



9A
Adjudication

9B
Arbitration

9C
Legal proceedings

10
London Borough of Richmond-Upon-Thames Special Contract Condition

"The successful tenderer will be required to execute a formal contract within 14 days of receipt thereof and until such execution, the successful tender together with the Council's written acceptance shall form binding agreement in the terms of the Contract Documents and where there is any discrepancy or difference between the tender and the other Contract Documents the latter shall prevail.

The date for the commencement of the works under the Contract will be the _____ of 2004 or such later date as may be specified by the Authority. The works will be completed by the.....

However, in the event that one week before the commencement date, either the Contract has not been executed and/or the surety Bond and/or parent company guarantee (if applicable) has not been supplied, the Authority may postpone the commencement date and/or cancel the award of the successful tender and award the contract elsewhere. If any of these rights are exercised by the Authority then unless the Contractor has shown justified reasons for not providing all or any of these documents by the due date the Authority reserves the right to charge the Contractor with all reasonable costs arising to the Authority in connection with any such re-arrangement.

No payment whatever shall fall due under the Contract until the Contract Documents have been executed and (if applicable) the Surety Bond and the Guarantee referred to above have been duly supplied."

THE APPENDIX TO THE CONTRACT WILL BE COMPLETED AS FOLLOWS:

Third Recital
All the CDM Regulations apply

Articles 9A and 9B
Clauses 9B and 9C
Disputes or difference - settlement of disputes
Clause 9B applies

Clause 1.16
Electronic interchange
The JCT Supplemental Provisions do not apply

Clause 2.1
Date of Possession: The later of October 2004 or the date on which the Employer is satisfied that a health and safety plan in respect of the Works has been prepared and developed in compliance with regulations 15(4) of the CDM Regulations

Clause 2.1
Date for Completion : 18 weeks from Date of Possession/to be agreed (see Form of Tender)

Clauses 2.2, 2.4.14 and 4.11(a)
Deferment of the Date of Possession:
Clause 2.2 6 weeks
Where clause 2.2 applies, period of deferment 6 weeks



Clause 2.4.10 and 2.4.11

Extension of time for inability to secure essential labour or goods or materials:

Clause 2.4.10 (labour) - does not apply

Clause 2.4.11 (goods or materials) - does not apply

Clause 2.7

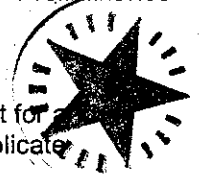
Liquidated damages: At the rate of £ 57 per day

Clause 2.10

Defects liability period: 12 months



- 150 **PROTECTION OF PRODUCTS:**
- Prevent over-stressing, distortion and any other type of physical damage.
 - Keep clean and free from contamination. Prevent staining, chipping, scratching or other disfigurement, particularly of products exposed to view in the finished work.
 - Keep dry and in a suitably low humidity atmosphere to prevent premature setting, moisture movement and similar defects. Where appropriate store off the ground and allow free air movement around and between stored products.
 - Prevent excessively high or low temperatures and rapid changes of temperature in the products.
 - Protect adequately from rain, damp, frost, sun and other elements as appropriate. Ensure that products are at a suitable temperature and moisture content at time of use.
 - Ensure that sheds and covers are of ample size, in good weatherproof condition and well secured.
 - Keep different types and grades of products separately and adequately identified.
 - So far as possible keep products in their original wrappings, packings or containers, until immediately before they are used.
 - Wherever possible retain protective wrappings after fixing and until shortly before Practical Completion.
 - Ensure that protective measures are fully compatible with and not prejudicial to the products/materials.
- 160 **SUITABILITY OF RELATED WORK AND CONDITIONS:** Ensure that all trades are provided with necessary details of related types of work. Before starting each new type or section of work, ensure that:
- Previous, related work is appropriately complete, in accordance with the project documents, to a suitable standard and in a suitable condition to receive the new work.
 - All necessary preparatory work has been carried out, including provision for services, openings, supports, fixings, damp proofing, priming and sealing.
 - The environmental conditions are suitable, particularly that the building is suitably weather tight when internal components, services and finishes are installed.
- 170 **GENERAL QUALITY OF WORKMANSHIP:**
- Operatives must be appropriately skilled and experienced for the type and quality of work.
 - Take all necessary precautions to prevent damage to the work from frost, rain and other hazards.
 - Inspect components and products carefully before fixing or using and reject any which are defective.
 - Fix or lay securely, accurately and in alignment.
 - Where not specified otherwise, select fixing and jointing methods and types, sizes and spacings of fastenings in compliance with section Z20. Fastenings to comply with relevant British Standards.
 - Provide suitable, tight packings at screwed and bolted fixing points to take up tolerances and prevent distortion. Do not overtighten fixings.
 - Adjust location and fixing of components and products so that joints which are to be finished with mortar or sealant or otherwise left open to view are even and regular.
 - Ensure that all moving parts operate properly and freely. Do not cut, grind or plane prefinished components and products to remedy binding or poor fit without approval.
- 180 **BS8000: BASIC WORKMANSHIP:**
- Where compliance with BS8000 is specified, this is only to the extent that the recommendations therein define the quality of the finished work.
 - Where BS8000 gives recommendations on particular working methods or other matters which are properly within the province and responsibility of the Contractor, compliance therewith will be deemed to be a matter of general industry good practice and not a specific requirement of the CA under the Contract.
- 190 **WATER FOR THE WORKS:** Clean and uncontaminated. If other than mains supply is proposed provide evidence of suitability. Test to BS 3148 if instructed.



