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26 June 2013

Our Ref: SRB/1544/2034197/23/r  
Your Ref: Mr Gary Duthie

By Email and by DX

Dear Sirs

MR AND MRS SEABRIGHT  
THE OLD RECTORY LITTLE GRANSDEN

We have noted the report submitted yesterday for committee hearing on 3 July.

We have noted the stated view that the cost of the repairs that will be required, should the cedar tree be retained, are considered to outweigh the amenity value that the tree provides, and that the recommendation to the Committee is that the Tree Preservation Order be revoked to permit tree removal.

We note that the annexures to the report include our Letter of Claim dated 6 June 2013 setting out the Claimants' claim for compensation to reimburse such repair costs as flow from the refusal, under Section 202.

To recap:

1. Mr and Mrs Seabright have previously sought tree removal, which was declined to them and was a very stressful process.
2. In accordance with the statutory regulations there is a right to seek a recovery for the losses that flow from the refusal, which essentially will be the underpinning costs and any associated costs. We have formally started this process on behalf of the Claimants with our Letter of Claim.

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available for inspection at the registered office.

3. Since making the planning application it has become apparent that the repair costs and losses will be considerably greater than was initially envisaged, primarily because the ancient heritage of the listed property will need to be carefully and properly protected.

This is indeed a difficult matter, with many entirely valid but competing tensions. At the end of the day the Council will want to gauge whether the majority of its residents would prefer to keep the cedar tree, with the Council funding the repairs, or whether the local residents would prefer to permit removal of the tree and to thus protect the public purse from substantial losses.

The Council will also want to duly consider the impact of tree retention and an underpinning repair on the listed property, and last but not least whether it can afford to fund such compensation as may be awarded to reimburse the repair costs arising by reference to tree retention whilst at the same time financing other local needs.

On that note and with regard to the likely level of the repair costs, as you may know the matter is still under review for the purposes of resolving upon an acceptable repair scheme that will have the best prospects of addressing the ongoing risk of subsidence damage from the cedar tree's roots and yet at the same time inflict the least collateral damage on the fabric of this listed building in the repair process.

The range of repair options and costings that we set out in our Letter of Claim were as previously outlined to the Council's Listed Building Officer and pursuant to preliminary discussions that were conducted with her on site.

As you know the outlined options included the underpinning of the flank wall to a depth to be confirmed by reference to site conditions, at an anticipated cost of £80,000 + VAT + fees etc.

Two more substantial options that were outlined included partial piling or a full piled raft, at £250,000 and £400,000 respectively + VAT + fees etc, together with what would be substantial costs for alternative accommodation.

Whilst the repairing deliberations and the submission of an application for consent to the Listed Building Officer are still a work in progress at this stage, given that a date has now been fixed for a committee hearing next week we hasten to update the Council regarding the up to date considerations regarding repair.

The matter is now under the direction of engineer Mr Lance Gill of Richard F Gill & Associates LLP, Bsc Hons, CEng, MStruct E, MICE on behalf of the Claimants. Mr Gill is concerned that the ground conditions at the site are not suitable for piling, and that as such the repair scheme would need instead to be a traditional underpin.

He agrees that an underpin of the north east flank wall for a length of 40m and to a depth in the order of 3.5m (subject to site conditions), would be likely to cost in the order of £80,000 + VAT + fees, and that it would provide a reasonably robust solution which would not inflict an unacceptable degree of collateral damage on the listed building and would carry with it only a minimal residual risk of future damage.

He also takes the view that at the other end of the spectrum a full traditional underpin would cost in the order of £500,000 + VAT + fees. His concern there would, however, be that such an extensive scheme would inevitably inflict significant collateral damage on the historic fabric of the building, which on any interpretation would clearly be undesirable.

To summarise, subject to the approval of the nature and extent of any repair scheme by the Council's Listed Building Officer, the most sustainable outcome which carries the least risk of damage would appear for the time being to be that which we have previously outlined as costing in the order of £80,000 + VAT + fees, accordingly some £110,000+.

Whilst this would appear to be the most satisfactory repair compromise available to permit a reasonable co-existence between the cedar and the listed building, it should be stressed that it would still carry a residual risk of future damage. Should damage recur in the future then, as quite rightly highlighted in the Council's report for the Committee, a further application for tree removal may at that time be made and compensation sought for such additional repair costs as may be needed in the event of a refusal.

Whilst we have hastened to outline the present repair expectations and costings here, and they will no doubt and quite properly be a matter of interest to the Committee, in the final analysis if the tree is retained and repairs proceed it will be up to the Lands Chamber to decide upon the appropriate figure for compensation. For the avoidance of any doubt we are confident that the ball park sums that we have outlined here are a reasonably reliable yardstick for what sums would be approved and awarded for payment by the Council at the Lands Chamber.

We do not propose to rehearse the merits of the Claimants' Section 202 claim for compensation in this letter any further, given that it falls to be dealt with under separate procedures and by reference ultimately to the Lands Chamber, save to say that we have noted Mr Bevan's observations regarding the strengths of this claim which we agree.

We trust that our observations will be helpful.

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Yours faithfully

A handwritten signature in black ink, consisting of a large, stylized 'J' or 'L' shape followed by a long horizontal line.

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Please respond by e-mail where possible