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Basements Planning Policy (to be Adopted)

Partial Review of the Core Strategy



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

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How this document is set out

This document includes the final text incorporating 'main modifications' as set out in the appendix to the Inspector's report to make Policy CL7 on basements sound. The policy is preceded by supporting text called 'reasoned justification' which justifies the policy. The policy and the reasoned justification will be inserted into the third section of Chapter 34 of the Local Plan (currently called the Core Strategy), hence the paragraph numbering (which may change when amalgamated with Chapter 34 of the Core Strategy).

This policy will supersede Policy CL2: New Buildings, Extensions and Modifications to Existing Buildings criteria (g) and CE1: Climate Change criteria (c) of the adopted Core Strategy, RBKC 2010.

34. Renewing the Legacy

34.3 Policies

Basements (*Reasoned Justification*)

- 34.3.46 This policy applies to all new basement development. For the purposes of this policy, basement development is the construction or extension of one or more storeys of accommodation below the prevailing ground level of a site or property.
- 34.3.47 Basements are a useful way to add extra accommodation to homes and commercial buildings. Whilst roof extensions and rear extensions add visibly to the amount of built development, basements can be built with much less long term visual impact – provided appropriate requirements are followed. This policy sets out these requirements.
- 34.3.48 Basement development in recent years has been the subject of concern from residents. Basements have given rise to issues about noise and disturbance during construction, the management of traffic, plant and equipment, and concerns about the structural stability of nearby buildings. These concerns have been heightened by the growth in the number of planning applications for basements in the Royal Borough with 46 planning applications in 2001, increasing to 182 in 2010, 294 in 2012 and 450 in 2013. The vast majority of these are extensions under existing dwellings and gardens within established residential areas.
- 34.3.49 In the Royal Borough, the construction of new basements has an impact on the quality of life, traffic management and the living conditions of nearby residents and is a material planning consideration. This is because the Borough is very densely developed and populated. It has the second highest population density and the highest household density per square km in England and Wales¹. Tight knit streets of terraced and semi-detached houses can have several basement developments under way at any one time. The excavation process can create noise and disturbance and the removal of spoil can involve a large number of vehicle movements.
- 34.3.50 A basement development next door has an immediacy which can have a serious impact on the quality of life, whilst the effect of multiple excavations in many streets can be the equivalent of having a permanent inappropriate use in a residential area. There are also concerns over the structural stability of adjacent property, character of rear gardens, sustainable drainage and the impact on carbon emissions. Planning deals with the use of land and it is expedient to deal with these issues proactively and address the long term harm to residents' living conditions rather than rely only on mitigation. For all

¹ ONS, Census 2011

these reasons the Council considers that careful control is required over the scale, form and extent of basements.

- 34.3.51 The policy therefore restricts the extent of basement excavation to no more than under half the garden or open part of the site and limits the depth of excavation to a single storey in most cases. The extent of basements will be measured as gross external area (GEA).
- 34.3.52 'Garden' or 'open part of the site' is the private open area to the front, rear or side of the property. A 'single storey' is one that cannot be subdivided in the future to create additional floors. It 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.
- 34.3.53 Restricting the size of basements will help protect residential living conditions in the Borough by limiting the extent and duration of construction and by reducing the volume of soil to be excavated. Large basement construction in residential neighbourhoods can affect the health and well-being of residents with issues such as noise, vibration and heavy vehicles experienced for a prolonged period. A limit on the size of basements will reduce this impact.
- 34.3.54 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. Whilst basements can preserve the remaining openness of the townscape compared with other development forms, it can also introduce a degree of artificiality into the garden area and restrict the range of planting². Retaining at least half of each garden will enable natural landscape and character to be maintained, give flexibility in future planting (including major trees), support biodiversity³ and allow water to drain through to the 'Upper Aquifer'^{4 5}. This policy takes into account the London Plan⁶ and the Mayor of London's Housing SPG⁷ both of which emphasise the important role of gardens. The National Planning Policy Framework (NPPF)⁸ also supports local policies to resist inappropriate development of residential gardens and excludes private gardens from the definition of previously developed land.
- 34.3.55 Keeping the unexcavated area of a garden in a single area and adjacent to similar areas in other plots allows better drainage, and

² Trees and Basements, RBKC, February 2014 and Basements Visual Evidence, RBKC, February 2014

³ Impact of Basement Development on Biodiversity, RBKC, February 2014

⁴ Royal Borough of Kensington and Chelsea Residential Basement Study Report, Alan Baxter and Associates, March 2013

⁵ 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.

