



# **A Report on Planning and other Procedures of the Hampstead Garden Suburb Trust**

**Prepared by the  
Conservation and Amenities Committee (Consam)  
of the  
Hampstead Garden Suburb Residents Association**

Adopted by the Residents Association  
at its Council Meeting on 4 March 2003

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## 1. Terms of Reference

At the Annual General Meeting of the Hampstead Garden Suburb Trust (the Trust) on 15 September 2001, several residents made specific complaints about the way in which new building developments close to their homes had been handled by the Trust. In one case a resident had not been informed of a significant development at the rear of his house and as a result had been denied the opportunity to object to it. His case had been highlighted in the local press.

The Trust Chairman Steven Licht said:

**“We accept one complaint is one too many and we must try even harder. I am therefore pleased to report that the Trust Council recently decided to conduct, with the help of the Residents Association, a full review of its planning procedures and communications.”** This was reported on the front page of Suburb News (Autumn 2001 issue).

The proposed “Planning Review” was advertised in Suburb News (Autumn 2001) and comments and suggestions were invited from residents. Eleven letters were received at the time and one further letter was received a year later in January 2003.

## 2. How the Trust Works

The Trust is a charity which administers a Scheme of Management for freehold property on Hampstead Garden Suburb (the Suburb) under the Leasehold Reform Act. This Scheme of Management is “for the purpose of ensuring the maintenance and preservation of the character and amenities of the Hampstead Garden Suburb”.

**The Scheme of Management states that without the prior written consent of the Trust no alterations shall be made to the external appearance of any building in the Suburb. It requires written consent for paving over of gardens; erection of new buildings; substantial changes to the appearance of gardens and yards; building or demolition of walls and fences; cutting down of trees and hedges; substantial changes in the colour of exterior paintwork.**

Copies of the Scheme of Management are available from the Trust.

The Trust applies similar regulations over the remaining leasehold properties which are governed by the terms of the individual leases rather than the Scheme of Management.

The Trust employs a Trust Manager (who is also Company Secretary) who deals with the administration and is partly involved in the policing of infringements. There is an Architectural Adviser who advises the Trust on applications for alterations. Two secretarial/ administrative assistants are also employed. Other people employed by the Trust are outside consultants. There is a part-time architect helping the Trust Architectural Adviser and there is a tree consultant advising residents on trees. A computer bureau is used to generate the annual management charge and ground rent demands.

The Trust is governed by a Council consisting of eight people, four elected for a three year term by “members” of the Trust (see below) and four nominated by outside bodies without time limit. The outside bodies are The Royal Institution of British Architects, The Royal Town Planning Institute, The Victorian Society and The Law Society. Elected Council members can serve two consecutive terms only. The Trust Council elects its own Chairman who by tradition is an elected rather than an appointed member and does not have a casting vote.

“Members” of the Trust are residents of the Suburb who ask to join and who have lived for a minimum of three years on the Suburb. Members are limited to a maximum of 1,250 people and currently the membership is not full. Members can also attend and speak at the Annual General Meeting.

The Trust has published, jointly with the London Borough of Barnet, a booklet called **Hampstead Garden Suburb Design Guidance**. The Design Guidance gives advice on any building works, alterations to existing properties and works to trees. It states at the beginning that **“We will judge any application in the light of guidance given in this booklet.”**

The Trust has a Property and Plans Committee (PPC) which meets 9 to 10 times a year. This committee consists of up to 11 people although most meetings do not exceed seven or eight. Membership of PPC currently consists of seven of the eight Trust Council members and two members nominated by the Residents Association (RA). The Trust Manager and Trust Architectural Adviser also attend. The PPC is chaired by a member of the Trust Council, often by tradition this is a nominated member.

A few days before each meeting of the PPC, the Trust Architectural Adviser sends each member of the PPC a report on each of the main applications to be set before the committee. He also sends a list of what he regards as "minor items" which nobody has objected to with his recommendations. There are about 20 to 30 items considered each month. Members of PPC are encouraged to make a site visit in some cases but it is usually only the members living in the Suburb who do so.

In many cases the PPC takes the advice of the Trust Architectural Adviser but he does not always make a recommendation and in matters of principle and detail, it is the committee's opinion rather than the Trust Architectural Adviser's opinion which counts.

