



*building on success*

# Basements

## Second Draft Policy for Public Consultation

Partial Review of the Core Strategy

March 2013

This is a Local Development Document under the Town and Country Planning (Local Planning) (England) Regulations. This consultation relates to Regulation 18.



THE ROYAL BOROUGH OF  
**KENSINGTON  
AND CHELSEA**



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## Consultation Arrangements

This document has been published for comments for a 6 week period from Thursday 21<sup>st</sup> March 2013.

If you would like to send in comments on this document, please do so by Thursday 2<sup>nd</sup> May 2013.

- By the dedicated consultation portal on our website
- By sending the accompanying response form by email to [planningpolicy@rbkc.gov.uk](mailto:planningpolicy@rbkc.gov.uk) or by post to Planning Policy Team, Kensington Town Hall, Hornton Street, London, W8 7NX

It would be helpful if you could be concise and specific with your comments. Please send us comments only relating to the policy and reasoned justification in this document referring to the relevant paragraph or clause.

# Part 1: Introduction and Background

## Introduction

- 1.1 The Council is undertaking a partial review of the Core Strategy<sup>1</sup>. A bespoke basement policy is part of this review and once adopted will become part of the Core Strategy<sup>2</sup>. The existing Core Strategy policies relating to basements are presented in Appendix A.
- 1.2 The Council consulted on a Draft Basements Policy along with other matters related to basements in December 2012 – January 2013. This can be found on the Council's website at <http://www.rbkc.gov.uk/planningandconservation/planningpolicy/corestrategy/basements.aspx>. The draft policy from this consultation document has been included at Appendix B for ease of reference.

## Purpose of this Report

- 1.3 The purpose of this report is to consult on a 'second' draft of the basements policy. This will be subsequently submitted to the Secretary of State for examination<sup>3</sup> once amendments following this consultation have been made. This includes the basement policy and its reasoned justification.

## Elements of the Previous Consultation not included in this report

- 1.4 The previous consultation included other elements which will not form part of the Core Strategy. Comments made on these elements remain valid. These will be taken into account while formulating the Supplementary Planning Document or planning application processes related to basement development as relevant. These are as follows:
- 1.5 **Information on Review of the Subterranean Development Supplementary Planning Document (SPD)** – The SPD will include details of the Basement Impact Assessment. It is still proposed to amend the SPD later in the year, and the comments we have received will be taken into account at that time. A draft of the revised SPD will be issued for public consultation before it is adopted by the Council.
- 1.6 It should be mentioned here that during consultation concerns were raised that technical documents such as the Construction and Traffic Management Plan needed to have been 'approved' prior to submission. Residents were concerned that they would therefore be excluded from this process. It will be clarified in the revised Basements SPD that residents will be able to

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<sup>1</sup> The Core Strategy sets out the Council's vision and strategy for the Royal Borough and the core policies it believes are needed for achieving that vision. It forms the basis for the determination of planning applications.

<sup>2</sup> In accordance with the Town and Country Planning (local planning) (England) Regulations 2012 the Core Strategy will be called a Local Plan in due course.

<sup>3</sup> The document will be submitted to the Secretary of State who will appoint a Planning Inspector to examine the policy in public. The adoption of the policy by the Council is subject to Inspector's recommendations.



comment on all documents submitted with the application and planning permission can be refused on transport grounds if legitimate concerns are raised.

- 1.7 **Procedures:** Comments on this part of the consultation will be considered in due course, and changes to our procedures introduced later in the year.
- 1.8 **Article 4 Direction:** There are separate procedures relating to the introduction of an Article 4 direction. Should the Council decide to progress with an Article 4 direction procedures will require further consultation in due course.

### **Reasons for a second draft consultation**

- 1.9 The Council is consulting again on the revised draft policy and reasoned justification as significant changes are proposed.
- 1.10 The Council has considered the range of views expressed during the consultation, reconsidered the recommendations in the technical report by Alan Baxters and Associates (ABA) and the policy direction in the London Plan, July 2011.
- 1.11 Consultation indicates that some parts of the draft policy needed better definition such as where a single additional storey would be allowed. These changes for clarity have been made.
- 1.12 The Council has considered the comments relating to the extent of basements underneath gardens. While there were differing views suggesting greater or lesser restrictions on extent, London Plan Policy 3.5A supports policies in LDFs to *“introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified”*. The desirability to maintain ‘green and leafy’ gardens, flexibility to plant major trees together with the recommendations in the ABA report regarding drainage indicate substantial proportion of the garden should remain free of any development.
- 1.13 Risks associated with basement development have also been reconsidered particularly in relation to listed buildings.
- 1.14 This has led to significant revisions to the policy and before submitting the draft policy to the Secretary of State<sup>4</sup> a second round of consultation is being undertaken by the Council to allow consideration of views.

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<sup>4</sup> The document will be submitted to the Secretary of State who will appoint a Planning Inspector to examine the policy in public. The policy can only be adopted by the Council subject to Inspector's recommendations.

