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date 4 November 2014

by first class post and email

Dear Sirs

**Planning application 2014/4531/P for the erection of new dwelling house comprising three storeys plus excavation of two basement levels, following demolition of existing dwelling (the Application) at 50 Redington Road, London NW3 7RS (Property)**

We are instructed by Mr Morris Treger, the owner of 48 Redington Road, which adjoins the Property. We write in response to your letter to our client of 27 October 2014 notifying him that the Application is to be determined by the Council's Planning Committee on 6 November 2014, and that the officer's recommendation is that planning permission be granted subject to a section 106 legal agreement. Our client has already submitted comments on the Application to the Council in an email timed at 14:32 on 11 August 2014. In this email, our client made the Council aware that the Property and his property are in an area of subsidence, and he enclosed photographs showing the effects of subsidence on his Property.

We have now reviewed the Committee report for the Application and the documentation submitted to the Council on which the recommendation for approval of the Application was based.

Our client has very serious concerns that the impact of the proposed development (and, in particular, the two level basement which it is proposed to construct) on his property has not been properly addressed by the applicant in the Application and by the Council in the Committee report. We enclose comments on the Basement Impact Assessment and independent assessment of that Basement Impact Assessment by LBH Wembley from Mr Ian Drummond, our client's structural engineer.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Council's development plan unless material considerations indicate otherwise. Policy DP27 of the Council's Development Policies adopted on 8 November 2010 is a specific policy on basement and other underground development. This policy provides that:

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CMPR.2672068.1



*"The Council will only permit basement and other underground development that does not cause harm to the built and natural environment and local amenity and does not result in flooding or ground instability. We will require developers to demonstrate the methodologies appropriate to the site that schemes (a) maintain the structural stability of the building and neighbouring properties...and will consider whether schemes (d) harm the amenity of neighbours"*

This policy is expanded upon in Camden Planning Guidance 4 "Basements and lightwells" dated September 2013. Section 2 contains the following key message:

*"The Council will only permit basement and underground development that does not:*

- *cause harm to the built and natural environment and local amenity*
  - *...or*
- *lead to ground instability."*

These policies make it very clear that any basement development causing harm to the built environment or causing ground instability will not be permitted. It is an absolute policy containing no exceptional circumstances in which developments failing the test could be permitted.

As the principal difference between the proposed development comprised in the Application and the development of the Property which was permitted on appeal under Council reference 2012/2489/P is the additional underground development, this will be the main matter for consideration in determining the Application. This is borne out in the Committee report, which dedicates its largest section to the basement aspect of the proposed development. Consequently, and in line with Council policy, if planning permission is to be granted there must be no question that the proposed development could cause harm to my client's (or, indeed, any other) neighbouring property or lead to ground instability in the vicinity of the Property. If there is any question that the proposed development could fail to meet the very clear tests set out in the Council's policies cited above, all available information must be obtained by the Council so that it may reach a full, reasoned conclusion as to whether the policy test is met.

As set out in the letter from Ian Drummond, it is acknowledged by the applicant's professional consultant at paragraph 4.01.8 of the Basement Impact Assessment that: *"We understand that parts of no. 48 Redington Road have previously had foundation problems, but it is not known whether this is attributable to shrink swell subsidence"*. It is, therefore, clear that the subsidence at my client's property has not been in any way investigated by the applicant. My client has confirmed that no investigation of their property has been requested or carried out by the applicant to their knowledge.



This acknowledged absence of information raises very significant doubts as to whether the test in Council policy DP27 (whether the underground development will have an impact on my client's property or on ground stability in general) will be satisfied by the proposed development.

As the tests in the Council's policy set out very clearly that any adverse impact of underground development on the local built environment or ground stability will not be permitted, and this is the principal issue in the determination of the Application, it is submitted that the inadequacy of information provided to the Council does not enable it to properly determine whether the Application is compliant with its development plan. On this basis, we request on behalf of our client that the determination of the Application at the Planning Committee on 6 November be deferred so that a full and proper investigation may be carried out to provide the Council with all necessary information required to determine the Application.

As we are sure you are aware, the lawfulness of a grant of planning permission by a local planning authority on the basis of inaccurate information or failing to take into account all relevant considerations could be liable to a challenge by way of judicial review. In order to remove any risk to the Council of a claim for judicial review, it is submitted that the Application must be deferred to enable further information on the impact of the proposed development on my client's property and on ground stability in general to be prepared and considered by the Council.

We look forward to hearing from you.

Yours faithfully

A large black rectangular box redacting the signature and name of the sender.

enc. 1

cc. Seonaid Carr

**IAN DRUMMOND**  
Consulting Engineers

90-93 Cowcross Street ~ London EC1M 6BF

4 November 2014

Project Ref: J 3922

Mr H Fitch  
Trowers & Hamlin LLP  
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Dear Mr Fitch

**48 REDINGTON ROAD NW3**

I write with respect to the current planning application relating to N° 50 Redington Road.

I have been involved with No 48 Redington Road since 1995 and have revisited the property several times over the years to view structural cracking and advise on the ongoing issue of stability of the building structure.

Much has been done by way of investigating and monitoring of the movement and there is no doubt that the building suffers from structural instability as a result of ground movement. The problem emanates from too great a depth to enable remedial foundation works to be practically carried out within the confines of the working space available between the side wall of the house and the boundary with N° 50 and the problem and issue continues to be ongoing.

I am surprised therefore to see that neither the Basement Impact Assessment relating to the current planning application for the double basement at N° 50, nor the independent assessment has investigated the situation with N° 48 in this respect despite the fact that the owner of N° 48 has brought the matter to the attention of the owner of N° 50. The independent review simply states "We understand that parts of 48 Redington Road have previously had foundation problems but it is not known whether this was attributable to shrink swell subsidence." Clearly this aspect has not been adequately investigated or addressed. The report goes on "predicted damage to the neighbouring properties would be either negligible or Very Slight" This also suggests lack of investigation as the current damage is already more than Very Slight. Finally under the section on Monitoring the independent review concludes "It is not clear at present what emergency measures or mitigation would be implemented in the event of an exceedance and who would have the responsibility for implementing the plan." This seems an entirely unacceptable situation.

I have no doubt that deep excavations at N° 50 will have an impact on status quo of the bearing stratum under the side wall of N° 48 which is in very close proximity to the excavation and changes in moisture content and lateral pressure will almost certainly result in further structural movement of N°48.

It seems clear that further time is needed in order for these issues to be considered fully.

Yours sincerely

Ian Drummond BSc(Eng) CEng MStructE

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