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16 August 2013

The Executive Director of Planning and Borough
 Development f.a.o The Policy Team,
 The Royal Borough of Kensington and Chelsea
 The Town Hall
 Hornton Street
 London
 W8 7NX



MAIL/13/92533

Dear Sirs

Partial Review of the Core Strategy for the Royal Borough of Kensington and Chelsea with a focus on North Kensington

Please find enclosed our response from in relation to the above.

Yours faithfully,



**CHRIS MIELE
 PARTNER
 MONTAGU EVANS LLP**

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Response Form

Partial Review of the Core Strategy for the Royal Borough of Kensington and Chelsea with a focus on North Kensington

Development Plan Document policies

All representations **must** express a view regarding the soundness or legal compliance of a planning policy. If the representation does not comment on soundness or legal compliance, or deal with how a policy can be altered to make it sound the representation will **not** be valid.

Name: Dr Chris Miele_MRTPI IHBC

Address: Senior Partner

Montagu Evans LLP

Chartered Surveyors and Town Planners

5 Bolton Street

London W1J 8BA

Company/Organisation: Montagu Evans LLP, Chartered Surveyors

Representing: Various clients

Email: chris.miele@montaguevans.co.uk

Please complete the form and email it or send it to:

The Executive Director of Planning and Borough Development

f.a.o The Policy Team

The Royal Borough of Kensington and Chelsea

The Town Hall,

Hornton Street,

London W8 7NX

Email address: planningpolicy@rbkc.gov.uk

Background

Montagu Evans are a leading development surveying and planning consultancy, with over 200 staff in four offices. Our largest, in central London (West End), is involved in all forms of development, from infrastructure (power stations), to regeneration (at Vauxhall, with numerous, large-scale projects), to smaller scale, householder projects.

The firm has extensive experience of working in RBKC on projects of all types. Dr Miele, who has prepared this representation, has advised the Natural History Museum and V&A over many years, and has been working more recently in close collaboration with Borough officers on the delivery of the Design Museum in Kensington High Street. Montagu Evans have been involved for many years in the Odeon Cinema across the road, and in many householder projects including those involving development in conservation areas or to listed buildings at all grades.

Dr Miele heads the firm's specialist team dealing with cultural and heritage projects, and in this capacity has worked on many of London's iconic historic buildings: the British Museum, the Southbank Centre, Westminster Abbey, Admiralty Arch, and the redesign of Parliament Square. He has more than 20 years experience in this specialist area and is a fully qualified architectural historian with a specialism in C19 building and urban history.

He has worked successfully on many householder projects involving basements under listed and not listed buildings, and across all central London boroughs (Westminster, Camden, Islington, the Royal Borough, Lambeth, Southwark). He is, therefore, very familiar with the requirements of different authorities, and the technical considerations which are pertinent to this topic.

Publication Stage Representation Form

To be **“sound”** the contents of a local plan should be **POSITIVELY PREPARED, JUSTIFIED, EFFECTIVE** and consistent with **NATIONAL POLICY**.

“Positively prepared” means that the planning policy needs to:

- be prepared based on a strategy which seeks to objectively assess development and infrastructure requirements, including those of neighbouring authorities where it is reasonable to do so.
- It must also be consistent with achieving sustainable development.

“Justified” means that the planning policy must be:

- founded on a proportional evidence base
- the most appropriate strategy has been selected when considered against the reasonable alternatives.

“Effective” means that the planning policy must be:

- deliverable over its period
- based on effective joint working on cross – boundary strategic priorities.

“Consistent with National Policy” means that the planning policy should enable the delivery of sustainable development in accordance with the guidance contained within the National Planning Policy Framework (NPPF).

It must also be **legally compliant** which means that the planning policies have been

prepared in accordance with legal and procedural requirements.

State planning policy or paragraph number to which you are referring

BASEMENT PUBLICATION PLANNING POLICY, PARTIAL REVIEW OF THE CORE STRATEGY JULY 2013 CONSULTATION DRAFT
POLICY CL7

Do you consider the planning policy to be sound?

Yes

No

Please tick box as appropriate

If you have selected YES and you wish to support the soundness of the planning policy, please give your reasons below. Please be as precise as possible. Please make it clear which paragraph number or Policy box number you are commenting on.

please attach additional pages as required

If you have selected NO to the planning policy being sound do you consider the planning policy to be unsound because it is not:

Positively prepared	Justified	Effective	Consistent with national policy
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Please give details of why you consider the planning policy to be unsound and /or suggest changes as to how it could be made sound. Please make it clear which paragraph number or Policy box number you are commenting on.

We consider that only one element of the proposed policy is unsound and we are direct our comments to that accordingly.

That element is part f) of the draft policy which states:

'Basement development should ...

f) not involve excavation beneath a listed building, including pavement vaults) or any garden of a listed building, except on large sites where the basement would not involve extensive modification to the foundation of the listed building by being substantially separate from the listed building;.