## **Public Consultation to date**

- 1.15 Please use this link <http://www.rbkc.gov.uk/planningandconservation/planningpolicy/corestrategy/basements.aspx> to access detailed documentation of consultation so far.

### **Previous Consultation**

- 1.16 The Council has undertaken the following consultation prior to formulating the draft policy. Details of these are available on the Council's website.
- Basements Issues Paper, April 2012
  - Basement Surveys (August/ September 2012) – The Council carried out a survey of neighbours, residents associations and owners of basement developments. The neighbours survey was targeted at those living next to, or close to, properties that have benefitted from basement extensions in the last three years. The results of these surveys are available on the website.

### **Public Meetings (December 2012 / January 2013)**

- 1.17 The draft basement policy attracted significant interest. Three public meetings were held during the consultation period; the first one was a briefing session and included other strands of the Core Strategy being reviewed. The other two focused on the basements policy and each of these was attended by about 60 people. These events were attended by residents, councillors, representatives from residents associations, developers, contractors and other professional involved in basement development. A variety of views were expressed. A summary of the consultation events can be found on our website.

### **Written Representations on Draft Policy**

- 1.18 About 80 representations from individuals or organisations were received by the Council during consultation on the draft policy, many making a number of points with up to 10 to 15 pages long. A report setting out these comments and the Council's response is also available on our website.

### **Basements Working Group**

- 1.19 Following consultation the Council also set up a basements working group. It includes residents associations, residents, basement constructors, experts in specialist areas and elected members thus representing a variety of interests. The group had four meetings in February 2013. The terms of reference of the group, minutes of the meetings and correspondence sent following the meetings are available on the Council's website.

## **Summary of Comments on Main Issues relating to Draft Basements Policy**

- 1.20 A summary of the comments on the main issues relating to the draft policy is presented in Appendix C. In brief, residents and those involved in basement development including constructors and planning professionals have opposing views on the policy. While residents would generally like to see greater restrictions than those proposed, those involved in basement development find the proposals too restrictive.

### **Expert Evidence: Basement Report**

- 1.21 In addition to the range of consultation described above, in the summer of 2012 the Council commissioned Alan Baxter Associates (ABA) to prepare a report to consider the impact of basement development on the wider area. This included consideration of structural stability, of hydrology, of environmental sustainability, and of the impact of the construction phase of a basement development.
- 1.22 It sets out those issues and factors that need to be understood and considered when a basement is proposed if that basement is not to have a detrimental impact on the wider area.
- 1.23 The report in itself does not form part of the Council's policy. It has, however, been used to inform the policy and the associated process. It is also likely to be of value to those planning basements, and those who are neighbours of basement developments.
- 1.24 Small amendments have been made to the ABA Report to clarify issues relating to the Party Wall Act in Section 10. Other typographical errors have also been corrected. The amended report is available on the Council's website.



## Part 2: Revised Draft Policy, March 2013

- 2.1 The text in this section (Box 1 and Box 2) will be inserted into the Core Strategy once relevant processes have been followed including examination in public and the Inspector's recommendations have been received. It follows a consistent style with the Core Strategy. This includes the policy (Box 2) itself preceded by supporting text (called reasoned justification – Box 1) which justifies the policy. Generally each point in the policy has one paragraph of supporting text. Box 1 and Box 2 will be inserted into the third section of Chapter 34 of the Core Strategy - hence the paragraph numbering.

### Box 1: Reasoned Justification

#### **34. Renewing the Legacy**

#### **34.3 Policies**

#### **Basements**

- 34.3.56 The policy applies to all basement proposals: extensions, and new developments, across all land uses. 'Basement' means one or more floor levels substantially below the prevailing level of the back gardens. Lower ground floors are not regarded as basements in this context. A basement will not be allowed where a property already has an existing basement.
- 34.3.57 Basements are a useful way to add extra living accommodation to homes. However, there has been a significant rise in basement applications in the Royal Borough with 182 cases in 2010, 186 in 2011 and 307 cases in 2012. The vast majority of these are extensions under existing dwellings within established residential areas. Basements give rise to particular issues not raised by above ground extensions. There is therefore a need for a bespoke basement policy.
- 34.3.58 Restricting the size of basements helps to limit the extent and duration of construction, and hence construction impact. This will improve the living conditions of neighbours and of residents in neighbourhoods where there is a substantial amount of basement development.
- 34.3.59 The townscape of the Borough is urban and tightly developed in character. However, rear gardens are often a contrast, with an informal picturesque and tranquil ambience, regardless of their size. Basements that extend under gardens can result in the garden above being artificially level, and can restrict the range of planting, thereby introducing a permanent change to the character of the garden. At least half of the garden should therefore remain free of basement development to enable flexibility in planting, including major trees. This

will also allow water to drain through to the 'upper aquifer'<sup>5 6</sup>. 'Garden' includes paved or unpaved front, rear and side gardens, each assessed separately, and private open areas such as yards. Existing outbuildings are not part of the garden.

