



OLD OAK NEIGHBOURHOOD FORUM

Gisby Harrison Solicitors
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Dear Mr Harrison,

1st November 2021

2 Scrubs Lane – notice of Termination of Tenancy at Will

I am contacting you on behalf of two neighbourhood forums covering areas close to Scrubs Lane. This is not a legal response to your letter to the City Mission Church of 7th October, giving notice of termination of the Church's tenancy on 5th November and requiring the building to be given up by that date. We wish to convey comments to the freeholders as set out below and would be grateful if you could pass on this letter to your clients Scrubs Lane Ltd

We have consent from Rev Desmond Hall to contact you with a series of points which we wish your clients to consider. We understand that Scrubs Lane Ltd share the same directors as Fruition Properties Ltd.

Our two neighbourhood forums have worked together since 2016 in tracking the progress of the OPDC Draft Local Plan. Our memberships are of 120 residents on the western side of Wormwood Scrubs (the Old Oak Neighbourhood Forum) and 380 residents to the south east of Scrubs Lane in Kensington and Chelsea. The Old Oak NF was designated by OPDC in 2018, and the StQW Forum by RB Kensington and Chelsea in 2013, under the 2011 Localism Act.

We have been engaging with the OPDC for the past 6 years and have made representations on each stage of the Corporation's Draft Local Plan. We have also submitted objections to applications for high density/high rise developments along Scrubs Lane, including the previous 2017 application from Fruition Properties at 2 Scrubs Lane.

Before and since this planning consent for a development at 2 Scrubs Lane lapsed in June 2021, we have been in regular touch with Rev Desmond Hall. We supported the successful application to LB Brent for the church and day nursery to be re-registered as an Asset of Community Value (see further below).

Andrew Slaughter MP for Hammersmith is a regular attendee of the monthly meetings of the Old Oak Neighbourhood Forum. We are copying this letter to him and understand that he has already been made aware of the proposed termination of the church's tenancy. Both we and he have been in contact with OPDC during 2021, on the subject of the S106 agreement entered into by Scrubs Lane Ltd and the OPDC on 22nd June 2018.

We think that your clients should consider the following points before proceeding with a termination of the tenancy at will this Friday.

1. The S106 Agreement on the previous application provided for reinstatement in the new development of a church and day nursery and included provisions for the relocation of the City Mission Church during demolition and construction of a new buildings. While the City Mission Church is not named in the Agreement, the above is clear from the plans within this document and from the content of Schedule 14.
2. In the period since the June 2018 planning consent lapsed (and the S106 Agreement with it) we understand that Fruition Properties/Scrubs Lane Ltd have not re-affirmed previous assurances that the church and day nursery would return to a redeveloped building. We are not commenting on the subject of back rent on the current premises, other than to say that we understand this issue was the subject of wider negotiations between the church trustees and the freeholder in which the church was trying to achieve, without success, binding assurances of a return to a completed new development on the site.
3. We are familiar with the fact that Rev Desmond Hall spoke in support of the previous application at the OPDC Planning Committee which granted planning consent, despite objections to the development from ourselves and others. His contribution to the meeting was based on assurances he had been given on a new development offering a secure future for the church and day nursery. The minutes of this meeting (attached) make clear that reinstatement of the church and day nursery was a key factor influencing the committee's decision to grant consent. The vote was 4 in favour, 3 against and 1 abstention.
4. We have aware from the OPDC regular 'Development Management Update' reported to the OPDC Planning Committee on 15th July 2021 that a fresh set of proposals for the site was in preparation. This was described in the report as *Redevelopment of the site for 296 co-living units and community floorspace at ground floor*. This report also confirmed that *A pre-application response has been issued*. This OPDC response we have not seen, as such information is published by OPDC only when an application is submitted. We have been awaiting more news of these revised proposals.
5. Your clients Scrubs Lane Ltd/Fruition Properties need to be aware that there will be huge local outcry if Scrubs Lane Ltd/Fruition Properties proceed to evict the City Mission Church and day nursery, and to renege on previous commitments to build a development that provides for reinstatement of these two community facilities.
6. We suggest that, from a purely commercial perspective, Scrubs lane Ltd/Fruition Properties should take account of two further factors before pursuing the termination of the tenancy by City Mission Church on November 5th.
 - The reputational damage to Fruition Properties of this course of action. Evicting a church and a day nursery, community facilities on which many local people have relied, is not a good look. As far as we can make out Fruition are not a large-scale developer. The company's website continues to show the lapsed 2018 permission 2 Scrubs Lane as a project in the pipeline. One of Fruition's other projects at 49 Bassett Road lies on the border of the StQW neighbourhood forum. This is a development of 'luxury apartments' currently being marketed. As was the case with a previous development of new high end 'townhouses' built in the neighbourhood, many of our members place a higher value on retaining churches and days nurseries than creating flats at £2m-2.5m. We look at the track record of developers, and word travels fast within North Kensington communities.

