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Begin forwarded message:

**From:** "Robin Purchas" <>  
**Subject:** representations on proposed modification ID/23 - ref BS-2135  
**Date:** 3 November 2014 18:38:39 GMT  
**To:** <[bankssolutionsuk@gmail.com](mailto:bankssolutionsuk@gmail.com)>

Dear Mr Banks – thank you very much for your consultation on the proposed modifications to the submitted Basements Policy CL7. We would refer to our original representations and in particular our concern that the submitted policy failed to reflect the special statutory duty on decision makers to have special regard to the importance of preserving listed buildings and their setting under ss 16 and 66 of the LBA 1990 and to the preservation and enhancement of conservation areas under s 72 of the same Act. The submitted policy and its justification and the proposed modifications make no reference to this statutory duty. The amended text to CL7(e) ‘to comply with the tests in national policy as they relate to the significance of heritage assets’ is wholly inadequate to ensure that the statutory duty is discharged in both respects. The policy should state ‘in determining any application affecting a listed building or its setting considerable weight and importance will be given to the preservation of the listed building and its setting (including the setting of any nearby or associated listed buildings); for

applications within conservation areas great weight and importance will also be given to the desirability of the preservation or enhancement of the conservation area.’ The justification is in the statutory provisions set out above and in the judgement of the Court of Appeal in *East Northamptonshire v SSCLG* 2014 EWCA Civ 137 18<sup>th</sup> February, where Lord Justice Sullivan said at paragraph 24:

*“.. parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision maker for the purpose of deciding whether there would be some harm but should be given “considerable importance and weight” when the decision-maker carries out the final balancing exercise.”*

We would ask that the modification is made as set out above.

Robin and Anne Purchas