- 34.3.60 The unexcavated area of a garden needs to be in a single area. If to the rear it should normally be at the end of the garden, where it will be adjacent to similar areas in other plots, allowing for better drainage and larger planting. Protection of private gardens against inappropriate development is supported in the London Plan<sup>7</sup>.
- 34.3.61 The overall depth of any basement storey should not be suitable for further horizontal subdivision in the future to create additional floors. A single additional storey is generally about 3 to 4 metres floor to ceiling height but a small extra allowance for proposals with a swimming pool may be permitted.
- 34.3.62 As well as taking longer to construct, deeper basements have greater structural risks and complexities<sup>8</sup>. In order to minimise these risks, a precautionary approach has been taken, limiting basements to a single storey.
- 34.3.63 A greater garden coverage and more than one additional storey may be permitted on larger comprehensively planned sites, but this will depend on the character of the site. The Council will aim to retain green and leafy garden areas.
- 34.3.64 No trees of townscape or amenity value should be removed, felled, uprooted, topped, damaged, harmed, tunnelled underneath or otherwise put at risk in the long term. Works should be carried out in accordance with BS 5837 2012 and the Council's Trees and Development SPD. All applications for basements where there are trees must be accompanied by a full tree survey and tree protection proposal for both the construction phase and the completed development.
- 34.3.65 The significance of heritage assets<sup>9</sup> needs to be identified. The special architectural or historic interest of listed buildings goes beyond appearance. It includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Consequently, the addition of a new floor level underneath the original

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<sup>5</sup> Royal Borough of Kensington and Chelsea Residential Basement Study Report, December 2012, Alan Baxter and Associates

<sup>6</sup> Due to the impermeable London Clay which lies beneath the gravel terraces there is a local perched water table which is fed by precipitation within the Thames Valley. This is known as London's Upper Aquifer.

<sup>7</sup> Policy 3.5 of the London Plan, July 2011

<sup>8</sup> Royal Borough of Kensington and Chelsea Residential Basement study Report, December 2012, Alan Baxter and Associates

<sup>9</sup> A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest (as defined in the NPPF).

lowest floor level of a listed building, or any extension of an original basement, cellar or vault, will in the great majority of cases affect the hierarchy of the historic floor levels, and hence the original building's historic integrity.

- 34.3.66 Basements beneath the garden of a listed building are not allowed except on larger sites where there is no harm to the building's structure or setting and the basement is substantially separate from the listed building. In the unusual circumstances where they are allowed there should be no extensive modification to the foundations of the listed building as a result of the basement. The link between the listed building and the basement should be discreet and of an appropriate design, located so that it does not harm the significance of the listed building.
- 34.3.67 In conservation areas, basements should preserve or enhance the character and appearance of the conservation area. Basements by themselves with no external manifestations are not considered to affect the character of conservation areas. It is the other aspects such as the externally visible elements including light wells and railings that have a bearing on their character.
- 34.3.68 Archaeological remains are a finite and fragile resource. The conservation, protection or setting of such remains must not be threatened by development, directly or indirectly, to ensure the Borough's past is not lost forever.
- 34.3.69 The impact of basements on non-designated heritage assets<sup>10</sup> must be assessed on their merits to avoid harm, if any, to their significance<sup>11</sup>.
- 34.3.70 It is very important to minimise the visual impact of light wells, roof lights, railings, steps, emergency accesses, plant and other externally visible elements. Care should be taken to avoid disturbance to neighbours from light pollution through roof lights and other forms of lighting. In some areas of the Borough, features such as light wells are part of the existing street scene. However, they should not be introduced where they are not already an acceptable feature of the local streetscape. Where external visible elements are allowed they need to be located near to the building, and sensitively designed reflecting the existing character and appearance of the building, streetscape and gardens in the vicinity.

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<sup>10</sup> In addition to the national and statutory designations, a local planning authority may formally identify heritage assets that are important to the area. Such a designation will be material when assessing an application. A non-designated heritage asset may also be of value, and make an important positive contribution to the environment. Guidance is available in English Heritage's practice guide to PPS5.

<sup>11</sup> The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting (as defined in the NPPF).

