

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 15 July 2014	<b>Classification</b> For General Release	
<b>Report of</b> Strategic Director Built Environment		<b>Wards involved</b> Hyde Park	
<b>Subject of Report</b>	<b>The Water Gardens, Burwood Place, London, W2 2DA</b>		
<b>Proposal</b>	Retention of office (Class B1) for property management of the Church Commissioners' Hyde Park Estate at mezzanine level in the South Block and use of existing Building Manager's Office at mezzanine level in the Central Block for Community Group meetings (by appointment).		
<b>Agent</b>	Knight Frank LLP		
<b>On behalf of</b>	The Church Commissioners for England		
<b>Registered Number</b>	14/03925/FULL	<b>TP / PP No</b>	TP/2286
<b>Date of Application</b>	25.04.2014	<b>Date amended/ completed</b>	28.04.2014
<b>Category of Application</b>	Other		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside Conservation Area		
<b>Development Plan Context</b> - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Outside London Plan Central Activities Zone Outside Central Activities Zone		
<b>Stress Area</b>	Outside Stress Area, although ground floor shops fronting Edgware Road are in a Stress Area.		
<b>Current Licensing Position</b>	Not Applicable		

## 1. RECOMMENDATION

For Committee's consideration:

1. Does the Committee agree that this revised application has addressed the earlier reason for refusal on the loss of ancillary residential accommodation?
2. Subject to 1. above, grant conditional permission.





The Water Gardens South Block showing current office at mezzanine level (top) and view looking south from podium deck (bottom)

**THE WATER GARDENS, BURWOOD PLACE, W2**

## 2. SUMMARY

This application seeks to overcome the reason for refusal of a similar application which Sub-Committee resolved to refuse permission on 18 March 2014 for the continued use of part of the mezzanine level in the South Block for office purposes. The office is occupied by the residential management team for the Church Commissioners' Hyde Park Estate. The reason for refusal related to the loss of ancillary residential floorspace that provided communal activity and function space for the residents of The Water Gardens which is contrary to Policy S14 in the City Plan.

This latest application seeks to address the reason for refusal. The applicant is seeking to retain the office use and is now proposing that the ancillary Building Manager's Office (34m<sup>2</sup>) in the Central Block of The Water Gardens be made available for residents meetings. In addition, the applicant is offering to furnish two 24m<sup>2</sup> landing areas in the South and Central Blocks for informal meeting use for residents (albeit these two offers do not require planning permission).

Objections have been received to the application from two residents in The Water Gardens, objecting to the loss of ancillary residential accommodation to offices, the adverse impact of the office use on the amenities of residents in the block, the loss of a meeting space for residents, and the offer of the use of the Building Manager's Office is not a suitable replacement, the substandard nature of the office accommodation as built and that it fails to comply with workplace legislation.

The key issue for consideration is:

- Whether this fresh application has overcome the earlier reason for refusal and the application is reported for Committee's views.

## 3. CONSULTATIONS

### HYDE PARK ESTATE ASSOCIATION

Any response to be reported verbally.

### PADDINGTON BID

Any response to be reported verbally.

### HIGHWAYS PLANNING MANAGER

Undesirable in transportation terms but could be considered acceptable. No car parking is being provided but consider impact on parking levels will be minimal. Request condition is imposed to secure cycle parking.

### CLEANSING MANAGER

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 111; Total No. of Replies: 2.

Two objections received to date.

### Land Use

- This area was originally built in 1966 and fitted out as a fully fitted children's playroom with wall climbing frames, swings and the original flooring of vinyl mosaic. After 40 years of use, the children's playthings were heartlessly removed without any consultation with the residents. This area also used to hold children's parties. The City Council's Policy ENV13 seeks to protect playspace.

