

22

20 JUN 2002

**ps.ministers**

Sent by: Scott Mitchell

06/19/02 04:42 PM

Please respond to  
ps.ministers

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Subject: Correspondence -- Ref. Number: COR/370/2002

OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

URGENT - CORRESPONDENCE

Reference: COR/370/2002

Raised By: James Johnston

Subject: COR 370/02 - LETTER TO FM & DFM FROM HOLY CROSS SOLICITORS

Referred To: MARY BUNTING

Date Referred: 19/06/2002

ACTION REQUIRED

Please provide advice and a draft reply for signature by the PS/First Minister and PS/Deputy First Minister.

To be with Private Office not later than 03/07/2002 before Close of Play

For further information etc. contact :

Scott Mitchell (Private Office)  
Parliament Buildings Tel : 028 90 521028

Copied To For Information:



PS/FM&DFM  
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Will Haire  
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Rosalie Flanagan  
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David Campbell  
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Brian Barrington  
David McNarry  
Damien McAteer  
Mark Larmour  
Paddy Cullen  
Dara Cosgrove  
Michael Henderson  
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# JAMES T. JOHNSTON & CO.

## SOLICITORS

JAMES T. JOHNSTON LL.B.  
DANIEL McKAY B.Ed (Hons)  
THERESA L. JOHNSTON LL.B.

Donegall Chambers  
138 Donegall Street  
BELFAST  
BT1 2HX

YOUR REF:

OUR REF:

JTJ/DMK/

17 June 2002

Rt. Hon. David Trimble MP MLA  
Mr Mark Durkan MLA  
The Office of the First Minister & Deputy First Minister  
Parliament Buildings  
Savoy  
BELFAST BT4 3XX

FAX NO: 9052 1283

Dear Sirs

**RE: OUR CLIENT - BOARD OF GOVERNORS OF HOLY CROSS GIRLS SCHOOL**

Further to your correspondence of the 14th June 2002.

Asking from this correspondence we note your reference to your correspondence of the 7th June 2002 to our clients in which it was stated that the First and Deputy First Minister "wish to ensure that the design of the wall, particularly its structure, features, materials and location are such as to address community safety concerns including the protection for houses and the preservation of the best possible sightlines from the corner of Alliance Avenue".

As you will be aware from discussions with and the correspondence received directly from our clients and from us on their behalf our clients object to the erection of a wall at the location of the junction of the Ardoyne Road and Alliance Avenue. That objection is based not only upon the issue of sightlines but the genuine and reasonable fears of parents of children who attend the Holy Cross Girls' School that the wall could be used as a hiding place from which attacks on schoolchildren, or their parents could be mounted. It should be clear therefore that the issue which remains to be resolved is not the "nature and type" of wall to be erected but rather whether a wall should be erected at all.

We understand from your correspondence of the 14th June 2002 that the decision has been made to erect the wall and it is merely its "structure, features, materials and location" which remain at issue. We would be obliged for your clarification on this issue and in particular your clarification of whether our clients' proposal that a fence rather than a wall has been rejected and the reasons for that rejection.

TEL: (028) 9024 6091 FAX: (028) 9043 8486 DX: 3704 NR - BELFAST 8

Registered by the Law Society of Northern Ireland to conduct investment business.



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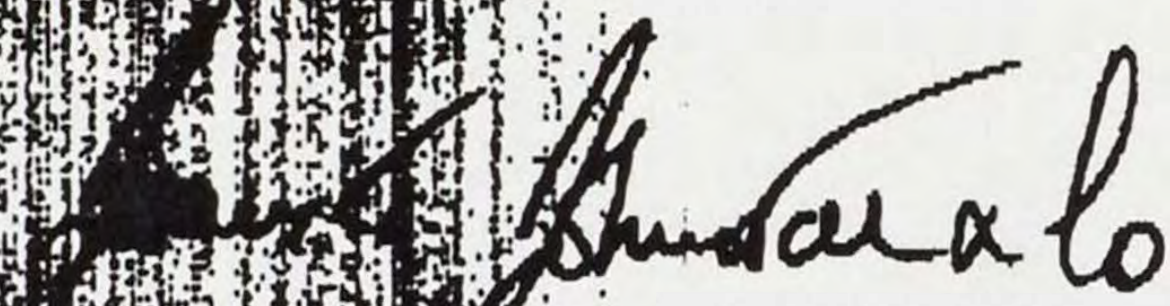
YOUR REF:

OUR REF:

We would also be obliged to receive a substantive response to our correspondence of the 13th June 2002 by return.

