

Examination of the Partial Review of the Kensington and Chelsea Core Strategy:

Basements Publication Planning Policy

Matters, Issues and Questions for Examination

Representations by the Brompton Association

Matter 1: Legal Compliance

Is policy CL7 unnecessary because the issue can be dealt with through other local or national policies or legislation? Does other legislation primarily deal with the aftermath and/or the resulting impacts of basement development permissions?

NO: This issue needs/demands a clear, unambiguous policy framework of its own which sets out in one place clear ground rules to manage this type of development by setting out what the policy should achieve and providing clear parameters for such development. The experience of the last few years has shown unambiguously that other legislation and current guidance is woefully inadequate as a mechanism to deal with the impacts of basements.

Enforcement

Particular problems are associated with construction traffic management plans (CTMPs) which are rarely submitted with planning applications, and when submitted subsequently are frequently factually inaccurate or partial – for example that submitted in relation to the double basement under construction at no 70/71 Princes Gate Mews failed to record the Mews was a cul de sac or take any account of the traffic problems this would raise and claimed access could be obtained through private property (which was not true). The lack of public scrutiny of this plan (it was not submitted at the same time as the planning application and completed much later) has resulted in endless problems for residents and the need for frequent calls on Council enforcement service to ensure the Mews can continue to function as a safe thoroughfare. Similar problems have arisen in relation to 69 PGM, where again the CTMP was submitted after the application was made and no reference was made in the CTMP to the difficulties posed by multiple other construction projects also being in train in the same cul de sac. Working hours and noise are other major issues – we have had to call Council enforcement multiple time in relation to problems of early and late work at No 70/71.

Securing action under other legislation covering working hours, noise, vibration, dust, traffic and parking only after protracted exposure does not provide relief or redress to neighbours.

Issue 1.3: What policies will be superseded by the Plan?

Issue 1.4: Legally, can a supplementary planning document (SPD) be used for the purposes proposed by the Council, and is its use and purposes clearly and effectively set out in the Plan?

- 1. The Council's responses to the representations in BAS04 say that the Basements SPD will include the details of the Demolition and Construction Management Plans (DCMPs) and the Construction Traffic Management Plans (CTMPs) which will be required with planning applications for this type of development. However, the Plan does not actually say this. Should it, in order to be effective? And should such Management Plans apply to all basement development applications or just to certain ones?**

It is vital that the Plan (Policy CR7) actually sets out the requirements in relation to DCMPs and CTMPs – als also that these are required to be submitted (and consulted upon) as part of the aplnning application. As highlighted above, particular problems are associated with construction traffic management plans (CTMPs) and indeed also DCMPs, which are rarely submitted with planning applications, and when submitted subsequently are frequently factually inaccurate or partial – for example that submitted in relation to the double basement under construction at no 70/71 Princes Gate Mews failed to record the Mews was a cul de sac or take any account of the traffic problems this would raise and claimed access could be obtained through private property (which was not true). The lack of public scrutiny of this plan (it was not submitted at the same time as the planning application and completed much later) has resulted in endless problems for residents and the need for frequent calls on Council enforcement service to ensure the Mews can continue to function as a safe thoroughfare. Similar problems have arisen in relation to 69 PGM, where again the CTMP was submitted after the application was made and no reference was made in the CTMP to the difficulties posed by multiple other construction projects also being in train in the same cul de sac. Working hours and noise are other major issues – we have had to call Council enforcement multiple time in relation to problems of early and late work at No 70/71.

Exisitng policies in the Core Strategy have proved utterly ineffective as a mechanism to ensure effective and sound outcomes in relation to CTMPs/DCMPs. They are a policy requirement - they should be in the plan.