- This room was also used by the residents association which was forced to cease its activities when the agents notified tenants that this room could no longer be used. The photographs submitted in the Planning Statement were taken after the playroom equipment and residents association were advised they no longer can use the room, and it is little wonder that the room looks underused.
- Use of the mezzanine by Knight Frank. False for the applicant to state in their Planning Statement that their occupation was commenced on the basis that this is wholly related to and therefore ancillary to the residential occupation of the buildings but was widened to include the whole responsibility for the Hyde Park Estate. In reality Knight Frank used to occupy offices at 25 Porchester Place and moved into The Water Gardens in February 2012 and it is understood that this move was prompted by water penetration problems.
- The office area extends well beyond the 34m<sup>2</sup> of the mezzanine and disagree with the applicant's statement that the use has 'no adverse material impact on its residential amenity. The NPPF does not support the introduction of offices and it does have an adverse material impact contrary to Policy COM 1 in the UDP. Policy COM2 requires a separate residential access and in no way envisaged possible office intrusion of this nature into an established residential foyer.
- The offer of a meeting room for residents and comfortable seating in the landings is derisory. The seating on the landing is likely to be used by the applicant and their visitors extending their occupation.
- Office being offered in the Central Block for residents can only accommodate eight people rather than 40 or so residents who attended previous meetings, and only available by appointment.

#### Design

- The office fails to comply with NPPF as it does not secure high quality design and good standard of amenity for all existing and future occupants of land and buildings. Photographs have been submitted and are included in the background papers. The offices are an eyesore.

#### Amenity

- Office overlooks the residential podium and generates noise and disturbance.
- The office is using the lift which is for residents and this is contrary to Policy S14 in the City Plan. It is inappropriate to expect residents to use the lifts to be accompanied by office workers and their visitors. The same comment also applies to use of the staircase and main foyer. The applicant also neglects to mention the constant stream of contractors using the South Block.

#### Other Matters

- Gravely concerned about the officer presentation to the last Sub-Committee which was limited to the loss of amenity to existing residents as being stated as the 34m<sup>2</sup> on the mezzanine floor of the South Block and overlooking from the office. None of the objections raised in an earlier letter dated 20 November 2013 were included. These relate to the area being designed in 1966 as a playroom and later used for resident's use, the gross intrusion into the main residential foyer and the substandard construction and design of the office which fails to comply with the Workplace (Health, Safety and Welfare) Regulations 1992.
- Agent makes false statements regarding the works taken to adapt the area. Significant works were required to adapt the area and applicant failed to correct the works resulting in substandard offices. This is contrary to the requirement of good design as set out in Section 17 of the NPPF and contrary to Policy S28 in the City Plan.
- Conversion fails to comply with Section 6 of the Workplace (Health, Safety and Welfare) Regulations 1992 and Policy S29 - a door allows office noise to be heard outside the residential podium adjacent. There are no toilet facilities within the office, no running water; cost of electricity is being paid for by the residents in their service charge.

ADVERTISEMENT/SITE NOTICE: Yes

#### 4. BACKGROUND INFORMATION

##### 4.1 The Application Site

The Water Gardens is a 1960s development by Trehearne & Norman, Preston and Partners located on the west side of Edgware Road and bounded by Sussex Gardens to the north, Norfolk Crescent to the west and Burwood Place to the south. The Estate is not listed and does not lie within a conservation area, but lies adjacent to the Bayswater Conservation Area.

The Water Gardens comprise a mix of three 17 storey high towers with low rise blocks. The three towers are known as the South, Central and North blocks.

This application relates to an area of approximately 34m<sup>2</sup> of floorspace on the mezzanine floor level within the South Block, and the Building Manager's Office located at mezzanine level in the Central Block.

##### 4.2 Relevant History

Planning permission was granted on 08.08.1962 for the redevelopment of the site bounded by Edgware Road, Sussex Gardens, Porchester Street, Norfolk Crescent and Burwood Place, which included the erection of three 17 storey blocks, with penthouses, along the Edgware Road frontage.

1 April 2014 - Permission refused for use of part of mezzanine level in the South Block for office purposes. Reason for refusal was that the office use has resulted in the loss of ancillary residential floorspace that provided communal activity and function space for residents of The Water Gardens and this is contrary to Policy S14 in the City Plan. This application was reported to the Planning Applications Sub-Committee on 18 March 2014 and the officers recommendation to approve was overturned by the Sub-Committee and the application was refused.