13th June

Yours faithfully

  
JAMES T. JOHNSTON & CO

TEL: (028) 9024 6091 FAX: (028) 9043 8486 DX: 3704 NR - BELFAST 8

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To: Mary Bunting

cc: Mr McKervill  
Mr Quiery (DSO)

Date: 14 June 2002

From: Denis McCartney

**JUDICIAL REVIEW: GOVERNORS OF HOLY CROSS GIRLS' SCHOOL**

1. The leave hearing this morning did not proceed, by agreement between the parties. The application is therefore simply stayed, to be reactivated by the Governors if they see fit as matters develop.
2. The agreement is this: we will write today to the Governors' solicitor to confirm that any works which are started next week do not relate to the wall in contention, and that the Governors will be given notice in advance of any works starting.
3. We agreed that the letter should issue from DSO, solicitor to solicitor, and I attach a draft for consideration by yourself and Ed Quiery. The private offices may also wish to be consulted.

*Denis McCartney*

**DENIS McCARTNEY**



**DRAFT LETTER: DSO TO JAMES T JOHNSTON & CO**

**RE: THE GOVERNORS OF HOLY CROSS GIRLS' SCHOOL**

Further to the agreement made by counsel this morning I am instructed by the Office of the First Minister and Deputy First Minister to confirm that such works as might be commenced next week under the Executive's Initiative in North Belfast will not relate to the construction of a wall at 41-49 Ardoyne Road. As the Governors of Holy Cross Girls' School were advised in their letter of 7 June, the First Minister and Deputy First Minister "wish to ensure that the design of the wall, particularly its structure, features, materials and location are such as to address community safety concerns including the protection for houses and the preservation of the best possible sightlines from the corner of Alliance Avenue." Final decisions have yet to be made by the First Minister and Deputy First Minister on those matters.

I can also confirm that the Governors will be given reasonable notice by the Office of the First Minister and Deputy First Minister in advance of the commencement of works relating to the construction of a wall at 41-49 Ardoyne Road.



**Mary Bunting**

13/06/02 07:50 PM

To: Alison Coey/OFMDFM/DFP@DFP, Aidan Cassidy/OFMDFM/DFP@DFP  
cc: Bill Smith/OFMDFM/DFP@DFP, Wesley Shannon/OFMDFM/DFP@DFP, Brian Barrington/OFMDFM/DFP@DFP, David McNarry/OFMDFM/DFP@DFP, Denis McCartney/OFMDFM/DFP@DFP, Derek Wheeler/OFMDFM/DFP@DFP, Will Haire/OFMDFM/DFP@DFP, Gerry Loughran/OFMDFM/DFP@DFP  
cc: Bill Smith/OFMDFM/DFP@DFP, Wesley Shannon/OFMDFM/DFP@DFP, Brian Barrington/OFMDFM/DFP@DFP, David McNarry/OFMDFM/DFP@DFP, Denis McCartney/OFMDFM/DFP@DFP, Derek Wheeler/OFMDFM/DFP@DFP, Will Haire/OFMDFM/DFP@DFP, Gerry Loughran/OFMDFM/DFP@DFP  
Subject: URGENT - ljudicial review proceedings -Holy Cross School

There is a hearing tomorrow morning at 9.30. Denis McCartney will attend.

I attach the most up-to-date draft of a letter to Johnston and Company. This takes account of Brian Barrington's proposed amendments, which Denis McCartney's has seen and my discussions with him.

