**Procedures and General Guidance Notes**

**for Homeowners on Earls Terrace¹**

**June 2010**

At purchase each Homeowner signs a contract with ETML indicating that they will adhere to The Earls Terrace Covenant (a.k.a., Estate Management Provisions). This Covenant is included in Exhibit 2. This note identifies procedures and provides general guidance for each Homeowner to make applications to the ETML as it relates to the Covenant. In particular, it addresses potential modifications to the external buildings and gardens.

The objective of the Covenant is to help assure harmony on Earls Terrace and to help maintain the fabric, character and amenities of Earls Terrace to be preserved for the common good. This will help to enhance the economic value of the whole property and each individual home. It is therefore the policy of ETML to seek to conserve elements that maintain the spirit, nature, style, location and size of the existing property. It is the responsibility of each Homeowner to meet the Earls Terrace Covenant. Under the Covenant, particularly paragraphs 2, 5 and 20, there are obligations on the Homeowners in respect of repair, maintenance and decoration of the Properties. In addition, no alteration or addition shall be made to the external appearance of any building or structure of a Property and no new or additional building or structure shall be built or erected, except a shed or summerhouse of reasonable size, without the prior written approval of ETML.

These procedures and notes provide guidance. It is also the responsibility of the Homeowner to obtain all the necessary Permissions from the local planning authority prior to obtaining approval from the ETML Board. If there is any Homeowner doubt as to how to interpret this document, it is the responsibility of the Homeowner to write to the ETML Board and ask for clarity.

1. **External Alterations**
2. Minor External Alterations requiring only ETML Board Approval

The ETML Board has identified the 3 items below to be Minor External Alterations that require only ETML Board approval:

1. Rear (south) gates to the property
2. Satellite dishes on the roof
3. Air conditioning unit on the roof

Further items may be added to this list in the future by the ETML Board.

Providing that any future alteration is in keeping with the spirit, nature, style, location and size of those that are already approved and constructed in an appropriate manner, upon completion the ETML Board will provide written consent.

To the extent that the Homeowner constructs a Minor External Alteration that is not in keeping with the spirit, nature, style and size of those that have already been approved. The Homeowner will be responsible to modify the alteration to meet the approved specification.

Example – to the extent that a Homeowner would like to install a back gate similar to the ones that exist today, the ETML Board would approve and provide written consent when properly installed. However, to the extent that the back gate was materially different (e.g. wide enough to drive a car through) then the ETML Board would not approve and the Homeowner would need to submit an External Alteration Application. A Member Vote would be required and 12 yes votes would be needed to approve. If approved and when properly installed, the ETML Board would provide written consent.

1. External Alterations to The Front Façade

External Alterations to the Front Façade require an External Alteration Application and a Member Vote. For approval, 18 yes votes are required.

Once properly constructed, the ETML Board would provide written consent. This written consent will need to be provided when the Homeowner sells their house to a new owner.

1. Other External Alterations (non-Front Façade) and non-Minor External Alterations

Other External Alterations require an External Alteration Application and a Member Vote. For approval, 12 yes votes are required.

Once properly constructed, the ETML Board would provide written consent. This written consent will need to be provided when the Homeowner sells their house to a new owner.

1. Garden Alterations

The Covenant (Exhibit 2, paragraph 2) states that prior consent from ETML is required for all External Alterations. However, ‘no such consent shall be required in respect of the erection and the retention of a shed or summerhouse of reasonable size’. The Covenant does not address other garden structure alterations or additions such as hot tubs, surface pools and other structures.

The Homeowners have agreed and voted that for any items besides ‘a shed or summerhouse of reasonable size’ a Member Vote is required. For approval, 12 yes votes are required.

Once properly constructed, the ETML Board would provide written consent. This written consent will need to be provided when the Homeowner sells their house to a new owner.

1. External Alterations Approved by Member Vote (Precedent)

Following a Member Vote approval of an External Alteration, a precedent would be established. Any Homeowner would then be entitled to apply for the identical External Alteration. As long as the alteration is identical (this is the Homeowner’s responsibility, not the ETML Board’s), the ETML Board would approve and a Member Vote would not be required. In the event that the approved External Alteration is not installed in strict accordance with the identical specification of the precedent construction, it will be the responsibility of the Homeowner to modify the alteration to the approved specification. When properly installed, the ETML Board would provide written consent.

6. Enforcement

Where works are not carried out in accordance with a Licence or Permissions, a breach of the Covenant will have arisen and ETML, at its discretion, will take such action as is appropriate to redress the unapproved works.