#### 5. THE PROPOSAL

Permission is sought for the continued use of part of the mezzanine floor level for office purposes (Class B1) in the South Block. The office is occupied by the Church Commissioners Hyde Park Estate as their property management offices which is operated by Knight Frank and has been in use since February 2012. There are six desks within the office and five members of staff. The office is open from 09.00 to 17.30 hours Monday to Friday.

In the light of the recent refusal by Sub-Committee, the applicant has submitted a fresh application which is proposing that the Building Managers Office located at the mezzanine level in the Central Block is made available for residents meetings (by appointment) to compensate for the area which has been lost in the South Block. The applicant states that leaseholders and licensed sub tenants may book this space for community meeting purposes through the porters/building manager, and can be booked in half hour blocks and there will be no charge. The room has a table that can seat eight people and the maximum number is 12. The space will be advertised in The Water Gardens quarterly Newsletter and on the building's website.

The applicant is also offering to place new furniture in the two open landing areas within the Central and the South Blocks that can be used by residents. Again, the location of new furniture does not require planning permission.

## 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

Objections have been received to the loss of the space for residents in the South Block. The objectors state that this area was originally used by residents as a room to hold birthday parties, gatherings and as a children's playroom and that this area has been used by the residents association for the Estate. One of the objectors cites that this loss of playspace is contrary to Policy ENV13 in the UDP.

No planning conditions were imposed as part of the 1962 planning permission which controlled the use of these mezzanine levels in each block. And although it may have been used as a playroom in the past, there are no planning conditions to safeguard this area. These ancillary spaces can be used for other uses such as offices for the building manager or security staff without the need for planning permission. Therefore, the loss of the playroom is not contrary to Policy ENV13.

Policy S14 of the City Plan seeks to retain residential uses and states that 'proposals that would result in a reduction in the number of residential units will not be acceptable'. Sub-Committee on 18 March 2014 took the view that the loss of ancillary residential accommodation to a Class B1 office is contrary to Policy S14. The applicant is now offering alternative space for the residents to use in the Building Manager's Office which is located at mezzanine level in the Central Block and two informal areas. The applicant also advised that the last Residents Committee meeting was hosted in Knight Frank's offices in Baker Street.

In terms of the Council's policies relating to office development, Policy COM1 in the UDP advises that proposals for offices will be granted in the Central Activities Zone (CAZ) and CAZ Frontages, the Paddington Special Policy Area and the North West Westminster Special Policy Area. Elsewhere in the City proposals for office development will be granted where 1. The site is already in lawful office use; 2. The increase in office floorspace is related to providing accommodation for office-based local services and /or improving access for those with disabilities; 3. There is no loss of residential accommodation and no adverse material impact on residential amenity and 4. There is no loss of local service activities.

It is recognised that the current office use for the residential management of The Water Gardens and the wider Church Commissioners Hyde Park Estate provides a service but this needs to be weighed against the loss of this ancillary residential floorspace and the impact this will have on existing residents, and whether this revised application includes adequate mitigation.

The objectors also cite that the office fails to comply with Policy COM 2. This policy relates to increases in office floorspace and the Council will normally require as part of its mixed use policy the provision of self-contained residential accommodation with separate access, where physically possible, will be required. Whilst it is accepted that the office use shares the same entrance and common parts as the residents, this is not contrary to Policy COM2.

Whilst the objections have stated that the office 'does not deal with the day to day management of The Water Gardens, which is carried out by the manager whose offices are located within the Central Block', the applicant has stated that the office deals exclusively with matters arising from day to day management of the Hyde Park Estate for the Church Commissioners'. They further state that 'Residents have cause to visit the office to discuss insurance claims, requests for lettings and sales and general building requests and is used by staff as a room for contractor meetings and a central place for meetings with all staff working on managing the Estate'.

Whilst it is regrettable that the ancillary residential space has been lost, the applicant is offering an alternative meeting area for residents in the Building Manager's Office in the Central Block. Whilst it is accepted that this area is not as big and can accommodate 8-12 people, Committee's views are sought as to whether this offer has addressed the earlier reason for refusal.