- 640 SECURITY AT COMPLETION: Leave the Works secure with all accesses locked. Account for and adequately label all keys and hand over to Employer with itemised schedule, retaining duplicate schedule signed by Employer as a receipt.
- 650A MAKING GOOD DEFECTS: Make arrangements with the CA and give reasonable notice of the precise dates for access to the various parts of the Works for purposes of making good defects. Inform CA when remedial works to the various parts of the Works are completed.



A35 SPECIFIC LIMITATIONS ON METHOD/SEQUENCE/TIMING

- 110 **SCOPE:** The limitations described in this section are supplementary to limitations described or implicit in information given in other sections or on the drawings.
- 130 **METHOD/SEQUENCE OF WORK:**
The tenderer is to submit a programme with his tender submission. The sequence for carrying out the works will be the contractor's discretion
- 140 **ACCESS TO THE SITE:** See section A12.
- 150 **USE OF THE SITE:** See section A12.
- 155 **SCAFFOLDING:** Ensure that standing scaffolding is erected early enough and/or dismantled late enough to suit the programmes of all subcontractors.
- 170 **USE OR DISPOSAL OF MATERIALS:**
Any sand or gravel found on the site during excavation shall be the property of the Employer and shall not be removed from the site without the prior agreement of the Architect/Contract Administrator. Such materials shall no be used in the work except upon the express instructions of the Architect/Contract Administrator in which case the quantity used shall be measured and valued and such value deducted from monies due or which may become due to the Contractor. Excavation shall not be made or enlarged for the purpose of obtaining such material
- 190 **WORKING HOURS:**
Works shall not be carried out outside recognised working hours of 8 a.m. – 6.00 p.m. Monday to Friday and Saturday 8am – 1pm without the prior knowledge of the Architect/Contract Administrator. No operation which by its nature requires inspection prior to and/or during the course of its execution shall be carried out outside recognised office working hours unless written notice is first given to the Architect/Contract Administrator or his representative
- 210A **COMPLETION IN SECTIONS OR PARTS:**
- Where the Employer is to take possession of any Section or part of the Works and such Section or part will, after its completion, depend for its adequate functioning on work located elsewhere on the site, complete such other work in time to permit such possession to take place.
 - During execution of the remainder of the Works ensure that completed Sections or parts of the Works have continuous and adequate provision of services, fire precautions, means of escape and safe access.
 - The Contractor is to submit for agreement to the CA, his construction programme before commencement of any work on site.
- 212 **LANDSCAPE WORKS IMPLEMENTATION**
All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
REASON: To ensure that the proposed development does not prejudice the appearance of the locality



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1128908
16 June 2004

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 77
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990,
SECTIONS 12 & 74
APPLICATIONS BY LONDON BOROUGH OF RICHMOND UPON THAMES
LAND AT TWICKENHAM POOL, THE EMBANKMENT, TWICKENHAM, MIDDLESEX**

1. I am instructed by the First Secretary of State to inform you that consideration has been given to the report of the Inspector, Paul Griffiths BSc(Hons) BArch IHBC, who held a public inquiry between 11 and 27 February into your client's applications for:
 - Conservation area consent for the total demolition, with exception of retaining wall at rear ground floor, of the 'pool building' (03/1142/CAC)
 - Planning permission for demolition of 'pool building' (Plant and changing rooms and entrance space) hard and soft landscaping of resultant footprint. Partial clearance of poolside 1100 to form park and childrens play area secured by fencing. Steps from lower to upper area. Short term scheme pending future redevelopment envisaged 5 year duration. (03/1141/TOL)
2. The Inspector, whose conclusions are reproduced as an annex to this letter, recommended that conservation area consent and planning permission should be granted. All paragraph references in this letter are to the Inspector's report unless otherwise stated. For the reasons given below the Secretary of State agrees with the Inspector's recommendation.

Procedural Matters

3. The Secretary of State notes the minor revisions to the original application drawings referred to in IR4 and agrees with the Inspector that no party has been prejudiced by these revisions. The Secretary of State has determined these applications on the basis of the amended drawings.
4. The Secretary of State notes that the Inspector's report into the modifications to the deposit draft First Review Richmond-upon-Thames Unitary Development Plan has been published since the end of the inquiry. The Secretary of State considers that the

Inspector's report raised no new issues that would require him to refer back to the parties for further representations.