**B. External Alteration Applications**

1. The Homeowner is responsible to know and seek all proper consent before proceeding with alterations. This note specifically addresses what is required for ETML consent, yet additional consents may be required from other public/governmental organisations (Permissions).
2. ETML External Application Process:
3. Member Votes to be held no less than quarterly unless it becomes impractical and the ETML Board moves the Member Vote to bi-annually (at its sole discretion).
4. Homeowners are required to submit application documentation to the Administrator to support their application. The application must be of sufficient detail for a Homeowner to make an informed decision.
5. Alterations, extensions and new structures almost certainly will require Permissions. The Homeowner should contact the planning division of the local planning authority for advice as to whether any Permissions are needed or consult an architect or surveyor. It is a precondition of ETML considering any Member Vote application for consent for any works that the Homeowner has obtained and submitted all relevant Permissions.

In almost all cases, Permission from both the local authority and ETML will be needed and it should be noted that if Permission is obtained from one, it does not necessarily mean that it will be obtained from the other.

1. The Administrator will review for completeness and when complete, will distribute application documentation to Members.
2. Members who apply are eligible to vote.
3. Members will have 30 days to vote and all votes will be confidential from all Members. The Administrator will notify the Members of the outcome within 7 business days from the end of the voting deadline.
4. Votes may be submitted by letter, fax or email to the Administrator.
5. Members have the right to appeal the Member Vote within 7 business days of the results being announced. In order to appeal, the Member must submit grounds for appeal to the ETML Board. Thereafter, an independent firm will be used to collect the ‘appealed’ Member Vote. Again, 30 days will be provided for a Member Vote. Votes will be sent to an independent firm and will be confidential from all Members. Members will be notified of the outcome, within 7 business days from the end of the voting deadline. No further appeal is possible within these rules.
6. Members whose application is not approved, may re-apply for a Member Vote in 12 months from the date of the decision (outcome).

**C. Trees**

## Paragraphs 15 and 20 of the Covenant make provision for works affecting gardens, trees and plants. ETML expects that no trees or shrubs of any kind at any time growing on Property shall be lopped, cut down, destroyed or removed without the prior written consent of the ETML Board in accordance with the terms of any Permissions which the Homeowner has previously obtained, and the Homeowner shall deposit a copy with the ETML by way of application for consent.

**D. Boundary Walls**

Covenant paragraphs 2 and 20 require the Homeowner to keep structures on the Property in good repair, and this includes boundary walls, fences and railings.

Replacement of walls, fences and railings do not require ETML approval provided that these match the existing boundary both in terms of design, height and materials.

High brick walls to rear (southern) boundaries, where appropriate, should be constructed from facing bricks with brick copings. Bricks should be used which match the originals as closely as possible, with the consent of the Council. Whenever works are undertaken to construct or repair foundations, care should be taken not to damage tree roots. Brick walls must not be painted, unless they had previously been painted with the express consent of ETML.

**E. Hedges & Shrubs**

Although works to hedges do not require the express approval of the ETML Covenant, paragraphs 15 and 20 relate to the replacement of shrubs and the cultivation of the gardens.

From time to time and for various reasons, existing hedges and shrubs have to be replaced and it then becomes a question of which variety to choose. If an evergreen hedge or shrub is required, indigenous species such as privet, elaeagnus and euonymus, or tree species such as holly, yew or beech, which have either a moderate or low water demand, are recommended.

Leyland cypress is not recommended as this fast growing tree can achieve a height of over 35 metres (100ft) and at peak growing time can put on 10 centimetres in a week. Retaining a clipped hedge at a reasonable height is very labour intensive. The girth of the trunk increases rapidly and over time, foliage at the lower level decreases, creating a noticeable line of large trunks. Leyland cypress is classed by the Building Research Establishment as having a high water demand and is therefore to be avoided in close proximity to buildings.

Generally accepted hedge and shrub heights are 2 metres (6ft) for rear gardens. Most reasonable nurseries provide hedging plants and shrubs of the more common varieties at the suggested maximum heights and therefore the long wait for a hedge to establish need not be a consideration.

It is important to choose a hedge or shrub species which marries into the overall landscape and is indigenous. To introduce an alien hedge or shrub species may destroy the harmony of the landscape and is therefore not recommended.

**F. Proper Maintenance of the Property**

Covenant paragraphs 2 and 20 require the Homeowner to keep the structures on the Property in good repair.

1. Roofs

When roofs are repaired or replaced, care must be taken to match the original tiles. Antiqued tiles are available that reproduce the colour and texture of weathered tiles and these are preferable in most cases. Tiles made of concrete are not an acceptable substitute. When roofs are replaced it is appropriate to the original period and design of the Property to revert to slate tile for the roofing cover. It is the policy of the ETML that when any tiles are replaced, the original slate is reinstated, although in exceptional cases artificial slate which reproduces the textured surface of real slate, may be an acceptable alternative. Samples of replacement roof material should be approved by the ETML before any works are carried out. Decorative ridge tiles should be retained.