In some cases the PPC does not make a decision and the application is referred to the Trust Council to consider the application without a recommendation from the PPC. This happens when there is some legal issue involved or where the PPC has strong views for and against a consent. The Trust Council meets a week after the PPC each month to consider applications and its other business.

The Trust Council at its monthly meeting normally accepts the recommendation of the PPC giving either consent, consent subject to detail, partial consent, refusing an application or the decision is deferred and referred back to the applicant with a request for a revised application. In the few cases where the PPC does not make a recommendation, the Trust Council makes its own decision.

The consents granted are "provisional" subject to the applicant completing the works according to the plans and conditions made. Final consent is formally given when the works are finished to the Trust Architectural Adviser's satisfaction.

Infringements which are reported to the Trust are dealt with on an ad hoc basis by the Trust Manager or Trust Architectural Adviser (and are the subject of discussion later in this document). If legal action is to be taken, this is decided by the Trust Council.

### 3. Membership of the “Planning Review Committee”

The RA negotiating committee consisted of RA Council members:

Richard Wakefield, Chairman of the RA (first two meetings)  
Georgina Malcolm, Chairman of the RA (last two meetings)  
David Lewis, Chairman of Consam, a member of the PPC and a member of the Conservation Area Advisory Committee (CAAC)  
Carol Boulter, a member of Consam and CAAC.  
Mervyn Unger, a member of Consam.  
Michael Rowley, a member of Consam, the PPC and CAAC and a qualified architect.

The Trust was represented by its then four elected members and two officers:

Steven Licht, Chairman  
Mervyn Mandell, Vice Chairman  
David Iwi  
Sylvia de Peyer  
David Davidson, Trust Architectural Adviser  
Chris Kellerman, Trust Manager

At the second meeting Mervyn Mandell was replaced by Teddy Bourne, the Trust Council member appointed by the Law Society.

Mervyn Unger has since left RA Council and Consam and is now an elected member of the Trust Council.

#### 4. Timetable and Meetings

The RA Chairman wrote to the Trust Chairman on 20 September 2001 with some suggestions and the RA's nominations asking when the first meeting would be convened.

The first meeting was held on 7 March 2002.

The second meeting was held on 27 March 2002.

The third meeting was scheduled for 21 May 2002 but was cancelled by the Trust at short notice and because of holidays it did not take place until 30 July 2002.

Minutes of each meeting were written by the Trust officers and were amended at each subsequent meeting by the RA.

A draft report was prepared by the Trust and given to Consam on 13 August 2002. This was discussed by Consam at a specially convened meeting on 27 August and agreed amendments and amplifications were submitted on a revised draft to the Trust on 28 August 2002.

Subsequent phone conversations indicated that Consam's draft was not acceptable to the Trust and David Lewis and Mervyn Unger agreed to hold an informal meeting with Chris Kellerman and Steven Licht in order to see whether there was any basis for compromise. David Lewis, Chairman of Consam, made it clear at the outset of that meeting that he had no authority to agree alterations but would report the Trust's views to Consam for its consideration.

In the event, the Trust's revised draft report (included in the Appendix to this document) was circulated to Consam members but Consam decided that it still contained insufficient substance and detail and that it would not be right for the RA to endorse the proposals although the Trust was perfectly entitled to present the report to its AGM without the endorsement of the RA.

As the Trust Annual General Meeting was scheduled to take place before the next meeting of the RA Council, the matter was discussed by the RA Executive Committee on 12 September 2002 and it supported Consam's position.

A letter was sent by the Chairman of Consam to the Trust Chairman on 14 September 2002 (circulated to RA Council members in January 2003). The letter said that the RA and Consam could not endorse the document prepared by the Trust and asked the Trust Chairman to make this clear when he announced the report at the Trust AGM which was due to take place in the following week. The letter gave detailed reasons and suggestions for improving the report.

At the Trust AGM, the Trust Chairman announced that the Planning Review had not reached a conclusion and that he expected it to report within a further six months.