- 34.3.71 Policy CE 2 of the Core Strategy requires surface water run-off to be managed as close to its source as possible. Sustainable urban drainage schemes (SUDs) related to basement developments should include a minimum of one metre of suitably drained permeable soil above any part of a basement within a garden. Other measures may also be required. However, where the character within an urban block is small paved courtyards, SUDs can be provided in other ways. The one metre of soil provides for both reducing the amount and speed of water run-off to the drainage system and the long term future of shrub and other garden planting.
- 34.3.72 The carbon emissions of basement developments are greater than the equivalent above ground development and the policy contains a provision to mitigate this impact. A BREEAM methodology is used as a proxy to achieve energy savings across a whole dwelling or commercial property to which the basement relates. For residential refurbishment with basement, a BREEAM Domestic Refurbishment “very good” rating should be met including the following minimum standards: “excellent” in the energy section and a minimum of 80% of credits in the waste category. Retrofitting a listed building as a result of basement development should achieve BREEAM Domestic Refurbishment “very good” rating including a minimum of 80% of credits in the waste category. For non-residential refurbishment with basement, a BREEAM “very good” rating is required.
- 34.3.73 Basement construction can cause nuisance and disturbance for neighbours and others in the vicinity, through construction traffic and the noise, dust and vibration of construction itself. The applicant must demonstrate that these impacts are kept to acceptable levels, taking the cumulative impacts of other development proposals into account. The building compound and the skip location should be accommodated on site or in the highway immediately outside the application site.<sup>12</sup>
- 34.3.74 Basement development can affect existing built fabric. The applicant must thoroughly investigate the ground and hydrological conditions of the site and demonstrate how the excavation, demolition, and construction work (including temporary propping and other temporary works) can be carried out whilst safeguarding structural stability.<sup>13</sup> The structural integrity of the development itself is not controlled through the planning system but through the Building Regulations and the Party Wall Act.

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<sup>12</sup> The details of what is required will be set out in the Basements and Transportation Supplementary Planning Documents.

<sup>13</sup> The details of what is required will be set out in the Basements Supplementary Planning Document

- 34.3.75 Given their nature, basements are more susceptible to flooding, both from surface water and sewerage, than conventional extensions, and applicants are advised to see Policy CE2<sup>14</sup>. All basements should be fitted with a 'positive pumped device' (or equivalent reflecting technological advances) to protect them from sewer flooding. A 'non return valve' is not acceptable.
- 34.3.76 Applicants wishing to undertake basements are strongly advised to discuss their proposals with neighbours and others who will be affected, commence party wall negotiations and discuss their schemes with the Council before the planning application is submitted. Emerging proposals related to traffic and construction should also be shared with residents and businesses in the vicinity so that their local knowledge and their needs can be more readily taken into account. Construction traffic plans should be discussed with the Council before the application is submitted, and must be included in any planning application

## **Box 2: Proposed Policy**

### **Policy CL7**

#### **Basements**

All aspects of basement development must be designed, constructed and completed to the highest standard and quality. All basement development should meet the following criteria except that, on large comprehensively planned developments the requirements in a. and b. below may be varied depending on site circumstances. Basement development should:

- a. not exceed 50% of each garden of the property. The unaffected garden must be in a single area and where relevant should form a continuous area with other neighbouring gardens;
- b. not comprise more than one basement storey nor add a further basement floor to an existing basement;
- c. not cause loss, damage or long term threat to trees of townscape or amenity value;
- d. not cause harm to heritage assets<sup>15</sup>;

<sup>14</sup> Further information will be provided in the Basements Supplementary Planning Document

<sup>15</sup> A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest (as defined in the NPPF).

- e. not involve excavation underneath a listed building (including pavement vaults) or any garden of a listed building except for gardens on large sites where the basement would be substantially separate from the listed building and would not involve extensive modification to the foundation of the listed building;
- f. not introduce light wells and railings to the front or side of the property where these are not already an acceptable feature of the local streetscape;
- g. maintain and take opportunities to improve the character and appearance of the building, garden or wider area, with external elements such as light wells, roof lights, plant and means of escape being sensitively designed and discreetly sited;
- h. include a sustainable urban drainage scheme, including a minimum of one metre of permeable soil above any part of the basement beneath a garden;
- i. ensure that any new building which includes a basement, and any existing dwelling or commercial property associated with new basement development, is adapted to a high level of performance in respect of energy, waste and water to be verified at pre-assessment stage and after construction has been completed.
- j. ensure that traffic and construction activity do not harm road safety, significantly increase traffic congestion, nor place unreasonable inconvenience on the day to day life of those living and working nearby;
- k. ensure that construction impacts such as noise, vibration and dust are kept to a reasonable level for the duration of the works;
- l. be designed to safeguard the structural stability of the application building and nearby buildings;
- m. be protected from sewer flooding through the installation of a suitable pumped device.

A specific policy requirement for basements is also contained in Policy CE2, Flooding.



## **Appendices**



## Appendix A: Existing Policy

In December 2010 the Council adopted its Core Strategy. This included a number of policies that are specific to the consideration of new basement development.

### ***Part (g) of Policy CL2, “New Buildings, Extensions and Modifications to Existing Buildings”***

*The Council will require it is demonstrated that subterranean extensions meet the following criteria:*

- a. the proposal does not involve excavation underneath a listed building;
- b. the stability of the existing or neighbouring buildings is safeguarded;
- c. there is no loss of trees of townscape or amenity value;
- d. adequate soil depth and material is provided to ensure sustainable growth.