1. Chimneys

The Properties were originally heated by fires and were built with chimneys and carefully designed chimneys are characteristic of the Properties. ETML will not approve the removal of any chimney stacks that would change the character of an individual Property or Earls Terrace.

Although the removal of internal chimney breasts are not subject to the Covenant, this is work that can result in structural problems, particularly on party walls, and expert advice should therefore be sought, and the appropriate Permissions obtained, before proceeding with such projects.

1. Brickwork

Care should be taken to the original style of mortar joint. The appearance of brickwork matures and mellows over time. Repointing with hard cement mortar and finishing the joint proud of the brick face, gives unnecessary prominence to the mortar joints and detracts from the appearance of the bricks. Hard mortar can also result in damage to bricks over time.

1. Stucco Work and Rendering

Rendered finishes have not been used on Earls Terrace in the past and ETML will not consent to them now, nor cladding or pebbledash render, or roughcast or smooth renders. Stucco work can be used as in the existing areas of the lower stories of the front (northern) elevations of the Properties.

1. Painting

Painting over previously unpainted surfaces is unlikely to be approved and ETML actively encourages the removal of paint from brick previously painted. Similarly, the use of obtrusive colours when repainting is also unlikely to be approved.

Attention is drawn to the requirements of paragraphs 5 and 20 of the Covenant.

1. Doors and Windows

## It is the policy of ETML to discourage the unnecessary replacement of original doors and windows and to ensure that, where replacement is necessary, the new doors and windows are an accurate copy of the original, including the materials used.

## The replacement of doors and windows, unless exact replicas of the original both in terms of design and materials, is subject to approval under the Covenant even though this may not require Permissions.

## The Covenant paragraphs 2 and 20 apply.

1. Doors

As stated above, ETML encourages the retention of original doors and where it is necessary to replace these, care should be taken to replicate both the design colour and materials and they should be appropriate to the design and period of the Property.

1. Windows

Timber is the traditional material for the manufacture of doors and window frames. The Properties all have timber doors and windows. If it is necessary to repair or replace timber windows, this can be done without changing the appearance of the original design. In most cases, double glazed timber windows can be made that faithfully reproduce the original design. It is not possible to reproduce the appearance of leaded light windows with double glazing, and secondary glazing should be used to improve thermal and acoustic performance.

Aluminium and UPVC replacement windows have been extensively marketed over the past 20 years. These windows are not acceptable to ETML as replacements for traditional timber windows in the Properties.

Where an application is made for replacement windows, they may be approved, provided they match the originals in the way they are sub-divided into opening and fixed lights. The frame material, overall style, pane sub-division, mullion and transom widths and glazing rebate should be repeated. The piecemeal replacement of windows is discouraged.

Windows for extensions should also normally match the design of the existing windows in the Property.

1. Satellite Dishes/Aerials

The installation of satellite dishes/aerials requires only ETML Board Approval as it is a Minor External Alternation.

## Applications complying with the following criteria are normally approved.

## a) The aerial must be of moderate size, with a maximum diameter of 2ft (approximately 0.6m).

### b) Only one dish/aerial will be permitted for a Property, unless exceptional circumstances can be shown.

### c) No dish/aerial will be allowed on or above the highest point of the roof of a Property, and not so as to be visible from the front (northern) elevation of Earls Terrace. Chimney stacks are not disregarded when defining the highest point of the roof.

### d) No dish/aerial will be permitted on the front (northern) elevations. Rear (southern) elevations may normally be considered as acceptable locations.

### e) In certain locations it may be a condition of any consent that the dish/aerial is painted in a suitable colour to match or blend with the surrounding materials.