The matter was discussed again at Consam's meeting on 7 October 2002 and the Chairman of Consam wrote a follow up letter to the Trust Chairman on 15 October 2002, as no reply had been received to the detailed points made in Consam's letter of 14 September. This letter ended as follows:

**“My letter of 14 September gave our reasons for not endorsing your original report and we look forward to an early meeting to resolve our differences. However Consam feels very strongly that, before we have another meeting, we need a revised report on the table as the basis for discussion. Consam looks to see many, if not all, of the points made in my letter included in this new draft.”**

A reply was received from the Trust Chairman dated 4 November 2002 (circulated to RA Council members in January 2003). No revised draft report was enclosed but each of the individual points made in Consam's letter of 14 September was answered and all Consam's points were rejected.

The Trust's letter was discussed in detail at Consam's meeting on 13 January 2003. At this meeting, in a spirit of compromise and conciliation, it was decided to withdraw or modify some of the more radical points proposed in earlier correspondence.

It was decided that the best way forward was for Consam to produce what in effect would be a “minority” report and to ask the RA Council to adopt it and present this to the Trust and individual Trust Council members.

A timetable was decided which would involve the report being drafted and circulated to Consam members and detailed amendments to the draft were made.

This report was adopted by Consam at its meeting on 24 February 2003. It was circulated to RA Council members and was adopted by RA Council at its meeting on 4 March 2003 without amendment except for two additions which are included in paragraphs 5.5(c) and 5.10 below.

The report will be presented to the Trust within the six month deadline proposed by the Trust Chairman. Depending on the response from the Trust, the report (or a summary) could be published in the Summer edition of *Suburb News* in time for the next Trust AGM in September 2003.

## 5. The RA's Suggestions and Proposals

**The Hampstead Garden Suburb is one of the most perfect examples of early 20<sup>th</sup> century town planning. We have a duty to protect the special character of the Suburb, not only for the residents and visitors of today, but also for those of tomorrow. We feel that changes in procedures at the HGS Trust are essential to enable it to properly fulfil its obligations to do all things possible to maintain and preserve the present character and amenities of the Suburb.**

### 5.1 Open Files

**From a date to be decided by the Trust, all documents deposited after that date on every property in the Suburb should be open to inspection by all residents and their professional advisers (objectors as well as applicants) including reports prepared by the Trust Architectural Adviser and notes of conversations made by him.**

*Reason: We feel that in an open society anonymous comments are undesirable. Legitimate comment should ideally be made in an open way and be available to the applicant and to any member of the public who is interested.*

**The Trust should also allow all residents access to earlier files (on any property, not just their own) on a discretionary basis but reserve the right to remove contentious items of correspondence. The person wishing to search the files should be given a list of any items which are removed. A fee commensurate with the work involved could be charged.**

*Reason: The Trust has been accused of being a secretive organisation. Allowing its files to be open to inspection by all residents would go a long way to dispel this perception. All planning files held by local authorities are open to inspection by anyone.*

## 5.2 Notifying Neighbours of an Application

**The Trust Architectural Adviser should notify widely. As a minimum the residents of all properties within 200 metres of the site, whether or not the properties are directly adjoining, and including properties at the rear of site, should be notified, and also all residents of properties in the same Close.**

*Reason: The Trust has made a number of omissions in notifying neighbours in the past and it is important that the Trust Architectural Adviser is given clear guidance as to what is required.*

**The Trust should notify residents again in the event of a revised application.**

*Reason: Revised applications are often said by the Trust to have overcome objections to the original application. However without consulting residents again, this cannot be verified.*

**Lists of applications and revisions to applications should be available every month at the Trust Office and on the Suburb Web Site.**

*Reason: Residents and others who live outside the immediate vicinity of a development should also have the opportunity of knowing what is proposed.*

## 5.3 Notification of Decisions

**Copies of letters to applicants giving the results of decisions for provisional consent should be sent to objectors as well as applicants.**

*Reason: Currently only applicants are told the decision. Objectors should be granted the courtesy of being informed of the outcome of applications which they have taken the trouble to comment on. This will also enable neighbours to notify the Trust where work commences before permission has been granted. The local authority notifies objectors of its planning decisions.*

