

0.0 Introduction

- 0.1 The purpose of these notes is to clarify the legal situation which affects all freeholders, leaseholders and residents subject to the rules and regulations of Formosa Amenity Ltd. ("Formosa Amenity"), with specific reference to those planning to carry out any works on their properties).
- 0.2 This paper is a guidance note only. The Directors want to be as helpful as possible by putting this together, but we do not consider ourselves bound by anything in this guidance note. Planning decisions will be taken by the Board of Formosa Amenity Ltd. ("the Board") on a case by case basis, and we reserve the right to make decisions that contradict this guidance. Also, our views on guidance can change, and those changes may not be incorporated in the version being used by those considering changes to their property. Neither Formosa Amenity, nor its Directors, takes any responsibility for residents, tenants, landlords or freeholders relying on this document.
- 0.3 We urge all residents to have an initial discussion with the Board on any proposed planning matters before going to the expense of hiring architects and putting together formal planning applications. However, no informal guidance or comments will be considered binding in any way on Formosa Amenity or the Board.
- 0.4 Residents, tenants, landlords or freeholders should not consider anything approved until the Board has considered a formal, written planning application and the applicant has had a formal, written approval response from the Board.
- 0.5 Attached as an appendix is a broader outline highlighting the key aspects of the Rent Charge Deed governing planning permission requirements.
- 0.6 In summary, you must not make any external alterations, or make any application for planning permission for any development or any change of use, or even any development not requiring planning permission, unless you have the permission of Formosa Amenity.
- 0.7 These rules and regulations apply not only to the houses immediately surrounding our Formosa Garden, but also to the shops on Formosa St, The Prince Alfred Public House, and the Colonnade Hotel. For simplicity the word 'householder' in the following notes shall be deemed to include all the above.
- 0.8 We recognise that there are many different examples of planning approvals dotted around the garden. This reflects the Board's views at the particular time of that particular approval. The Board, however, does not consider itself bound by historic precedent. That means we will often say "no" to planning requests, even where there may be an example of someone else having carried out a similar change in the past. This may be frustrating for applicants, but each Board will have different views on what is acceptable, and this is no different from the change in planning processes at local councils in recent years. In general, you can expect a stricter approach to planning requests than that which is apparent by viewing the historic changes made to properties around the garden and in the Formosa Amenity generally.
- 0.9 Please take time to study the following notes in detail as ignorance of the Formosa Amenity rules and regulations will not be accepted as an excuse and the implications are serious for all householders: for example any contravention could result in a householder being required to re-do works (at his/her own expense) so they comply with the rules, and in addition he or she would have to pay any legal and surveyor's fees of the Formosa Amenity Company (See Rent Charge Deed - Schedule 5 Item 9). Formosa Amenity does have one final sanction which is legally to seize control of the Freehold, which it is entitled to do if any rules, including planning rules, are broken by freeholders.

1.0 Precedents

- 1.1 We expressly understand that there are many examples around the garden which do not comply with these guidelines. Formosa Amenity does not accept these as setting a precedent.

