

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: Graham Child

Company/Organisation: Ladbroke Association

Representing: Residents of the Ladbroke area of Kensington

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

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

BASEMENTS

Yes

No

Do you consider the planning policy to be sound?

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.

We are commenting on the entire policy.

As long ago as 2008 members of our association were expressing concern about the problems caused by basement development. In 2009, we undertook a survey of neighbours of properties where there had been such a development. This revealed some cases where there had been few or no problems. But in the majority of cases, the neighbours had been subjected to often appalling ordeals over up to three years, enduring horrific noise, vibration, dirt, dust and damage. In some cases the damage was catastrophic (we can provide details), and people often found it difficult to recoup their full costs. We would be happy to make our survey available to the Inspector.

We consider the proposed policy to be thoroughly sound in that it will bring basement development under better control in a reasonable and proportionate manner and thus we hope avoid some of the problems that have hitherto arisen.

The following are comments on detailed aspects.

Positive preparation of the policy

We have already put on record our appreciation of the way that the council conducted widespread consultation on the policy and do not believe that it could reasonably have been expected to have done more. In its working groups it was careful to allow for a mix of interests and conducted the proceedings with exemplary fairness. The contractors/developers' representatives in particular were given full rein to express their views at length.

We note that, although the written consultation was inevitably fairly superficial, its results were in line with our own in-depth survey in 2009.

We believe that the policies now proposed, although they do not go as far as we would have liked, are rational and soundly based on evidence. The following are comments on the justification for individual elements of the policy.

(a) Basement development should not exceed 50% of the garden

To some extent any restriction has to be a matter of judgement. The Baxter Report makes clear that, where the subsoil is clay, as it is in much of the Borough, it would be reasonable to have a 50% limit. There is no doubt also that having a basement below a garden tends to result in a different character of garden, despite the requirement for a metre of topsoil, as is demonstrated in the Council's Visual Evidence paper. Although most trees can grow in a metre of topsoil, it can affect their growth, as the roots can extend down two or even three metres if unrestricted. Much of the Borough's charms arises from its gardens and the "wild" effect in so many of them, including some substantial trees. Given all these desiderata and the need for clear guidance, we consider the Council's decision to go for a blanket 50% limit to be sound.

(b) and (c) Basements should not comprise more than one storey

All basement development can cause horrific problems for neighbours during the construction phase and often afterwards as well. Theoretically, if a basement of however many floors is properly designed and properly built by properly qualified and supervised contractors, problems can be minimised and should not be too great. The fact is, however, that too often this does not happen. Designs are inadequate and above all contractors and in particular sub-contractors are inadequately supervised and do stupid things, with the results that we know. Even if the work is carried out in an impeccable way, and all the normal soil and other tests have been done, unexpected soil and water conditions can be discovered, resulting in damage to neighbouring properties, and this is more likely to happen with the larger and deeper developments. The truly hellish noise and vibration caused by these developments is also likely to be greater and for a longer period in the case of double basements.

Unfortunately, other legislation is of limited help. The Council cannot through the planning system dictate which contractors are to be used or enforce adequate supervision. Building control applies only to the building where the works are being done, and does not monitor or control damage to neighbouring buildings (short of such massive damage as to render them dangerous). Party wall surveyors are restricted in how far they can dictate and supervise the works (and in any case what is needed is effective daily supervision). Some of the buildings that have been damaged by basement developments are moreover outside party wall distance (we can show the inspector details of a case where £30,000 of damage was caused to a terraced property two doors away from the basement development). In other cases we know of, cracks have continued to appear after a party wall settlement has been reached.

The above indicates a clear need to ensure that planning permission is only granted when there is a reasonable chance that problems will be minimised. Basements of more than one storey can no doubt be built safely. But they are inherently more risky and their construction with attendant problems inevitably lasts longer than for single basements. More spoil needs to be removed with consequent environmental problems. Piling is likely to be necessary. For all these reasons, we consider this aspect of the policy to be thoroughly sound.

(f) No excavation under listed buildings

As a conservation society, we are strongly of the view that listed buildings should be considered as an historic whole and alterations, even externally invisible ones, should be kept to a minimum.

(k) Construction traffic

As our survey showed, this can cause really appalling problems for neighbouring properties and other traffic over long periods, especially if the development is in a mews, cul-de-sac or other tight space (we can provide details). We regard this aspect of the policy as fully justified and sound and entirely proportionate.

(l) Minimising construction impacts

Our survey revealed that the noise, vibration, dust, dirt and vermin caused by so many of these developments was probably the greatest problem for most people, with some neighbours literally being driven into depressive mental states, or even (in the case of the very elderly), possibly having their lives shortened). We see it as imperative that the Council should ensure that these impacts can be minimised and therefore fully endorse the soundness of the policy.

(m) minimising damage

In terraces, these developments almost inevitably cause some settlement and cracks to neighbouring properties. But in many cases of which we can give details, the damage has been much greater. For the reasons outlined under (b) above, we see it as essential that, before planning permission is given, developers should show that the project can be carried out without causing more than minimal damage.

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

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.

Please attach additional pages as required

Yes

No

Do you consider the Planning Policy Document to be legally compliant?

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.

We have read all the Council documentation and see nothing in it that seems to be against any legal requirement. We also consider the policy proportionate to the problem.

please attach additional pages as required

Yes

No

Do you wish to appear at the Examination on any of these matters?
Myself or a representative

Please specify on what matter

The whole policy