

Hearing Statement - 6/representor number

Savills Client Consortium

Matter 6: Restriction on excavation under a listed building

Issue 6.1: Whether CL7 f. is justified by the evidence, consistent with national policy, and effective?

Response from Turley Heritage

Question 30: Are each of the reasons for the criterion justified by the evidence? Please be brief and refer to previously submitted evidence without repeating it in full.

No

RBKC's reasoned justification to the policy [BAS01] and its *Policy Formulation Report* [BAS18] do not provide justification for CL4 (f.).

The reasoned justification (34.3.60) notes that the significance of heritage assets needs to be identified so that significance is not harmed. Paragraph 34.3.61 refers to the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of a building, its historic integrity, scale, plan form and fabric as potentially contributing to the special interest of a listed building. It then notes that basement extensions may adversely affect these attributes - yet seeks to apply a blanket restriction through clause (f) on all basement extensions under listed buildings.

RBKC's *Basements Policy Formulation Report* (BAS01, paragraphs 4.12, 4.25 & 4.27) cites the Alan Baxter and Associates Reports, March 2013 (BAS30 *Residential Basement Study Report*) and February 2014 (BAS32 *Basements in Gardens*) and English Heritage's document *London Terrace Houses 1660-1860* (BAS31) from 1996, with respect to listed building matters. However, the Alan Baxter Reports do not conclude that a blanket ban of excavation under listed buildings is necessary; and the English Heritage document, now outdated, does not refer or apply to the impact of basement extensions on listed buildings.

There is no evidence to support a blanket ban in place of case by case consideration based upon an understanding of the specific significance of each listed building (and the nature of the propose development).

CL7 (f) is not consistent with national policy in the Framework which recognises that significance derives from heritage interest which may be archaeological, architectural, artistic or historic¹. As previously noted² listed buildings are listed because of their special architectural or historic interest³. Those elements that will contribute to the special architectural or historic interest of listed buildings will vary depending upon the building typology, its use and later alteration. A hierarchy of historic floors will simply not remain in many listed buildings and may not have formed part of many others or contributed much by way of significance. Also, extension at basement level, subject to design, will no more affect the hierarchy of floors in traditional C18th and C19th townhouses, than extension at ground

¹ NPPF Annex 2: Glossary

² Paragraphs 11 and 12 of the February 2014 Turley Heritage representations

³ S.1 Planning (Listed Buildings and Conservation Areas) Act 1990; DCMS Principles of Selection for Listed Buildings, 2010

floor - where enlargement of such traditionally ancillary space could be perceived to be at odds with the higher status first floor or *piano nobile* floor above. However, there is no similar blanket ban to such extensions on this basis (nor should there be).

In conclusion, CL7 (f) is not justified and not consistent with national policy.

Question 31: Is the restriction too limiting? Please explain briefly (referring to previous evidence)

Yes.

It has been previously noted⁴ that listed buildings are of special architectural or historic interest; to be of special architectural interest a building will be important in its design, decoration, or craftsmanship and may include nationally important examples of particular building types, techniques and plan forms; to be of special historic interest the building must illustrate important aspects of the nation's social, economic, cultural or military history and/or have close historical associations with nationally important people⁵. The general principles for listing include age and rarity, aesthetic merits, selectivity and national interest⁶.

Listed buildings are therefore tremendously varied in their special interest and therefore their heritage significance. Even within common building typologies where elements of design and layout may be common, change over time will often have resulted in greatly varied levels of interest and historic integrity deriving from plan-form and hierarchy. This ranges from those buildings where the special interest now resides solely in the facades (i.e. substantially rebuilt/remodelled internally) to those where the original plan form and historic integrity is more intact.

Given this variety in where the special interest of any particular listed building may be derived, it is an extreme generalisation to conclude that basement extension will in all instances harm significance. Indeed, paragraph 34.3.61 of the reasoned justification [BAS01] notes that basement extension 'may' affect the hierarchy of floor levels etc.

The restriction is therefore too limiting, ignoring the great variety of listed buildings and the varied extent to where their special interest may be derived within the Borough's stock of 4000 listed buildings. Existing listed building control and related information and assessment requirements (i.e. Framework paragraphs 128 and 129) are entirely sufficient to ensure that the impact of a basement extension, in any one particular instance, is properly taken into account having regard to the special interest and significance of a listed building and in the light of a full assessment so that an overall judgment can be made..

Question 32: How is this criterion different in principle from that in the adopted Core Strategy in policy CL2 g. i. (apart from the inclusion of pavement vaults)?

⁴ Paragraphs 11 and 12 of the February 2014 Turley Heritage representations

⁵ DCMS Principles of Selection for Listed Buildings, 2010, paragraphs 5-11.

⁶ DCMS Principles of Selection for Listed Buildings, 2010, paragraphs 12-15

It is not different in principle - however, the Core Strategy was adopted prior to the Framework (2012) and Planning Practice Guidance (2014) which have not been taken into account (see response to question 33) and the reasoned justification to the policy has been expanded.

Question 33: If it is not substantially different, what has changed that I should now, unlike my colleague at the Core Strategy examination, find to be unsound?

The Core Strategy was prepared and adopted prior to the introduction of the Framework in March 2012. It therefore does not take account of the significant changes in national policy, including the presumption in favour of sustainable development that lies at the core of the Framework⁷; the importance of local authorities having a positive strategy for the conservation and enjoyment of the historic environment⁸; and the clear indication that a proportionate understanding of the particular significance of a heritage asset is necessary in order to determine the acceptability (or otherwise) of development proposals⁹.

Guidance on the interpretation and implementation of the Framework is set out in Planning Practice Guidance introduced in March 2014, which states, amongst other things, that the conservation of heritage assets in a manner appropriate to their significance is a core planning principle and that conservation is an active process of maintenance and managing change, and requires a flexible and thoughtful approach to get the best out of assets as diverse as listed buildings in everyday use¹⁰.

The proposed wording of CL7 (f) which results in a restrictive blanket control which does not reflect or conform with national policy in the Framework elaborated upon by Planning Practice Guidance which facilitate managed change to heritage assets and a flexible approach to the weighing of any harms against benefits.

Question 35: Could the aims/reasons be achieved or satisfied in another way? If so, please suggest an alternative wording for the criterion.

Yes

There is no need for the inclusion of a specific clause relating to listed buildings within the policy, in the light of other policies specifically relating to listed buildings (Core Strategy 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.

Question 36: Should the criterion contain an exception clause to cater for differing circumstances, such as where there is no special interest in the foundations and the original floor hierarchy can be respected?

⁷ NPPF paragraph 14

⁸ NPPF paragraph 126

⁹ NPPF paragraphs 128 and 129

¹⁰ PPG reference ID: 18a-003

Yes, but the preferred approach would be to delete the policy for the reasons given above.

If the Inspector is not minded to delete the policy, then the following wording aligns more with primary legislation and national policy with respect to the control of works and development to listed building as designed heritage assets:

Conserve the significance of listed buildings unless harm can be outweighed by commensurate public benefits;

On the application of existing heritage legislation and national policy, if elements such as existing foundations and floor hierarchy do not contribute to special architectural or historic interest of a listed building, alteration of such elements would not, in itself, cause harm. Similarly, some harm may be acceptable in light of other benefits that can be weighed in the balance in Framework policies.