

Basements Review

Consultation Responses to Draft Basements Policy

March 2013



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

| Document Ref. | Respondent Name | Comment | Council Response |
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| Introduction (Section 1) | | | |
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| 1.1-1.3 | Holland Park West Residents Association (Sally Mizani) | In small areas consideration must be given if it is safe or neighbour friendly to use heavy plant equipment and large articulated vehicles and what parking space is safely available for such equipment. | <p>Council response: The CTMP is required to take account of these issues including highway capacity for construction traffic, equipment and parking spaces. The draft policy proposes that the CTMP is submitted at the validation stage enabling these issues to be considered early on in the planning process.</p> <p>Alan Baxter and Associates response: The Brief and Purpose of the report is clearly set out in Section 2.</p> <p>The Arup report is only a scoping study. As clearly set out, the ABA report deals specifically with residential basement projects in RBKC.</p> |
| 1.10 - 1.16 | Knightsbridge Association (Edward Davies-Gilbert) | <p>RBKC Basement Consultation.</p> <p>I write on behalf of the Knightsbridge Association. We welcome this consultation and would like the following comments to be taken in to account.</p> <p>We feel that the consultation makes some valuable points and we would agree with the majority of it.</p> <p>b) We are concerned by the statement "the basement must not comprise of more than one additional storey..." This is too imprecise and needs to be clearly and unambiguously defined including height. It should be a single storey and if a basement already exists this would define the single storey. In that case a further storey (sub-basement) should not be allowed. Additionally the height should not exceed 3 metres. Such features as swimming pools require much more depth than a simple habitable room floor level and excavation wise constitute an additional storey and should not be allowed.</p> <p>c) The following items (c) to (j) are generally supported.</p> <p>d) Under (k) we like to see provision for a bond, or insurance cover, for possible damage that may occur to neighbouring properties over a 10 year period following completion of the basement development. This is particularly relevant to Listed Buildings, where features may be lost, as damage isn't always immediate and can take time to manifest itself.</p> <p>4.0 Review of Documentation Required</p> <p>The proposal for "up front" documents as listed below is supported.</p> <p>Engineering Design & Construction Statement</p> <p>Demolition & Construction Management Plan</p> <p>BREEM for Refurbishment Assessment</p> <p>Flood Risk assessment</p> <p>Demonstration of Effective Sustainable Urban Drainage</p> <p>Pre application Report</p> <p>Confirmation that neighbours have been provided with copies of the EDCS 7 notified of the provisions of the Party Wall Process.</p> <p>Arboricultural Report.</p> <p>5.0 Permitted Development</p> | <p>Noted.</p> <p>CL7a. – The draft policy will be changed to limit basements to 50% of each garden of the property. This is based on the impact of basement developments on the character of natural gardens.</p> <p>CL7b. – The text will be modified to refer to a general floor to ceiling height of 3m. However there will be flexibility to allow for example a swimming pool which would require a greater depth. The draft policy allows this flexibility by specifying "a single storey which is not of a depth that may be suitable for further horizontal subdivision in the future" (para 34.3.61) and this text will be retained.</p> <p>At the next stage greater clarity will be provided where an additional storey will be allowed.</p> <p>CL7 c. – CL7j. – Noted.</p> <p>CL7k. – It is beyond the powers of the planning system to require bonds/insurance cover for structural damage. These constraints on what the policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> <p>Support for proposals in section 4 is noted.</p> <p>Support for proposals in section 5 is noted.</p> |

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| | | We support the removal of permitted development rights for basements as proposed by RBKC. | |
| 1.10 - 1.16 | Thames Water Property Services | Paragraph 1.14 - This states "a lower proportion of neighbours appeared concerned about the impact of basement development on flooding and drainage". Thames Water's experience from recent public meetings is that those customers that have been affected by sewer flooding are very concerned about basement development. | The paragraph reports on the results of the borough wide surveys. It is acknowledged that those affected by sewer flooding are more concerned about basement developments. |
| 1.10 - 1.16 | Schamroth & Harriss (James Harriss) | Although basement extensions do take longer to construct and give rise to more extensive site-works than other forms of extension, in the long run they are less intrusive, have less effect on the amenity of adjoining properties (as noted in response to your public consultation para. 1.14), and are a more sustainable use of restricted land and they should therefore be encouraged | Noted. |
| 1.22 - 1.23 | Gabrielle Teare | <p>As you are constructing policy I have some comments for you.</p> <p>The Party Wall Act does not provide safety for the adjoining owners.</p> <p>78 and 80 Chelsea park gardens underpinned by house leaving me with £28000 of damages. The third surveyor has agreed to pay a token amount £2000 of this as the other side refused to acknowledge my damages and offered this paltry sum.</p> <p>I have extensive cracking internally and externally on all three floors.</p> <p>The process does not work for basements what needs to happen is all adjoining owners are named on the insurance policy so they can claim direct without invoking huge expense and an unsatisfactory result to keep the Party Wall Surveyors from paying higher liability premiums.</p> <p>I now do not have the money to repair my house and am devastated by the unfairness of this.</p> <p>Effectively I have subsidised by much richer neighbour to the tune of £30000.</p> <p>My only recourse is legal action which is hugely expensive</p> <p>My neighbours damaged 8/10 properties and have not paid. I am the only one to gain any damages and it cost me more than £2000 to go through the third surveyor to get it.</p> | <p>Noted. The Party Wall Act is completely separate from the provisions of the planning system. These constraints on what the policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> |
| 1.22 - 1.23 | Paul Lever | <p>1.22. Redraft this paragraph as follows;</p> <p>"Where basements are under construction in a residential street, the extent and duration of construction can have a major long term effect on residential living conditions. Planning therefore needs to assess not only the final physical form and use of a proposed development, but also the impact of its construction. This means that the Council, which exercises powers of control under environmental protection, control of pollution and highways legislation, may need to attach appropriate conditions in these fields to planning permissions. Damage to a property by a neighbour is a civil matter which is normally dealt with through the Party Wall Act."</p> | Noted. This paragraph is for information as a background to the draft policy and will not appear in the final supporting text or the policy. |
| 1.22 - 1.23 | Sam Gordon Clark | No architect, structural engineer or surveyor has long-term experience of the effect of basement excavation on old houses, particularly terraces, since the practice has only been going on for a few years. You should therefore devise a means of perpetuating the developer's responsibility rather than depending on Party Wall agreements, that run out when the work is over. | <p>The proposals in the Basements Draft Policy include requiring a Basements Impact Assessment with the planning application (section 4, Appendix C). This requires applicants and developers to consider the range of issues right at the outset.</p> <p>The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> |

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| 1.22 - 1.23 | Oliver Parr | My principal concern, however, is that a large number of individual responders to the Alan Baxter Associates Report site noise, dirt, damage and general inconvenience suffered during neighbouring basement excavations. In spite of this, there appears to be no consideration of introducing compensation for those so affected. | The proposals in the Basements Draft Policy include requiring a Basements Impact Assessment with the planning application (section 4, Appendix C). This encourages applicants and developers to consider the range of issues right at the outset. The Council cannot require compensation to be paid for construction work associated with development. The constraints on what the policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development. |
| 1.22 - 1.23 | Shrimplin Brown (Robert Shrimplin) | 1. Moreover, it goes on to explain that there are various other statutory and regulatory regimes available to control construction impacts: "The Council exercises powers of control under environmental protection, control of pollution and highways legislation. It also attached appropriate conditions to planning permissions to mitigate impact. Damage to a property by a neighbour is a civil matter and is normally dealt with through the Party Wall Act" (ibid). There is therefore no need to add a further layer of control which acts as an added burden both on applicants and the Council. | The proposals in the Basements Draft Policy include requiring a Basements Impact Assessment with the planning application (section 4, Appendix C). This encourages applicants and developers to consider the range of issues right at the outset. These issues are considered by the Council and the applicant but at the end of the planning application process and it would be beneficial to all parties if they are considered right from the outset. |
| 1.22 - 1.23 | The Chelsea Society (Terence Bendixson) | We recognise too that there are technical difficulties in using powers under the Town Planning Acts to constrain construction impact. However, while the Society recognises such limitations, we believe that the Borough Council should weigh more carefully the benefits and detriments of the current surge of investment in subterranean development. It is important for residents, who are sorely tried by basement digging, that the scale of the detriments is acknowledged. | The draft policy proposals are seeking to address some of these concerns. The limitations on size and the requirements for a Basements Impact Assessment with the planning application (section 4, Appendix C) should enable better management of issues regarding construction impacts. |
| 1.22 - 1.23 | Tony Holt | Para 1.22. 'Damage Is a civil matter'. This, and para 1.23, is a let-out for the Council. Neighbours have a right to protection without having to endure the cost and aggravation of taking the matter to the Courts. And developers have deeper pockets in litigation. | The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development. |
| 1.4 - 1.9 | Sinclair Johnston & Partners (Thomas Musson) | 1.6 The Royal Borough of Kensington & Chelsea "draft policy for public consultation and other matters" states in the executive summary: "Planning cannot require matters to be dealt with that come under different regimes particularly in relation to structure". Taking this to be so in relation to planning law it is difficult to reconcile how the council can in turn place such emphasis on structural matters to the extent that particular design details are given and referred to. Indeed the details shown are not necessarily the correct or only engineering solution as much depends upon the individual development. 1.7 The report presents a description of the various aspects relating to basement developments in The Royal Borough of Kensington and Chelsea. However, the fundamental statement of the report. "In most cases, well designed and carefully constructed residential basements can be achieved without causing structural damage to adjoining buildings' appears to be diluted and over emphasis placed on apparent problems, which are known about and normally addressed by the design team professionals. | The Council's planning department cannot impose specific structural methods for development. However it is within the remit of the planning department to ensure that a high quality built environment is maintained in the Borough. Basements underneath existing buildings are risky and more challenging than equivalent above ground development. Many residents reported structural damage to properties in the surveys carried out in the summer of 2012. In some instances there has been partial collapse of buildings during construction. The Council wants to be satisfied that the risk to the high quality built environment in this Borough is minimised and is taking a precautionary approach. |