⁶ Policy 3.5 of the London Plan, GLA, July 2011

⁷ Para 1.2.18, 1.2.22 and 1.2.25 Housing Supplementary Planning Guidance (SPG), GLA, November 2012

⁸ Para 53 and Annex 2: Glossary, NPPF, March 2012

continuity of larger planting supporting biodiversity. In back gardens this area will usually be the end of the garden furthest from the building.

- 34.3.56 On large sites, basements of more than one storey and greater than half the garden or open part of the site may be permitted in certain circumstances. These will generally be new developments located in a commercial setting or of the size of an entire or substantial part of an urban block⁹. They should be large enough to accommodate all the plant, equipment and vehicles associated with the development within the site and offer more opportunity to mitigate construction impacts and carbon emissions on site.
- 34.3.57 Where a basement has already been implemented following the grant of planning permission or through the exercise of permitted development rights, the policy does not allow further basement floors or basement extensions that would exceed 50% of the garden or open part of the site. This provision would not apply to a basement which forms part of the original property, or where a later addition, was constructed prior to 1st July 1948¹⁰. This is to ensure consistency and fairness of approach.
- 34.3.58 Trees make a much valued contribution to the character of the Borough, and bring biodiversity and public health benefits. Works to, and in the vicinity of, trees, need to be planned and executed with very close attention to detail. All applications for basements likely to affect trees¹¹ either on-site or nearby must be accompanied by a full tree survey and tree protection proposal for the construction phase. Core Strategy Policy CR6 Trees and Landscape will also apply.
- 34.3.59 The significance¹² of heritage assets¹³ needs to be identified so that the significance is not harmed.
- 34.3.60 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 lowest floor level of a listed building, or any extension of an original basement, cellar or vault, may affect the hierarchy of the historic floor levels, and hence the original building's historic integrity. Basements under listed buildings are therefore resisted by the policy.

⁹ Urban blocks are generally bound by roads on all sides and can contain a mix of uses.

¹⁰ The Town and Country Planning Act 1947 came into effect on 1st July 1948.

¹¹ Works to trees should be carried out in accordance with BS 5837 2012 and the Council's Trees and Development SPD.

¹² 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).

¹³ 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). These include listed buildings, scheduled ancient monuments, conservation areas, sites of archaeological interest and non-designated heritage assets (explained in footnote 17).

- 34.3.61 Basements in the gardens of listed buildings can result in modifications to the building's foundations. This can harm the historic integrity and pose risks of structural damage to the building¹⁴. Evidence suggests that where a basement is built only in the garden it is beneficial for the adjoining buildings if this basement is structurally independent of the adjoining houses and executed with special care¹⁵¹⁶. The link between the listed building and the basement should be discreet and of an appropriate design.
- 34.3.62 In conservation areas, development should preserve or enhance the character or appearance of the conservation area. Basements by themselves with no external manifestations are not considered to affect the character or appearance of conservation areas. It is the other aspects such as their externally visible elements that can affect character or appearance.
- 34.3.63 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. Policy CL 4(g) of the Core Strategy requires development to protect the setting of sites of archaeological interest.
- 34.3.64 The impact of basements on non-designated heritage assets¹⁷ must be assessed on their merits to avoid harm to their significance.
- 34.3.65 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. Introducing light wells where they are not an established and positive feature of the streetscape can harm the character or appearance of an area. Where external visible elements are allowed they need to be sensitively designed and sited, respecting the existing character and appearance of the building, streetscape and gardens in the vicinity.
- 34.3.66 Policy CE 2 of the Core Strategy requires surface water run-off to be managed as close to its source as possible. A minimum of one metre of suitably drained permeable soil above any part of a basement within a garden 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

¹⁴ London Terrace Houses 1660 – 1860, English Heritage 1996

¹⁵ Royal Borough of Kensington and Chelsea Residential Basement Study Report, Alan Baxter and Associates, March 2013 (9.2.6)

¹⁶ RBKC Basements, Basements in Gardens of Listed Buildings, Alan Baxter and Associates, February 2014

¹⁷ 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.

garden planting. Care should be taken that the original garden level is maintained and the 1m of permeable soil is connected to the unaffected part of the garden. Other SuDS measures may also be required.