General Observations

This policy is effectively redundant, since element e) which precedes it should suffice to deal with all relevant considerations having regard to historic buildings. This states basement developments 'should not cause to the significance of heritage assets'.

The practical effect of the proposed part f) is to rule out the possibility of any basements under listed buildings as a matter of principle.

This policy is inflexible and cannot be applied reasonably to the particular facts of any case where it might be desirable to achieve sustainable development objectives including making more efficient use of land or, in some cases, removing pressure for modern facilities from historic fabric.

Extensions to listed buildings can perform that very useful role, and by enabling ancillary accommodation in basement locations, there will be less pressure to extend or alter the properties, many of which are small relative to requirements of many residents in the Borough.

There is no evidence whatsoever that building a basement under or adjoining an historic building if done properly threatens its integrity in any way, either during construction or in the long term. Neither in most cases do the physical parts of the listed building which are directly impacted (foundations and some floors) have intrinsic interest.

Thus, we see no reasonable basis to reject all basements on the grounds of the the justification offered at 34.3.63. This states that basements 'can result in extensive modifications to the building's foundations'.

Two comments: yes, basement works can, but this formulation assumes that the foundations themselves (often brick strip foundations) are of special interest contributing to the significance of the building. There may be cases where foundations have particular technical interest, but the larger number of listed buildings which could call within the scope of this policy will be terraced houses constructed in the late Georgian and Victorian period, whose foundations have not particular interest.

Second, if the objective is to preserve as much fabric as possible during the construction, then this can be achieved through careful engineering design.

The treatment of all fabric in a listed building as materially contributing to its significance is not consistent with the policies of the Framework, which enjoin the decision maker to consider the particular significance of an asset as a whole (see approach in para 131, Chapter 12, and elsewhere).

There is a second line to this justification set out at para 34.3.62, which is to protect 'the hierarchy of rooms and historic floor levels'. Here we understand the concern to be that new levels below a building will undermine the experience of a building, where the status rooms are on the ground and sometimes first floors, and ancillary accommodation below.

We can see that there is a potential issue here, but the formulation does is based on an assumption. Often the secondary accommodation proposed for a

basement area is for plant, storage, staff serving or family entertainment (such as leisure facilities or cinema). These are not areas that occupants use on a regular basis and the accommodation provided enjoys no natural light or extensive outlook.

In other words, these spaces will always be ancillary and of occasional resort, leaving the main functioning and hierarchy of the house intact.

Also, it is important to consider how one experiences the ancillary spaces in relation to the main historic ones, and it is surely possible to contrive access arrangements and so forth which are discrete and ensure that the overall impression one has of the property is of a traditional house.

The concerns we have expressed here could be addressed by removing policy f) and amending policy e) thus:

'e) not cause harm to the significance of heritage assets, having regard to the a range of consideration including historic plan form and hierarchy, significant surviving fabric, the level of alteration, and the nature/quality of the proposed accommodation'.

The reasoned justification should be amended along the lines set out here.

We note finally that no other authority in London has sought to limit basements in this way, at the level of principle. English Heritage maintains no in principle objection to such works.

We accept that the policy is attempting to deal with the concerns of local people arising from construction impacts, but we conclude that the intent of the policy is to use listed building considerations inappropriately for another planning objective.

In conclusion, then, and turning to the advice in the Framework on planmaking, we consider that part f) of CL is unsound because:

“Positively prepared”

The policy is not positively prepared because it is inconsistent with the Framework's objectives on land use optimisation and conservation of the building environment.

The policy fails to recognise that ancillary, below-ground accommodation can relieve pressure on more sensitive parts of the listed building, by providing the facilities that are desirable to many residents in the Borough.

The policy is not based on an assessment of the particular significance of the building, contrary to the advice in Chapter 12 of the Framework but instead assumes that strip footings, for example, are of value.

It likewise assumes that engineering works will of necessity lead to substantial alterations to foundations, when in fact it is possible to retain fabric

(notwithstanding that fabric is recent and has no particular significance).

“Justified”

Part f of CL7 is not justified because there is no evidence to suggest that listed structures are any more sensitive than the structures of comparable unlisted buildings of similar date and type.

The policy justification does not indicate that an alternative wording has seriously been considered along the lines suggested above.

“Consistent with National Policy”

And for these reasons – the policy is not based on an assessment of the particular significance of the asset (an in principle objection) and does not recognise the potential benefits to listed buildings of such works – is inconsistent with national policy on the historic environment and sustainable development generally.

As drafted the policy seeks an in principle ban which is not supported by any policy in the Framework.

Ends...

Please attach additional pages as required

	Yes	No
Do you consider the Planning Policy Document to be legally compliant?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Please give the reasons for your choice below and be as precise as possible. Please make it clear which paragraph number or Policy box number you are commenting

on.

please attach additional pages as required

Do you wish to appear at the Examination on any of these matters?

Yes

X

No

Please specify on what matter

To speak against CL7 f), on basements under heritage assets.