2.0 Summary

- 2.1 We are fortunate to live in this beautiful part of London which the City of Westminster has designated as the Maida Vale Conservation Area.
- 2.2 One purpose of this designation is to give the Council's Planning Department powers to help preserve the features of the area. It is incumbent on any householder contemplating works (including external decorations) to enquire of the Westminster Planning Department whether planning and/or Conservation Area consents are required and, if so, duly to obtain these consents, before any works are commenced.
- 2.3 In addition to these Planning Department powers (for all those properties mentioned in 1.1 and 1.2 above) there is an even more powerful legal control. All of the properties in the Formosa Amenity area are subject to a legally binding Rent Charge Deed administered by Formosa Amenity (on behalf of all shareholders and on behalf of the Church Commission who put the Deed in place when it sold the properties). This Rent Charge Deed (the "RCD"), ensures that Formosa Amenity has rights over each and every freehold owner of property as listed in the RCD.
- 2.4 These property rights are wide ranging but, for the purpose of this document, they include control over the external appearance of the properties (including paint colours) both on the garden side and the street side.
- 2.5 The RCD states that no alteration shall be made to the external appearance of any property (including colour scheme) without the prior written consent of the Formosa Amenity (Schedule 5 Item 3.1).
- 2.6 It stipulates the colours that the exterior of the properties must be painted.
- 2.7 It stipulates that the exterior of the property should be painted and redecorated every five years.
- 2.8 It also specifies that no building or other structure (e.g. TV aerial or satellite dish) can be erected without the prior written consent of Formosa Amenity.
- 2.9 Although at first to some this might sound draconian, it is in all our mutual interests to preserve the character of the Conservation Area e.g. the consistent external appearance and Victorian metalwork – after all that is why we want to live here.
- 2.10 The final and fundamentally important general point is that written consent from Formosa Amenity is a prerequisite before any works are permitted to commence. Formosa Amenity's powers are quite independent of those of the Westminster Planning Department. A householder may have obtained Planning, Conservation Area and, in some cases, Listed Building Consents from Westminster City Council but, without the written permission of Formosa Amenity, no alterations may be undertaken.
- 2.11 Written applications should be submitted to Formosa Amenity's Managing Agents: Westbourne Estates, 120 Westbourne Grove, London W11 2RR, for the attention of Crispin Sampson-Bancroft/Aaron Landeryou.
- 2.12 As referred to above, no work should be started before permission has been given by Formosa Amenity. Please ensure therefore that any planning applications are submitted in a timely manner. All applications are considered by the Board as a whole at the regular Board meetings. We aim to review and respond to applications within six weeks (a timeframe which is consistent with planning applications to Westminster Council), although in some circumstances it may not be possible.

Guidance Notes to help you put your planning application together

3.0 General

- 3.1 Adhering to these guidelines does not constitute approval. Planning applications must be submitted in writing as specified in 2.11 above and approved in writing by the Board to constitute approval.
- 3.2 These notes are designed to help householders formulate plans for intended works (which affect the external appearance of properties both on the street and garden sides) that are acceptable to Formosa Amenity, and to avoid abortive design and/or works.
- 3.3 It is the householder's responsibility to ensure that any consultants (e.g. architects or designers) and workmen (e.g. builders or decorators) are correctly briefed in line with these notes.
- 3.4 Listed Buildings. It is the householder's responsibility to ascertain whether or not their property is listed (contact the Planning Department). If it is, the householder should contact Westminster's listed building officer to discuss any proposals, remembering that the Officer may have more specific requirements than these general notes. Any conflict between the Officer's requirements and these notes should be reported to Formosa Amenity for resolution before any application for Listed Building Consent is made. A copy of any Listed Building Consent should be submitted to Formosa Amenity with the application for the approval from Formosa Amenity. (Note that it is a criminal offence to carry out any alterations to a listed building without gaining prior consent).

Facade Treatment

4.0 Brickwork

- 4.1 Existing exposed brickwork areas are to remain as exposed brickwork and are not to be over coated (ie rendered, painted etc) without prior written consent of Formosa Amenity.
- 4.2 Works such as cleaning and pointing are acceptable, but prior written consent of Formosa Amenity is required as with any other works.
- 4.3 Brickwork areas at street-side basement level and garden level are less noticeable due to their location and screening by garden railings and planting, however any alterations will still require individual consideration and prior written consent of the Amenity Company.

5.0 Stucco Areas (including external rendering, plaster etc)

- 5.1 Existing stucco areas are to remain as stucco. These areas are neither to be lessened (e.g. by removal to expose brickwork) nor extended (see 4.1 above).
- 5.2 Stucco areas are to be maintained in a sound state, including ongoing regular maintenance to repair any cracks and/or damaged areas. If such cracks or damage do appear, they should not be left unattended until the next decoration cycle, but should be repaired (and locally decorated) promptly.

6.0 Colours

- 6.1 There is only one colour scheme acceptable to Formosa Amenity :
 - All stucco (and render etc) areas to be painted colour code BS 08 B 15, which is sometimes referred to as Magnolia. (See 6.6 below).
 - All woodwork, including windows, frames, French windows etc. (excluding main street-side front doors) to be painted colour white code BS 00 E 55 (See 6.6 below).
 - All metalwork eg railings, stairs, metal balustrades etc. to be painted black.