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| Alan Baxter and Associates report: | | | |
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| Alan Baxter and Associates: Report (1.19 - 1.21) | Gabrielle Teare | <p>This notes that residents are not covered by Party Wall Act with many having disputes with unsatisfactory and costly outcomes to resolve damage. 50% of owners report damage in the Porticos 8/10 properties were damaged. I have £30000 of damages the surveyors allowed for crack repair but no redecoration i.e. 1 wall in a room part of a ceiling this is wholly unsatisfactory I received £2000.</p> <p>The proposals do not contain any solutions to the damage problems inflicted on adjoining owners. Residents should not be left with damaged properties and out of pocket they will still be so unless the council tightens up and insists on liability insurance with all neighbours within 15m being on the policy.</p> <p>Damage recorded</p> <p>3 floors cracks externally and internally some floor to ceiling</p> | <p>Alan Baxter and Associates response: The Party Wall Act covers properties up to 6m away (depending on depth of basement).</p> <p>Ground movements can occur up to a distance of 3 times the basement depth away from the basement.</p> <p>Responsible building owners should consult with adjoining owners within this zone but currently there is no statutory requirement for them to do this.</p> <p>Council response: The Council cannot require compensation to be paid for construction work associated with development. The constraints on what the policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> |
| Alan Baxter and Associates: Report (1.19 - 1.21) | Hurst Peirce & Malcolm (Lawrance Hurst) | <p>I write to comment on clause 1.7 and the whole of section 10 in the Alan Baxter Residential Basement Study Report relating to the Party Wall etc Act 1996:</p> <p>Clause 1.7 mentions Section 7 of the Act. This should be section 6.</p> <p>I suggest that clause 1.7 and the whole of section 10 are reviewed by an experienced party wall surveyor, to make sure they address the application of the Act correctly. It is a statutory process and some of the opinions set out in the current draft imply that discretion exists as to how the Act is applied.</p> | <p>Alan Baxter and Associates response: The report has been reviewed by an experienced Party Wall Surveyor. Section 10 of the report has been slightly revised to clarify some issues. The report will be re-issued.</p> |
| Alan Baxter and Associates: Report (1.19 - 1.21) | Basement Force (Simon Haslam) | <p>Alan Baxter Associates report - December 2012</p> <p>There has been insufficient time to go through the Alan Baxter report in detail.</p> <p>It is understood that the Alan Baxter Associates report does not form part of the planning policy and so is not a future document to be used as a basis for planning decisions.</p> <p>Paragraph 13.3.1; 13.3.2. There are various specific recommendations that do not appear to hold with sound engineering and construction practice around underpinning. Underpinning has been the preferred method for stabilising buildings with a history of structural movement. The report states that generally underpinning should not be undertaken under such buildings which does not seem to make sense.</p> <p>Paragraph 13.3.3. The report asserts that underpinning deeper than 4 metres is an assertion that has not been supported by fact or study.</p> <p>Paragraph 13.3.4. Basements can be built safely using an underpinning technique below the water table. There are various safe and correct techniques that can be used.</p> <p>Paragraph 13.3.5. The assertion that basements should be more restricted in areas where clay is the subsoil does not make sense. The replacement of impermeable clay by a basement would have no effect on groundwater flows.</p> <p>Paragraph 13.3.6 . The report asserts that basements in garden areas should not generally be formed by reinforced concrete walls is not based upon fact or study. Correctly sequenced and considered a garden basement can be built safely and correctly. We have done this many times including on a project with Alan Baxter Associates as the design</p> | <p>Alan Baxter and Associates response:</p> <p>Clauses 13.3.1; 13.3.2 These comments reveal a common misunderstanding of how terraced or semi-detached houses with a history of ground movement should be considered and treated. The report is clear on this.</p> <p>Clause 13.3.3 Underpinning is a risky construction technique and causes a degree of settlement to the walls over. The greater the depth of underpinning, the greater the risk.</p> <p>Clause 13.3.4 The report does not say that underpinning below the water table cannot be done. In some cases it can be but it is dependent on ground and groundwater conditions. The report takes account of views of experienced and reputable underpinning contractors. The report recommends that alternatives should be considered (see case study 3).</p> <p>Clause 13.3.5 See comments elsewhere.</p> <p>Clause 13.3.6</p> |

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| | | <p>engineers.</p> <p>Paragraph 10.12 is not correct. The party wall act 1996 does not preclude new structures supporting the foundations of existing building. The Party Wall Act is specifically written to ensure that owners on both sides of a party wall conduct building works in the future that maintain the stability of the party wall and/or recompense adjoining owners for loss. The assertion in the report is incorrect and should be changed. In addition this paragraph refers to a Figure 27. There is no Figure 27 in the report.</p> | <p>Alan Baxter & Associates LLP have not worked with Basement Force. See case study 1 for problems that can arise with reinforced concrete walls.</p> <p>Clause 10.12 The report makes recommendations that seek to retain the status of a party wall as an independent structure in joint ownership, not a structure that is dependent on construction on one side, in the ownership of one owner.</p> |
| <p>Alan Baxter and Associates: Report (1.19 - 1.21)</p> | <p>Sinclair Johnston & Partners (Thomas Musson)</p> | <p>2.0 The Purpose of the Report</p> <p>Clause 2.1.3 (g)</p> <p>This refers specifically to basements in clay sub-soils. There are areas of clay sub-soil in the borough as shown on the maps included in the report. In large areas of London both north and south of the river the sub-soil is London clay and basements are constructed under properties particularly terraced properties throughout the boroughs of Camden, Lambeth, Wandsworth, Haringey and elsewhere without any particular problems. It is difficult to reconcile therefore why a basement to be constructed in clay sub-soil within the Royal Borough of Kensington & Chelsea suddenly becomes a problem. Indeed 30 years of professional experience shows that it is not a problem when properly designed and constructed. Indeed our experience is that basements constructed in London clay are less or certainly no more challenging than basements in sands and gravels.</p> <p>8.0 Classification of Basement Projects</p> <p>Clause 8.6 j</p> <p>No mention is made of the fact that many terraced, semi-detached and detached houses founded on shallow foundations in clay have been underpinned without causing the Adjoining Owner undue problems. We would, therefore, challenge the statement made.</p> <p>9.0 Structural and Civil Engineering Considerations</p> <p>Clause 9.1.3</p> <p>Certainly it is reasonable to advise that the design and construction be entrusted to designers and constructors who have the ability and expertise in this work. However, little guidance is given as to what would constitute the required "level of competence and ability".</p> <p>Clause 9.2.2.1</p> <p>We would disagree with the comment that underpinning to a depth of 3m-4m usually involves two stages of underpinning. This is usually done in a single stage, and can be quite safely done by an experienced contractor.</p> <p>Clause 9.2.2.2</p> <p>Many buildings particularly Georgian and Victorian buildings show "Historic" signs of movement. However, this often occurred shortly after construction, and the building may now be stable. Extending the foundations down will not, therefore, necessarily affect the stability.</p> <p>If however, the buildings are subject to recent movement then most likely some of the houses affected will have been underpinned to stabilise the movement. Underpinning for a basement is an extension of this process.</p> <p>To infer or suggest that a building should not be underpinned because an adjoining house has sloping heads to windows is not a reasonable professional recommendation.</p> | <p>Alan Baxter and Associates response:</p> <p>Clause 2.1.3(g) is a statement of fact as to what was in the Arup report.</p> <p>Clause 8.6.j We do not understand this comment. The foundation details of existing buildings are issues that need to be considered when planning the construction of a basement next to or under an existing domestic property.</p> <p>Clause 9.1.3 This is not part of the scope of the report, though it seems obvious that a client should check the ability and competence of his designers and contractors by taking up references and inquiring about past experience of similar projects.</p> <p>Clause 9.2.2.1 The decision on the depth of individual pins depends on lots of factors. The comment takes account of views expressed by reputable underpinning contractors and the HSE.</p> <p>Clause 9.2.2.2 Historic movement and "history of movement" are two different things.</p> <p>Many terraces with shallow foundations move seasonally. Their construction of stock bricks set in lime mortar allows them to do so without experiencing structural damage. By putting a basement under one house in such a terrace, its movements will cease and the differential movement between it and the rest of the terrace can</p> |

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| | | <p>Clause 9.2.3.8</p> <p>To say that special foundations are not favoured is wrong as they are usually advantageous to both the Building Owner and Adjoining Owner and are for that reason generally accepted.</p> <p>Clause 9.2.3.9</p> <p>We do not agree with this statement as it is not the usual approach. For instance it causes problems with the staircase which would otherwise continue down adjacent to the party wall.</p> <p>Clause 9.2.4.4</p> <p>The size of piling rig required for a secant piled wall is much larger than for a contiguous pile wall. Because of access and working space restrictions secant piled walls are generally not used except in large scale developments where there is better access.</p> <p>Clause 9.2.5.3</p> <p>See clause 9.2.2.2. above.</p> <p>Clause 9.2.5.4</p> <p>Indeed basements can be formed without underpinning. However, most are successfully formed using underpinning techniques which are well understood, tried and tested and are preferable and appropriate in the majority of cases.</p> <p>Clause 9.2.6.2</p> <p>The basement construction does not need to be independent of the existing house. They are usually constructed integral and we are not aware of any problems with developments that we or others have done with this approach.</p> <p>Clause 9.2.6.3</p> <p>Driving in of sheet piling by hammer or vibration is completely unacceptable when near to an existing building because of the potential damage. In urban areas sheet piles are often installed using a hydraulic press which is a relatively small piece of equipment. However, contractors often use water jetting to ease installation. We, however, do not allow jetting on our projects as this can cause damage to nearby structures.</p> <p>Clause 9.2.6.4</p> <p>A piling rig is not necessary for the installation of the "King" posts although they are often installed in this way. We have used this very successfully within the borough when forming a two storey basement adjacent to a six storey reinforced concrete framed building which itself did not have a basement and where underpinning of the existing pad foundations was not practicable. This form of construction was adopted in order to limit ground movement and to allow construction adjacent to the adjoining building. This was successfully achieved without any damage to the adjoining building, or inconvenience to Adjoining Owners.</p> | <p>cause problems. This issue was identified by Arup in their scoping study.</p> <p>The report does not say anything about sloping heads to windows. The author of the comment seems to be confused about the difference between buildings which were without structural problems and those which have major structural problems which is a completely unrelated issue.</p> <p>Clause 9.2.3.8 See earlier comment.</p> <p>Clause 9.2.3.9 This is a matter that has to be resolved by design.</p> <p>Clause 9.2.4.4 This comment is incorrect.</p> <p>Clause 9.2.5.4 See comments in 9.2.2.2.</p> <p>Clause 9.2.6.2 The recommendations in the report reflect good engineering practice for extensions to existing structures or for structures with foundations at different levels.</p> <p>Clause 9.2.6.3 We agree that water jetting to install sheet piles for residential basements in Kensington & Chelsea is not acceptable and shall include this in the next revision of the report.</p> <p>Clause 9.2.6.4 No comment.</p> |
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| | | <p>Clause 9.2.7.3</p> <p>We disagree with the sentiment of this comment. Experience shows that in the majority of cases a joint between the section of basement under the garden and the section under the house is neither necessary nor desired.</p> <p>Clause 9.3.4</p> <p>Says "things have gone badly wrong in situations where these issues have not been fully considered". This is a sweeping generalisation without reference in the text or addendums, footnotes or elsewhere to indicate what "things" have gone badly wrong. A formal report presented on the local authority website as guidance to applicants should not be based on such generalisations. Specific case studies should be identified and considered in order to validate proposals.</p> <p>Clause 9.4.6</p> <p>"Flotation can also be an issue, particularly for basements in clay subsoil</p> <p>....." Flotation is an issue where there is a high water table in granular soil. However, flotation can only occur where the mass of water displaced is equal to the mass of the structure. Clay is impermeable and generally by itself does not hold sufficient mass of water to cause flotation, but each case needs individually assessing.</p> <p>Clauses 9.4.8 and 9.4.9</p> <p>This was addressed in the 2008 Arup report and considered not to be a problem, based on the evidence considered by Arups. No evidence has been presented for consideration to support the statement by ABA which is contrary to the Arups report.</p> <p>Clause 9.8.3</p> <p>This paragraph suggests that "as a rule of thumb 25% of the garden area is likely to be sufficient to enable this to happen. On this basis a new basement should not occupy more than 75% of the area of the garden."</p> <p>On what evidence? Where does this rule of thumb come from?</p> <p>In a dense residential area where development is important and by and large considered a fundamental right of residents it would seem inappropriate to base Planning Policy on a "rule of thumb", unsubstantiated by evidence.</p> <p>Section 10 - The Party Wall etc., Act 1996 in Relation to Basement Design and Construction</p> <p>This section takes a specific view of The Party Wall etc., Act 1996. Many of the aspects set out in this section would be open to debate by practitioners experienced in the workings of The Party Wall etc., Act 1996 and should not be taken as a definitive guidance for basement construction under The Act.</p> <p>Section 13 Recommendations for Basement Design and Construction</p> <p>Clauses 13.3.1 and 13.3.2</p> <p>Just because there is historic movement does not mean there is on-going movement. Indeed even if there is on-going movement there may be very good reasons why it should be underpinned. In all cases a proper engineering assessment is required rather than a sweeping statement.</p> <p>Clause 13.3.3</p> <p>This is a subjective comment not based on any apparent supporting evidence. Also for installation of lifts, sumps etc., underpinning to 5m or 6m may be required and would be technically justifiable and acceptable.</p> | <p>Clause 9.2.7.3 See comments on 9.2.6.2 above.</p> <p>Clause 9.3.4 The brief required three case studies to be included to illustrate some typical basement types and issues that can arise. Case studies 1 and 3 refer to some problems. Extensive case studies and detailed information on problems that have arisen on basement construction is not within the scope of the report.</p> <p>Clause 9.4.6 High hydrostatic water pressures can occur in basement structures in clay. Surface water can find its way into the interface between the clay and basement structure. This is the point made clearly in the report.</p> <p>Clauses 9.4.8 and 9.4.9 See comments in 1.1-1.3. The ABA report develops the scoping work of the Arup report for the specific area of RBKC not the City of London.</p> <p>Clause 9.8.3 This is to do with maintaining sufficient space for the planting to maintain the character of the gardens in the Borough. See also response to Norland Conservation Society.</p> <p>Section 10 This section has been reviewed and commented on by an experienced Party Wall Surveyor and an independent engineer who advises on Party Wall issues. See response to comment by Hurst Pierce & Malcolm.</p> <p>Section 13.3.1 and 13.3.2 The report said "where there is a history of movement" not historic movement. See also response to comment on 9.2.2.</p> |

