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**URGENT LETTER**  
**RELATES TO PLANNING COMMITTEE MEETING**  
**SCHEDULED FOR 19 OCTOBER 2011**

19 October 2011

Dear Sirs

**Arlington House & 1-50 Arlington Square, Margate CT9 1XP**

We have previously written to the Council in connection with this matter on 3 August 2011 on behalf of the local community opposed to the above redevelopment application. We ask that this letter and enclosures are brought to the attention of the Committee members in advance of any decision on the application.

Our concerns

From the information we have seen there are procedural and substantive errors with the Council's handling of the application. These require the Council to defer any further decision on the application until it has complied with the requirements we identify below. If you fail to agree to the points we are making and do not comply with these requests then any decision on the application (including a decision to defer and delegate as recommended in the officer's report) will be unlawful and we will advise our clients to consider bringing a claim for judicial review to have the decision of the Council quashed. This is without prejudice to other errors in relation to material consideration or procedural failures that we may later identify.

In summary the immediate concerns are:

(1) Failure to await the outcome of the decision of EH re listing of Arlington House

On or about 17 October 2011 EH notified the Council that it is considering listing Arlington House which is currently an unlisted heritage asset. Since the development

proposals envisaged substantial works to the principal elevations of Arlington House any decision by the DCMS to list the building would be a material decision that would require a fresh round of consultation on those aspects of the proposals that would affect the fabric of the building in relation to its architectural or historic interest. In this regard we refer you to the letter from the Twentieth Century Society dated 18 October 2011 strongly criticising the fabric alterations, and remind you that the Society would have to be consulted and its views considered if Arlington House is listed.

Further, and as a separate consideration, any listing of Arlington House would give rise to a separate duty under s.66 of the Listed Buildings and Conservation Areas Act to consider the impact of the redevelopment proposals on the setting of Arlington House.

Both of these are matters which the Committee must consider before it can determine the application and any failure to do so would make the decision unlawful.

## (2) Incomplete reporting and consideration of the reasons for the change in listing of the Scenic Railway

The DCMS report gives four reasons given for the designation decision:

### "REASONS FOR DESIGNATION DECISION

The Scenic Railway at Dreamland, Margate, built in 1920 by JH Iles for his new American-style amusement park, is recommend for upgrading to II\* for the following principal reasons:

- \* **Rarity:** it is the oldest surviving roller coaster in Britain and is of international significance as the second oldest in Europe and amongst the five oldest in the world of this prominent C20 entertainment structure;
- \* **Design:** scenic railways are amongst the earlier types of roller coaster design and it is an internationally important surviving example of this first generation of moving amusement technology;
- \* **Historic interest:** as an important and evocative aspect of the seaside heritage of Margate, one of the earliest and foremost English seaside resorts, and Dreamland, its principal amusement park:
- \* **Group value:** it grounds with Dreamland's other listed buildings in the Grade II\* cinema and Grade II menagerie."

There are two problems here, one being that the heritage consultant's report misunderstood these principles in reaching the conclusion that the upgrading of the scenic Railway would not have significant material effect on the development proposals. We refer you to the Dreamland Trust's letter of 17 October 2011 (copy enclosed) on these points. The Trust's information has not been referred to in the agenda report despite being material to the committee consideration of the matters before it.

The second problem is that the agenda report fails to inform the committee about or asks members to consider the other reasons of historic Interest and group value which EH identified as the justification for the upgrading in the listing status of the Scenic railway. This matters because the issue of impact on the setting of the Scenic Railway brings these new considerations into play. As a consequence it is incorrect to ask the committee to make any decision on the application without consideration of all of the reasons EH has identified for upgrading the listing.

### (3) Failure to consider material policies and the Arlington Planning Brief criteria

The Arlington Planning Brief adopted by the Council in October 2008 sets out detailed criteria for the consideration of any development proposals. The main committee report fails to consider this criteria or to explain in any meaningful detail how the development proposals comply with the planning brief. In addition, the Planning Brief identified Thanet Local Plan policy T8 (which refers to the adjacent Dreamland site) as a material consideration in relation to any development proposals on the Arlington site and this policy has not been considered at all by the officer in the main or supplemental committee report.