The supporting text reads:

#### *Para 34.3.20*

*Over the last five years, there has been a 70% increase in applications for subterranean developments, with over 200 planning applications submitted in 2008. Subterranean developments involve more challenging planning, environmental, engineering and construction issues than other conventional extensions. Given the high concentration of historic environments and assets within the Borough, controlling the impact of proposals for subterranean development is considered to be of strategic importance. Subterranean development may have minimal structural impact on the existing or adjoining buildings as long as they are designed and constructed with great care. The Council requires Construction Method Statements, signed by a Chartered Engineer or a Chartered Structural Engineer, to be submitted with all planning applications for subterranean development. These statements must set out clearly the potential impact, including cumulative impact, of the development on the existing, neighbouring or surrounding buildings, and the measures taken to mitigate these impacts having specific regard to ground conditions. Apart from the*

*structural considerations, there is a particular concern regarding the impact of subterranean development on the special architectural or historic interest of listed buildings. In addition, to ensure subterranean developments do not add to the impermeable surfacing of the Borough, Sustainable Urban Drainage Systems (SuDS) or other measures will be required. This also allows the green nature of the Borough to be maintained.*

**Part (c) of Policy CE1, “Climate Change”**

*The Council will require an assessment to demonstrate that the entire dwelling where subterranean extensions are proposed meets EcoHomes Very Good (at design and post construction) with 40% of the credits achieved under the Energy, Water and Materials sections, or comparable when BREEAM for refurbishment is published.*

The supporting text reads

*Para 36.3.12*

*Planning applications for subterranean development in the Borough are increasing, with 64 in 2003, 89 in 2004, 85 in 2005, 110 in 2006, 192 in 2007 and 212 in 2008. This type of development produces a significant amount of greenhouse gases through the excavation and transportation of spoil, use of concrete, ventilation and lighting. It is right for the planning system to address this environmental impact. Given the nature of subterranean developments and the complexity of calculating and assessing CO2 emissions and savings, as a proxy the Council will take a pragmatic approach, using EcoHomes, to achieve energy savings across the whole of the original building. In most circumstances this will secure a substantial carbon saving, while will not penalising the owners of properties that already have a low carbon footprint.*

**Part (a) of Policy CE2, “Flooding”**

*The Council will resist vulnerable development, including self-contained basement dwellings, in Flood Risk Zone 3 as defined in the Strategic Flood Risk Assessment.*

## Appendix B: Basement Draft Policy Consultation, December 2012 – January 2013

The policy and supporting text (reasoned justification) from the last consultation is reproduced here for ease of reference.

### **Box 1: Supporting text**

#### **34. Renewing the Legacy**

##### **34.3. Policies**

##### **Basements**

34.3.56. The term basement includes all forms of development that will take place below ground, whether under a building or a garden. The policy applies to all than the most minor of extensions to existing basements. The term garden is used to include front, side and rear gardens, and other private open areas that may not be in use as gardens, because, for example, they are related to commercial premises.

34.3.57. Basements pose particular problems not raised by above ground extensions and developments. Whilst largely out of sight, basements normally have some elements, for example roof lights or light wells, which individually and cumulatively, can have an impact upon both the character or appearance of the property, townscape and garden. Where under gardens, basements can create an artificially level landscape. There are also concerns in relation to drainage and flooding and the considerable impacts that the construction process can have upon neighbours. Neighbours may also have concerns about the impact on the structural stability of properties in the vicinity. Basements can, however, provide benefits to residents, by adding extra living accommodation.

34.3.58. For all these reasons, there is a need for a bespoke basement policy. However, the plan must be read as a whole, and other policies will also be relevant to basement development.

34.3.59. Surface water drainage of gardens, allowing rain to drain naturally into the subsoil and the upper aquifer is important in mitigating climate change, and minimising the risk of flooding. In order to ensure that the status quo in relation to surface water drainage is maintained without increasing surface water flows onto adjoining properties, no basement should exceed 75% of the garden, and could be

significantly less than this. The amount of land to be left unaffected will depend on the results of the analysis of the surface water conditions on site<sup>16</sup>. Other factors – set out below – may also result in the size of the basement being constrained to significantly below 75%.

34.3.60. The unaffected area of a garden needs to be in a single area, and when relating to a back garden it should normally be at the end of the garden. This has the advantage of being adjacent to other similar areas in other plots, and the cumulative size of these areas free of basements is important in their function to provide areas for natural drainage. This has the additional advantage of enabling larger scale planting.

34.3.61. Given the duration of building works for the construction of basements, the tight urban grain and the constrained nature of many of the Borough's roads, the impact of the construction phase of a deep basement can be tantamount to being a 'bad neighbour' use. Basements beneath existing buildings or their gardens, or in small scale developments, will therefore be limited to a single storey which is not of a depth that may be suitable for further horizontal subdivision in the future. Deeper basement extensions may be acceptable on larger sites which are less constrained where impacts can be successfully mitigated. In addition, in order to reflect the particular impact that the construction phase of a basement dig can have, the Council will normally limit the construction of proposals which include a significant element of basement development to weekdays only.