One of the objectors has raised concerns that if granted this office space could be let to other commercial organisations. If Committee are minded to approve, a condition could be imposed to restrict the office use to the Church Commissioners to manage their Estate, which includes The Water Gardens, and for no other purposes within Class B1. This condition can ensure that if the office use ceases, that the room shall return to ancillary residential use. This condition will also preclude the office being converted to residential use under current permitted development rights.

## **6.2 Townscape and Design**

Not applicable as there are no external alterations to the building. Although the objector cites that the office is contrary to the advice in the NPPF as it does not secure high quality design and good standard of amenity for all existing and future occupants of land and buildings, the internal works do not require planning permission. Therefore, this objection cannot be supported.

## **6.3 Residential Amenity**

The objectors consider that the proposal remains contrary to Policy S14 and that the office use is having an adverse material impact on residential amenity. The objectors consider that the application is contrary to COM 1 in the UDP and that failure to have a separate access from the residential flats is also contrary to COM 2 in the UDP.

Whilst it is recognised that the continued office use has resulted in increased activity through the main residential entrance in the South Block, and that staff and visitors use the staircase/lifts and the porters toilet facilities, it is not considered that this has resulted in such levels of activity to harm the amenities of existing residents. The Sub-Committee in March 2014 did not consider that the activity associated with the office had an adverse impact on the amenity of residents in the Estate. Therefore, it is not considered that the proposal is contrary to Policies S29 and S31 in the City Plan and Policies ENV6 and ENV13 in the UDP.

The office hours are 09.00 hours to 17.30 hours, five days a week, and if Committee are satisfied that this latest application has overcome their earlier reason for refusal, the hours of use can be controlled by condition.

Objections have been received that the office use overlooks the podium gardens contrary to Policy ENV13. It is considered that this concern could be addressed by the use of obscure glazed film to the existing windows, and this could be secured by condition if Committee are minded to approve.

## **6.4 Transportation/Serviceing**

The Highways Planning Manager has recommended a condition requiring one cycle parking space for the office. However, due to the size and location of the office unit, this is not considered reasonable in this instance.

## **6.5 Economic Considerations**

Not applicable.



## **6.6 Equalities and Diversities**

There are no proposed alterations to the access to the application site.

## **6.7 Other UDP/Westminster Policy Considerations**

The Cleansing Manager is satisfied that adequate facilities for waste and recycling facilities currently exist in accordance with Policy ENV12.

## **6.8 London Plan**

The proposal does not raise strategic issues and does not have significant implications for the London Plan.

## **6.9 National Policy/Guidance Considerations**

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

The UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## **6.10 Planning Obligations**

The proposal is of an insufficient scale to require planning obligations.

## **6.11 Environmental Assessment including Sustainability and Biodiversity Issues**

Not applicable.

## **6.12 Other Matters**

### **Consultation Responses**

The objector states that none of the major issues set out in an earlier letter dated 20 November 2013 were reported in the presentation to Sub-Committee in March 2014 and failed to report that this area was a fully fitted playroom and used for residents association meetings, the gross intrusion into the main residential entrance foyer and the sub standard nature of the office accommodation. The presentation by officers to the Sub-Committee was a summary of the main issues, and the objections received. All the objection letters were set out in the background papers which were sent to the Sub-Committee members prior to the meeting.

### **Certificate B notifications**

One of the objectors has raised concerns that his personal details are set out in Certificate B attached to the application form on the Council's website. It is the Council's normal practice to

list these documents on the website, however, in the light of this representation, the objectors name and alternative contact address have now been redacted.

The same objector also cites that notifications have not been sent to residents in the Central Block, and as a result the applicant has now served notice on these flats, and further consultation letters have been sent out by the City Council giving residents 14 days to comment.

#### **Sub standard Offices**

Objections have been raised to the sub standard nature of the office conversion in that it fails to comply with Workplace legislation. In planning terms, the internal works to create the office do not require planning permission, and the standard of the finishes is not a planning consideration. This application only relates to the change of use and therefore must be determined on that basis.

The objector cites that there are no toilet facilities in the office and that staff have to use the stairs and lift to use the porter's toilet facilities. Whilst this is not an ideal situation, there are facilities that staff can use in the building, and it is not considered that the additional comings and goings associated with staff are considered to be so material to warrant refusal of permission.