### (4) EIA screening

The Council's EIA screening decision dated 13 November 2009 for the purposes of compliance with the Town and County Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 that the application was not EIA development was not a lawful decision. The Council will be aware of the duty to give the application a rigorous assessment through the screening process and the summary reasons fails on multiple accounts to do that (See eg Bateman v South Cambridgeshire District Council [2011] EWCA Civ 157. Without going into great detail for present purposes, the screening decision is unlawful inter alia:

- (i) it fails to identify the sensitive heritage location in relation to Dreamland and its two grade II\* listed structures located there, nor having identified the EU designated Ramsar, Special Protection Areas and Special Areas of Conservation does it then inform the screening assessment in relation to the areas or explain why the proposals do not give rise to the risk of adverse effects, in particular in relation to discharge of pollution into this sensitive marine environment;
- (ii) that at least part of the site is in the highest 3A flood zone risk (see Arlington Planning Brief at page 16);
- (iii) there are significant traffic impacts on the local road network and associated significant adverse air quality impacts in relation to an existing adverse air quality AQMA environment;
- (iv) the proposals will have significant visual impacts on the sensitive Margate seafront and townscape;
- (v) there is evidence of ground contamination and possible asbestos posing a risk to human health; and
- (vi) there are significant socio/economic changes in relation to the substantial increase in commercial space in the development.

(5) Procedural irregularity

The Council failed to reconsult members of the public and other national amenity societies in relation to the consideration of the issue of impact on the setting of the listed heritage asset in a situation when the reasons given for the upgrading in the listing of the Scenic Railway brings new factors into play. Instead the Council advised the public that the agenda item is not open for public consultation or public comment. That approach is unlawful on the specific facts of this application and contrary to the Council's Statement of Community Involvement.

What should have happened is that as a consequence of the change in listing the Council should have complied with the general notice requirements in the Town and County Planning (Development Management Procedure) (England) Order 2010 which it has failed to do. Further in relation to any consultation responses that have been sent to the Council the agenda item report should have summarised these for the committee which it has failed to do other than in respect to the consultation with English Heritage. In particular the views of the Twentieth Century Society should have been reported to the committee which has not happened.

(6) Undisclosed bias/prejudicial interest by the heritage consultant

Our instructions are that the Council's heritage consultant, Dr C Miele, a partner in Montague Evans, is regularly instructed by Tesco. This is not disclosed in the heritage report in section 1.25 where other appointments are disclosed. Given that the underlying application is for a Tesco supermarket we find it highly unusual that the Council commissioned Dr Miele in relation to this sensitive matter and that Dr Miele has withheld this information in his report.

Please acknowledge receipt of this letter by return and the Council's agreement to bring this letter and the attachments to the attention of the committee meeting this evening.

Yours faithfully



Richard Buxton

cc Metropolitan Property Realisations Ltd c/o King Sturge LLP  
English Heritage (attn Alan Byrne by email)

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# THE TWENTIETH CENTURY SOCIETY

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Founded in 1979  
as the Thirties Society  
to protect British  
Architecture and Design  
after 1914

18 October 2011

Dear Madeline Homer

**Arlington House & I—50 Arlington Square, Margate CT9 1XP**

**Your ref F/TH/10/1061**

**Our ref 11 10 03**

The Society wishes to comment on the above planning application. The Society's Casework Committee discussed the above application on Monday 10 October 2011. There was great interest in the existing building and we are very pleased to hear that this is being assessed by English Heritage for listing. For the same reasons, we are however deeply concerned about the impact that the proposed scheme would have on the architectural qualities of Arlington House and, as a consequence, to the Margate Conservation Area and the setting of a number of neighbouring listed structures.

#### *The existing building*

Designed by Russell Diplock Associates and completed in 1964, the development was typical of its time in that it put forward an integrated scheme with a large car park, a shopping centre and a residential tower block. Also typical of that period was the introduction of a number of tall buildings by the English seaside. Far from a mediocre example of these 1960s trends, however, the elegant design of the tower's elevations, whose wave form in some way reflects its seaside setting, and also the skilful treatment of the carpark decking and its supporting columns make Arlington House a particularly good example and add significantly to its strong presence on Margate's seafront. At the time of its completion, the development was covered in the professional press (*Builder*, 20 November 1964), as were a number of other projects by Russell Diplock Associates in the late 1950s and 1960s, and survives to date astonishingly intact.

#### *The current proposals*

The proposed scheme seems to show very limited appreciation to the architectural qualities of Arlington House. Both the replacement of the "podium" (carpark; shopping arcade) and the introduction of a roofscreen undermine the

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building's original design. The way in which buildings meet the ground and their top ends are crucial as far as their reading as architectural entities is concerned. The way the new proposals interfere with these two key areas of Arlington House is most unfortunate and, should the scheme be granted permission, would detract from its special architectural interest.

#### *Neighbouring heritage assets*

Given its prominent position on Margate's seafront and its close proximity to a number of very important listed structures (Grade II\* Cinema; Grade II\* Scenic Railway; Grade II menagerie cages) and the Margate Conservation Area, it is imperative that the architectural integrity of the Arlington House is maintained.

