

MWML Board Sept 2021

Agenda Item 9: Process of handling applications for Consent to Alter; notification of works Draft Resolution for discussion and decision at the AGM

“Structural alterations to properties in Morgan’s Walk

Owners of a property naturally want to put their own stamp on it, and to use and adapt it to their own changing circumstances and to the limit of its possibilities. Subject to conditions, there is no objection to this in Morgan’s Walk. Since the 1990s, many carefully-planned structural alterations have been made to properties which have enhanced owners’ enjoyment of their homes (both flats and houses), and done no harm to other residents.

Against this, there is a presumption inherent in the original covenants of ‘minimal change’, except with the consent of the Manager (MWML) representing the interests of owners (its shareholders). These covenants bind all properties on the Estate, both flats and houses **including freehold houses** - because each Transfer deed whereby the house was enfranchised includes the same covenants as its original leases, **except insofar as purely internal alterations are concerned.**

But minimal change does not equal no change. With full information and a proper structure for giving consent, many desired externally visible changes could turn out to be consensual across all owners, and hence easily consented to by the Manager. The following guiding principles and procedures outline a proposed new process for applying for the consents needed from MWML (and sometimes also from Danesdale Land Ltd, the other party to the Estate-wide covenants), while upholding the interests and rights of neighbours and fellow owners.

We envisage placing proposals by freehold owners to alter their property into three categories:

1. Structural alterations which are entirely internal ie will not be visible from outside, and do not put at risk any adjoining or connected structure, do not require consent from the Estate Lessor (Danesdale Land Ltd. But the Board intends, in view of recent cases that caused annoyance, to require houseowners to complete a simple form giving notice of the intended works, so that Quadrant MWML are made aware of the expected impact (if any) on neighbours, and may set conditions to ensure that the works will not become so extensive and intrusive as to cause major inconvenience to other residents. This will be covered in the Estate Regulations.
2. Structural alterations which could
 - put at risk the substructure on which MW is built
 - put at risk neighbouring structures (going beyond normal party wall agreement)
 - add new floors above the existing rooflines
 - interfere **significantly** with lines of sight
 - breach covenants to original owners to maintain a low-density Estate of a fixed scale
 - put at risk the harmony of the Estate, by setting categories of owner against each other **will be barred and blocked in advance** by a combination of MWML and the Estate freeholder, in defence of the collective covenants which bind the whole Estate.
3. Structural alterations which fall into a middle ground because they would
 - create a change visible to others – but arguably, a small one
 - create some temporary disturbance – but arguably, one which could be minimised **will be considered** by a representative group of MW owners (drawn from flats and houses) who have put themselves forward, like a jury of their peers, to consider and make recommendations which if favourable will **normally be accepted by the Board.** To ensure a very close contact with the Board and with Quadrant, the group will work directly with a named Director. The Board proposes that the first alteration recommended for approval through this route will be subject to a full postal/email ballot of all shareholders.

EXAMPLES

4. Example of category 1: a house owner wants to cut a gap in a load-bearing wall to open their kitchen to a dining area beyond. This does not need consent but owners will be expected to notify their intentions in advance so that Quadrant can discuss with them reasonable conditions concerning times, dates, durations, noise, skips, etc and to ensure that the owner has considered and dealt with external requirements such as building regulations.
5. Example of category 2: a house owner wants to add a storey or an annex which will significantly extend the footprint or height of their property, as well as changing sight-lines for neighbours very significantly. Application for consent to alter is required. Expected decision: **reject**.
6. Example of category 3: an owner (of a house or top floor flat) wants to make use of the available loft space by cutting windows through the tiles. Owner offers two variants: a dormer window (protruding above the roof line), or a velux window (not changing the line of surface, but somewhat disrupting the uniformity of views).
Expected decision: **undecided**, but here are some of the considerations that the 'jury of peers' (para 3 above) may consider:
 - do surveyors' plans suggest any significant structural risks to adjoining properties?
 - how visible would the projections be within MW (eg: if the location is a Whistler's Avenue house, does the roof in question face Whistlers Avenue or BCR)?
 - how offensive would the change in visual aspect actually be? Could any impact be moderated by using different materials or a different colour finish plan?
 - how extensive would the works be? Is there a likelihood of extensive disturbance (duration of works; planned use of skips, vehicles, power tools; timing; noise; parking)?
 - would the proposed change be equally acceptable if everyone along a particular street or set of blocks were to follow pretty much the same pattern? (ie MWML would want evidence of consensus on patterns/templates for alterations, on similar lines to how agreement was reached on new patterns of windows/patio doors.)

7. The Board intends to put forward at the AGM the following draft Resolution:

"RESOLUTION: that the Board shall be empowered to issue a Licence to Alter on application by any MW owner where the following conditions have been met:

1. the applicant undertakes to meet all necessary planning and building consents;
2. the applicant has submitted technical plans by reputable surveyors and/or structural engineers which demonstrate how any structural etc issues would be addressed;
3. the applicant agrees to meet any necessary costs by the Manager in vetting or approving such plans;
4. the applicant can show evidence of support in principle for the plans from the owners and/or residents of (a) immediately adjoining properties; (b) other properties whose windows/balconies/terraces are in line of sight of the proposed alteration; and (c) a broad cross-section of owners of other properties on the Estate;
5. the applicant agrees to minimise disturbance during the work; to abide closely by the exact terms of the licence; and to meet all agreed conditions set by MWML: on pain of revocation of any granted License to Alter, and a requirement to reverse the works so that the property is reinstated to what it was previously.

If this Resolution is approved, the Board will institute a consultative process whereby qualifying applications for a Licence to Alter will be first reviewed by a representative group of resident shareholders, and then submitted to the Board for rapid decision.

This procedure will be reviewed at the 2022 AGM and could be varied in the light of experience.”

Your Board recommends this Resolution and we intend to vote [unanimously] for it.

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Chairman
7 October 2021

[To be signed by whoever will Chair the 2021 AGM, and sent out (21 days in advance) to all shareholders, along with all other meeting papers]