glass to unopening windows on the upper floor of the Coach House removes the potential for overlooking, the fact that anybody looking out of the proposed **ground** floor windows will have a clear view over the garden wall towards the rear of Numbers 19 and 20 is carefully not mentioned. This picture, taken through my first floor window demonstrates that **all** the windows and most of the grounds would overlook me.



Also, anybody standing on the ground in front of the Coach House will have a clear view over that wall and into my house and garden. Permitting this ease of overlooking will infringe my right to respect for private life that I and my neighbours have under Article 8 of the European Convention of Human Rights.

The wall separating the land in front of the Coach House and my garden is too low to be a safety barrier when viewed from the Coach House, but a long drop ranging from 2.7 metres to 3 metres onto what will be a hard surface on my side of the wall once the currently approved work is completed. I regard it as a safety hazard to children playing, to adults inebriated or not paying attention, and to anybody who decides to use it as a seat.

The outcome for anybody falling over that wall is likely to be a serious injury or a fatality, and I cannot raise it higher because it is Grade II listed and already a considerable height when viewed from my side (and also Policy BH6 requires me to retain the character of the existing boundary wall). Nor can the other side be lowered to gain height that way because the wall has secondary foundations on the coach house side (ie a wall is built on top of a wall) and the wall would be unstable if these are weakened. Any secondary walling or fencing would look enormously tall and oppressive (and block my garden's sunshine) when viewed from my side, and thus would detract from the environs of a listed building, so is unlikely to be approved. For Health and Safety reasons, the Coach House side of that wall is unsuitable for residential use. Now that I have made that point, take note that any permission subsequently granted for residential use puts the Health and Safety liability jointly on the council and the developer and not on the owner of the wall.



This application, if successful would also detract from my views through my own windows. At present, the view out at night is towards a dark area: an unilluminated building with vegetation beyond. This development would place illuminated windows in that view, and because a number of windows would have obscure glass, there would be no need for curtains or blinds and internal lighting would shine out. The use of vehicles after dark would also bring headlamp glare nuisances.

With the proposed residents at a **maximum** 14 metres away (the farthest distance to my bedroom windows in the flying freehold) but actually just 4 metres at the closest point to Number 19, and 7 metres at the closest point to Number 20 (see picture: my wall in the foreground will be the end wall of a disabled bedroom; the projecting piece centre foreground is the end of Number 19), and with these windows approximately at eye level to anyone coming out of the Coach House front door, there will be light pollution. My neighbours and I lack the heavy curtains that would be needed to darken rear rooms at night since none are required at the moment. I will also have to consider whether I could leave my bedroom windows open at night when there is a real risk of noise from people and vehicles so close to where I sleep. My quality of life, which Policy D2 should safeguard, would be significantly reduced by any residential use of the Coach House.



From the point of view of the resident of the coach house, a view out of the kitchen window is going to be blocked by obscure glass which will reduce the light levels and encourage an earlier turn on of lights than would be necessary if clear glass were used. And I for one would hate to stand at the kitchen sink and have no view out to distract me from the tedium of kitchen chores. How long

would it be before somebody dislikes the obscured view so much that they “accidentally” break a pane and have it replaced by clear glass? Would an enforcement notice be issued if I complained about it? Probably not!

Also, the styling of the ground floor is inappropriate for the environs of a listed building. In the current Local Plan, Policy BH2 requires that developments must not “adversely affect the building's contribution to the local scene including its role as part of an architectural composition”. The house, Number 20 and the Coach House were built together for a common purpose and form an **architectural** composition, regardless of the fact that they are now under different ownership. The large ground floor doorways of the Coach House are an integral part of that architectural composition.

Policy BH.4 states that “Development proposals for the change of use of part or the whole of a listed building will be permitted provided: ii) there is no adverse impact resulting from the proposed use on the character and setting of the listed building, its architectural or historic interest, and on the character of the surrounding area.” The proposals do have an adverse impact on the historical and architectural interest, and PPG15 points out that the legislation requires planning authorities to have “**special regard**” to preserving such features, and elsewhere in that document it warns against unsuitable alterations robbing buildings of their special interest. Blocking in the doorways is thus not a visual benefit as the applicant claims, but a reason under the legislation for rejecting such an application.

It is claimed that this conversion of the Coach House would bring it back into beneficial use. However, I know that the property owner has been approached by somebody who wanted to buy it for the current Use Class B2 because that potential buyer discussed his plans with me to gauge my reaction. From my point of view, the council can put conditions on B2 use, including noise levels and hours of use, which cannot be controlled if the building becomes a dwelling. Unfortunately, the owner declined to sell when approached, but in making any planning decision, the Case Officer should take note that there are alternatives for bringing the building back into beneficial use apart from converting it to a dwelling. It is not a case of approving a dwelling or suffering inevitable further dereliction, and PPG15 recommends continuation of the original or current use as the first option that should be considered.

Policy BH.4 states “Development proposals for the change of use of part or the whole of a listed building will be permitted provided: i) there is no realistic prospect or demonstrable need for continuation or reinstatement of the use for which the building was originally designed.” Continued Class B2 use is possible and I am satisfied that the potential buyer who discussed his plans with me would not cause me noise or environmental problems.

