

Matter 11: Other CL7 criteria and alternative policy wording

Issue 11.1: Whether the remaining criteria in CL7 are justified by the evidence, consistent with national policy, and effective.

1. Paragraph 60 asks whether criterion i should mention the need to limit light pollution on account of paragraph 125 of the Framework. This states “By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”
2. In this paragraph the Framework seeks to “limit” light pollution by encouraging good design. It is not meaningful to speak of light pollution in RBKC save where light causes an impact on amenity. It is not an intrinsically dark landscape, for example. The Council’s only concern about lightwells has been their impact on the character and appearance of the area, which appears to us to be a different issue and can be suitably addressed without reference to light pollution.
3. Paragraphs 61 and 62 refer to criteria d, g, i, l, m and o. We would refer to our Representations in respect of each of these and our proposed policy set out within this Hearing Statement which shows how each of our proposed criteria relate to those within the Council’s proposed policy. In summary,
 - a. Criterion d is supported;
 - b. Criterion g is expressed in too absolute a form and should apply to all basement development under or within the setting of a listed building. It should be rolled up into a single criterion addressing the impact on heritage assets;
 - c. Criterion i is expressed in too detailed a form but its objective is supported;
 - d. Criterion l is unjustified by the evidence, inconsistent with national policy and not effective. All development carries some harmful effects and some risk. There is no reason for basement development to be subject to more onerous requirements than above ground development.
 - e. Criterion m is not objected to although it is not something that can be addressed at the planning stage. We expect control of this issue to be by condition requiring membership of a considerate contractors scheme and preferably of a more stringently controlled organisation such as the Association of Specialist Underpinning Contractors (ASUC).
 - f. Criterion o is excessively prescriptive – there is no need to refer specifically to the installation of a pumped device. This requirement reduces the flexibility of the policy for no good reason. The objective of the criterion is supported.

Issue 11.2: Whether the Plan and its policy CL7 sets out an approach that is consistent with the presumption in favour of sustainable development.

4. Paragraph 63: the Plan does not reflect the presumption in favour of sustainable development for the following reasons (and please see our Hearing Statement for Matter 3). This is defined in paragraph 14 of the Framework as

For **plan-making** this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
 - Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted
5. This policy seeks to impose arbitrary restrictions on the size, form, location, and design of basement development which will have a significant effect on the Borough's role in meeting development needs (particularly given the genuine impact-justified restrictions on above ground development).
6. This policy is inflexible in the many ways referred to in our Hearing Statements (which should be read as a whole) and has been pursued for reasons of administrative convenience and/or political lobbying [paragraph 4 and section 4 of our Representations].
7. It follows that it is our view that the Policy will operate to prevent reasonable development needs being met. In short it will do considerable harm. It is, after all the Council's position that the number of applications for planning permission indicated that the existing policy is not adequate [paragraph 8a of our Representations]. We consider it a sign of the health of the sector and the economic damage which the policy will cause. We also believe the policy will not be effective in distinguishing good basement development from bad basement development [paragraph 7 of our Representations].
8. Paragraph 64: the specific character of the Royal Borough is highly suitable for basement development given the (justified) constraints on above ground development, and given that land values can justify the investment which basement development requires. This is why the sector has flourished in the Royal Borough. However, the Council's survey of basement developments itself shows that there are large areas of the Borough where there has been little or no basement development.
9. Paragraph 65: Our suggested policy wording follows.
10. Our suggestion is a criteria based policy covering all the areas said to be of concern to the Council. There are 9 criteria, and they're labelled to reflect their origin in the Council's draft.

Criteria a-c have been deleted in their entirety for reasons given in the relevant Hearing Statements.

11. Re criterion D (the Council's h-i), the words in square brackets are unnecessary but reflect the Council's specific concerns and Basement Force would not object to their being included in the policy.

CL7 Basements

Basements which are designed, constructed and completed to a high standard and quality are sustainable forms of development, capable of optimising the use of land. The Council will grant planning permission where proposals for basement development meet the following criteria:

A: They should not adversely affect the ability of any open space enjoyed with the building (including any back garden) to accommodate an appropriate landscaping scheme.

B. d. They should not cause loss, damage or long term threat to trees of townscape or amenity value;

C. e-g. They should not cause substantial harm to the significance of heritage assets. If proposals cause harm that is less than substantial, the public benefits of the development should outweigh any harm to the significance of the heritage asset;

D. h-i. They should not cause material harm to the character or appearance of the area. [Lightwells, roof lights, plant, railings and means of escape are examples of features which need particular care.]

E. j. The proposals should include a sustainable urban drainage scheme (SUDs);

F. k. The basement development should deliver a high level of performance in respect of energy, waste and water.;

G. l-m. The proposals should keep construction impacts such as traffic and construction activity, noise, vibration and dust to acceptable levels for the duration of the works.

H. n. The basement development should be designed in a way which is consistent with the need to safeguard the structural stability of the application building, nearby buildings and other infrastructure including London Underground tunnels and the highway;

I. o. The proposals should be appropriately protected from flooding.

12. The Supporting text may wish to elaborate upon (This is not comprehensive – just a few ideas)

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

- b. A policy on extensions is contained in CL2 (part of which may need revision eg on provision of a basement underneath a listed building).
 - c. Re A: at least a metre of soil will be required between the basement and the surface of the open space or garden of such character and quality to permit the planting of trees or other substantial and naturalistic form of landscaping.
 - d. The importance of good design for the objective in n. The role of other legislation in n and in l-m.
 - e. Re K: Conditions will require that this is verified at pre-assessment stage and after construction has been completed. Unless the proposals are for the whole building to be refurbished the Council will not use schemes such as BREEAM whose requirements cannot be met without a much more comprehensive approach to modernising the building than a basement extension would justify.
 - f. Re l-m: Particular consideration will be given to the impact on the safety and amenity of those living, working, and visiting the immediate locality. Use of conditions in appropriate cases.
 - g. Re l-m and n. The Council will encourage applicants to employ designers and contractors who are members of a trade body such as the Association of Specialist Underpinning Contractors ASUC as this increases the likelihood of delivering high quality development in a considerate manner.
13. We will be happy to respond to suggested improvements to these suggestions. We emphasise that we offer it as a better means of reflecting the Council's concerns within planning policy, rather than a perfect or an ideal planning policy for controlling basement development.

- END OF HEARING STATEMENT -