**These Procedures and General Guidance Notes were issued on 22 June 2010, With Authority of the ETML Board.**

**Exhibit 1**

**Defined Terms**

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| **“Board”**  **Or**  **“Council”** | Board of Directors of ETML, also known as the Council of Management of the Company. |
| **“Earls Terrace”** | The freehold houses numbered 2-24 (inclusive)  Earls Terrace Kensington London W8 6LP. |
| **“Earls Terrace Covenant”**  **Or**  **“Estate Management Provisions”** | The relevant provisions relating to the management  of a Property contained in the Rentcharge, a copy of which is set out in the Annex to this Note (Exhibit 2). |
| **“Earls Terrace Land”** | All the land comprised in title number BGL18140 owned by ETML. |
| **“ETML”** | Earls Terrace Management Limited (Company Registration Number 03896672) Registered Office situate at 788 – 790 Finchley Road London NW11  7TJ and c/o East Gate Lodge, Earls Terrace Kensington London W8. |
| **“Member” or “Homeowner”** | A registered member of the Company, Houses number 2 to number 24 Earls Terrace. |
| **“Office”** | East Gate Lodge, Earls Terrace Kensington London W8 6LP. |
| **“Owner”** | The registered proprietor for the time being at HM Land Registry of a Property, and who is also a Member. |
| **“Permissions”** | Collectively any and every planning permission  and/or approval under the Building Regulations  and/or Listed Building and/or Conservation Area consent from the appropriate local authority (the  Royal Borough of Kensington and Chelsea) required in respect of any building, tree or any other works  the subject of this Note. |
| **“Property”** | The freehold land and building within Earls Terrace owned by the Owner. |
| **“Rentcharge”** | The Rentcharge deed which the Owner has entered into affecting the relevant Property and which  contains the Estate Management Provisions. |

**Exhibit 2**

**This is the Covenant signed by all Homeowners, and has not changed.**

**ANNEX**

**(Estate Management Provisions)**

**Covenant by the Owner with the Company (in this Annex referred to as the “Transferor”)**

1. Not to use the Property for any purpose other than as or incidental to a private dwelling in the occupation of a single household.
2. Not without the prior consent in writing of the Transferor to alter the external parts of any building or erection which now or later may form part of the Property nor without such consent to erect any additional building structure or erection or lay any sewers or drains on or under the Property and in the event of such consent being granted not to carry out such work except in accordance with plans elevations sections specifications and details drawings previously approved in writing by the Transferor provided that no such consent shall be required in respect of the erection and retention of a shed or summerhouse of reasonable size.
3. Not to carry on any trade business or profession on the Property nor allow anyone else to do so.
4. Not to use the Property or any part of it for any activity which is or might become a nuisance or annoyance to the Transferor or the owners or occupiers of the Terrace or any adjoining or neighbouring land nor allow anyone else to do so.
5. Not without the previous consent of the Transferor to paint or decorate in any manner whatsoever the exterior of the Property or any part thereof except in a manner and in colours which are consistent with the decoration of the Property at the date hereof and which is consistent with the appearance of the Terrace and any colour scheme for the Terrace and the Property approved by the Transferor.
6. Not to hold or permit to be held in the Property any sale by auction or any public meeting for any religious political or other purpose.
7. Not to use or permit to be used the Property for any purpose of an illegal immoral or improper nature.
8. Not to play any musical instrument sound reproduction equipment television or other similar apparatus or permit any singing to be allowed in the Property between the hours of 11 pm and 9 am so as to be heard outside the Property or at any time in such a manner as to cause annoyance nuisance or disturbance to the owner or occupier of any house in the Terrace or any adjoining or neighbouring land nor allow anyone else to do so.
9. Not to erect or display on the Property or in any windows of the Property any advertisement placard nameplate or sign.
10. Not without the previous consent of the Transferor to affix or place outside the Property any aerial satellite dish cable or other apparatus for receiving or transmitting electro magnetic signals.
11. Not to carry out any noisy works of maintenance or repair or works of alteration or improvement to the Property except between the hours of 9 am and 6 pm on weekdays and 10 am to 2 pm on Saturdays.
12. Not to use any of the pipes wires cables conduits and other conducting media within or serving the Property otherwise than in a proper manner in connection with the use of the Property as a dwelling.
13. Not to hang put out or display on any external part of the Property any washing clothing bedding or other similar article.

14. Not to keep any livestock poultry or pigeons on the Property.

1. Not to remove or destroy any tree or shrub planted on the Property as part of any landscaping scheme and to replace any tree or shrub on the Property which in the opinion of the Transferor needs to be replaced.

16. To pay the Rent Charge issuing out of the Property.

17. Not to obstruct damage or interfere with any part of the Estate.

1. To comply with the regulations laid down from time to time by Edwardes Square Garden Committee for the use of Edwardes Square and Earls Terrace shrubberies pursuant to the Kensington Improvement Act 1851.
2. Not to park any heavy goods vehicle caravan boat trailer or other similar type of vehicle on the Estate Road and if the Estate Road shall not at any time be an adopted highway maintainable at public expense, not to park any car or other vehicle of any description on the Estate Road without the consent of the Transferor.
3. To maintain repair and uphold the Property in a reasonable state of repair and condition and to keep in good order and condition and properly planted or mown that area of the Property comprising the garden and. to decorate the exterior of the Property in accordance with the colour scheme approved by the Transferor for the Terrace no less frequently than once every 5 years.