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| | | <p>Clause 13.3.4</p> <p>This is a sweeping statement, whereas a proper engineering assessment of specific cases is required. Underpinning is often the most practicable and appropriate method of construction and should not be excluded from consideration.</p> <p>Clause 13.3.5</p> <p>The proposal here appears to be based on an unsubstantiated rule of thumb. See 9.8.3 above.</p> <p>Clause 13.3.6</p> <p>This is a sweeping statement which takes no account of individual situations, and buildability. Underpinning may be the most appropriate solution in some or many cases and should not be ruled out from consideration.</p> | <p>Clauses 13.3.3 The earlier sections of the report lead to these recommendations.</p> <p>Clause 13.3.4 Underpinning below the perched water level represents an increased risk and should be carefully considered. The report does not say it can't be done.</p> <p>Clause 13.3.5 See response to 9.8.3 above.</p> <p>Clause 13.3.6 Constructing basements with underpinning techniques nearly always increases the risk of ground movements. Lower risk solutions should be considered.</p> |
| Alan Baxter and Associates: Report (1.19 - 1.21) | Sinclair Johnston & Partners (Thomas Musson) | We would note that the proposed policy includes a significant number of structural engineering matters based on the Alan Baxter Associates Report which the borough has on its website, and would appear to endorse. There are a number of issues within this report which require more detailed assessment and/or justification and others which, in our opinion, are not a correct statement on current practice. | Alan Baxter and Associates response: Statement. Unspecific. Unable to respond. |
| Alan Baxter and Associates: Report (1.19 - 1.21) | Sinclair Johnston & Partners (Thomas Musson) | <p>1.4 Without any further apparent research or case studies or examples the ABA report takes a completely different view and refers to numerous problems. This would appear to be a view personal to the author and not backed up with any specific evidence.</p> <p>1.5 The ABA report is presented on the Royal Borough of Kensington & Chelsea website as guidance for applicants considering construction. This is unfortunate since the report is presented as advice to the public without having apparently been subject to technical scrutiny or peer group review. This would seem to be an exceptional and unusual local authority procedure.</p> | Alan Baxter and Associates response: RBKC report regular and significant numbers of complaints about problems and movements caused by basement construction. There are a number of cases where significant movements and in one case a partial collapse occurring due to the formation of a basement. RBKC may consider recording problems and details of projects in order to build up a body of evidence. |
| Alan Baxter and Associates: Report (1.19 - 1.21) | ARK (Rupert Carruthers) | The Alan Baxter report frequently proposes the timely and continuous engagement of structural and civil engineers. While this requirement relating to structural engineers is to be encouraged it should be expanded to include other qualified consultants such as chartered architects. Through their education and experience chartered architects will be able to advise on most aspects of contract administration and construction, including Party Wall matters (which are frequently mentioned although it is agreed that these are civil matters and cannot be bound into the planning system) and other general planning issues. An experienced architect might, for instance, advocate the use of a top-down basement construction method to reduce nuisance to neighbours and minimise the risk of structural damage to neighbouring properties. | Alan Baxter and Associates response: Agreed – the report was written in relation to structural issues and emphasises the need for the relevant professionals to be appointed. |
| Alan Baxter and Associates: Report (1.19 - 1.21) | Ladbroke Association (Sophia Lambert) | <p>21. There are a number of recommendations in the Baxter Report that are not reflected in the draft policy. In particular:</p> <ul style="list-style-type: none"> The Baxter Report pointed out (paragraph 2.1.3g) that buildings with shared party walls founded on clay involve greater technical engineering challenges than those founded on gravel and recommended that consideration should be given to requiring specific additional pre-planning considerations by clients when basements are proposed in clay subsoil areas. We look to the Council to reflect this recommendation when it comes to drafting the detailed specification. | <p>Council response:</p> <p>Noted. The ABA report does make the points mentions. However planning policy cannot stipulate the construction methods to be used as this would be outside of planning regulations.</p> <p>Further requirements of the Engineering Design and Construction</p> |

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| | | <ul style="list-style-type: none"> The Baxter report recommends encouraging developers to conclude agreements similar to party wall ones with owners of nearby buildings likely to be affected by a basement development(see paragraph 9.9.5). We strongly endorse this approach. Particularly in terraces of fairly narrow houses, a basement development can cause damage to properties two or even three doors away (as happened for instance recently in Portland Road). The Report (paragraph 11.3) points out that construction waste forms about a quarter of the country's waste each year. Basement projects, with their large production of spoil, are major offenders, and they can also produce hazardous waste. Not only should a site waste management plan be routinely required for basement developments but the Council should consider imposing specific requirements on recycling. The Report draws attention to the complicated geography of the area and the potential for drainage problems particularly in the Notting Hill area. This includes formations where water collects that are not covered by the requirement for a flood risk assessment in Flood Risk Zones 2 and 3 (Supporting text paragraph 34.3.77). For any area where a basement is built below the level of the perched water table or where there is a history of drainage problems (a matter on which the developers should be encouraged to consult the neighbours), a special strategy should be required (paragraphs 13.3.10 and 13.3.11 of the Report). In some cases a requirement for sustainable water harvesting may be appropriate. | <p>Statement would be specified in the Basements SPD in due course.</p> <p>The Council will consider the disposal of construction waste as part of the BREEAM Domestic Refurbishment requirements.</p> <p>The EDCS will take account of the geology and ground water conditions of the site</p> |
| Alan Baxter and Associates: Report (1.19 - 1.21) | Pyramus & Thisbe Club (Andrew Schofield) | <p>We support the engineering content of Alan Baxter and Partners report "Royal Borough of Kensington & Chelsea Residential Basement Study Report" dated December 2012. However, section 10 of their report regarding the Party Wall etc Act 1996 is extremely misleading and in some areas incorrect. We believe that the comments we set out below should be reflected within Alan Baxter and Partners report in order to avoid ambiguity and potential litigation.</p> <p>Royal Borough of Kensington & Chelsea Residential Basement Study Report dated December 2012, Prepared by Alan Baxter & Associates LLP</p> <p>We have no comment to add in relation to the engineering aspects of this report.</p> | <p>Alan Baxter and Associates response: Section 10 of the report has been reviewed by an experienced Party Wall Surveyor. A few relatively minor clarifications are being made to Section 10 in the light of the consultation and will be incorporated when the report is next uploaded.</p> |
| Alan Baxter and Associates: Report (1.19 - 1.21) | King Knight Build Ltd (King Knight Build Ltd) | <p>In the above comments I have referred directly to the draft text and proposed emerging policy in the public consultation document which you have issued. However, my clients technical director has reviewed the technical evidence base on which this emerging policy has been based and, in particular the Study Report dated December 2012 which has been prepared by Alan Baxter & Associates.</p> <p>At a general level, my client is concerned that this technical report places insufficient emphasis on the need for decisions relating to the design of development schemes to be made using an evidenced based approach which reflects the opportunities and constraints of each individual site.</p> <p>At a more detailed level my client would comment as follows :- ALAN BAXTER PARAGRAPH 8.6 (h)</p> <p>My client would wish to disagree with the statement that "multiple basement levels are very much more challenging". For example the use of the perimeter piled solution and a top down construction methodology could pose significantly less risk than some shallower schemes.</p> <p>ALAN BAXTER PARAGRAPH 9.8.4 - Area of permitted development</p> <p>In this paragraph it states "No simple rule of thumb can be applied here" and then it goes on to impose a rule of thumb of 75% . This is contradictory and highlights the requirement for proper assessment.</p> <p>ALAN BAXTER PARAGRAPH 13.3.3</p> <p>My client would wish to query what evidence has been used to reach the conclusion that underpinning to a party wall should be limited to a depth of 4m? (For a lot of clients this would make it impossible to form a swimming pool without stepping at the pool deck level).</p> <p>It is respectfully suggested that the depth of underpinning should be designed on a site by site basis in accordance with recommendations made in the Geotechnical Model for each specific project.</p> <p>Whilst the above comments and observations raise some concern about the emerging policy approach highlighted in your consultation document my client would wish to re-emphasise his very strong support for increased control and regulation of basement construction works in a way which properly protects the property and amenity of adjoining residents.</p> | <p>Alan Baxter and Associates response: Where access is available for suitable plant, a top-down solution using perimeter piled walls is a good and generally lower risk construction technique. Many multi-level basements are not constructed this way.</p> <p>Refer to response to Norland Conservation Society.</p> <p>It is accepted that in part, locally deeper underpinning may be required. 4m is a recommendation, not a hard and fast rule.</p> <p>Agreed, but the depth of underpinning should also consider the impact on adjacent buildings.</p> |