I have left messages for both Bill and Wesley on their answer phones seeking advice on how to proceed.

Denis McCartney and I are of the view that it would be helpful if this letter could go tonight. The reply to Father troy can wait until tomorrow.

I undertand that Aidan will try to get this across by e-mail to the Ministers in Jersey (possibly throught the press people), so that if they agree to this issuiong, this can be done from there.

I'm off to meet CRUA with Derek.

Mary



179-02 Attachment - Redraft of letter to Johnston Solicitors (13 June 2002)



**DRAFT REPLY: PS/FIRST MINISTER AND PS/DEPUTY FIRST MINISTER  
TO JAMES T JOHNSTON & CO**

## **BOARD OF GOVERNORS OF HOLY CROSS GIRLS SCHOOL**

We are replying to your letter of 12 June to the First Minister and Deputy First Minister.

In our letter of 7 June to the Chairman of the Board of Governors, (copy attached for ease of reference), we indicated that “we have decided that in order to incorporate the community safety requirements essential to both communities, including protecting houses at the immediate interface of Alliance Avenue and Ardoyne Road, a wall will be constructed around Nos 41 –49 Ardoyne Road. Our intention is to have this wall constructed by the middle of July.”

We also made it clear in that letter that “we wish to ensure that **the design of the wall, particularly its structure, features, materials and location** (emphasis added) are such as to address community safety concerns including the protection for houses **and the preservation of the best possible sightlines from the corner of Alliance Avenue** (emphasis added). As we have already indicated there are adequate sightlines from the Everton side of the Ardoyne Road.”

In our letter we have also explained that to try to arrive at a consensus on this we had asked officials to discuss this with elected and community representatives and to consult with professional advisers and to report to us by 14 June.

Thus while we have decided in principle that a wall at the immediate interface is an important aspect to the resolution to the process of re-building community relationships in this area, we have not decided on the precise design of such a wall, particularly its structure, features, material and location. You should therefore understand that matters relating to the proposed wall remain at a planning stage, and discussions, with both communities on the wall, its precise location and fabric are continuing.



With regard to legal authority, you will be aware that the Office of the First Minister and Deputy First Minister have specific responsibility within the devolved administration for community relations. The OFMDFM is taking forward the Executive's Initiative in North Belfast arising from the Holy Cross School protest and its legal authority for this Initiative is contained in ~~concerning this is derived from~~ the Community Relations (Amendment) (NI) Order 1975. In implementation of the objectives of the Initiative, the powers of other departments, ~~including those of the Department for Regional Development, will be deployed.~~ [DN: Denis McCartney to provide detail]. You will also be aware that arising from Section 75 of the Northern Ireland Act 1998, OFMDFM has a statutory duty in carrying out its functions to have regard to the desirability of promoting good relations between persons of different religious belief and political opinion.

At this stage, since discussions with both communities are ongoing and until Ministers have given this matter further consideration, while preliminary discussions have taken place, no contract arrangements have been made nor a management team established to take forward work on the proposed wall.—

With regard to the role of PSNI and the NIO in this matter, we wish to advise you that the PSNI has made no recommendations concerning this wall and the NIO has no involvement concerning it.

~~You will be aware that following an approach on 9 June from our officials to Father Aidan Troy, Chairman of the Board of Governors of Holy Cross Girls' School, for a meeting (arising from Ministers letter of 7 June) and a further telephone conversation with him on 10 June, Father Troy wrote to Ministers on 10 June indicating that "until such time as a wall has ceased to be part of your proposals the Board of Governors are not at liberty to enter into further discussions." Ministers have replied to Father Troy today and a copy of their reply is attached for your information [DN: draft reply with private offices awaiting clearance — also with Denis McCartney for advice].~~

[DN: it isn't as urgent that this letter goes tonight —can be cleared and go tomorrow.]

**ALISON COEY**  
PS/FIRST MINISTER

**AIDAN CASSIDY**  
PS/DEPUTY FIRST MINISTER