**A summary list of decisions should be available every month at the Trust Office and on the Suburb Web Site.**

## 5.4 Consistency of Decisions and Design Guidance

**a) When the Trust Architectural Adviser prepares reports for the PPC, he should refer to the relevant part of the Design Guidance. It is recommended that the Design Guidance should be reprinted with numbered paragraphs to make this more practicable (although until this is done reference to page numbers could be used).**

*Reason: Consistency between decisions is of the utmost importance and this would be a practical way in which consistency could be improved.*

**b) A review of the Design Guidance was not part of the Terms of Reference of this Planning Review. We consider the Design Guidance to be an extremely fair and satisfactory document. Any attempt to make it more permissive should be robustly resisted.**

## 5.5 Communications

**a) All new owners are sent a Welcome Pack advising them of the work of the Trust and including a copy of the Design Guidance. Suburb News should be used more widely by the Trust to explain its policies and operations.**

**b) The e-mail address of the Trust should be made public and published in the Yellow Directory.**

**c) Once an application has been decided, an evaluation sheet should be provided for all applicants and objectors so that they can report to the Trust their opinion on how the Trust dealt with their application or objection. The evaluation sheet should be sent together with the notice of decision , see paragraph 5.3 above.**

*Reason: The results should be used for compiling statistics which will demonstrate that the Trust's procedures are satisfactory or to enable the Trust to review and rectify any problems which may arise which it otherwise may not be aware of.*

## 5.6 Infringements

Proposed Infringements Monitoring Committee, Computer Database and use of powers of remedy.

**a) Infringements should be policed more stringently and consistently.**

*Reason: It was felt that the Trust was not taking sufficient action against some infringements. This was illustrated by a number of current cases where local residents were agitated about a problem and the Trust did not seem disposed to take action. The Trust has agreed that infringements should be policed more stringently but has not explained how this would come about.*

**b) There should be a detailed policy document for the Trust officers on the protocol for dealing with infringements. A small Infringements Monitoring Committee should review and audit progress. This Monitoring Committee should have two representatives from the RA as is already the case on the PPC.**

*Reason: Policing infringements could be improved if the Trust Council set up a system of management supervision to audit the work of its officers as proposed above.*

**c) In March 2002, the Trust agreed to set up a computer database to keep track of infringements and to keep it up to date. This would be most welcome. It is suggested that the Trust Council asks for volunteers from the RA to help set this up.**

*Reason: The present card index system used for keeping track of infringements is inadequate for the task required.*

**d) Regular reports to the PPC (or to the proposed Infringements Monitoring Committee once it is set up) should be issued on the number of new infringements, the number rectified and the number outstanding together with a breakdown by type of infringement.**

*Reason: This would enable the Trust Council to be kept fully aware over what is going on.*

**e) The Trust already has powers under the Scheme of Management, after serving three months notice, to enter a freehold property, remedy an infringement and charge the cost to the owner. This power should be used in every appropriate case where the owner ignores a request from the Trust to remedy an infringement. Powers of enforcement are also likely to be available under leases of leasehold property and the threat of forfeiture of the lease should be used if necessary.**

*Reason: The Scheme of Management power is mainly of use for exterior works but has only been used once. It could be used as a measure against infringements such as removal of hedges, erection of fences, painting in inappropriate colours, paving over of front gardens and so on and publicity could be gained which might discourage such infringements in the future.*

**f) The Trust may need to employ an additional suitably qualified person to remedy infringements.**

*Reason: It is accepted that the Trust Architectural Adviser is already heavily occupied with new applications and the Trust Manager has to deal with all other aspects of the organisation of the Trust. Policing of infringements is a labour intensive business and it may be that infringements are not dealt with properly because of a lack of staff time.*

## 5.7 Membership of the Property and Plans Committee (PPC)

**A smaller committee, with a maximum of eight members, and a quorum of six, might be able to deal more efficiently with the case load. A smaller PPC would also enable an “appeals committee” to be set up of Trust Council members who were not involved in the original decision.**

*Reason: The size of the PPC makes the processing of a large number of applications unwieldy. We did not agree with the suggestion by one resident that none of the members of the Trust Council should sit on the PPC.*

## 5.8 Opportunity to address the PPC or Trust Council in person

**a) An opportunity for applicants and objectors to speak in person at the PPC or the Trust Council is desirable.**

*Reason: It was pointed out by the Trust that applicants have the opportunity to address the Trust in person under the appeals procedure. Objectors, however, do not and this point needs to be addressed.*

