

## **Review of RBKC Basements Visual Evidence July 2013**

### **Introduction**

The conclusion of the RBKC Basements Visual Evidence states that *"It is clear from the aerial photographs that gardens that have been subject to basement development underneath can be distinguished from those without basement development."*

The Basements Visual Evidence has been used to justify the size restriction in the proposed basement planning policy.

This review assesses the validity of the Council's basements visual evidence.

In evaluating the evidence each of the examples will be assessed against the following criteria:

1. Is there a basement underneath most of the garden.
2. Do the photographs in the basements visual evidence show the final state of the garden.
3. Has the garden been altered by planning permission under the current planning rules, so since the 2009 SPD. Prior to 2009 the following were not requirements:
  - a. One metre of soil for planting.
  - b. Lightwells to 'not exceed more than 1.2m from the external perimeter wall of the above ground building'.
  - c. Light wells that are visible from the street will not be permitted where they are not a characteristic feature of that street.
4. Has the example basement been built in accordance with the planning permission granted.

If the Council's evidence in each case does not meet all of the above criteria then it cannot reasonably be used to judge the effectiveness of the current planning policy and therefore cannot be used as evidence to justify future planning policy.

This brief review has four parts:

1. Review of example basements used in the basements visual impacts evidence.
2. Note on the use of planning condition to control the character and appearance of rear gardens.
3. Note on the example light wells and roof lights in the visual impacts evidence.
4. Further examples of rear gardens with and without basements underneath

### **Conclusion**

This review concludes that:

1. None of the example basements meet the four necessary criteria for inclusion as cases in the basements visual impacts evidence.
2. Planning conditions could have been used at the time of the applications to control the character, appearance and future flexibility in planting of all of the gardens.

3. Sufficient information to allow assessment of the example light wells and roof lights has not been provided in the majority of cases and so should not be included until further information is provided.
4. In the two known examples of roof lights the planning date was prior to the current basement SPD so they are not valid and should not be included.
5. Garden appearance and character can be independent of the existence of basement underneath as evidenced by the final part of this review where gardens without basements are shown that have formal, flat gardens and a garden with a basement is shown that has mature tree planting and a more informal natural appearance.

**Part 1 - Examples used in the basements visual impacts evidence**

**7 - 10 Cottage Place**

The visual evidence does not show the property in its final condition. The picture on page 6 of the basements visual impact evidence shows the site during construction.

The picture below shows that the rear garden is now planted with trees starting to grow to maturity.



It is also not clear from the photographs on page 6 if the mature trees were in the rear gardens of 7 - 10 Cottage Place or in the rear gardens of the properties in Brompton Square.

In either case no explanation of how mature trees, that would be expected to be protected, have been removed.

For all of the reasons above 7 - 10 Cottage Gardens is not a valid example to be used as evidence of the negative impact of garden basement under the current planning policy.

### 31 Brompton Square

The basement has not been completed and remains a construction site with temporary propping in place.

The initial scheme approved planning permissions were granted on 12 Feb 2008, prior to the current May 2009 basement SPD.

The basement construction has not been undertaken in line with the planning permission. A tree has been illegally removed and, apparently, more than one further level has been excavated under the instruction of the then owner.

The owner at the time of the work was Achilleas Kallakis a criminal who is now serving 11 years in prison.

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## Achilleas Kallakis case: judge criticises banks who loaned the money

Judge says Allied Irish Bank and Bank of Scotland acted carelessly and imprudently for failing to make full inquiries

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**Simon Bowers**

The Guardian, Thursday 17 January 2013 19.02 GMT



Achilleas Kallakis, who changed his name from Stephan Kollakis after a previous conviction. Photograph: Kevin Dunnett/Central News

Two banks that lent more than £750m to [the confidence trickster Achilleas Kallakis](#) had been "careless and imprudent" and "do bear some degree of responsibility" for Britain's largest mortgage fraud, a judge has said. Bankers at Allied Irish Bank and Bank of Scotland had been falling

The article continues:

Between 2003 and 2008 Kallakis bought properties worth £120m, between Piccadilly and Pall Mall in St James's Square, which he planned to turn into the world's most expensive penthouse. He also had ambitious expansion plans for 31 Brompton Square, one of the most sought-after properties in Kensington.

For all of the reasons above 31 Brompton Square is not valid example to be used in the basements visual evidence.

### **10 and 11 The Boltons**

Basement visual evidence states "significant loss of planting, change of informal character, clipped planting around the edges."

10 The Boltons - PP/05/01499

Planning permissions was granted on 9 September 2005, prior to the current May 2009 basement SPD and the requirement to have one metre of soil on top of the basement roof in order to allow continued basement planting.

11 The Boltons - PP/03/00601

Planning permissions was granted on 7 May 2003, prior to the current May 2009 basement SPD

For the reasons above 10 and 11 The Boltons are not valid examples for use in the basements visual evidence.

#### 44 - 50 Drayton Gardens

The photograph in the Basement Visual report highlights the rear gardens of six properties, 42 to 52 Drayton Gardens, and not the rear gardens of the properties 44 to 50 Drayton Gardens.

PP/08/00875

PP/08/01674

PP/09/00550

50 Drayton Gardens - PP/03/00274 - planning permission granted on 3 Feb 2003 and relates to Alterations to front and rear elevations, and erection of rear extensions at basement, second and third floor levels in connection with use as a single family dwelling.

The basement does not extend more than three metres from the rear face of the main house.