- Pipes on brick work are to be painted black; pipes on stucco are to be painted magnolia
- 6.2 Windows/Woodwork. We are aware that some windows and woodwork have been painted black or magnolia in the past. As properties are redecorated in the five yearly cycle, all woodwork should be painted in accordance with the specifications in 6.1 above.
- 6.3 The main street side front door may be painted a colour of the householder's choice (if in doubt paint it black). Please note in the case of listed buildings there may be more specific requirements, and it is the obligation of the householder to ascertain exactly what they are.
- 6.4 Security bars. There are some situations where, (on street-side basement and garden-side garden level only) windows may have vertical security bars. These should be painted white to match the colour of the windows.
- 6.5 Colours
- The colour code BS 08 B 15 is sometimes referred to as Magnolia. However, as different manufacturers use different names, the BS code should be used when instructing consultants and/or workmen.
 - Similarly the Code BS 00 E 55 (a type of white) should be used when instructing consultants and/or workmen.
 - The colour Brilliant White is totally different and should not be used.
 - It is also not acceptable for any stucco etc areas to be painted white. This would defeat the whole purpose of a consistent Conservation Area appearance.

Facade Elements

7.0 Windows

- 7.1 The predominant window type in the Amenity Area is the vertical sliding sash window, where the upper and lower sashes (windows) are held by chords or chains and, via pulleys and counterweights, slide up and down.
- 7.2 Smaller sub divisions (although common originally when only small panes were available) can look unduly heavy and may not be approved.
- 7.3 Any works to existing sash windows should repair/replace to match existing traditional sash windows.
- 7.4 Modern 'mock' sash windows are not acceptable. These generally look similar to traditional windows when shut but, instead of sliding vertically up/down, are hinged to open outwards with a detrimental effect on the appearance of the property and the Conservation Area.
- 7.5 Works to windows should not alter the size of the existing openings either by making them wider or taller (including removing the brickwork under the window). Exceptions to this guidance are permissible.
- 7.6 Any plans to remove windows and replace the sash windows e.g. with doors or French windows, would require prior written approval.
- 7.7 Windows should not be removed or the opening bricked up.
- 7.8 Occasionally in the past sash windows have been removed and replaced with inappropriate replacements e.g. casement (side hinged) or fixed glass windows. It is Formosa Amenity's intention that, if works take place on those houses at some future date, the Board would seek to have correct sash windows installed.

8.0 French Windows and Doors

- 8.1 There are a variety of styles of French windows and doors around the garden. Generally any works should match existing original examples, the emphasis being on original rather than modern replacements which have slipped through the net over the years.

- 8.2 The modern replacements to French windows/doors are clearly not original and are inappropriate. A study of neighbouring houses (which are of a similar house type) should offer a suitable pattern for you to get ideas from. Formosa Amenity would want to see existing and proposed alternatives before granting approval.

9.0 Street-Side Front Door Styles

- 9.1 Again there are a variety of styles. There are, however, groups of houses ranging from two or three identical ones, to ten adjacent matching houses. Within each group, the houses would have had matching doors.
- 9.2 Replacement front doors should therefore 'match existing' if original, or copy a neighbour's house of a matching style, where their door is original.

Metalwork

10.0 External staircases & balustrades

- 10.1 The majority of external stairs are simple metal straight flight stairs.
- 10.2 These should not be replaced by spiral stairs
- 10.3 Balustrades to these stairs were originally ornate Victorian patterns, so replacements should either copy an original example or consist of plain vertical rods.
- 10.4 Balustrades should not seek to introduce 'fancy' modern patterns e.g. with scrolls, curlicues etc. These may be acceptable for a suburban semi, but not for a Conservation Area.
- 10.5 Original upper floor balustrades to Warrington Crescent show a mixture of rods and ornate panels.
- 10.6 These should be retained. If parts of the staircase or balustrades are missing, then copies of adjacent panels should be made to infill missing areas to match the original.