Matter 3: The order of the reasoned justifications for the Policy

2. From my reading of the Plan's reasoned justification, paragraph 3.14 of BAS02 and other documentation, I understand that the Council has a priority order for the reasons justifying the Policy. These are, in order: [with the Association's suggested amendments in blue we support the comments in red proposed by the Kensington Society]
- the increasing number of basement planning applications;
 - the increasing size of basement proposals, in terms of volume, floorspace and number of storeys and the resulting scale of excavation and of the duration of the development activity;
 - the nature of basement construction (taking longer, large quantities of spoil, larger impacts on neighbours) and cumulative impacts of multiple basements in the same street at the same time not currently able to be considered
 - that these developments are primarily under existing dwellings and gardens within established residential areas;
 - that the Royal Borough is very densely developed and populated;
 - the adverse impact on residential amenity, primarily on residents' health, well-being and living conditions, due to factors such as
 - noise and disturbance, vibration and dust; and
 - large numbers of heavy vehicles, loss of residents' parking spaces and unreasonable restrictions on traffic flow over prolonged time periods;
 - concerns about structural stability;
 - the desire to limit carbon emissions, from demolition, excavation, construction and operation of basement developments, including from heating, cooling and ventilation;
 - the need to retain rear gardens, planting [natural gardens] and trees to maintain the character and appearance of the Royal Borough, along with sustainable drainage and biodiversity requirements;
 - the adverse impact on the large number of listed buildings and conservation areas in the Royal Borough;
 - the adverse visual impact of certain externally visible aspects of these developments, including light pollution; and, finally
 - the need to protect basements from the risk of both sewer flooding and surface water flooding and to restrict ground water pumping into the existing sewer system.
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Matter 5: One storey restriction

Issue 5.1: Whether CL7 b. and c. are justified by the evidence, consistent with national policy, and effective

3. What are key reasons for criterion CL7 b. and c. which restrict basement development to one storey?

CL7 b: The limit of one storey is the issue of limiting the size of basements, which, with size, increases:

- the amount of excavated material produced – once compacted soil is excavated it occupies more cubic capacity than in its compacted state;
- the depth and amount of piling;
- the amount of concrete pouring;
- the length of time for the project to be completed;
- the lack of natural ventilation and light, which results in the reliance on sophisticated mechanical systems; and
- the amount and duration of disruption caused to the neighbourhood

In Princes Gate Mews there is clear experience that a double basement creates significant more disruption to neighbours, not just through the construction phase, but also after construction as the addition of a second storey increases the need for ventilation and plant equipment, with increased issues of noise, vibration, power usage and eg. in the case of swimming pools, smells. Drainage and sewer problems are also an increased risk. The construction of the double basement in Princes Gate Mews at No 70/71 has resulted in the main street drain collapsing at least once and being blocked on and off for over a year. A one-storey basement also means a less complex engineering problem – deeper basements have greater structure risks and complexities and are more likely to hit groundwater.

4. Could the aims/reasons be achieved or satisfied in another way? If so, please suggest an alternative wording for the criteria.

No – it is only by limiting the scale – depth and extent - of basement excavation that the right balance can be struck between:

- the adverse impacts on short and long-term sustainability and short-term (construction) and long-term (noise, vibration, smells, drainage) impacts on the community; and
- the desire of the owner/developer to increase the floorspace for underground leisure facilities rather than bedroom accommodation.

Matter 7: Light wells and railings

Issue 7.1: Whether CL7 h. is effective:

5. Is the criterion for light wells and railings in clause h. of CL7 too limiting? Please explain briefly (referring to previous evidence).

No – The Brompton Association considers that criterion needs to add reference, after referring to the “side of the property”, to “or facing communal gardens”.

We would also like a reference in clause i. to avoiding light pollution.

6. Is the criterion too lax? Please explain briefly (referring to previous evidence).

Yes.

Deep light wells at the rear pose a significant problem in back to back terraces such as Princes Gate Mews, where they become echo chambers magnifying noise and disturbing neighbours. They also have the capacity to turn internal party walls into external party walls – with knock on impacts for neighbours in relation to damp and noise. If the single-storey policy is not achieved, there will be a need to ensure that the depth of lightwells is limited and provision is made to minimise noise and introduce appropriate insulation/coatings to newly-created external walls.

7. Could the aims of the criterion be achieved or satisfied in another way? If so, please suggest an alternative wording.

The policy should be here, whereas the forthcoming SPD could provide good practice guidance on how to best to implement the policy.

8. Should the criterion contain an exception clause to cater for differing circumstances? For instance, where light wells and railings could be made acceptable by blending into the surroundings and/or hidden or disguised from public view?

No – There are any reasons to do so – in any case there will still be issues like light pollution, noise etc.