#### **Service charge**

Objections have been raised that the utility bills associated with the office are being paid by residents in the service charge. This is not a material planning consideration in the determination of this application, and the applicant has stated that they pay a service charge.

## **7. CONCLUSION**

The application is being reported for Committee's views as to whether the changes set out in this current application have overcome the earlier reason for refusal.

## **BACKGROUND PAPERS**

1. Application form.
2. Copy of the refusal dated 1 April 2014.
3. Memorandum from Cleansing Manager dated 7 May 2014.
4. Memorandum from Highways Planning Manager dated 7 May 2014.
5. Letter from Holland, Reiss and Co on behalf of No. 20 The Water Gardens dated 15 May 2014.
6. Letter from No. 14 The Water Gardens W2 dated 18 May 2014.
7. Letter from applicant dated 9 June 2014.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT SARAH WHITNALL ON 020 7641 2929 OR BY E-MAIL – [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk)

**DRAFT DECISION LETTER**

**Address:** The Water Gardens, Burwood Place, London, W2 2DA

**Proposal:** Retention of office (Class B1) for property management of the Church Commissioners' Hyde Park Estate at mezzanine level in the South Block and use of existing Building Manager's Office at Mezzanine level in the Central Block for Community Group meetings (by appointment).

**Plan Nos:** Site location plan KF/520/309870/A; INT-001; INT-002; INT-003; INT-004; Planning Statement dated April 2014; Email and letter dated 9 June 2014 .

**Case Officer:** Amanda Coulson

**Direct Tel. No.** 020 7641 2875

**Recommended Condition(s) and Reason(s):**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

**Reason:**

For the avoidance of doubt and in the interests of proper planning.

- 2 You must only use the office floorspace hereby approved for the residential management of the Church Commissioners' Hyde Park Estate and for no other purpose falling within Class B1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 ( or any equivalent class in any order that may replace it. If the office use cease, the space must returned to ancillary residential floorspace for the residents of the Water Gardens.

**Reason:**

Because of the special circumstances of this case and we would not have granted planning permission for an unrestricted Class B1 office use and to ensure that if in the event this area is no longer required for office use, the space shall revert back to ancillary residential use .This is set out in policy S14 of the City of Westminster's City Plan: Strategic Policies adopted November 2013.

- 3 The office hereby approved shall only be used between the hours of 09.00 to 17.30 hours Monday to Friday.

**Reason:**

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 4 The building managers office located at mezzanine level in the Central Block shall be made available as a meeting space for use by the residents in the Water Gardens as set out in the letter dated 9 June 2014.

**Reason:**

To ensure that an alternative facility is provided for use by the residents of the Water Gardens.

- 5 Within three months of the date of this permission you must apply film to obscure the existing glass windows and doors to a height of 1.8 m above the internal floor area of the office .This film shall be retained as long as the office is in use and shall not removed or changed without our permission .

**Reason:**

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007.  
(R21BC)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

