

date: 8 September 2014

your ref: 2014/4172/P

our ref: MJH.JG1.106287.1

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Dear Sirs

Application for planning permission at 18-20 Mackeson Road, London NW3 2LT

We are instructed by Sally Taylor and Gillian Lancaster, the owners of 18 Mackeson Road, London NW3 2LT.

We have received a copy of the Members' briefing dated 4 September 2014.

With respect, the position set out in paragraphs 2.5 to 2.9 of the briefing is misconceived. Class A of the Permitted Development Order relates only to overground development and subterranean development does not fall within Class A.

In particular:-

- (a) Clause A1 contains many references to restrictions on the height of development, but no restriction on depth. This is because such restrictions were not needed, because Class A does not permit subterranean excavations.
- (b) If Class A did permit subterranean development then in the absence of any express restrictions it would be open to the applicant to excavate and construct a basement of any depth. This clearly cannot be what the Secretary of State intended when implementing the 2008 Order.

Moreover, all retrofit basement extensions require engineering design, and therefore must, by definition, comprise an "engineering operation", as they involve substantial structural engineering to form the basement.

Finally, you will of course be aware that the decisions of an Inspector does not create any binding authority, and so the decision in 4 Turneville Road is, at best, if limited application,.

We note the recommendation that a Certificate of Lawfulness be issued. We request that the Certificate of Lawfulness be refused. In particular, should a Certificate of Lawfulness be



issued our clients will review their position as to whether or not to apply for a Judicial Review of that decision in light of the contents of this letter.

Finally, please confirm that this application will be dealt with by a full committee, rather than under delegated powers. We understand that similar developments have been dealt with by full committee – it would be at best inconsistent, and at worst unlawful, for this decision to be made under delegated powers.

If you have any queries please contact Matthew Hearsom of this firm.

Yours faithfully 


Morrison's Solicitors LLP