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| | | <p>The current policy review provides a genuine opportunity to bring forward a scheme of independent certification and accreditation for building contractors and basement construction.</p> <p>This will ensure that basements are executed to an approved set of procedures that will result in minimal adverse impact for neighbouring buildings and which will give RBKC and local residents the assurances that they require to enable continued development of larger schemes of basement development. This will avoid the need for the introduction of arbitrary size limits which are applied using simplistic rules and which are based on little or no evidence of actual material harm.</p> | <p>Noted.</p> <p>Noted.</p> |
| <p>Alan Baxter and Associates: Report (1.19 - 1.21)</p> | <p>Kings Road Association of Chelsea Residents (James Thompson)</p> | <p>The Alan Baxter Report is commendably thorough. It shows very clearly that basement excavations have the potential to wreak damage on neighbours' houses. The report confirms (page 1, point 1.3, line 5) that "Basements of more than one storey in depth create a permanent irreversible change in the ground conditions. This permanent and irreversible disturbance increases rapidly with the depth."</p> | <p>Alan Baxter and Associates response:</p> <p>Noted.</p> |
| <p>Alan Baxter and Associates: Report (1.19 - 1.21)</p> | <p>Tony Holt</p> | <p>1. Residential basement study report.</p> <p>Para 8.2. This was initiated many years ago. It is questioned whether it is satisfactory for the present circumstances. I have not had (yet) firsthand experience.</p> <p>3. Alan Baxter Report</p> <p>I have seen this in draft form. It is an excellent account of the engineering issues involved.</p> <p>Para 1.8. This is very true. There is no reason why neighbours should be drawn into the worry and cost of legal disputes which are not of their making.</p> <p>Para 7.2. Just such a planning application was granted on the building where I live. This was without the agreement of the long-leaseholders in the building and given unilaterally by the freeholder to a developer. As it was to go under half the building, it would provoke a crack right up through the centre of the building. PP/08/02121 18 November 2008. Not yet implemented because of funding problems.</p> <p>There are numerous references through this Report which echo the points made earlier.</p> <p>Para 8.4. Quite right. Experts have to be found to assess this. How, and who selects them? They must not be selected by and employed by the applicant.</p> <p>Para 8.6. Add '(I) Assess the consequences for neighbouring properties in the long term (years rather than months)'</p> <p>Para 9.1.3. The last sentence is correct.</p> <p>Para 9. The details of methods of construction and the implications of the sub-strata are clearly set out. The problem is to ensure that they are professionally taken into account.</p> <p>Para 10. The Council's booklet on the Party Wall Act needs to be reviewed to bring it up-to-date with the basements situation. It may be that the whole Act should be revised. It was written long before basements became a problem.</p> <p>Para 13.3. The specific recommendations need to have added the points made above about indemnities, multi-occupation properties, recompense for neighbours, repairs to cracking in neighbouring buildings.</p> <p>Question 12. The Chartered structural engineer and the contractor need to be able to prove successful experience of this very specialized area.</p> | <p>Alan Baxter and Associates response:</p> <p>Noted.</p> <p>Paragraph 8.2 refers to the Party Wall Act. This does not cover all aspects of the impact of basement construction.</p> <p>Noted</p> <p>Noted.</p> <p>Noted – this highlights the issue.</p> <p>Agreed – highlights the need to select the correct team.</p> <p>We consider that both the short term and long term consequences need to be considered for all the issues both for the property and neighbouring properties.</p> <p>Agreed.</p> |

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| | | | This is outside the remit of our report – relates more to Party Wall Issues. Agreed. |
| Alan Baxter and Associates: Report (1.19 - 1.21) | Sinclair Johnston & Partners (Thomas Musson) | <p>1.4 Without any further apparent research or case studies or examples the ABA report takes a completely different view and refers to numerous problems. This would appear to be a view personal to the author and not backed up with any specific evidence.</p> <p>1.5 The ABA report is presented on the Royal Borough of Kensington & Chelsea website as guidance for applicants considering construction. This is unfortunate since the report is presented as advice to the public without having apparently been subject to technical scrutiny or peer group review. This would seem to be an exceptional and unusual local authority procedure.</p> <p>1.5 The ABA report is presented on the Royal Borough of Kensington & Chelsea website as guidance for applicants considering construction. This is unfortunate since the report is presented as advice to the public without having apparently been subject to technical scrutiny or peer group review. This would seem to be an exceptional and unusual local authority procedure.</p> | <p>Alan Baxter and Associates response: RBKC report regular and significant numbers of complaints about problems and movements caused by basement construction. There are a number of cases where significant movements and in one case a partial collapse occurring due to the formation of a basement. RBKC may consider recording problems and details of projects in order to build up a body of evidence.</p> <p>Alan Baxter and Associates response: The reason the report was commissioned was because of the significant number of problems reported to RBKC, so the issues are not being addressed by the design team professionals. In part, this may be because in some cases the design team professionals have no site role. In other cases it may be because the design team professionals fail to take much account of how their designs may impact on the adjacent properties and hence adopt lower risk solutions</p> |
| Alan Baxter and Associates: Report (1.19 - 1.21) | Sinclair Johnston & Partners (Thomas Musson) | <p>1.1 Although the introduction in the Alan Baxter Associates (ABA) report sets out general aspects of basement construction there is no clear description of the brief from the Royal Borough of Kensington & Chelsea to Alan Baxter and Associates.</p> <p>1.2 It is usual in professional reports to make clear the clients brief. Indeed a copy of the brief is often attached as an appendix.</p> <p>1.3 The 2008 study by Arup indicated in broad terms that there was not a broad base problem with basement construction and made comparison with the City of London where basements of various depths had been constructed for more than 100 years, without adverse effects on ground water or soil conditions.</p> | <p>Alan Baxter and Associates response: Noted. The Brief and Purpose of the report is clearly set out in Section 2.</p> <p>The Arup report is only a scoping study. As clearly set out, the ABA report deals specifically with residential basement projects in RBKC</p> |
| Review of the Core Strategy (Section 2) | | | |
| 2.3 - 2.7 | The Markham Square Association (David Cox) | <p>Paragraph 2.3</p> <p>As a general point, we consider it important that the safeguards contained in the policies specific to new basement development in the Core Strategy are not lost or diminished in strength.</p> | Noted. |
| 3.1 - 3.5 | Holland Park West Residents Association (Sally Mizani) | Where there is a new build, on what was a garden, the basement should not exceed the footage of the building, which should not exceed 75% of the site, dependant on the size of site and geology, it could be less. Where there is a water coarse, the basement should not intercept or run through it, as this will create localised flooding. | Noted. |
| 3.1 - 3.5 | ESSA (Anthony Walker) | We have noted the range of proposed amendments to the SPD and consider that considerably more rewriting of the sustainability and suitability for use sections is needed that indicated in the consultation paper. | Noted. The consultation paper provides a brief outline of what may be contained within the SPD. These will be dealt with in detail while formulating the SPD. |

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| 3.1 - 3.5 | Kevin Scott Consultancy Limited (Kevin Scott) | <p>As noted in the issues document, the SPD is already dealing with some matters that are more properly dealt with through other legislation. We support the idea of providing clarity as to the appropriate regimes for addressing the various issues such as the Party Wall</p> <p>Act etc. For the SPD to be effective it must not duplicate or impose more onerous requirements that are outside its scope, making it ultra vires.</p> | Noted. The Council is mindful of the limitations of what can reasonably be dealt with through planning. |
| 3.1 - 3.5 | Kevin Scott Consultancy Limited (Kevin Scott) | The SPD should restore the caveat contained in the existing SPD in respect of Listed Buildings where it will not always be appropriate to achieve Eco Homes Very Good. This has been lost from the Core Strategy Policy CE1 despite cross referencing with the SPD. This should be clarified. The SPD allows for the possibility of basements beneath the gardens of listed buildings. The requirement should be relaxed where the impact of achieving it would be detrimental to the character of the listed building and the basement is acceptable in other respects. | Noted. The Council may seek specialist opinion on this issue. |
| 3.1 - 3.5 | The Kensington Society (Anthony Walker) | <p>We consider that while the policies are important the detail development of the SPD is also vital and requires much greater rewriting than is indicated in the Consultation Document.</p> <p>Review of the SPD</p> <p>The Society considers that substantial re writing of the Environmental Sustainability section will be required - either relying on an expanded policy and/or relying on the London Plan. If the latter, this will need to be fully referenced in the Core Strategy.</p> <p>We are also concerned that many basement proposals, especially deep ones, provide extremely poor living conditions even when they technically comply with the SPD. We believe that these have often not been in accordance with CL5 and consider that this section will require strengthening.</p> | Noted. The consultation paper only provides a brief outline of what may be contained within the SPD. These will be dealt with in detail while formulating the SPD. |
| 34.3.56 | EC Properties LP (EC Properties LP) | As a general comment in relation to Policy CL7, the drafting of the policy appears to be more focused on basements in connection with existing buildings. It does not reflect the particular circumstances that are generated by basements in new development, where there is greater scope to address potential planning issues through design. | Noted. The policy applies to all basements. This will be clarified at the next stage. As a large majority of basements proposals in this Borough are for extensions underneath existing buildings the policy is focused on these. In new developments other policies within the Core Strategy will be also be more applicable. |
| 34.3.56 | Miss Arbuthnot | Page 10 Para 34.3.56 - The second sentence doesn't make sense. Has a word been left out? | Noted. Drafting errors will be corrected. |
| 34.3.56 | The Kensington Society (Anthony Walker) | <p>34.3.56 How is ground level determined? In many instances what would be a basement at the front of the property is ground level at the back. The level in the public realm close to the property should be the 'ground' level. If there is more than one level the highest should be taken as the ground level for the interpretation of this chapter. What do 'the most minor extensions' include?</p> <p>34.3.56 Properties in the vicinity should not be limited to those in the immediate vicinity, but all those which it can be anticipated could be affected by the works.</p> | <p>Noted. These issues will be clarified at the next stage.</p> <p>It is intended that properties in the neighbourhood likely to be affected are included. This will be clarified in greater detail in the revised Basements SPD.</p> |