Policy Considerations

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1991 requires that in coming to a decision on conservation area consent special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In considering proposals to carry out demolition in a conservation area, the Secretary of State is also required to have regard to section 74 of the Act and the advice in Planning Policy Guidance Note 15: Planning and the Historic Environment.
6. Section 54A of the Town and Country Planning Act 1990 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Richmond-upon-Thames Unitary Development Plan (UDP), adopted in October 1996. The Secretary of State places significant weight on the emerging first review Richmond-upon-Thames Unitary Development Plan (FRUDP) due to its progress towards adoption.
7. Key material considerations which the Secretary of State has taken into account include Planning Policy Guidance note 1: General Policy and Principles (PPG1); Planning Policy Guidance note 15: Planning and the Historic Environment (PPG15); and the Mayor of London's Spatial Development Strategy for Greater London (the London Plan).


Consideration

8. The Secretary of State agrees with the Inspector's conclusion that conservation area consent is required for this development, for the reasons given in IR142.
9. The Secretary of State agrees with the Inspector's conclusion in IR 158 that the proposals subject to these applications would enhance the character and appearance of the conservation area, for the reasons given by the Inspector in IR144 to 157.
10. The Secretary of State agrees with the Inspector's conclusion in IR 164 that the proposed temporary redevelopment would not prejudice proposals for the redevelopment of the former swimming pool site as a whole, for the reasons given by the Inspector in IR 159 to 163.
11. The Secretary of State agrees with the Inspector's conclusion in IR 169 that proposals accord with the relevant UDP and FRUDP policies and the London Plan, for the reasons given by the Inspector in IR 165 to 168.
12. The Secretary of State agrees with the Inspector's conclusions in IR129 to 139 on the conditions that it would be appropriate to attach to any permission, for the reasons given by the Inspector.
13. The Secretary of State concludes that the proposed development would enhance the conservation area and provide valuable public open space without prejudicing the future comprehensive redevelopment of the Twickenham Pool site. With regard to section 54A of the Town and Country Planning Act 1990 he concludes that the proposal is in line with the development plan.

Formal Decision



14. For the reasons given above the Secretary of State agrees with the Inspector's recommendations in IR 171 and 172.
15. The Secretary of State hereby grants conservation area consent for the total demolition, with exception of retaining wall at rear ground floor, of the pool building (03/1142/CAG), subject to the following conditions:
- 1) The works hereby authorised shall be begun not later than 5 years from the date of this consent.
 - 2) The works of demolition hereby authorised shall not be carried out before a contract for the carrying out of the development for which planning permission has been granted under reference 03/1141/FUL or any other planning permission granted in respect of the site, requiring demolition of the subject building, has been made.
16. The Secretary of State hereby grants planning permission for demolition of 'pool building' (Plant and changing rooms and entrance space) hard and soft landscaping of resultant footprint. Partial clearance of poolside to form park and children's play area secured by fencing. Steps from lower to upper area. Short term scheme pending future redevelopment envisaged 5 year duration. (03/1141/FUL), subject to the following conditions:
- 1) The use hereby permitted shall be discontinued and the works removed, five years from the date of this permission, in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.
 - 2) No development shall take place until samples of the materials to be used in the construction of the hard surfaces and walls (new and repaired) of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 3) No development shall take place until details of the design and external finish of any buttressing to the retaining wall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include lighting, gates, seats, bins, fencing, plant and tree species, plant and tree sizes, and planting densities. The approved scheme shall be implemented within twelve months of the commencement of the new use.
 - 5) Any tree or shrub planted as part of the approved scheme that within the lifespan of the scheme, dies, is removed or becomes seriously damaged or diseased shall be replaced in the next planting season with another of similar size and species.

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- 6) No development shall take place until a schedule of landscape maintenance covering the lifespan of the scheme, including initial implementation, has been submitted to and approved in writing by the local planning authority. Development and subsequent maintenance shall be carried out as approved.
 - 7) Prior to any equipment, machinery or materials being brought on to the site details of the measures to protect, during demolition and construction, the trees to be retained, including fencing to accord with BS5837, shall be submitted to and approved in writing by the local planning authority and implemented in accordance with that approval. No activities associated with building operations (including storage of materials and temporary structures) shall take place within the areas so protected. No fire shall be lit within 10 metres of the outside of the crown spread of trees to be retained. The protective measures shall be retained in accordance with the approved scheme for the duration of the works.
 - 8) Measures to ensure the stability of all walls within the site shall be provided for the duration of the building works in accordance with details which shall first have been submitted to and approved in writing by the local planning authority

17. An applicant for any consent, agreement or approval required by a condition of these permissions or for approval of the reserved matters, has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

Right to Challenge and Right to Inspect Documents

18. The circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court and the right to inspect documents are set out in a separate note enclosed with this letter.

Distribution of this letter

19. This letter has been copied to the London Borough of Richmond upon Thames, those who appeared at the Inquiry, and those who have made written representations requesting a copy of the Decision Letter.

Yours faithfully,

Frances Blaber

Authorised by the First Secretary of State
to sign in that behalf