NOTES

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PROPOSED OFFICE AREA



CLIENT THE CHURCH COMMISSIONERS FOR ENGLAND  
PROJECT WATERGARDENS - KF OFFICE  
ADDRESS THE WATERGARDENS LONDON W2

PROPERTY NO. 000000

DRAWING EXISTING 1ST FLOOR PLAN

DRAWING NO. INT - 001

PROJECT STATUS PLANNING

REVISION 01

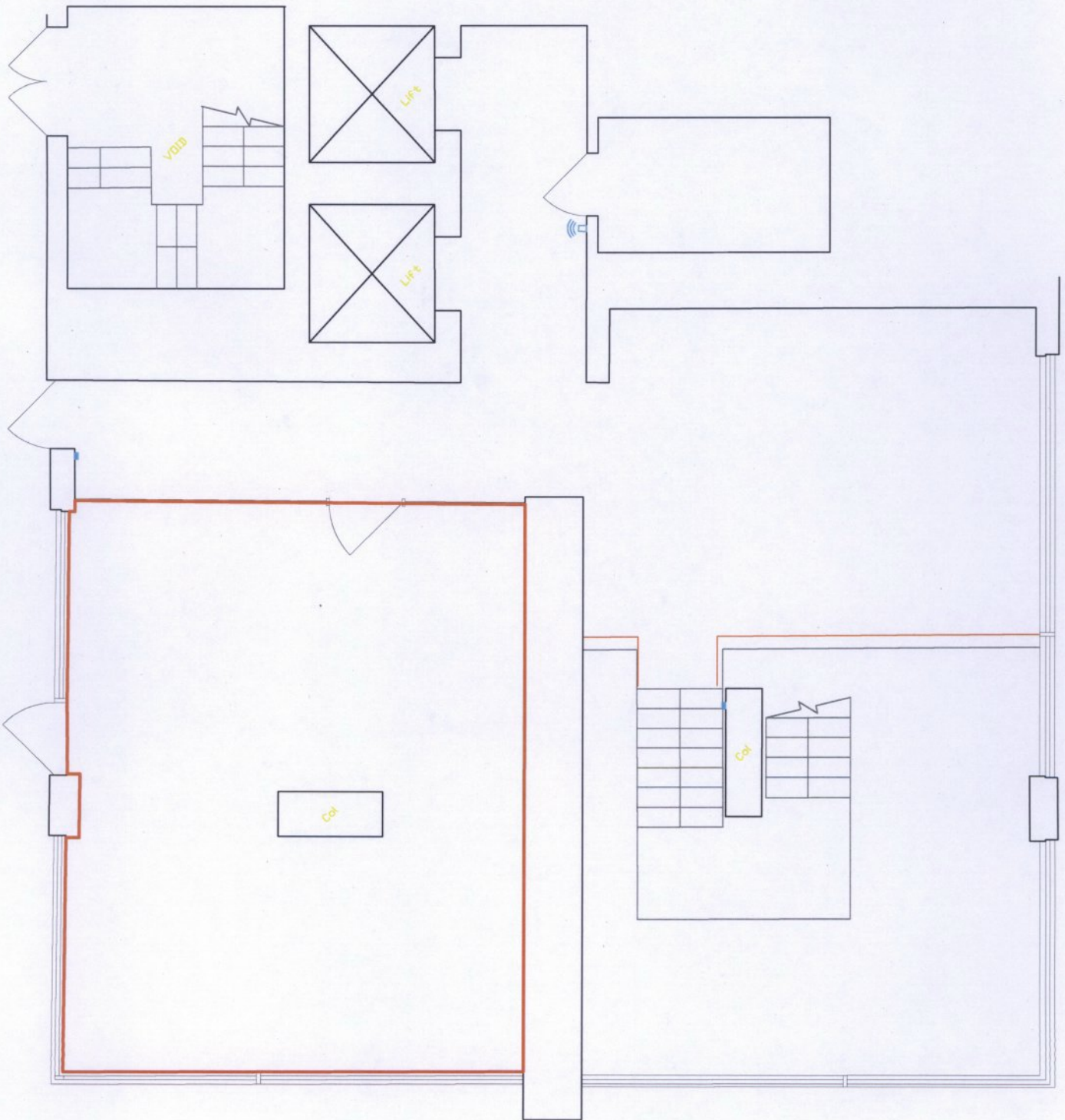
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DATE NOV 2011