34.3.62. No mature trees should be removed, felled, uprooted, topped, damaged, harmed or put at risk in the long term to make way for a basement development. BS 5837 2012 indicates that tunnelling under trees can be an option. Whilst feasible, it will put the tree at risk, and the Council does not judge the benefits that may be gained from a larger basement outweigh the benefits of minimising the disturbance and risk to protected trees. This approach will therefore not be permitted. Otherwise works should be carried out in accordance with *BS 5837 2012* and the Council's Trees and Development SPD. All applications for basements where there are trees will be accompanied by a full tree survey and tree protection proposal. These must include consideration of the construction phase of the proposal as well as the completed development.

34.3.63. In relation to heritage assets<sup>17</sup>, there are a number of different factors. Archaeological remains are a finite and fragile resource. The conservation, protection or setting of such remains must not be threatened by development,

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<sup>16</sup> This will form part of the Engineering Design and Construction Statement – see below, and details will be set out in the revised Basements SPD.

<sup>17</sup> A heritage asset is a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. This definition will be included in the glossary of the Core Strategy.



directly or indirectly, to ensure the Borough's past is not lost forever.

34.3.64. For listed buildings, the addition of a new floor level underneath the original lowest floor, or the extension of an original basement, cellar or vault has a detrimental impact on the hierarchy of the historic floor levels, and the original building's historic integrity, scale and layout, harming its special architectural or historic interest. It is only in exceptional circumstances that this is not the case.

34.3.65. Basements beneath the garden of a listed building may, however, be acceptable where the impact on the character of the garden does not harm the setting of the listed building and where the connection to the listed building is of an insubstantial nature and of an appropriate design, located so that it does not harm the significance of the listed building.

34.3.66. In conservation areas, works inside buildings do not require planning permission or conservation area consent so basements may be constructed under buildings and gardens. However, the visual impact of a basement should preserve or enhance the character or appearance of the conservation area.

34.3.67. The impact of basements on other heritage assets and on non-designated heritage assets<sup>18</sup> must be assessed on their merits to assess the level of harm, if any, to their significance.

34.3.68. The design of the externally visible elements of a basement – such as light wells, roof lights, railings, steps, emergency accesses and plant – is very important in minimising their impact both in the street scene, and in terms of the urbanisation of gardens, both individually and cumulatively. They must be constructed to a high standard of design and be of a scale that is sensitive to the character of the building and of the surrounding area. In some areas of the Borough, features such as light wells are part of the existing urban scene. However, that is not the case in all areas. Any externally visible elements need to be sensitively designed with close regard to the character and appearance of the existing townscape and garden areas.

34.3.69. Externally visible elements should not be introduced to the front of the

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<sup>18</sup> In addition to the national and statutory designations, a local planning authority may formally identify heritage assets that are important to the area. Such a designation will be material when assessing an application. A non-designated heritage asset may also be of value, and make an important positive contribution to the environment. Guidance is available in English Heritage's practice guide to PPS5.

property where they are not already a feature visible from the street. They should not be based on examples elsewhere in the Borough or on general assumptions about what happens in the Borough as a whole.

34.3.70. Basements can have a significant impact on the character and quality of the garden. The townscape of the Borough is largely formal and urban in character, but rear gardens are often a complete contrast. Even if small they often have an informal picturesque and tranquil ambience in contrast to the busy city. Gardens above basements can result in the garden being artificially level. In addition there are external elements, such as light wells, roof lights, railings, steps, emergency accesses and plant. These have direct visible impacts, and indirect impacts such as light pollution. On a cumulative basis these lead to the incremental urbanisation of the informal garden character. To minimise this urbanisation if the external elements associated with a basement beneath a garden need to be discreetly located near the rear of the building. Whilst residents may introduce a formal character to their garden without a basement beneath, such a change is reversible. However, that consequent on the construction of a basement is permanent. Basement development must therefore be of a size that does not harm the character of the garden, the local environment, or preclude mature planting in the future.

34.3.71. In order to protect the long term future of shrub and other garden planting as well as reducing the amount and speed of water run-off to the drainage system, the Council will require the provision of a minimum of one metre of suitably drained permeable soil above a basement within a garden. In order to ensure that the character of the existing property is protected the original garden level should not be altered. Near the dwelling this permeable soil could be substituted for permeable paving to provide a patio area. This policy will be applied even if the garden is already hard paved, as the aim of the policy is to ensure that basement developments improve upon the existing amount and speed of water run-off.

34.3.72. In addition to the 1m permeable soil other sustainable urban drainage measures are likely to be required to reduce both the volume and speed of water run-off to the drainage system and ensuring that surface water run-off is managed as close to its source as possible required by Policy CE2.