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| 34.3.57 - 34.3.58 | Paul Lever | <p>34.3.57 - 58. These paragraphs are inadequate in their portrayal of the problems which basement construction can cause for neighbours; and they lack any clear description of what the purpose of the new policy is. They should be re-drafted as follows:</p> <p>"34.3.57. Basements can provide benefits to residents by adding extra living accommodation. But they pose particular problems not raised by above ground extensions and developments. Whilst largely out of sight, basements normally have some elements, for example roof lights or light wells, which, individually and cumulatively, can have an impact on both the character and appearance of the property, townscape and garden. Where under gardens, basements can create an artificially level landscape and can raise concerns in relation to drainage and flooding. Moreover during the construction phase basement developments can give rise to noise, dust, vibration and traffic disruption on a scale which involves intolerable damage to the quality of life for neighbouring residents. There is also the risk of their impact on the structural stability of properties in the vicinity.</p> <p>34.3.58. For all these reasons there is a need for a bespoke basement policy. The purpose of this policy is to ensure that basements are only constructed in a way which is safe, which is environmentally sound, which enhances the amenity of the area and which safeguards the interests of local residents during the construction period."</p> | Noted. Text may be redrafted at the next stage to improve clarity. |
| 34.3.57 - 34.3.58 | Gulvanessian Associates (Mr Gulvanessian) | <p>Garden basements creating an artificially level landscape (34.3.57)</p> <p>Gardens on top of basements need not be level. A garden basement can have the same increases in level or undulating surface as any other residential garden.</p> | <p>Noted. However a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>London Plan Policy 3.5 states <i>"Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified"</i>.</p> |
| 34.3.57 - 34.3.58 | London basement (Stephen Merritt) | <p>Garden basements creating an artificially level landscape (34.3.57)</p> <p>Gardens on top of basements need not be level. A garden basement can have the same increases in level or undulating surface as any other residential garden.</p> | <p>Noted. However a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>London Plan Policy 3.5 states <i>"Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified"</i>.</p> |
| 34.3.57 - 34.3.58 | Basement Force (Simon Haslam) | <p>Garden basements creating an artificially level landscape (34.3.57)</p> <p>Gardens on top of basements need not be level. A garden basement can have the same increases in level or undulating surface as any other residential garden.</p> | <p>Noted. However a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>London Plan Policy 3.5 states <i>"Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified"</i>.</p> |
| 34.3.57 - 34.3.58 | Tessuto (Gemma Gordon-Duff) | <p>General points</p> <p>Garden basements creating an artificially level landscape (34.3.57)</p> <p>Gardens on top of basements need not be level. A garden basement can have the same increases in level or undulating surface as any other residential garden.</p> | <p>Noted. However a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>London Plan Policy 3.5 states <i>"Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified"</i>.</p> |
| 34.3.57 - 34.3.58 | Schamroth & Harriss (James Harriss) | In general we support the proposals concerning surface water drainage (34.3.58) | Noted. |
| 34.3.57 - 34.3.58 | King Knight Build Ltd | <p>The proposed supporting text in this paragraph sets out the background to the councils revised policy approach and highlights concern about the impact of basement development on the character and appearance of the built environment, the impact on adjoining residents during the construction phase and issues such as drainage, flooding and the structural stability of nearby properties.</p> <p>However, whilst the text does acknowledge that basements can provide positive benefits to residents by the addition of extra living accommodation it would seem to focus on possible worries and concerns about the adverse impact of development without providing an equivalent level of consideration to the positive benefits which such development</p> | Noted. Sustainable development as defined in the NPPF includes economic, social and environmental considerations. The policy seeks to achieve this balance and is based on a range of evidence. It cannot be purely based on economic reasons. The draft policy seeks to achieve a balance by not banning basements but defining what would be acceptable development. Therefore basements can still be constructed. |

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| | | <p>provides.</p> <p>Basement construction of this type represents a very significant financial investment by individual residents and at an aggregate level basement development within central London is of real and material economic benefit to our shared economy. It is respectfully suggested that the subtext in this paragraph should be amended to acknowledge the cumulative economic benefit which basement construction provides and that the text be further amended to explicitly recognise that, in determining individual applications for planning permission, the positive economic benefits associated with this form of development should be weighed up and balanced against other perceived harm which might be caused.</p> <p>By way of example, I would encourage the council to give consideration to the relative public benefit which might flow from a decision to refuse planning permission and which might therefore result in reduced inconvenience for local residents against the public benefit which results from a decision to grant planning permission which allows a substantial construction project to proceed and which therefore enables a significant number of construction workers to have jobs and support their families.</p> <p>In this regard, the text should explicitly acknowledge that the Government is committed to securing economic growth in order to create jobs and prosperity (NPPF paragraph 18) and that the economic role played by the planning system is one of the three key dimensions of sustainable development (NPPF paragraph 7).</p> <p>Whilst the draft text acknowledges that basement development is of benefit to residents as a result of the provision of additional living accommodation it is noticeable that the text makes no reference to the governments stated objective to provide the supply of housing and homes that the country needs and that meet the needs of present and future generations. (NPPF paragraph 7, NPPF paragraph 17).</p> <p>In most situations this would normally be interpreted as referring to the need to provide additional new homes. However, these objectives also extend to the adaption, alteration and extension of existing dwellings to meet the needs of residents as these change and evolve over time.</p> <p>London is a world city and it is in the national interest that its status as a leading world city should be sustained and reinforced. As part of this it is therefore important that the planning system should allow the provision and development of world-class residential accommodation which meets the needs of residents who are of the very highest social status and economic standing.</p> <p>Basement development has an important role to play in the provision of world-class accommodation within central London and it is therefore respectfully suggested that the draft text should be amended to recognise this and to make it clear that, in determining individual applications for planning permission, the positive benefits associated with the provision of development which meets the housing needs of residents should be weighed up and balanced against other perceived harm which might be caused.</p> | <p>There are a number of reasons for restricting the size of basements as follows:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. 4. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>The Council is aware of its duty to provide additional housing and is meeting its housing targets. The Council's housing policies deal with the issues outlined</p> |
| 34.3.57 - 34.3.58 | Miss Arbuthnot | Page 11 Para 34.3.57 - Not just drainage and flooding, but all aspects of the water table, not just on the property itself but locally. What about impact on local trees, shrubs, borders etc. which draw on local water supplies? Perhaps the new structure will block access. | The policy protects trees of townscape value. Technical work undertaken by Arup and Baxter's has shown that basements do not have a negative impact on ground water. |
| 34.3.57 - 34.3.58 | Tony Holt | Para 34.3.57. The geology and sub-strata need to be taken into account as well. This should be mentioned in a separate sub-para. | Noted. This will be required as part of the Basement Impact Assessment (Appendix C) and will be detailed in the revised SPD. |
| 34.3.59 - 34.3.60 | Card Geotechnics (Richard Ball) | <p>34.3.59 - Surface water drainage of gardens, where there is clay present at ground surface, is unlikely to be affected by the construction of a basement. The clay at ground surface is effectively impermeable, as is the concrete, and infiltration characteristics are effectively unchanged.</p> <p>Given the recent wet weather, it is possible that the respondents to the questionnaire may be seeing the impact of this rather than recently constructed basements.</p> | Noted. Restrictions on basements are being proposed for a number of reasons not just drainage issues. |

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| 1 34.3.59 - 34.3.60 | Paul Lever | 34.3.59. Concerns about drainage are not the only reason for limiting the proportion of a garden under which basements can be constructed. The impact on the scope of the developments and the duration of its construction should also be taken into account. this means that normally basements should be limited to 50% of gardens, not 75%. Westminster has adopted a policy along these lines. So should Kensington and Chelsea. | Noted. The Council is considering a range of aspects to arrive at a suitable limit to the maximum extent of basements into gardens. |
| 1 34.3.59 - 34.3.60 | Leigh & Glennie Ltd (Christian Leigh) | 34.3.59-60 and Policy CL7a This paragraph relates to the retention of an area of 'garden' being retained, i.e. no basement beneath. This is understood for gardens where there is soil, i.e. the conventional meaning of garden, since the objective for this policy is given as ensuring there is surface water drainage. But there are properties in RBKC which have small courtyard areas as their rear 'gardens'. These are - and always have been - entirely paved areas with no drainage, as that is part of the original character and original construction of such areas. Similar, such areas would never have larger scale planting. E.g. tightly-built up terraces, some of the grander terraces that have always relied on communal squares for amenity areas, e.g. Thurloe Square, Kensington Gate. There would be little benefit from retaining 25% of such areas as having no basement, since such areas have always been hard standing. The policy should therefore be flexible enough to recognise that in some circumstances there may be a case where, with a small rear courtyard, there may be exceptions. | Noted. The reasoned justification to the policy will be amended to clarify that where the character of the garden is 'small paved courtyard' other measures of SUDs may be more suitable. The limits of the size of basements are being proposed due to a number of reasons not just drainage issues. There will be no exception in terms of extent of basements in paved gardens. |
| 34.3.59 - 34.3.60 | Gulvanessian Associates (Mr Gulvanessian) | Climate change due to surface water drainage in garden basements in London (34.3.59) No evidence has been provided that changes to surface water drainage in London could have a noticeable impact on climate change. This assertion should be removed or evidence should be provided. Unaffected area of a garden needs to be in a single area (34.3.60) There is no reason that in general the unaffected area of a garden should be in a single area. Vertical or horizontal water flows are not increased per se by having one un-built area of garden as stated. The Arup report, page 18, section 5.1 Underground water, makes this clear. | Noted. This is a typographical error. The intended meaning was that climate change such as extreme weather can cause greater issues with surface water drainage rather than the other way around. Text will be amended to clarify/ remove this reference. The unaffected garden needs to be in a single area and where possible next to similar areas is adjacent plots. This has benefits not only in terms of better drainage but also allows flexibility to plant major trees. This will be clarified at the next stage. The policy is not just based on drainage issues. London Plan Policy 3.5 states " <i>Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified</i> ". |
| 34.3.59 - 34.3.60 | Gulvanessian Associates (Mr Gulvanessian) | Climate change due to surface water drainage in garden basements in London (34.3.59) No evidence has been provided that changes to surface water drainage in London could have a noticeable impact on climate change. This assertion should be removed or evidence should be provided. | Noted. This is a typographical error. The intended meaning was that climate change such as extreme weather can cause greater issues with surface water drainage rather than the other way around. Text will be amended to clarify/ remove this reference. |
| 34.3.59 - 34.3.60 | London basement (Stephen Merritt) | Climate change due to surface water drainage in garden basements in London (34.3.59) No evidence has been provided that changes to surface water drainage in London could have a noticeable impact on climate change. This assertion should be removed or evidence should be provided. Unaffected area of a garden needs to be in a single area (34.3.60) There is no reason that in general the unaffected area of a garden should be in a single area. Vertical or horizontal water flows are not increased per se by having one un-built area of garden as stated. The Arup report, page 18, section 5.1 Underground water, makes this clear. | Noted. This is a typographical error. The intended meaning was that climate change such as extreme weather can cause greater issues with surface water drainage rather than the other way around. Text will be amended to clarify/ remove this reference. The unaffected garden needs to be in a single area and where possible next to similar areas is adjacent plots. This has benefits not only in terms of better drainage but also allows flexibility to plant major trees. This will be clarified at the next stage. The policy is not just based on drainage issues. London Plan Policy 3.5 states " <i>Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified</i> ". |