#### *Summary*

Whatever the outcome of the English Heritage's assessment may be, the Society believes that Arlington House is a building of strong character, worth cherishing and preserving. Should there be any alterations to Arlington House, these should be respectful of, and not contradict, its character. We are disappointed to see that insufficient appreciation is presented in the scheme currently submitted to the Council and deeply concerned about its impact on the building, its urban setting and neighbouring heritage assets.

We hope our comments will be of help and taken into consideration. Should you require some clarification on any of the above, do not hesitate to contact me. I would also greatly appreciate if you could keep us informed of any further developments on this case.

**Remit:** The Twentieth Century Society was founded in 1979 and is the national amenity society concerned with the protection, appreciation, and study of post-1914 architecture, townscape and design. The Society is acknowledged in national planning guidance as the key organisation concerned with the modern period (see *Annex to PPG15*), and is a constituent member of the Joint Committee of the National Amenity Societies. Under the procedures set out in *ODPM Circular 09/2005*, all English local planning authorities must inform the Twentieth Century Society when an application for listed building consent involving partial or total demolition is received, and they must notify us of the decisions taken on these applications.

Yours sincerely



Dr Christina Malathouni  
Caseworker

cc Posy Metz, English Heritage  
Sam Saucer, Vice Chair, Margate Conservation Area Advisory Group  
Nick Laister, Chairman, The Dreamland Trust

Planning Committee  
Thanet District Council  
Cecil Square  
Margate  
Kent  
CT9 1XZ

17 October 2011

Dear Members

**PLANNING APPLICATION REFERENCE NUMBER F/TH/10/1061  
(ARLINGTON HOUSE & 1-50 ARLINGTON SQUARE, MARGATE CT9 1XP)**

Since writing to you last week, we have now seen the comments of the Council's Conservation Section and would like to comment on it.

This comment states that the decision to upgrade the Scenic Railway, from Grade II to Grade II\*, was "primarily made because of an increased recognition of the structure's rarity value and unusual design". However, the English Heritage Advice Report of 29 June 2011 (attached) clearly states that the Scenic was upgraded for those reasons and its historic value and group value.

For clarity, the four reasons given for the designation decision are:

- Rarity: it is the oldest surviving roller coaster in Britain and is of international significance as the second oldest in Europe and amongst the five oldest in the world of this prominent C20 entertainment structure;
- Design: scenic railways are amongst the earlier types of roller coaster design and it is an internationally important surviving example of this first generation of moving amusement technology;
- Historic interest: as an important and evocative aspect of the seaside heritage of Margate, one of the earliest and foremost English seaside resorts, and Dreamland, its principal amusement park;
- Group value: it groups with Dreamland's other listed buildings the Grade II\* cinema and Grade II menagerie."

The Conservation Section's comment goes on to say that rarity value and unusual design are factors that are "not affected by the proposals". On balance, we would agree with that view. However, the two other reasons given by English Heritage for its upgrading would most certainly be affected by the proposals.

Concerning the historic interest point, we would ask if the Scenic will still be "evocative" with a large shed wall behind? The EH document clearly made reference to "Dreamland", not just the ride itself, and the character of Dreamland will change significantly with this development.

Marine Studios 17 Albert Terrace Margate Kent CT9 1UJ  
[www.dreamlandmargate.com](http://www.dreamlandmargate.com)

From a rider's perspective, the aspect to the west will alter drastically, changing from a view down across the Arlington car park, which gives the rider an enhanced feeling of height, to a feeling of being over-shadowed (both metaphorically and, depending on the time and season, even physically) by a building.

The Discussion section in the listing upgrade says additionally: "Its location in a particularly important town in the development of the seaside gives it added interest; as does its location in Dreamland amusement park..."

The designation document then goes onto the name group value as a reason for upgrading, while the Discussion part of the document says that it "groups strongly". By definition, group value is about relationships, and the relationship between the structures is definitely negatively impacted upon by the proposals.

In summary, we believe that TDC's Conservation section's statement should be challenged on two counts:

1. It fails to mention two of the four reasons for the upgrade;
2. And it therefore fails to consider the considerable impact of the development on those points omitted.

Yours faithfully

Nick Laister  
Chairman  
For and on behalf of The Dreamland Trust

Cc Alan Byrne, Historic Buildings and Planning Advisor, English Heritage  
Tom Foxall, Historic Buildings Inspector, English Heritage  
Cherry Aplin, Assistant Planning Manager, TDC

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