34.3.73. The carbon emissions of basement developments are greater than the equivalent above ground development because of the excavation and transportation of spoil and the use of concrete. Given the nature of basement developments and the complexity of calculating and assessing CO<sub>2</sub> emissions and savings, the Council will take a pragmatic approach using the “very good” BREEAM Domestic for Refurbishment standard, or the equivalent BREEAM for non-residential uses, as a proxy to achieve energy savings across the whole building. Some flexibility will be allowed within a listed building, where it is demonstrated that the works needed to reach the necessary standard are incompatible with the special character of the listed building. In these cases applicants will be expected to demonstrate that every

effort has been made to make the necessary carbon savings.

34.3.74. Construction traffic can cause nuisance and disturbance for neighbours and others in the vicinity. The applicant must demonstrate that an appropriate approach has been taken to reduce this impact to acceptable levels, taking the cumulative impacts of other development proposals into account. The Council would expect the applicant to demonstrate that the building compound and the skip location can be accommodated on site or in the highway immediately outside the application site.<sup>19</sup>

34.3.75. The methods used in construction can have a significant bearing on the quality of life of residents and businesses in the vicinity, in terms of issues such as noise, air quality, dust and vibration. The applicant must demonstrate that an appropriate approach will be taken, taking the cumulative impacts of other development proposals into account.<sup>20</sup>

34.3.76. The structural implications of the construction of basements below existing buildings, both on the site and nearby, are of particular importance to local residents. The applicant must demonstrate the ground and hydrological conditions of sites (including whether the surface subsoil is gravel or clay), how they intend to carry out the excavation, demolition, and construction work associated with their proposed development whilst safeguarding the structural stability of the buildings around it.<sup>21</sup> The structural integrity of the development itself is not controlled through the planning system but through the Building Regulations and the Party Wall Act.

34.3.77. Given their nature, basements are more susceptible to flooding, both from surface water and sewerage, than conventional extensions, and applicants are advised to see Policy CE2<sup>22</sup>. In particular,

- self contained basement dwellings are not permitted in Flood Risk Zones 3 of the Environmental Agency's tidal flood risk zones map<sup>23</sup>.
- self contained basement dwellings in Flood Risk Zone 2 will only be permitted where they pass the 'exceptions test'. This is a test which forms part of the

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1.1 <sup>19</sup> The details of what is required will be set out in the Basements Supplementary Planning Document.

<sup>20</sup> The details of what is required will be set out in the Basements and Transportation Supplementary Planning Documents.

<sup>21</sup> The details of what is required will be set out in the Basements Supplementary Planning Document

<sup>22</sup> Further information will be provided in the Basements SPD

<sup>23</sup> <http://www.environment-agency.gov.uk/homeandleisure/37837.aspx>

technical guidance on flooding<sup>24</sup>.

- a flood risk assessment will be required in Flood Zones 2 and 3, in Critical Drainage Areas/Local Flood Risk Zones, and for sites greater than 1 ha in Flood Risk Zone 1, demonstrating how the development will be made safe, and the flood risk reduced, and incorporating mitigation measures into the proposal. This will include the installation of a 'positively pumped device'<sup>25</sup>.

34.3.78. Applicants wishing to undertake basements are strongly advised to discuss the proposals with neighbours and others who will be affected. Plans should be shared and party wall negotiations should be well underway with those affected before the planning application is submitted. Emerging proposals related to traffic and construction should also be shared with residents and businesses in the vicinity so that their local knowledge and their needs can be more readily taken into account.

## ***Box 2: Proposed policy***

Policy CL7

### **Basements**

Basement development must be of the highest quality. The Council will require Basement development to adhere to the following requirements:

- a. The basement must not exceed 75% of each garden of the property. Where the findings of the analysis of the surface water conditions of the site demonstrate surface water drainage will not be maintained, this percentage will be reduced. The unaffected garden must be in a single area.
- b. The basement must not comprise more than one additional storey except on larger sites which are less constrained and where it can be demonstrated that traffic and construction impacts can be successfully mitigated
- c. There must be no loss, damage or long term threat to trees of townscape or amenity value, and the ability of future tree planting of a suitable size and scale both on site and in neighbouring gardens must not be prejudiced.

<sup>24</sup> Technical Guidance to the National Planning Policy Framework, CLG, 2012.

<sup>25</sup> A positively pumped device is a non-return valve and pump device installed to prevent sewage back-surfing into basements in times of heavy rain and allow the property's sewage to flow properly into the sewer network.

- d. The scheme must not cause substantial harm to heritage assets<sup>26</sup>.
- e. The development must maintain and take opportunities to improve the character of the building, garden or wider area, with external elements such as light wells, roof lights, plant and means of escape being sensitively designed and discreetly sited.
- f. The basement must not introduce light wells and railings to the front or side of the property which are visible from the street, where these are not a feature of that street.
- g. The development must include a sustainable urban drainage scheme including a minimum of one metre of permeable soil above any part of the basement beneath a garden.
- h. Where the basement is to be constructed under an existing building, the dwelling or commercial property to which the basement relates must be adapted to a high level of performance in respect of carbon emissions and this must be verified at pre-assessment stage and after construction has been completed. Where a new building with a basement is proposed, the same applies to the entire building.
- i. The submitted application must demonstrate how traffic and construction activity will be organised so as not to harm road safety, significantly increase traffic congestion, nor place unreasonable inconvenience on the day to day life of those living and working nearby.
- j. The submitted application must demonstrate how the construction will be carried out in such a way as to minimise potential impacts such as noise, vibration and dust for the duration of the works;
- k. The submitted application must demonstrate how it is intended to safeguard the structural stability of the application building and nearby buildings.