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| 34.3.59 - 34.3.60 | London basement (Stephen Merritt) | <p>Climate change due to surface water drainage in garden basements in London (34.3.59)</p> <p>No evidence has been provided that changes to surface water drainage in London could have a noticeable impact on climate change.</p> <p>This assertion should be removed or evidence should be provided.</p> | <p>Noted. This is a typographical error. The intended meaning was that climate change such as extreme weather can cause greater issues with surface water drainage rather than the other way around. Text will be amended to clarify/ remove this reference.</p> |
| 34.3.59 - 34.3.60 | Basement Force (Simon Haslam) | <p>Climate change due to surface water drainage in garden basements in London (34.3.59)</p> <p>No evidence has been provided that changes to surface water drainage in London could have a noticeable impact on climate change.</p> <p>This assertion should be removed or evidence should be provided.</p> <p>Unaffected area of a garden needs to be in a single area (34.3.60)</p> <p>There is no reason that in general the unaffected area of a garden should be in a single area. Vertical or horizontal water flows are not increased per se by having one un-built area of garden as stated. The Arup report, page 18, section 5.1 Underground water, makes this clear.</p> | <p>Noted. This is a typographical error. The intended meaning was that climate change such as extreme weather can cause greater issues with surface water drainage rather than the other way around. Text will be amended to clarify/ remove this reference.</p> <p>The unaffected garden needs to be in a single area and where possible next to similar areas is adjacent plots. This has benefits not only in terms of better drainage but also allows flexibility to plant major trees. This will be clarified at the next stage.</p> <p>The policy is not just based on drainage issues. London Plan Policy 3.5 states <i>"Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified"</i>.</p> |
| 34.3.59 - 34.3.60 | Basement Force (Simon Haslam) | <p>Climate change due to surface water drainage in garden basements in London (34.3.59)</p> <p>No evidence has been provided that changes to surface water drainage in London could have a noticeable impact on climate change.</p> <p>This assertion should be removed or evidence should be provided.</p> | <p>Noted. This is a typographical error. The intended meaning was that climate change such as extreme weather can cause greater issues with surface water drainage rather than the other way around. Text will be amended to clarify/ remove this reference.</p> |
| 34.3.59 - 34.3.60 | Tessuto (Gemma Gordon-Duff) | <p>Climate change due to surface water drainage in garden basements in London (34.3.59)</p> <p>No evidence has been provided that changes to surface water drainage in London could have a noticeable impact on climate change.</p> <p>This assertion should be removed or evidence should be provided.</p> <p>Unaffected area of a garden needs to be in a single area (34.3.60)</p> <p>There is no reason that in general the unaffected area of a garden should be in a single area. Vertical or horizontal water flows are not increased per se by having one un-built area of garden as stated. The Arup report, page 18, section 5.1 Underground water, makes this clear.</p> | <p>Noted. This is a typographical error. The intended meaning was that climate change such as extreme weather can cause greater issues with surface water drainage rather than the other way around. Text will be amended to clarify/ remove this reference.</p> <p>The unaffected garden needs to be in a single area and where possible next to similar areas is adjacent plots. This has benefits not only in terms of better drainage but also allows flexibility to plant major trees. This will be clarified at the next stage.</p> <p>The policy is not just based on drainage issues. London Plan Policy 3.5 states <i>"Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified"</i>.</p> |
| 34.3.59 - 34.3.60 | Tessuto (Gemma Gordon-Duff) | <p>Climate change due to surface water drainage in garden basements in London (34.3.59)</p> <p>No evidence has been provided that changes to surface water drainage in London could have a noticeable impact on climate change.</p> <p>This assertion should be removed or evidence should be provided.</p> | <p>Noted. This is a typographical error. The intended meaning was that climate change such as extreme weather can cause greater issues with surface water drainage rather than the other way around. Text will be amended to clarify/ remove this reference.</p> |

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| 34.3.59-34.3.60 | Bell Cromwell (Tracey Rust) | <p>Paragraph 34.3.59 & Policy CL7 a</p> <p>There is no justification for reducing the limitation of basements under the garden. There is no evidence of any greater adverse material planning impact from the existing 85% limitation which has been tried and tested,</p> | <p>The policy will be amended to require a greater proportion of the garden to be free of any development requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>London Plan Policy 3.5 states "Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified".</p> |
| 34.3.59 - 34.3.60 | The Chelsea Society (Terence Bendixson) | <p>Is there any reason for such change? Have the existing policies failed? Has Chelsea's desirability as an address been diminished? No, the effects of existing (non-basement) policies are widely admired and supported. So, should basements be considered a special case? Should residents who are constrained, for the good of all, from building upwards or backwards be given scope to go downwards? The Chelsea Society can see that this may bring private benefit, but where is the public benefit given the burdens of air and noise pollution, environmental damage and traffic congestion.</p> <p>These detriments need to be recognised in the Council's final policy. As things are the greatest risk is that developers will interpret Paragraph 34.3.58 of the draft text as a right to dig basement under 75% of gardens large and small. It is essential for the Council to reduce this figure and spell out that no such right exists.</p> <p>v) Extent of garden excavations</p> <p>The Council's draft proposes to allow up to 75% of gardens to be excavated. Developers will do their utmost to make this the norm and, on the basis of the principle 'the larger the basement, the greater the construction impact,' this would appear to give maximum benefit to applicants and a maximum of detriment to residents. Is this fair?</p> <p>The Chelsea Society considers that it is not, particularly when put in the context of 'permitted development', as defined by the Department of Communities and Local Government. This is for a maximum of three meters of excavation beyond the rear wall of the house. The Society therefore proposes that garden excavation should be allowed under 20% of the entire front-and-back, paved-and-unpaved surface of gardens, or three metres from the rear house wall, whichever is the less. (NB. The Society is aware of legal casework indicating that all excavation and subterranean engineering work fall outside permitted development.)</p> <p>vi) Construction under houses and under gardens</p> <p>The side-effects of excavation under a house and under a garden differ. Work under a building is, by its nature, largely hidden. The scale of the machines employed is limited. And disturbance by noise and vibration is usually confined to buildings immediately the other side of party walls.</p> <p>Excavation in a garden is, by contrast, akin to open-cast mining and its side-effects tend to spread far wider. And here it is particularly true that the larger the basement, the greater the impact. It is for this reason that the Society urges the Council to distinguish between the two types of construction and to cut to 20% its proposed 75% garden rule.</p> | <p>Noted. Sustainable development as set out in the NPPF includes economic, social and environmental considerations. The policy seeks to achieve this balance and is based on a range of evidence.</p> <p>The policy will be amended to have a greater restriction on the extent of basements within gardens. This is based on a number of reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. 4. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property and allow only one additional storey. There will be some exceptions which will be defined at the next stage.</p> |

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| 34.3.59 - 34.3.60 | Kevin Scott Consultancy Limited (Kevin Scott) | <p>The 85% site coverage figure is arbitrary and fails to take account of the factors relevant to a particular site. The policy assumes that all garden areas are laid to lawn and planting which is clearly not the case. In many instances a well designed basement with an appropriate drainage system and landscaping scheme will provide a more sustainable option than the existing situation.</p> | <p>Noted. There are a number of reasons for restricting the size of basements as follows:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. 4. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property and allow only one additional storey. There will be some exceptions which will be defined at the next stage.</p> |
| 34.3.59 - 34.3.60 | Thurloe Residents Association (Traci K Weaver) | <p>Section: 34.3.59, which covers surface water runoff and the percentage of a garden that may be developed, should be reconsidered. As recommended by Thames Water, there should be no surface water runoff from sites; the sewer system should not be relied on to accommodate runoff. London's antique sewer system is already severely stretched and must not be pushed over the abyss by runoff from basements!</p> | <p>Noted. The policy is seeking to improve the existing situation regarding surface water run-off to the sewers. This will be done through the provision of sustainable urban drainage schemes (SUDs) which include 1m of permeable soil on top of basements.</p> |
| 34.3.59 - 34.3.60 | King Knight Build Ltd (King Knight Build Ltd) | <p>The text in this paragraph refers to the impact which basement development can have on the surface water drainage, the risk of flooding and hydrology and has to be read in conjunction with the council's proposed requirements for planning applications to be supported by a Flood Risk Assessment, statement on Groundwater and proposals for a Sustainable Urban Drainage System.</p> <p>In this regard I would strongly support the Councils proposed requirement for the submission of this information as part of the application process.</p> <p>It is clear that there will be some locations and some situations where substantial basement construction may cause significant harm as a result of disruption to the existing hydrology of the locality or disruption of existing patterns of surface water drainage. In adverse situations this can cause genuine harm to the adjoining property, surface water run-off onto</p> | <p>Noted. Sustainable development as set out in the NPPF includes economic, social and environmental considerations. The policy seeks to achieve this balance and is based on a range of evidence.</p> <p>There are a number of reasons for restricting the size of basements not just drainage issues as follows:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. |