There are discrepancies between the drawings supplied. Drawing 1676:05b which shows the exterior plan shows the Coach House as rectangular, whereas drawing 1676:11C correctly shows the trapezoid shape. This means that the area available for parking has been misrepresented.

The low and narrow entrance to the site is under my flying freehold, which has an under-surface that is fragile and has very little heat or sound insulation under the painted wooden floorboards that form the floor of two of my bedrooms. There is no method of improving the insulation under this listed floor apart from placing it below, in the space used as an entrance, making it smaller still. While the wooden entrance doors are closed, the air below these floors is relatively still, but whenever they are opened, the through draught drains heat from those rooms whenever those rooms need to be heated. As this is the only entrance to the Coach House, any to-ing and fro-ing of the residents is likely to make a significant difference to my heating bills. Vehicle noise will rise through the floor and will be particularly problematical at night. I have a responsible job and cannot afford disturbed sleep.

There is also a risk of damage to the underside of my floors if any over-height vehicle or conventional vehicle with a protruding aerial uses the entrance. If that entrance is damaged or needs other maintenance (eg after a fire), then while such repairs are taking place, the Coach House is likely to be inaccessible because this is the only access and as a minimum it would become a

restricted hard-hat area. Those in the building would be unable to leave; those outside the premises will be unable to enter. If those trapped inside should then need urgent medical attention, there would be no method of getting it to them. Now that I have made that point, take note that any permission subsequently granted for residential use puts the Health and Safety liability jointly on the council and the developer and not on the owner of the flying freehold.

Because the drawing showing the parking arrangements is inaccurate, the parking spaces are oversized. As the Appeal Inspector's report makes clear, there is insufficient room on the site to turn a vehicle, so any vehicle will either reverse in or reverse out. To most drivers reversing is slow and difficult and noisy, placing risk to the structure of my house or my neighbours from any scrapes against the walls under my flying freehold, and creating a noise nuisance. The residents might be expected to get better with practice, but any visitors face the same difficult exercise, would be unfamiliar with the visual cues and be a real risk. The proposal is that residents would not be provided with parking permits, so on-street visitors parking would not be an option.

It is also important to quote the Appeal Inspector's assessment of highway safety. His comment "Notwithstanding that there is no objection from the Highway Authority, I consider that the proposal would have a detrimental impact on highway safety contrary to the objectives of LP Policy T25 and ELP policy T24" is relevant. The site layout is unchanged, so this assessment still overrides any greater latitude that the Highways Officer might give.

Policy T24 requires developments to have "a high standard of highway safety" and this development does not. Policy T26 requires consideration to be given to "the capacity of the local highway network" and "the need to ensure highway safety".

There is an additional danger from the narrowness of the access and the inability for a driver to see either side on emerging. There is a well used Nursery Play Group offering ten sessions a week in the church opposite, and including these the church is used by over 400 different people during the typical week so there is a lot of pedestrian activity past my house four times a day, and thus at peak times there is a high risk of an accident to pedestrians from any vehicle leaving the Coach House parking.

St Marks Road is narrow and heavily over-subscribed for parking space particularly at the four times of the day when the users of the Play Group are arriving or leaving, and converting the coach house into a residence will inevitably bring more vehicles to the road. When the road is full of parked cars, the turning circle for any vehicle entering or leaving the coach house entrance is tight and the risk of minor collisions or scrapes is high. Nobody seems to regard a dislodged mirror as an accident these days, but for the vehicle owner it is a significant expense. Any resident parking in that part of the road would have a higher probability of minor damage caused by Coach House traffic than there is at present. Neither Policy T24 nor T26 support residential use with parking provision on the Coach House site.

The drainage in the St Mark's Road area is problematic and my courtyard can flood if the road drains are blocked. Any further discharge into the drains which are already at capacity will exacerbate the problem. Policy NE14 prohibits developments where existing drainage is inadequate.

Finally, it is worth noting that most of the text of the Design and Access Statement is identical to the document provided as the applicant's case to the Planning Inspector for the appeal against the previous refusal to grant permission. The Inspector clearly found it unconvincing and rejected the appeal, so the Planning Office should not be convinced by it now. The Inspector thought then that whatever the merits of the planning application these would not outweigh "the detrimental effects it would have on the setting of the listed terrace, the character and appearance of the building itself, the Conservation Area and the World Heritage Site, on the living conditions of the occupiers of the terrace behind which it lies, and on highway safety in terms of parking provision". Changing the plans from two smaller dwellings to one large one does not make a significant difference to the Inspector's summary of shortcomings, but the probability that

the large dwelling might become a family home introduces additional Health and Safety concerns outlined above, and increases the probability that my Human Rights would be infringed.

Given that this application (even with missing documents) does not comply with Policies BH2, BH4, BH6, D2, NE14, T24, and T26, misrepresents the heritage issues because of the council's erroneous assessment of its listed building status, has Health and Safety and Human Rights considerations, this application must be considered by the DCC if the Case Officer is mindful to permit; anything else might be construed as negligence. But in reality, there is so much wrong with this planning application that it should be roundly rejected.

I am making these comments now, because it is essential that my views are on record. However, I have on several occasions attempted to get sight of various appendices and an Acoustic Report mentioned in the documentation, without success. If these missing documents are provided, I may choose to make additional comments on their content.

Yours sincerely

Julia Bailhache