- 34.3.67 Basement construction can cause nuisance and disturbance for neighbours and others in the vicinity, through construction traffic, parking suspensions and the noise, dust and vibration of construction itself. The applicant must demonstrate that these impacts are kept to acceptable levels under the relevant acts and guidance¹⁸, taking the cumulative impacts of other development proposals into account. Every effort must be made to locate the building compound and the skip on site or in exceptional circumstances in the highway immediately outside the application site.
- 34.3.68 Basement development can affect the structure of existing buildings. Guidance on this will be set out in a forthcoming Basements SPD (see paragraph 34.3.71).
- 34.3.69 Given their nature, basements are more susceptible to flooding, both from surface water and sewage, than conventional extensions, and applicants are advised to see Policy CE2: Flooding. Fitting basements with a 'positive pumped device'¹⁹ (or equivalent reflecting technological advances) will ensure that they are protected from sewer flooding. Fitting only a 'non return valve' is not acceptable as this is not effective in directing the flow of sewage away from the building.
- 34.3.70 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. Sharing emerging proposals related to traffic and construction with residents and businesses in the vicinity is beneficial as local knowledge and their needs can be more readily taken into account.
- 34.3.71 A Basements SPD will be adopted which will provide guidance for the information that will need to be submitted with basement applications, including the following:
- Accompanying (but not part of) a planning application, a construction method statement (CMS) will need to be submitted by an appropriately qualified civil or structural engineer, which will contain a report into the ground and hydrological conditions of the site including groundwater flow and explain how these matters will be dealt with during the construction of the site. The CMS will also demonstrate how the excavation, demolition and

¹⁸ There are a number of relevant acts and regulations including Control of Pollution Act (COPA) 1974, Environmental Protection Act 1990 and Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001. The guidance includes British Standard 5228 – 1 2: 2009: Code of practice for noise and vibration control on construction and open sites.

¹⁹ Sewers often surcharge to just below manhole cover level and so connecting a basement via a gravity connection provides a new low point for the surcharging sewer to discharge to. To reduce the risk of flooding, waste water from basements should be pumped.

construction work (including temporary propping and other temporary works) can be carried out whilst safeguarding structural stability. The structural stability of the development itself is not controlled through the planning system but through Building Regulations. The Party Wall Act is more suited to dealing with damage related issues.

- Ways to minimise disturbance will also be included in the CMS. Detailed matters will include the drilling of boreholes; impact on trees; the sequence of temporary works to minimise the effect on neighbours; water flow; the consideration of related cumulative impacts; the link between a basement and the host property and the need for professional verification of certain works. Guidance relating to safeguarding amenity, that is noise, vibration and dust from construction works will also be included.
- A draft construction traffic management plan (CTMP) will be required to be submitted with the application and where planning permission is granted the Council will attach a condition requiring a full CTMP. The CTMP will address issues relating to highway safety, the free flow of traffic, noise associated with/from construction vehicles and the availability of parking. Detailed matters will include vehicle stationing, manoeuvring and routeing, parking suspensions and issues in relation to residential and workplace disturbance, arising from vehicle stationing, loading and unloading and movement. The CTMP should take into account and allow for other active or permitted construction works nearby (including those of utility companies).

34.3.72 The Council will monitor the policy to assess its effectiveness and will review it as a whole within five years of its adoption.