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| | | <p>neighbouring land and a material increase in flood risk.</p> <p>I would therefore support the wording of the text which makes it clear that the amount of land which should be left unaffected by development will depend on the results of the analysis of the surface water conditions on the site, together with a number of other factors and that in some situations this may result in the size of any new basement being constrained to significantly below a figure of 75% of the garden area of the property concerned.</p> <p>However, I would observe that this emphasis on an evidence based approach to development control would seem somewhat inconsistent with the earlier statement in this paragraph that no basement should exceed 75% of the garden area.</p> <p>If the Council is to adopt a requirement for detailed assessment of ground conditions, surface water drainage and hydrology it is apparent that the Council will be in a good position to make an accurate evidenced based assessment of the actual impact of the proposed development.</p> <p>In this context it would seem inconsistent with the NPPF for the Council to reject a proposal for development which it knows will not result in adverse harm to existing patterns of surface water drainage and hydrology simply because it conflicts with some generalised percentage figure for garden area.</p> <p>Given the above comments it is respectfully suggested that the proposed text should be amended to acknowledge the possibility that the basement which extends beyond a figure of 75% of the garden area of the property concerned may be acceptable if the applicant can demonstrate that this would not result in any material harm resulting from disruption to establish patterns of surface water drainage, hydrology or other concerns such as external visual character.</p> <p>In terms of the wording of this paragraph. I am also drawn to the councils apparent objective "to ensure that the status quo in relation to surface water drainage is maintained.....".</p> <p>There are many situations in which the planning system is required to prevent change in order to fulfil the environmental objectives of the Government and to prevent harm to the natural environment.</p> <p>However, the fact that development might result in change to the natural environment, does not in itself mean that this is harmful or that the development which is proposed is unsustainable. Indeed, research is available which highlights examples of development which have resulted in changes in patterns of drainage and hydrology which have not resulted in any material harm.</p> <p>Furthermore, it is clear that patterns and surface water drainage and hydrology within the London area have been characterised by a process of significant change and alteration as a result of built development and the impact of industrial activity.</p> <p>In this context I would respectfully point out that the National Planning Policy Framework clearly defines the roles and objectives of the planning system and that whilst the system is clearly intended to prevent change which would result in unacceptable harm it is most certainly not intended to prevent change simply in order to maintain the "status quo".</p> <p>Planning Policy which is intended to prevent change simply to maintain the "status quo" would be inconsistent with the NPPF and fundamentally unsound.</p> <p>It is therefore respectfully suggested that the proposed text should be amended to make it clear that development which results in changes to local hydrology and patterns of surface water drainage can be accepted where the applicant is able to demonstrate that this would not result in an unacceptable level of material harm to the natural or built environment.</p> | <ol style="list-style-type: none"> 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. 4. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that "underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible". The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property and allow only one additional storey. There will be some exceptions which will be defined at the next stage.</p> <p>London Plan Policy 3.5 states "Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified".</p> |
| 34.3.59 - 34.3.60 | The Kensington Society (Anthony Walker) | <p>34.3.59 revise wording: "Basements can, however, provide benefits to residents, by adding space. Bedrooms in basement must have adequate natural light and ventilation.</p> <p>34.3.59 See item 4 above - 75% is too much under all circumstances</p> <p>revise wording "In order to ensure that Thames Water's goal to reduce surface water run-off is achieved and in order to reduce overall site water run-off. the status quo in relation to surface water drainage is maintained without increasing</p> | <p>Noted. The policy is precluding deeper basements in most cases therefore there is no additional need for this requirement.</p> <p>Noted. The policy will be amended at the next stage to reduce garden coverage to a maximum of 50%. This will allow greater flexibility to plant major trees and also to alter garden layouts as suggested.</p> |

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| | | <p>surface water flows onto adjoining properties and the sewer system, no basement should exceed 75% 50% of the garden, and may even be significantly less than this".</p> <p>34.3.60 The Baxter report suggests the strip of land should as a minimum be the full width of the garden and 3m back to front. We propose that this is incorporated in the text. The Society considers that there should not only be the opportunity for larger-scale planting but also flexibility to allow other owners in the future to alter garden layouts.</p> <p>GLA's Housing SPG (November 2012): Para 2.2.9 also says: "Policy 3.5 also supports a presumption against garden development where this can be locally justified. This is in recognition of the wider roles gardens play in London through their contributions to achievement of wider LP policies (see paragraphs 1.2.17 - 24 of this SPG). Para 1.2.25 of this SPG provides guidance on the use of strategic planning policy to support local planning approaches to inappropriate subterranean development."</p> <p>34.3.60. revise wording: ... to provide areas for natural drainage into the existing site and limit drainage into the sewer system. Permitted development rights should be removed so that no paving of gardens should be permitted without permission which in combination with a basement covered more than 50% of the garden area</p> | <p>The policy is seeking to improve the existing situation regarding surface water run-off to the sewers. This will be done through the provision of sustainable urban drainage schemes (SUDs) which include 1m of permeable soil on top of basements.</p> <p>Reference to London Plan Policy 3.5 noted and agreed that it supports the Council's future policy direction to reduce garden coverage by basement development.</p> <p>Suggestion for revised wording to para 34.3.60 cannot be introduced as there is a separate procedure the Council has to follow to remove permitted development rights through the introduction of an Article 4 direction, it chooses to take this action.</p> |
| 34.3.61 | The Chelsea Society (Terence Bendixson) | <p>We support:</p> <p>The confinement of work on basements to weekdays only, etc. etc.</p> | Support for working hours restriction is noted. |
| 34.3.61 | James Copinger-Symes | <p>Construction impact - 'bad neighbour' use (34.3.61)</p> <p>Could the council explain the term 'bad neighbour' in the planning context and explain how the impact phase of a deep basement is 'bad neighbour' for planning.</p> <p>Construction limited to weekdays only (34.3.61)</p> <p>Limiting basement construction work to weekdays only will increase project duration by approximately 15%. All other things being equal this would appear to increase the overall construction impact of a project.</p> | <p>The reference to 'bad neighbour' use will be deleted. The intention was to highlight adverse construction impacts on neighbours.</p> <p>Comment noted regarding working hours restriction will increase project duration.</p> |
| 34.3.61 | Gulvanessian Associates (Mr Gulvanessian) | <p>Construction impact - equal treatment across all building and other activities (34.3.61)</p> <p>All construction projects involve some impact. The construction impact caused by basement projects should be considered on the same basis as for other construction projects of all sizes.</p> <p>Non-basement construction projects can have greater impact than basement work including:</p> <p>Large developments such as the De Vere Gardens project and almost any other large construction project in the borough in residential areas. These are multi-year projects and have very high negative impact on residents and highways users.</p> <p>Internal structural work inside multi-occupant residential buildings. Installing structural steelwork and undertaking demolitions in residential blocks and terraced houses can have very high construction impact on residents in adjoining properties.</p> <p>It appears that basement development has been unfairly singled out for additional controls.</p> <p>A planning rule that limits basement development to single storey on this basis is therefore unfair and unreasonable.</p> <p>Construction impact - 'bad neighbour' use (34.3.61)</p> <p>Could the council explain the term 'bad neighbour' in the planning context and explain how the impact phase of a deep basement is 'bad neighbour' for planning.</p> <p>Construction limited to weekdays only (34.3.61)</p> <p>Limiting basement construction work to weekdays only is unfair. All construction work across the borough should be subject to the same restrictions.</p> | <p>Noted. Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. Restriction to a single storey is based on the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that "underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible". The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>The reference to 'bad neighbour' use will be deleted. The intention was to highlight adverse construction impacts on neighbours.</p> <p>Restriction on working hours - This issue will be considered by the</p> |

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| | | <p>It would seem fair that any restrictions should include all building works including residential DIY work.</p> <p>Construction limited to weekdays only (34.3.61)</p> <p>Limiting basement construction work to weekdays only will increase project duration by approximately 15%. All other things being equal this will increase the overall construction impact of a project.</p> | <p>Council for all noisy work and could be based on site specific circumstances in residential areas.</p> <p>Comment noted regarding working hours restriction will increase project duration.</p> |
| 34.3.61 | London basement (Stephen Merritt) | <p>Construction impact - equal treatment across all building and other activities (34.3.61)</p> <p>All construction projects involve some impact. The construction impact caused by basement projects should be considered on the same basis as for other construction projects of all sizes.</p> <p>Non-basement construction projects can have greater impact than basement work including:</p> <ul style="list-style-type: none"> • Large developments such as the De Vere Gardens project and almost any other large construction project in the borough in residential areas. These are multi-year projects and have very high negative impact on residents and highways users. • Internal structural work inside multi-occupant residential buildings. Installing structural steelwork and undertaking demolitions in residential blocks and terraced houses can have very high construction impact on residents in adjoining properties. <p>It appears that basement development has been unfairly singled out for additional controls.</p> <p>A planning rule that limits basement development to single storey on this basis is therefore unfair and unreasonable.</p> <p>Construction impact - 'bad neighbour' use (34.3.61)</p> <p>Could the council explain the term 'bad neighbour' in the planning context and explain how the impact phase of a deep basement is 'bad neighbour' for planning.</p> <p>Construction limited to weekdays only (34.3.61)</p> <p>Limiting basement construction work to weekdays only is unfair. All construction work across the borough should be subject to the same restrictions. Whilst Consideration Constructors will try to make arrangements with neighbours any reduction in working hours will lead to an increase in time on site.</p> <p>It would seem fair that any restrictions should include all building works including residential DIY work.</p> <p>Construction limited to weekdays only (34.3.61)</p> <p>Limiting basement construction work to weekdays only will increase project duration by approximately 15%. All other things being equal this will increase the overall construction impact of a project.</p> | <p>Noted. Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. Restriction to a single storey is based on the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>The reference to 'bad neighbour' use will be deleted. The intention was to highlight adverse construction impacts on neighbours.</p> <p>Restriction on working hours - This issue will be considered by the Council for all noisy work and could be based on site specific circumstances in residential areas.</p> <p>Comment noted regarding working hours restriction will increase project duration.</p> |
| 34.3.61 | Basement Force (Simon Haslam) | <p>Construction impact - equal treatment across all building and other activities (34.3.61)</p> <p>All construction projects involve some impact. The construction impact caused by basement projects should be considered on the same basis as for other construction projects of all sizes. Non-basement construction projects can have greater impact than basement work including:</p> <ul style="list-style-type: none"> • Large developments such as the De Vere Gardens project and almost any other large construction project in the borough in residential areas. These are multi-year projects and have very high negative impact on residents and highways users. • Internal structural work inside multi-occupant residential buildings. Installing structural steelwork and undertaking demolitions in residential blocks and terraced houses can have very high construction impact on residents in adjoining properties. | <p>Noted. Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. Restriction to a single storey is based on the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that |

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| | | <p>It appears that basement development has been unfairly singled out for additional controls.</p> <p>A planning rule that limits basement development to single storey on this basis is therefore unfair and unreasonable.</p> <p>Construction impact - 'bad neighbour' use (34.3.61)</p> <p>Could the council explain the term 'bad neighbour' in the planning context and explain how the impact phase of a deep basement is 'bad neighbour' for planning.</p> <p>Construction limited to weekdays only (34.3.61)</p> <p>Limiting basement construction work to weekdays only is unfair. All construction work across the borough should be subject to the same restrictions.</p> <p>It would seem fair that any restrictions should include all building works including residential DIY work.</p> <p>Construction limited to weekdays only (34.3.61)</p> <p>Limiting basement construction work to weekdays only will increase project duration by approximately 15%. All other things being equal this will increase the overall construction impact of a project.</p> | <p><i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”.</i> The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> <p>The reference to 'bad neighbour' use will be deleted. The intention was to highlight adverse construction impacts on neighbours.</p> <p>Restriction on working hours - This issue will be considered by the Council for all noisy work and could be based on site specific circumstances in residential areas.</p> <p>Comment noted regarding working hours restriction will increase project duration.</p> |
| 34.3.61 | Tessuto (Gemma Gordon-Duff) | <p>Construction impact - equal treatment across all building and other activities (34.3.61)</p> <p>All construction projects involve some impact. The construction impact caused by basement projects should be considered on the same basis as for other construction projects of all sizes.</p> <p>Non-basement construction projects can have greater impact than basement work including:</p> <ul style="list-style-type: none"> - Large developments such as the De Vere Gardens project and almost any other large construction project in the borough in residential areas. These are multi-year projects and have very high negative impact on residents and highways users. - Internal structural work inside multi-occupant residential buildings. Installing structural steelwork and undertaking demolitions in residential blocks and terraced houses can have very high construction impact on residents in adjoining properties. <p>It appears that basement development has been unfairly singled out for additional controls.</p> <p>A planning rule that limits basement development to single storey on this basis is therefore unfair and unreasonable.</p> | <p>Noted. Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. Restriction to a single storey is based on the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”.</i> The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| 34.3.61 | Sam Gordon Clark | <p>Working hours: I question your ability to enforce these, although it is good that you intend to restrict them to weekdays. Work in South Terrace has on occasions been carried out on Sundays and bank holidays, but no-one bothers to complain since by the time your staff are able to do anything about it, it's stopped.</p> | <p>Noted. The Council cannot monitor every site and relies on complaints to take enforcement action.</p> |
| 34.3.61 | Sam Gordon Clark | <p>Review of Documentation 34.3.61. What is a 'larger site'? This needs spelling out or it will lead to problems.</p> | <p>Noted. This will be clarified at the next stage.</p> |