Applicants are also advised to look at policy CE2, Flooding, in considering basement proposals.

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<sup>26</sup> A heritage asset is a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. This definition will be included in the glossary of the Core Strategy.

## Appendix C: Summary of Comments on main issues relating to Draft Basement Policy, December 2012 – January 2013

- C.1 The following paragraphs include a short summary of the comments made during the consultation on the draft basements policy. Detailed summary of comments made during public meetings, those received in writing and minutes and material submitted in the basements working group meeting can be found on our website  
<http://www.rbkc.gov.uk/planningandconservation/planningpolicy/corestrategy/basements.aspx>.

### **Size**

- C.2 Residents were generally supportive of tighter controls on basements. However, the general consensus seemed to be to further restrict the size of basements. A figure of 50% instead of the maximum of 75% maximum proposed was often quoted. The restriction to a single storey was supported but there were comments to further define the single storey in terms of actual depth. The draft policy allows more than a single storey on larger sites. Comments were made that this needs better definition.
- C.3 Many contractors/developers on the other hand consider the proposed limits on extent into the garden to be unreasonable. Some comments have been made that more than 75% extent should be allowed where the soil conditions allow better drainage. More than a single storey of basement should be allowed as this is possible to engineer and construct. Comments were made that the ABA report does not preclude deeper basements.

### **Construction Impact**

- C.4 While residents support the requirements for the various technical documents to be submitted along with the planning application, they expressed concern that the consultation paper stated that these documents needed to have been 'approved' prior to submission. Residents were concerned that they would therefore be excluded from this process. It needs to be clarified in the revised Basements SPD that residents will be able to comment on all documents submitted with the application and planning permission can be refused on transport grounds if legitimate concerns are raised.
- C.5 The cumulative impact of several basements being constructed at the same time is an issue that has been raised.
- C.6 Residents would like planning to have stricter controls on issues related to protecting the structural integrity of neighbouring properties. Several suggestions have been made regarding this including having conditions related to third party insurance and the Council employing its own engineers to check these reports.
- C.7 Social issues such as impact on health and well-being as a result of basement development (cumulatively as well as individually) have been raised. It has



been mentioned that the right to enjoy a dwelling is affected in established residential neighbourhoods.

- C.8 Some Contractors/ developers welcome the requirement for a Basement Impact Assessment. Others have expressed the view that these requirements are too onerous. They have a view that these are not planning issues, and could be dealt with through planning conditions as at present.
- C.9 Views have been expressed that the proposed restrictions would impact on jobs in the basement construction industry and there would be economic consequences.

### **Mitigation**

- C.10 Issues regarding the impact of basements on ground water conditions were raised. Some comments were made about the adequacy of the 1m of top soil required and if only 25% of the garden is enough to mitigate the impact. It was also mentioned that the carbon impact of basements needs to be taken more fully into account.
- C.11 Opposing views were expressed such as requirement to retrofit entire existing dwelling is unreasonable and not related to the basement development.

### **Listed Buildings**

- C.12 Opposing views have been expressed. Some support the proposed policy, others would like to see it go further and ban basements from the gardens as well as the footprint of listed buildings. Others feel restrictions to build underneath listed buildings are too onerous and this should be allowed.

### **Impact on Character**

- C.13 Comments have been made that allowing a basement under the maximum limit of 75% of the garden would have an impact on the character of the garden. It has been said that even though 1m of soil is required on top it would result in an artificial landscape with no flexibility to allow for major tree planting.
- C.14 Some developers suggest that the gardens with 1m of top soil can have an informal design and not appear artificially flat. Some comments have also been received that if the garden is already hard paved and if that is the character of the area, requiring 1m of topsoil would detract from this character.
- C.15 The residents generally support the proposals to minimise the visual impact of the external, visible elements of basements such as light wells. Some opposing views have been expressed that if these are not visible from the street they should be allowed in the front of properties.

## Appendix D: Policy Constraints

- D.1 Planning policy can only deal legitimately with planning issues. Basement development particularly underneath existing buildings is a complex and challenging process. A raft of other legislations apply. The courts have made it very clear that authorities implementing controls under one piece of legislation should not attempt to emulate, influence, or over-write, controls laid down under other legislation. To help understand the complement of legislation and the separate roles that each piece of primary legislation has on basements and other development the Council has also produced a note on Advice to Builders and Residents. This can be found on our website <http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx>.