11.0 Railings and Gates

- 11.1 Original railings and gates consisted of vertical rods and an ornamental rail head capping.
- 11.2 Some original rods were 'barley sugar' twist, but plain rods are acceptable.
- 11.3 There are a variety of rail head cappings in the garden (the fleur-de-lys is the most common and also the most likely to be approved by the Board). These should be maintained and replaced where missing. A railing without its full compliment of cappings is like a mouth with missing teeth.
- 11.4 These are simple mass-produced units, and it is a simple matter for any reputable metalwork company to fit a set of cappings, or even to cast new matching ones from an original sample.
- 11.5 Works should therefore seek to complete the railings with rods and cappings (to match original adjacent examples) and not just leave a flat top rail.
- 11.6 Similarly gates, where missing, should be replaced in a matching pattern.
- 11.7 As with balustrades, railings and gates should not seek to introduce 'fancy' non-Victorian patterns. Keep things original and/or simple.
- 11.8 Railings should not be removed and where missing shall be replaced.
- 11.9 Wooden structures, e.g. fences, latticework etc. in place of railings are not acceptable.
- 11.10 Brick structures, either plain or stuccoed in place of railings are not acceptable.

12.0 Security Grilles

- 12.1 External security grilles may be installed to street-side basement openings. They may also be installed to garden-side garden level openings, but only

where they are discreet. Please note that permission is required for the installation of external security grilles.

- 12.2 External grilles should not be installed to any upper floors.
- 12.3 Acceptable grilles should be simple (without decorations) and consist of straight vertical rods.
- 12.4 If homeowners wish to have security grilles etc to upper floors they should be installed internally not externally.
- 12.5 Concertina-type security gates are not acceptable externally at any level. They should only be installed internally.
- 12.6 Roller shutters are not acceptable internally or externally as even internally they are detrimental to the appearance of the whole building.

13.0 Garden Walls

- 13.1 The garden walls and their railings and gates combine to form one of the single most important aesthetic elements of the Garden.
- 13.2 Stand in the centre of the garden and look round. It is the garden walls and railings that you see first. They are more important (especially when backed-up by planting) than, for example, what is going on at the garden level walls of the houses, which they partially mask and conceal.
- 13.3 It is therefore crucial that there is consistency in design and treatment of these garden walls and their associated railings, as was originally intended.
- 13.4 The garden walls to the brick houses consist of an exposed brick plinth on which is fixed a railing (see 11.0 above).
- 13.5 The height of the plinth wall and railing is generally consistent along each run e.g. Sutherland Avenue they should all be the same height. On Castellain Road the railings are taller than Sutherland Avenue, but match each other in height.
- 13.6 To maintain consistency therefore, the plinth wall should be retained at their original heights and neither raised nor lowered.
- 13.7 Railings similarly should be consistent along a run of houses and comply with the criteria in 11.0 above.

14.0 Roof Treatments

- 14.1 There are a variety of roof treatments around the garden e.g. many styles of dormer windows etc.
- 14.2 Any proposals will therefore require review on an individual basis, with before and after illustrations presented to Formosa Amenity for consideration.
- 14.3 Key consideration should be given to alignments (eg new dormer windows with openings below), and what effect the proposal will have on the roofline.
- 14.4 Any proposed roof structure should be kept away from the skyline so as not to be too obtrusive.
- 14.5 Roof terraces will require approval by Formosa Amenity.

Miscellaneous

15.0 Satellite Dishes

- 15.1 Notwithstanding whether or not other permission may be necessary from Westminster, any satellite dish proposal must be at rooftop level only (i.e. not on facade walls).
- 15.2 They should be kept back from the garden or street elevations to be as discreet as possible.
- 15.3 They should not be over-large.
- 15.4 No satellite dishes whatsoever should be placed on the facade walls, either facing the garden, or facing the street.

16.0 Air conditioning Units

- 16.1 Air conditioning units should not be attached to the exterior walls or protrude from windows.
- 16.2 It is highly unlikely that air conditioning units will be approved by the Board.

17.0 External Cabling and pipework

- 17.1 Externally run cabling e.g. for satellite dishes, TV aerial, telephones etc. should be avoided wherever possible.
- 17.2 Where unavoidable it should be dark in colour on brick buildings (or to match the colour of the stucco on stucco buildings) so as not to stand out.
- 17.3 It should be neatly fixed in vertical and horizontal runs only, and not just loosely draped.
- 17.4 External pipework on brick building should be painted black, and pipework on stucco ones should be painted magnolia (BS 08 B 15).
- 17.5 Homeowners should be wary of 'stealth infringements', e.g. if a plumber is employed to install say a new sink or boiler and installs standard white pipework, it is the homeowner's responsibility to ensure that it is properly finished in the correct colour.