48, 50 and 52 Drayton Gardens do not have basements under the significant majority of their gardens.

#### 48 Drayton Gardens



**50 Drayton Gardens**



**52 Drayton Gardens**



#### **46 Drayton Gardens**

46 Drayton Gardens has a basement - shown by red line but has a more green and leafy garden including a mature tree than the gardens of 48, 50 and 52 Drayton Gardens who do not have significant garden basements.



#### **44 Drayton Gardens**

Planning permission granted in May 2008, prior to the 2009 SPD.

The rear lower ground floor extends approximately four metres out from the rear line of the building.

#### **42 Drayton Gardens**

The photograph of 42 Drayton Gardens shows what appears to be the basement under construction and as such does not show the garden in its permanent condition.

#### **Summary for 42 to 52 Drayton Gardens**

For all of the above reasons the properties 42 to 52 Drayton Gardens should not be used as examples in the basements visual evidence.

### **47 Egerton Crescent**

PP/08/02064

Planning permissions was granted on 18 July 2008, prior to the current May 2009 basement SPD

The photographs from 1999 and 2011 do not show any loss of garden character indeed the properties to the north, 48 and 49 Egerton Crescent, seem to have greater changes to the appearance of their gardens.

The 1999 photograph has the garden in shadow. the same effect can be seen the larger gardens to the rear of Egerton Crescent.

For these reasons 47 Egerton Crescent is not a valid example to be used in the basements visual evidence.

### **6 Cheyne Walk**

Council statement - no loss of mature trees but roof lights in the middle of the garden

PP/04/01145

Planning permissions was granted in 2004, prior to the current May 2009 basement SPD

For this reason 6 Cheyne Walk is not a valid example to be used in the basements visual evidence.

### **15, 16, 20 and 21 Paultons Square**

PP/07/03168

PP/08/03258

PP/10/02136

PP/10/01714

Planning permissions for 15 Paultons Square was granted on 3 Sep 2008, before the current basement planning SPD was in force.

A discharge of planning permission relating to the rear garden basement for 16 Paultons Square is dated 20 October 2009 but no further information has been found.

20 and 21 Paultons Square appear to be shown during construction. The final appearance cannot be gauged from these photographs.

For these reasons numbers 15, 20 and 21 Paultons Square are not valid examples to be used in the basements visual evidence.

A planning date for 16 Paultons Square needs to be confirmed.

### **3 and 5 Upper Phillimore Gardens**

(loss of planting)

CC/11/02478

PP/06/01843)

3 Upper Phillimore Gardens is shown during construction. The final appearance cannot be gauged from these photographs.

The planning permission for 5 Upper Phillimore Gardens was granted on 29 December 2006, prior to the introduction of the current basement SPD.

For these reasons 3 and 5 Upper Phillimore Gardens are not valid examples to be used in the basements visual evidence.

### **11, 13, 14, 15 and 16 Holland Park**

PP/06/00707

PP/02/00102

PP/07/01274

PP/07/03166

PP/08/01884

The planning permission for the garden basements were granted between 2002 and 2008, all before the current basement SPD.

For this reason 11, 13, 14, 15 and 16 Holland Park are not valid examples to be used in the basements visual evidence.

## **9 Holland Park**

PP/07/02816

The planning for 9 Holland Park was granted on 24 December 2007, prior to the introduction of the current basement SPD.

For this reason 9 Holland Park is not a valid example to be used in the basements visual evidence.

## **15 Kensington Palace Gardens**

PP/07/01773

The planning permission for 15 Kensington Palace Gardens was granted on 6 March 2008.

The site is shown during construction. The final appearance cannot be gauged from these photographs.

For these reasons 15 Kensington Palace Gardens is not a valid example to be used in the basements visual evidence.

### **Part 2 - Note on rear gardens**

In all of the cases where rear gardens are viewed as unattractive the council could have, by condition, required mature tree planting and gardens of natural appearance.

The planning condition would have lasted for five years. At the end of this period the required trees would have rooted and, due to their size and location in a conservation area, have been automatically protected.

### **Part 3 - Examples of lightwells**

The following light well / roof light examples are given:

South End, Kensington

Pembroke Road

Vicarage Gate

Somerset Square

Chelsea Park Gardens

Drayton Gardens

Holland Park

Mallord Street, Chelsea

Millborne Grove, Chelsea

Royal Avenue Chelsea

Wycombe Square, Kensington

4 Earl's Court Gardens

The examples at Millborne Grove and Royal Avenue are known to have gained planning permission prior to May 2009 and are therefore not valid examples to use in evaluating the effectiveness of the current basement SPD.

The 4 Earl's Court Gardens example does not appear anything other than a normal urban garden.

The addresses for the other examples have not been given and neither has the date of their planning permission.

It is doubted that the light wells and roof lights in these examples would be granted under the current May 2009 SPD. With this in mind these examples should either be removed from the basements visual evidence or the planning dates be provided.

**Part 4 - Further examples of rear gardens with and without basements underneath**

**16 The Boltons**

The rear garden has a basement underneath



Mature tree planting is evident. The trees on the garden basement roof were planted in accordance with the proposed landscaping plan.

### **8, 10 and 12 Tregunter Road**

The rear gardens have no basement underneath them.

The planting is formal, with clipped border planting and without mature tree planting.

The appearance is similar to the gardens at 10 and 11 The Boltons which is within 200 metres of 8, 10 and 12 Tregunter Road.