Policy CL7

Basements

The Council will require all basement development to:

- a. not exceed a maximum of 50% of each garden or open part of the site. The unaffected garden must be in a single area and where relevant should form a continuous area with other neighbouring gardens. Exceptions may be made on large sites;
- b. not comprise more than one storey. Exceptions may be made on large sites;
- c. not add further basement floors where there is an extant or implemented planning permission for a basement or one built through the exercise of permitted development rights;
- d. not cause loss, damage or long term threat to trees of townscape or amenity value;
- e. comply with the tests in national policy as they relate to the assessment of harm to the significance of heritage assets;
- f. not involve excavation underneath a listed building (including vaults);
- g. not introduce light wells and railings to the front or side of the property where they would seriously harm the character and appearance of the locality, particularly where they are not an established and positive feature of the local streetscape;
- h. maintain and take opportunities to improve the character or 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; in the case of light wells and roof lights, also limit the impact of light pollution;
- i. include a sustainable drainage system (SuDS), to be retained thereafter;
- j. include a minimum of one metre of soil above any part of the basement beneath a garden;
- k. ensure that traffic and construction activity do not cause unacceptable harm to pedestrian, cycle, vehicular and road safety; adversely affect bus or other transport operations (e.g. cycle hire), significantly increase traffic congestion, nor place unreasonable inconvenience on the day to day life of those living, working and visiting nearby;
- l. ensure that construction impacts such as noise, vibration and dust are kept to acceptable levels for the duration of the works;

- m. be designed to safeguard the structural stability of the existing building, nearby buildings and other infrastructure including London Underground tunnels and the highway;
- n. 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.

Policy CL7 Monitoring Indicators

The monitoring indicators for Policy CL7 will be appended to Chapter 38: Monitoring of the Core Strategy (2010).

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
All permissions to be granted within the limits on extent set out in the policy.	<p>Number of permissions for basement proposals, including a break down by size and type.</p> <p>Number of relevant applications granted over a two year period which do not comply with the limits set out in the policy.</p> <p>Appeals upheld on grounds of extent specified in the policy.</p> <p>Number of enforcement</p>	Annually	<p>Through planning data on Acolaid/ Crystal Reports.</p> <p>Appeal analysis.</p> <p>Acolaid enforcement monitoring system.</p>	Department of Planning and Borough Development	CL7 (a), CL7 (b) and CL7(c)	<p>More than 50% of relevant appeals allowed and/or enforcement notices quashed over a two year period where the extent of the basement is considered to be a principal issue and this was not supported by the inspector.</p> <p>More than 25% of relevant applications granted over a two year period which do not comply with the limits set out in the policy.</p>

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
	notices served relating to basement development being built not in accordance with the approved drawings.					
Basements should not cause loss, damage or long term threat to trees of townscape or amenity value.	<p>Number of permissions for basement proposals which include the loss or damage to a tree of townscape or amenity value.</p> <p>Number of enforcement investigations relating to damage to trees during construction phase of development.</p> <p>Damage to trees</p>	Annually	<p>Aerial photos of before and after for basement permissions.</p> <p>Acolaid enforcement monitoring system.</p> <p>Through planning data on Acolaid/ Crystal Reports.</p> <p>Appeal analysis.</p>	Department of Planning and Borough Development	CL7 (d)	<p>More than 50% of relevant appeals allowed and/or enforcement notices quashed over a two year period where the impact on trees is considered by the Council to be a principal issue but where this was not supported by the Inspector.</p> <p>More than 25% of relevant applications granted over a two year period which do not</p>

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
	<p>of townscape and amenity value post construction.</p> <p>Number of enforcement notices served, and where challenged, quashed.</p>					comply with the limits set out in the policy
In assessing harm to a heritage asset, the Council will apply the tests in national policy.	<p>Proportion of appeals upheld on grounds of impact on the heritage asset.</p> <p>Number of enforcement investigations relating to damage to the fabric of listed building during construction phase of development.</p>	Annually	<p>Through planning data on Acolaid/ Crystal Reports.</p> <p>Acolaid enforcement monitoring system.</p>	Department of Planning and Borough Development	CL7 (e), CL7(f)	More than 50% of relevant appeals allowed and/or enforcement notices quashed over a two year period where the impact upon a heritage asset is considered by the council to be a principal issue but where the council's view on this matter was not supported by the Inspector.