- Secondly, we see significant risks in any assumptions that a new application at 2 Scrubs Lane for very high density housing or co-living units will receive planning consent.

7. We know nothing more about a revised scheme from Fruition beyond the limited description reported to the OPDC Planning Committee. Much has changed on the site context since the 2019 'change of direction' on the OPDC Local Plan and the abandonment of proposals for 'Old Old Park' on the Cargiant land.

8. The OPDC Post Submission Modified Draft Local Plan is running four years late and remains some way from adoption. OPDC's proposed modifications have been the subject of recent consultation. The representations from the Old Oak and StQW Forums (along with 141 others) can be found on the OPDC website at <https://consult.opdc.london.gov.uk/localplan> (link in third column on the right)

9. Our two neighbourhood forums have not given up on seeking to persuade the Planning Inspector that the OPDC Draft Local Plan has become fundamentally flawed (and unlawful) as a result of the extent of changes made 'post-submission'. Further OONE/StQW submissions to the Inspector on this subject are due to be published shortly in the Examination Library at <https://www.london.gov.uk/about-us/organisations-we-work/old-oak-and-park-royal-development-corporation-opdc/get-involved-opdc/local-plan/submission-and-examination/examination-documents>

10. With the Covid pandemic approaching its second anniversary, we believe that the implications for new development in London will be profound and permanent. We do not think that the high-rise co-living model, seen two years ago as a successful new entrant to the property market, will fare well. Lifts and shared living/working space are not compatible with lockdowns. Collective Living Ltd, with its 700 unit building at the Collective on Old Oak Lane, went into administration last month. The HUB/Womens Pioneer application for 350 co-living apartments in a 29 storey building at 227 Wood Lane we hear is being rethought.

11. Even if the OPDC Local plan is adopted next year in its modified form, we think that proposals for new tall buildings (including on sites with a previous planning consent) may struggle to achieve policy compliance with the modified policy D9 on Tall Buildings in the adopted London Plan. While the GLA Planning Decisions Unit have since March taken a very flexible approach to the consequences of the Secretary of State's imposed modification of December 2020, we are not persuaded that this will approach by GLA officers will survive challenge in the Courts. A Judicial Review application by LB Hillingdon against the Mayor Of London is due to be heard this month.

ACV status of the ground floor of 2 Scrubs Lane

12. We assume that your firm is familiar with the August 2021 decision of LB Brent to re-register the ground floor of 2 Scrubs Lane as an Asset of Community Value. The extract below from the LB Brent decision letter refers to the planning position:

However, we note that the previous planning permission granted provided for continued community use of the Property (on terms that appear to have been favourable to the PCMC). This was supported by a section 106 agreement. OPDC has said that the new pre-action discussions include the re-provision of community space at the base of a new building, and that OPDC will be seeking to secure such space.

Fruition Properties' email on behalf of Scrubs also appears to recognise the likelihood of any future planning permission requiring the provision of equivalent community facilities. Indeed, that email states that Scrubs "is committed to delivering the community facilities under planning requirements

of the OPDC and will continue to adhere to this requirement. Through the planning process we will consult widely with local community groups including the church to understand their needs, and then deliver facilities which maximise the benefit for all members of the local community.”

At present, it seems, at the very least, realistic to us to think that any future planning permission granted and implemented will provide for continued community use of the land. We note that under section 88(1)(a), that use need not necessarily be the same as the current use.

Were Scrubs lane Ltd/Fruition Properties minded to sell on the site, we understand that the ACV position would reflect the fact that:

- *A restriction will be entered on the Land Registry [and an entry will be made on the Local Land Charges Register].*
- *The owner must not enter into a relevant disposal (defined in section 96 of the Act) unless certain conditions are met, in accordance with section 95 of the Act, subject to the exceptions in the Act and the Regs (see schedule 3 to the Regs). A non exempt relevant disposal made without compliance with section 95 of the Act will be invalid.*

We ask that your clients consider all these points before proceeding with a termination of the Church's tenancy at 2 Scrubs Lane. The future of London's planning context is filled with uncertainties, and you clients may choose to dismiss all of the above points. But it is well that they are aware that the path towards a fresh planning consent may not prove to be a smooth one.

Regards,

Henry Peterson

Chair St Quintin and Woodlands Neighbourhood Forum and Adviser to the Old Oak Neighbourhood Forum

www.oldoakneighbourhoodforum.org

www.stqw.org

cc Andy Slaughter MP

Cllr Wesley Harcourt LBHF, Cllr Matt Kelcher LB Brent

Emma Wilkinson Director of Planning OPDC, Clare O'Brien OPDC. Roz Henville OPDC,

David Gawthorpe LBHF, Lorna Hughes LB Brent

Rev Desmond Hall, City Mission Church

Robin Brown, Grand Union Alliance

Mark Walker, Chair Old Oak Neighbourhood Forum