18.0 Conclusions

- 18.1 It is hoped that the above notes, although extensive, will be helpful to homeowners and assist those planning any works.
- 18.2 It is the intention of Formosa Amenity to assist homeowners as much as possible in permitting works to be carried out, but within a framework that also benefits the larger community.
- 18.3 It is also understood that, around the garden, there are many examples which do not comply with these guidelines. Formosa Amenity will not accept these as setting a precedent.
- 18.4 In fact it is the intention of Formosa Amenity, over time, to see that these examples which are not in keeping with the guidelines are rectified so that the garden can recapture more of that homogeneous Conservation spirit in which it was conceived.
- 18.5 It is hoped that homeowners will therefore use these notes with that end in view when they are submitting their planning guidelines to the Board, so that we can all work together to preserve, and wherever possible, improve, the wonderful asset that is our garden.

The Directors
Formosa Amenity Ltd
May 2011.

Broad overview of Rent Charge Deed rules

Please read the entire Rent Charge Deed document for a full overview of how planning rules form part of the larger document. We would also advise all residents to obtain legal and architectural advice before embarking on planning changes.

In summary, you must not make any external alterations, or make any application for planning permission for any development or any change of use, or even any development not requiring planning permission, unless you have the permission of Formosa Amenity Limited first. There are very substantial consequences open to Formosa Amenity Limited if you do not abide by the terms of the Rent Charge Deed, including demanding that you re-instate the property back to its original form, or your forfeiting the freehold interest in the property.

The below outlines some of the key aspects of the Rent Charge Deed as they relate to planning.

3. External alterations and building

3.1 External

No alteration shall be made to the external appearance of any building forming part of a Transferable Property (including the colouring scheme) except with the prior written consent of the Amenity Company

3.2 Other

No building or other structure or wireless or television receiving or transmitting aerial array shall be erected upon any Transferable Property except with the prior written consent of the Amenity Company

12. Consent of Amenity Company

12.1 Before

12.1.1 making any application to the relevant authority for planning permission for a change of use or for any other development or

12.1.2 changing from one type of use to another of the same type and within the same use class as designated in the Schedule to the Town and Country Planning (Use Classes) Order 1972 or any modification thereof for the time being in force or

12.1.3 carrying out any development not requiring planning permission

12.2 When a planning permission has been granted to furnish a copy thereof to the Amenity Company within seven days of its receipt from the relevant authority

We would remind all freeholders (and tenants, because their actions will impact the consequences for their landlord freeholders) that the penalties for not complying with these planning and alteration rules, as well as other provisions of the Rent Deed, including the Garden Rules as formulated by the Board of Formosa Amenity, are potentially very substantial. As the below section of the Rent Charge Deed outlines, failure to comply with the rules means that the freeholder can lose their entire freehold interest. Under such circumstances, the fee simple

(another phrase for freehold) would be permanently transferred into the ownership of Formosa Amenity Limited.

7. Provisos and Declarations

7.1 Entry and Other Remedies

*PROVIDED ALWAYS and it is hereby agreed between the parties that if the Estate Rentcharges charged on a Transferable Property or any part thereof shall be unpaid for twenty one days after becoming due (whether formally demanded or not) or **if any of the covenants set out in the Fifth Schedule hereto are not observed or performed in relation to such Transferable Property** then and in each such case **it shall be lawful for the Amenity Company** (but without prejudice to any other remedy right or power available to the Amenity Company) and in addition to all powers and remedies conferred by Section 121 of the Law of Property Act 1925 and notwithstanding any actual or constructive waiver of any previous cause or right of entry or of any other right or claim on the part of the Amenity Company **to enter upon such Transferable Property as aforesaid or any part thereof in the name of the whole or thereupon***

*(i) **all the interest of the Freehold Owner in such Transferable Property shall forthwith cease and determine and***

*(ii) **the fee simple in such Transferable Property shall forthwith vest in the Amenity Company***