

## Hearing Statement - 2/representor number

### Savills Client Consortium

#### Matter 2: Definitions and use of Terminology

***Issue 2.1: Whether the Plan is effective and consistent with national policy in its definitions and use of terminology.***

#### ***Response from Savills Planning and Turley Heritage***

*Question 10: Is the term 'basement' adequately defined in the reasoned justification at 34.3.46? If not, how should it be defined?*

We consider that the term 'basement' is adequately defined in the reasoned justification at 34.3.46.

*Question 11: In paragraph 34.3.47, should the word 'principles' (or 'guidelines' or other similar term) be substituted for the word 'rules'? The word 'rules' implies the application of inflexible, immutable laws which is contrary to the Framework, the PPG, the law as it relates to Local Plans, and to planning practice.*

Yes.

Site circumstances of each case should be given due consideration. As such, a strict set of 'rules' should not be imposed upon all basement development.

We consider that the use of the term 'rules' is unsound as it is not consistent with national policy. Such wording is inconsistent with the guidance in paragraph 182 that plans should be positively prepared, justified, effective and consistent with national policy. In particular, we note that paragraph 14 of the NPPF states that Local Plans should positively seek opportunities to meet development needs in the area and meet objectively assessed development needs, with sufficient flexibility to adapt to rapid change. The use of the term 'guidelines' better reflects that positive approach and suggests an element of necessary flexibility to ensure that the policy enables sustainable development to come forward.

We specifically note paragraph 15 of the NPPF states that all plans should have "clear policies that will *guide* how the presumption should be applied locally". We therefore consider that the use of the term 'guidance' is more in line with national policy and should be used in this context.

*Question 12: In paragraph 34.3.50 should the word 'management' be substituted for the word 'control'? The Framework and the PPG no longer uses the term 'control'.*

Yes.

We agree with the Inspector's reasoning that this would bring the terminology in line with the NPPF and the PPG, which refer to 'development management' as opposed to 'development control', e.g. paragraphs 82 and 86.

*Question 13: Is the term 'large site' adequately defined in the reasoned justification at 34.3.57? If not, how should it be defined?*

No.

In the first instance, we consider that basements should not be restricted in size, as is proposed by the draft policy. Our reasoning behind this is set out within our other Hearing Statements, in particular in response to Matters 4 and 5. The proposed exception clause relating to 'large sites' is unnecessary because Criterion CL7 (a) should be amended to refer to "85%" of the garden and CL7 (b) should be deleted.

However, should criterion CL7 (a) and/or (b) not be amended/deleted as we have requested, the following sets out our response in relation to the term 'large site'.

It appears that the reasoning behind a distinction between large and 'non-large' sites relates to an assumed difference in construction impact. In particular, it is maintained that 'large sites' are capable of accommodating 'all the plant, equipment and vehicles associated with the development within the site'. However, this logic does not invite a restriction on the actual size of the site, but should rather lead to guidance that seeks to ensure that the site is proportionately large enough to be able to accommodate associated plant/vehicle spaces, so as to ensure that construction impacts and carbon emissions can be mitigated on site.

The reference to larger sites being 'of the size of an entire or substantial part of an urban block' should be removed from paragraph 34.3.57. 'Urban blocks' vary enormously in size and as such it is considered that this reference is too broad and vague to have any meaning.

Further, we do not consider that the definition of larger sites should be confined to only commercial settings. There is no justification as to why they should be confined to commercial settings.

Essentially, we consider that the exception clause relating to 'large sites' is flawed. There are numerous examples of successful, multiple level, basement development on sites which do not meet RBKC's definition of a 'large site', which have incorporated measures to mitigate construction impacts and carbon emissions on site, for instance through accommodating plant and equipment on site. The ability to incorporate plant, equipment and vehicles on site does not depend on the size of a site.

Examples of developments which do not fit RBKC's proposed definition include Yeoman's Row (application ref. PP/13/02242), which is on a site not forming an entire or substantial part of an urban block. However the site is large enough to accommodate construction vehicles/plant etc on site, through using a 'top-down' form of construction.

The purpose of the exception clause appears to be to ensure that construction impact is managed on-site. As such, the exception clause should reflect this and we therefore consider that the wording of criterion CL7 (a) and (b) should be revised to state:

*"...Exceptions may be made on sites capable of accommodating all plant, equipment and vehicles associated with the development on site"*

Please refer to our answer to Question 65 for our full proposed re-worded policy.

*Question 14: In clause l. of CL7 should the word 'significantly' be inserted before the word 'harm' as otherwise any harm, no matter how small, would be unacceptable?*

Yes.

The additional wording will ensure that 'insignificant' harm to the transport network does not unnecessarily block development, which would not be in accordance with the thrust of the NPPF which is to encourage sustainable development. We would highlight paragraph 32 of the NPPF which states that *"Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe"*.

In addition to the insertion of the word 'significantly' before the word 'harm', we also propose that the following wording is removed:

*"...nor place unreasonable inconvenience on the day to day life of those living, working and visiting nearby"*.

We consider that this wording is vague and unclear in its use of the term 'unreasonable' and of the phrase 'day to day life'. As such, it is considered that this may result in unreasonable restrictions being placed on development.

Further, we would refer to paragraphs 1.18-1.20 of our representation submitted in September 2013, and would emphasise that RBKC already have sufficient control over construction in order to ensure that any adverse impacts relating to traffic and construction activity are mitigated, through the requirement to submit a Construction Method Statement and Construction Traffic Management Plan, and through RBKC's ability to attach appropriately worded conditions to planning consents.

We therefore consider that the above amendments are proposed to clause l. of CL7 in order to ensure that it is both effective and justified, meeting the tests of soundness.

*Question 15: In clause e. of CL7 should the word 'substantial' be inserted before 'harm' to reflect the advice in paragraph 133 of the Framework?*

No.

Paragraph 133 of the Framework relates to designated heritage assets – such as listed buildings. Having regard to RBKC's reasoned justification at paragraph 34.3.60 [BAS01] and paragraph 3.12 of its Policy Formulation Report [BAS18] this clause relates to all heritage assets as defined by the Framework - not just designated heritage assets. Thus 'substantial' would be not consistent with policy contained in the Framework.

Moreover, in light of other policies specifically relating to heritage assets of all types (Core Strategy CL3 and CL4 in addition to the NPPF (in the context of the Planning (Listed Buildings and Conservation Areas) Act 1990) to which reference could be made in the supporting text this policy is considered to be unnecessary and possibly confusing duplication.

Notwithstanding this objection to the inclusion of clause (e) if it is considered appropriate to retain it within Policy CL7 the word 'significant' could be inserted before 'harm' but this might be confused with the word 'significance' later in the sentence, used in its own defined Framework context to relate to heritage interests.

However, insertion of the word 'material' would reflect the balanced approach of Framework policy with respect to heritage assets and not give rise to confusion. The word is used by RBKC in similar circumstances in Core Strategy policy CL4 "Heritage Assets – Listed Buildings, Scheduled Ancient Monuments and Archaeology", clause (e) which seeks to "resist the change of use of a listed building which would materially harm its character".

In conclusion we suggest that the word 'material' is inserted before 'harm' in clause CL7 (e).