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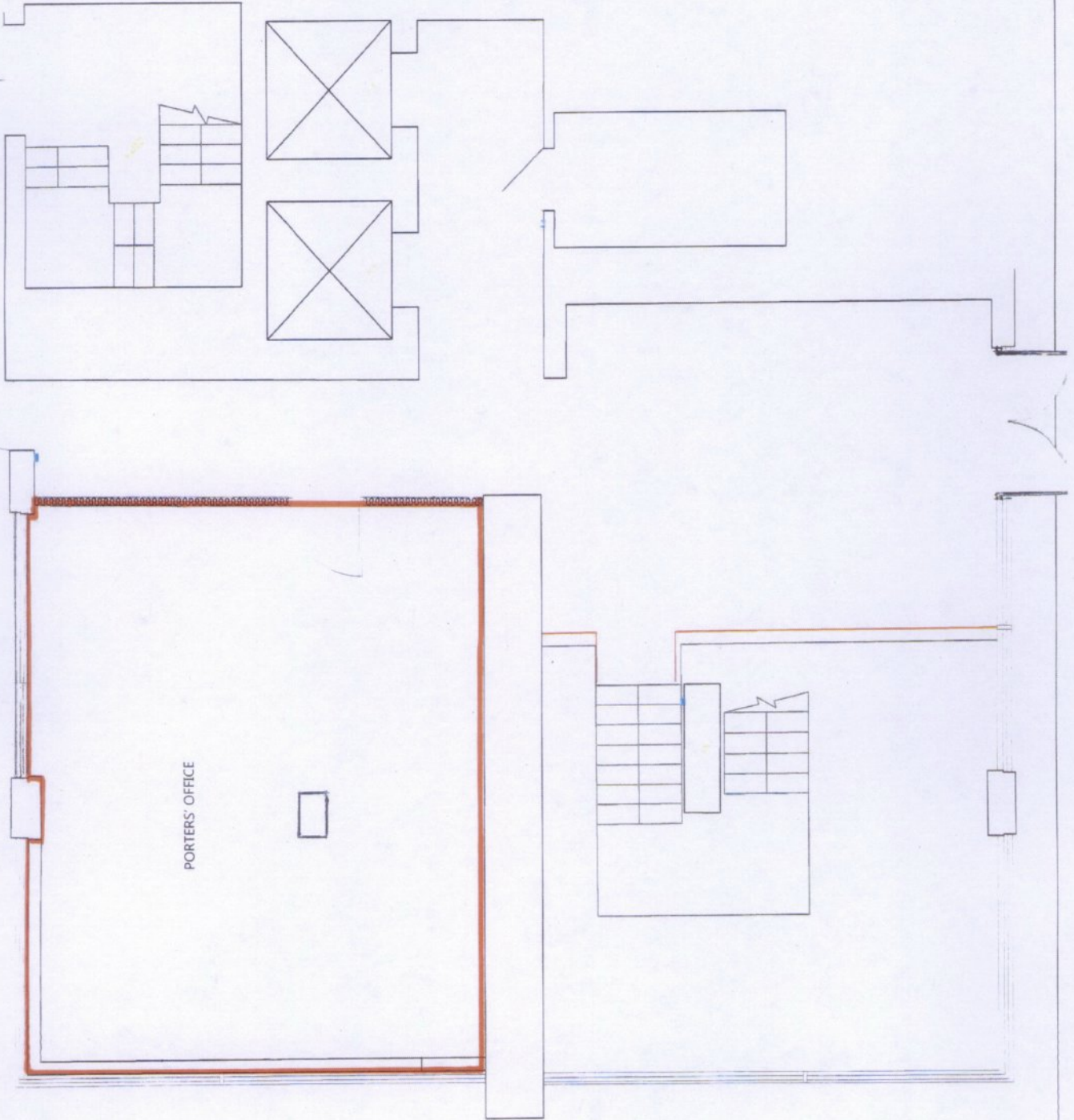
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CLIENT THE CHURCH COMMISSIONERS FOR ENGLAND  
PROJECT WATERGARDENS - KF OFFICE  
ADDRESS THE WATERGARDENS  
LONDON W2  
CENTRAL TOWER