Matter 10: Structural stability

Issue 10.1: Whether CL7 n. is justified by the evidence, consistent with national policy, and effective

9. What are key reasons for criterion CL7 n. safeguarding the structural stability of the application building, nearby buildings and other infrastructure?

The Association believes that that the Council owes a duty to its residents and others generally, and has a specific duty with regard to conservation areas and especially listed buildings, to safeguard these buildings and to resist proposals which are likely to put them at risk. Initially the Council sought professional advice on the Construction Management Statements, but now accept that if it is produced by a qualified civil engineer who has professional indemnity insurance that this provides some reassurance. However, the Association is aware of examples where a neighbour has employed their own qualified civil engineer who has identified significant flaws with the plan proposed by the applicant's engineer. The Council should be required to seek independent advice where qualified engineers disagree as to the impacts in relation to structural stability - and at the applicant's expense.(6.1.4) . Equally, a qualified engineer should be required to approve the plans BEFORE their submission for planning approval, to ensure their quality can be ensured.

In addition, any engineer found to have submitted incorrect or misleading information in planning applications more than 3 times (there are particular examples where companies are currently doing this in the Borough) should be barred from submitting applications to the Borough in future.

10. Is the criterion necessary given the existence of other legislation on the subject? Please explain briefly (referring to previous evidence).

Yes – definitely. The other legislation has proved inadequate, reactive and has not kept pace with growing basement industry and enforcement action has not proved the most effective tool for achieving the desired result. Party Wall matters merely shifts responsibility onto neighbours, is short-term, limited in whom it covers and may not be the best dispute resolution process.

11. I note that the wording of this criterion is similar to that existing in adopted policy CL2 g. ii. What has changed that I should now, unlike my colleague at the Core Strategy examination, find it to be unsound?

Nothing. The existing safeguards do not work. The representor believes that if the project is undertaken by a competent contractor, there should be no need to codify this as a policy requirement. The Association, based on evidence of experience, disagrees.

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:

Criterion i. The NPPF (para 125) says:

“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.”

The Association considers that the sensitivity of design required to introduce new features such as lightwells and rooflights should explicitly recognise the need to minimise light pollution. Para 34.3.66 recognises the issue – the need to avoid disturbance to neighbours from light pollution through roof lights and other forms of lighting – but the policy is silent on this issue. We would prefer if this were mentioned on the face of the plan. At the very least there needs to be confirmation that proposals should comply with the NPPF. In back to back terraces, such as Princes Gate Mews, a roof light or a light well can result in a bedroom 2 feet away in the neighbouring property being illuminated 24/7.

Criterion l. The Association, is concerned that the adverse impacts from traffic and construction activity are explicitly addressed through making clear that a Construction Traffic Management Plan will be required. The requirement should be on the face of the plan, not relegated to the relevant SPD. We do not consider the vague reference in Policy CT1 (b) does the job.

Criterion m. moderating construction impacts – noise, vibration and dust – during works: Conditions are needed to ensure that hours of work, noise, vibration and dust are kept within reasonable limits. Where there are several basement schemes in close proximity the Council must coordinate the agreements (CTMP and environmental health) to avoid adverse impacts on local residents.

NPPF (para 109) says that the planning system should contribute to and enhance the local environment by preventing both new and existing development from contributing to or put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution.

NPPF para 123 says that planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;

Relying on the reactive use of enforcement powers under other legislation is not the most effective means of dealing with these issues.

We need improvements to the controls on working hours, noise and parking suspensions. Without these improvements we do not consider that this aspect of the policy is sufficiently effective.

Specifically, we would seek:

- a reduction in working hours – the Borough has the longest weekday working hours (08.00 to 18.30) of any London Borough (the rest operate 08.00 to 18.00) – **and** no Saturday morning working on basement projects in residential areas;
- a stricter regime on noise emitted, recognising that basement projects take place in residential areas with relatively low ambient noise levels. The noise levels agreed are presently usually 75dBA average over a ten-hour day, which is totally unbearable to immediate neighbours. The high densities in this Borough mean that neighbours are both closer to the site and more numerous; and
- a much stricter approach to CTMPs to keep skips, materials and plant off the highway and minimise the need for parking suspensions.

All applicants must submit at planning stage acoustic reports on all aspects of their projects (CMS,CTMP) to ensure a requirement for maximum noise levels not to be exceeded will be met.