**b) It was felt that little useful purpose would be achieved for meetings of the PPC to be routinely held in public. However it does seem desirable that applications of major significance (for example, new buildings for the Henrietta Barnett School, a proposed demolition or cases where there are more than, say, ten objections) should be discussed in public at a special PPC meeting in a venue such as Fellowship House.**

*Reason: Allowing PPC meetings to be routinely held in public would result in practical problems in accommodating visitors in the small Trust premises. In the case of controversial or large scale developments, a special meeting could be called. As the Trust Council rarely, if ever, reverses a decision of PPC, it is not thought that holding Trust Council meetings in public would serve any additional benefit for either applicants or objectors.*

## 5.9 Appeals Procedures

Under the present system, two Trust Council members visit the site and meet the applicant together with the Trust Architectural Adviser. This informal appeals committee then makes a recommendation to the Trust Council.

**a) When an application is refused, the applicant should be informed about the appeals procedure and on request be given a written summary of the grounds for appeal and how the appeals procedure works.**

**b) The Trust should prepare a document (in consultation with the RA's Consam Committee) describing the grounds for appeal, and how the procedure works.**

**c) It is recommended that the "appeals committee" consists of members of the Trust Council who did not participate in the original recommendation of the PPC.**

*Reason: This is a standard procedure at law and in public planning appeals and is essential for a fair hearing of the facts.*

**d) In order to discourage frivolous appeals by applicants, the Trust may wish to impose an appropriate fee, say, £300, to cover the cost of the work involved. This would be refunded if the appeal were successful.**

**e) Objectors should be notified of an appeal and any new grounds put forward by the applicant and be given a chance to comment on them.**

*Reason: Unlike the public planning system where a planning inspector hearing an appeal asks all objectors for further comments, objectors to a case before the Trust do not have a chance to have their say when the Trust considers an appeal; indeed they are not even informed that an appeal is being considered. It is felt that this is not fair.*

**f) Objectors should NOT be given the right of appeal.**

*Reason: The Trust says that it does not have the power to allow an objector to appeal against the granting of a consent. However it has been suggested that "provisional consent" could be given as a "minded to give provisional consent" subject to objectors being allowed to present new information to the Trust Council. It was suggested that the Trust could impose a fee for appeals to discourage frivolous appeals by objectors, the sum to be refunded if the objector's appeal was successful. The Trust also argued that allowing objectors appeals would slow down the planning process and would have no effect on the eventual outcome.*

## 5.10 Continuing review of the Trust's Procedures

**The Trust should carry out further reviews of its planning and administrative procedures at three yearly intervals.**

*Reason: Over time circumstances change and the Trust should keep pace with developments in current practice and technology to ensure that it continues to work in an efficient manner. Resident members of the Trust Council are elected on a three yearly cycle and a review which includes newly elected members may come up with new ideas which would be helpful to the organisation of the Trust*

## Appendix: The Trust's Proposals

### 1. Open Files

Residents and their professional Advisers would be allowed to see their own files including reports prepared by the Trust Architectural Adviser but not the actual letters of objection.

### 2. Notifying Neighbours

When deciding who to notify the Trust Architectural Adviser will err on the side of caution and notify as widely as possible. Lists of applications would be available every month at the Trust Office and Suburb Web site.

### 3. Appeals Procedures

When applications are refused the applicant would be informed about the appeal procedures.

### 4. Notification of decisions

The Trust will look at ways whereby neighbours can be informed of Trust decisions.

### 5. Communications

Suburb News will be used more widely by the Trust to explain its policies and operations. The e-mail address of the Trust will be made public and published in the Yellow Directory.

### 6. Infringements

These would be kept on a database and regularly updated. It was agreed that they would be enforced more rigorously.

### 7. Design Guidance

Supplements will be added on topics such as dish aerials and security in consultation with Barnet, English Heritage and the Residents Association. When the Trust Architectural Adviser prepares reports to PPC, he will refer to Design Guidance whenever this is relevant to an application. The Design Guidance will be reviewed.

Dated 10 September 2002.