PROPERTY NO. 000000  
DRAWING EXISTING 1<sup>ST</sup> FLOOR PLAN  
DRAWING NO. INT - 003  
PROJECT STATUS PLANNING  
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DATE APR 2014  
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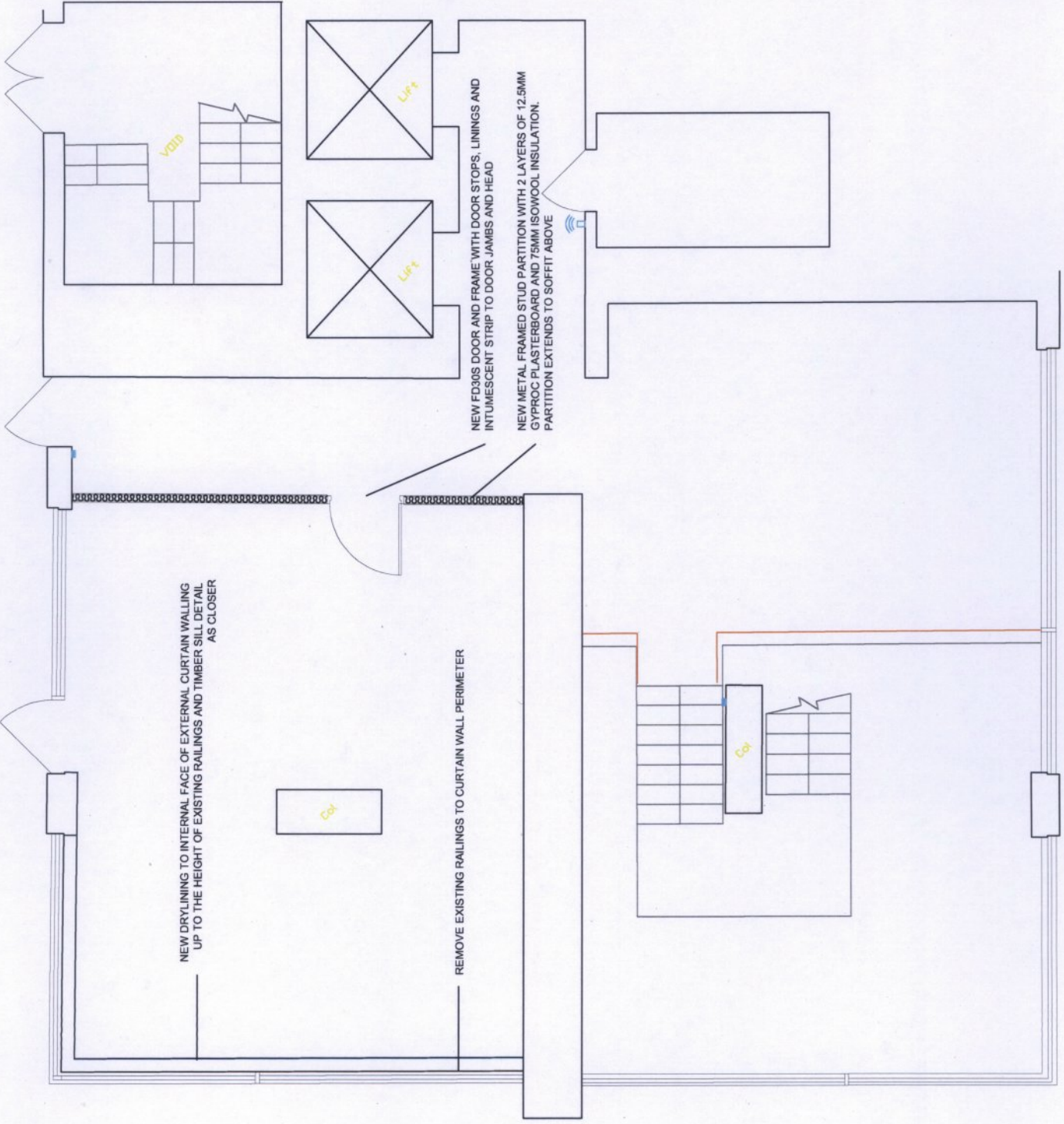
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PROJECT	WATERGARDENS - KF OFFICE
ADDRESS	THE WATERGARDENS LONDON W2
PROPERTY NO.	000000
DRAWING	PROPOSED 1ST FLOOR PLAN
DRAWING NO.	INT - 002
PROJECT STATUS	PLANNING
REVISION	01
SCALE	1:50@A3
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CLIENT	THE CHURCH COMMISSIONERS FOR ENGLAND
PROJECT	WATERGARDENS - KF OFFICE
ADDRESS	THE WATERGARDENS LONDON W2 CENTRAL TOWER
PROPERTY NO	00000
DRAWING	PROPOSED 1ST FLOOR PLAN
DRAWING NO	JNT - 004
PROJECT STATUS	PLANNING
REVISION	01
SCALE	1/50@A3
DATE	APR '2014
DRAWN	MP
CHECKED	KB



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