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
	Number of enforcement notices served, and where challenged, quashed.					
Improve the character or appearance of the building, garden or wider area with sensitively designed and discreetly sited external manifestations such as light wells.	Proportion of appeals upheld where the reason for refusal related to external manifestations of basements.	Annually	Through planning data on Acolaid/ Crystal Reports	Department of Planning and Borough Development	CL7 (g) and CL7(h)	More than 50% of relevant appeals allowed and/or enforcement notices quashed over a two year period where the Council considered impact upon character and appearance to be a principal issue but where this was not supported by the Inspector.
Ensure that the basement does not increase the volume and flow of surface	Proportion of applications which include an element of	Annually	Through planning data on Acolaid/ Crystal Reports	Department of Planning and Borough Development	CL7 (i)	More than 50% of relevant appeals allowed and/or enforcement

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
water run-off through appropriate use of SuDS.	<p>basement development which have an effective SuDS.</p> <p>Proportion of appeals upheld in relation to the provision of SuDS.</p>					<p>notices quashed over a two year period where the Council consider the provision of SuDS to be principal issue but where this was not supported by the Inspector.</p> <p>More than 25% of relevant applications have not demonstrated the provision of an effective SuDS.</p>
Require provision of 1 metre of soil.	Proportion of applications which include an element of basement development	Annually	Through planning data on Acolaid/ Crystal Reports	Department of Planning and Borough Development	CL7 (j)	More than 50% of relevant appeals allowed and/or enforcement notices quashed over a two year

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
	<p>which have included the provision of 1 metre of soil.</p> <p>Proportion of appeals upheld in relation to the provision of 1m of soil.</p>					<p>period where the Council considered the provision of a metre of soil to be a principal issue but where this was not supported by the inspector.</p> <p>More than 25% of relevant applications granted over a two year period which do not provide a metre of soil on the top of the basement beneath the garden.</p>
Ensure that construction impacts are appropriately mitigated.	Enforcement cases relating to Construction Traffic Management Plans.	Annually	Through enforcement data on Acolaid/ Crystal Reports. Environmental	The Council – Department of Planning and Borough Development and Environmental	CL7(k) and CL7(l)	More than 50% of enforcement notices quashed over a two year period where the construction

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
	<p>Number of enforcement notices served, and where challenged, quashed.</p> <p>Complaints made to Environmental Health with regard noise and vibration.</p> <p>Number of s60 notices served.</p> <p>Percentage of appropriate large developments where the developer has entered into a voluntary s61 agreement with the Council in order to mitigate the potential</p>		Health noise complaints.	Health		impacts were included by the Council as a key reason for the notice, but where this aspect was not supported by the inspector.

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
	impact.					
Ensure that basements are designed to minimise damage to and safeguard the structural stability of the application building, nearby buildings and other infrastructure including London underground tunnels and the highway.	Properties with newly created basements under imminent danger of collapse under the London Building Act.	Annually	Through Building Control Acolaid data.	The Council – Department of Planning and Borough Development and Building Control.	CL7 (m)	The Council will review the effectiveness of the policy when any building is shown to be in imminent danger of collapse.
Ensure that basements are protected from sewer flooding.	Proportion of applications which include an element of basement development which have included the provision of a suitable pumped device.	Annually	Reported by Thames Water	The Council – Department of Planning and Borough Development (Flooding Officer)	CL7 (n)	More than 50% of relevant appeals allowed and/or enforcement notices quashed over a two year period where the protection of sewer flooding was considered by the Council to

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
	<p>Number of sewer flooding incidents reported to Thames Water.</p> <p>Proportion of appeals upheld where ground of appeal includes absence of provision of the suitable pumped devices.</p>					<p>be a principal issue but where this was not supported by the Inspector.</p> <p>More than 25% of relevant applications granted over a two year period which do not include the provision of a suitable pumped device.</p>
	<p>Number of basements built within the Borough under permitted development rights.</p>	<p>Annually</p>	<p>Through planning data on Acolaid/ Crystal Reports</p>	<p>Department of Planning and Borough Development</p>	<p>Baseline number applications in 2013.</p>	<p>The Council will review the effectiveness of the policy if there is a doubling in the number of basements built under permitted development when compared to the 12 months</p>

Target	Monitoring Indicator	When	Measured How	Measured by Whom	Relates to Policy Criteria	Trigger for review
						before the adoption of CL7.

In addition the Council will undertake a full review of the whole policy within five years of the adoption of the policy, in order to allow full detailed and transparent examination of its effectiveness.