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| 34.3.61 | The Royal Brompton and Harefield NHS Trust | <p>2) Revision: Policy CL7 part b. and supporting text Para 34.3.61</p> <p>* Further detail and clarification to explain whether the installation of mezzanines as opposed to entire floor levels is considered as a 'horizontal subdivision' would be welcomed. We suggest that this limitation is decided on a case by case basis and secured via condition.</p> <p>We suggest that the proposed restriction to weekday working needs to take account of site specific circumstances and the impact of restricting working times on the overall development programme.</p> | <p>Noted. The definition of single storey will be clarified at the next stage. A mezzanine floor will be considered horizontal sub-division.</p> <p>Restriction on working hours - This issue will be considered by the Council for all noisy work and could be based on site specific circumstances in residential areas.</p> |
| 34.3.61 | Bell Cornwell (Tracey Rust) | <p>Paragraph 34.3.61 &. Policy CL7b</p> <p>The duration of building works per se is not a material planning consideration. It is not a sound basis therefore for justifying a planning policy constraint to permit only a single storey on small scale developments.</p> | <p>Noted. Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. Restriction to a single storey is based on the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| 34.3.61 | ARK (Rupert Carruthers) | <p>The supporting text under paragraph 34.3.61 makes reference to restricting basement development to a depth not suitable for further horizontal subdivision. Our comments are as follows:</p> <ul style="list-style-type: none"> - The Alan Baxter report makes very little mention of deep basement construction. In the few instances where it does, much emphasis is put on methodology and in no circumstance does it expressly advise against it. The question is raised in the Q&A section (question 4) of the Baxter report and the consultants argue here merely that special care is to be taken when deep basements are designed. - Most basements have little, if any, visual impact on the city and streetscape and the depth of a basement has no relation to its visual appearance at ground level. - Presumably the argument is that deeper basements result in more significant construction impact and therefore a greater loss of amenity to the neighbouring properties / occupants. However, we would argue that the impact of construction is more closely related to method than it is to size. Construction methodology is and should be controlled through the use of the Basement Impact Assessment. If the option of a double basement is taken away residents seeking additional space will naturally seek to develop the maximum possible single basement. In many instances a double basement covering a smaller area will have less impact than a single basement covering a larger area. - To achieve a better distribution of light double height spaces are quite often preferable in subterranean development. Therefore less manifestation at ground level (such as horizontal glazing at ground level) could often be achieved through careful design of a double basement. | <p>Noted. Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. Restriction to a single storey is based on the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |

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| 34.3.61 | The Chelsea Society (Terence Bendixson) | <p>The evidence that the bigger the basement the bigger the machines used, the greater the noise, the longer the duration of work, and the greater the number of deliveries by cement mixers and other vehicles. Since bigger means greater impact on the environment and on amenity, no credence should be given to the idea that larger sites should qualify for larger basements.</p> <p>ii) A presumption against larger basements in larger gardens.</p> <p>On Page 6. Line 4 the draft says that '...the larger the basement the greater the construction impact'. In Renewing the Legacy 34.3.61 - on Page 11, it says: 'Deeper basement extensions may be acceptable on larger sites which are less constrained where impacts can be successfully mitigated.'</p> <p>There is no evidence that 'less constrained' sites exist in Chelsea, of that, if they do, they should be given greater freedom. The Society urges the Council to modify the sentence above as follows:</p> <p>'Deeper basement extensions may be acceptable on larger sites provided that they are not in residential streets and do not share any walls with inhabited buildings.'</p> | Noted. The draft policy will be amended at the next stage to clarify the exception. |
| 34.3.61 | Ladbroke Association (Sophia Lambert) | <p>12. We note that the statement in the proposed paragraph 34.3.61 of the Core Strategy that the Council will normally limit construction to weekdays is no more than a restatement of existing policy - although we welcome the proposal that the DCMP (including abiding by the Council's working hours) will be enforced through a planning condition. We are disappointed, however, that no reference is made to the restriction of particularly noisy works to only a few hours a day. The City of London, for instance, expects developers to sign up to refraining from noisy work between 10.00-12.00 and 14.00-16.00, thus giving neighbours at least four hours of peace during the working day. In some cases, it may be appropriate not to have Saturday working. This is an area where advance consultation with neighbours by the developer will be particularly important. We urge that developers be pressed to consult adjoining owners on this point and for the detailed specification for the DCMP to require developers to consider where appropriate restricting noisy works to certain hours so as to reduce the effect on neighbours, especially where this can be done without significantly prolonging the works, and for the Council to be prepared to impose a condition requiring abidance by such hours where appropriate.</p> | <p>Noted. Restrictions to working on Saturdays is not an existing policy that the Council operates.</p> <p>This issue will be considered by the Council for all noisy work and could be based on site specific circumstances in residential areas.</p> <p>The City of London operates the restriction to protect businesses (as it is dominated by businesses) from noisy work during core business hours. The Royal Borough on the other hand is largely residential and a restriction on noisy work on weekends is more appropriate.</p> |
| 34.3.61 | King Knight Build Ltd (King Knight Build Ltd) | <p>The proposed text in this paragraph refers to the adverse impact on neighbouring residents which can result from the construction phase of basement development and indicates the intention of the Council to limit most basement development beneath existing buildings or the gardens, or in small scale developments to no more than a single-storey in depth.</p> <p>The reasoning of the Council in this regard is more succinctly explained in the executive summary of the draft policy consultation which states that :-</p> <p>"This is on the basis that the larger the basement, the greater the construction impact : "</p> <p>It is acknowledged that deep basement construction can involve very substantial civil engineering which in many cases involve heavy construction work in difficult and constrained situations and in very close proximity to adjoining residential property.</p> <p>Furthermore, it is quite clear that there have been examples where adjoining residents have been subjected to very great disruption to their domestic environment and personal lives.</p> <p>In this context it is entirely reasonable for the Council to bring forward enhanced policy requirements which ensure the very best construction practice and which ensure that the adverse impact of development on neighbouring residents during the construction phase is properly considered and carefully controlled in order to ensure the maximum level of mitigation.</p> <p>However, I would draw the Councils attention to obvious inconsistencies and unintended consequences which will result from the simplistic policy approach which is proposed.</p> <p>By way of example, it is entirely possible to conceive of a proposed basement development which might be of two stories in depth but might nevertheless be of smaller volume than an alternative design which is only one story in depth but which extends below the full footprint of the existing building and a substantial percentage of the garden of the property.</p> <p>In this situation, the Councils proposed policy approach would result in planning permission being refused for the smaller</p> | <p>The policy cannot foresee every eventuality. The policy will be amended to restrict basements to a maximum of 50% of the garden. There will be some exceptions which will be defined at the next stage.</p> <p>The Council is not defining an actual volume as that will be too inflexible and restrictive. It is considered that larger sites will result in larger sized basements and this is proportional as a larger site is likely to have greater flexibility to manage its construction impacts on site. It is also likely to be accessed by a wider access than a smaller for example mews development.</p> <p>The depth of the basement is not being restricted just on the grounds of construction impact. Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The reasons are set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 1. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that "underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible". The Royal Borough has a very special |

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| | | <p>but deeper development option whilst nevertheless, allowing a larger single-storey alternative resulting in a greater amount of construction traffic and consequent disruption for adjoining residents.</p> <p>Other similar examples would include the refusal of planning permission for a two-storey basement below a smaller residential property which, in fact resulted in very much less, excavation and very much less road traffic generation than a single-storey basement constructed to serve a larger dwelling.</p> <p>The assumption that that there is an automatic and direct relationship between the construction impact resulting from the construction of the basement and the depth of the construction would also seem very crude.</p> <p>To illustrate this point it is worth recognising that there are already a significant number of extant basements serving dwellings within the borough area. Construction of a two storey basement alongside an existing basement structure might in fact result in much less disturbance for residents than construction of a single-storey basement within a terrace of properties which have not been previously altered.</p> <p>Other examples relate to the differences, and variation in highways access and property frontage. In this regard it is easy to imagine a situation where the construction of a single- storey basement serving a mews property might in fact have much more construction impact than excavation of a two-storey basement serving a terrace town house with easier highways access and the opportunity for the storage of materials within the front garden of the dwelling.</p> <p>It is easy to see that a simplistic policy which purports to limit basement construction to a depth of one story would be simple to administer by the Local Planning Authority. However, although administrative convenience will be of value to the Council it means that the policy will be a relatively crude tool.</p> <p>The crude nature of the proposed policy means that there will undoubtedly be instances where the Council knowingly refuses planning permission for examples of sustainable development simply because the depth of proposed construction conflicts with the somewhat arbitrary one- storey limited. This would be unsound and it is respectfully suggested that the policy text should be amended to remove the proposed limit on construction depth and to replace this with a more considered evidence based approach which reflects the actual level of construction impact which will result in each individual case.</p> <p>I would also invite the Local Planning Authority to think carefully about the implications and underlying logic, which flows from the introduction of a policy of this type.</p> <p>In particular, I would ask whether the Council really suggesting that there is some maximum defined amount of construction impact which any individual property is allowed to have.</p> <p>By way of example, should other forms of residential development which result in substantial construction impact now also be banned or restricted ?</p> <p>Should the construction of replacement dwelling now be banned as a matter of principle simply because it involves a large amount of construction work ?</p> <p>Similarly, we might consider the case of the building which is repeatedly refurbished and altered by successive property owners and in which the cumulative impact of successive smaller construction projects eventually amounts to more than the impact of development resulting from the construction of a basement. Should the Council now seeks to ban or restrict further alteration or extension works simply on the basis that a property has previously been altered or extended and that residents have already been inconvenienced ?</p> <p>More fundamentally, I would make the point that the Council is not seeking to suggest that development resulting from the construction of basements of more than one story in depth is in all cases, or even in general, inherently damaging or unsustainable. Indeed, the wording of the executive summary and the text of paragraph 34.3.61 suggest that the proposed policy ban is solely based on concern resulting from disruption during the construction phase.</p> <p>This means that the Council is seeking to introduce a policy which will prohibit economically valuable and sustainable development simply because its construction is considered too inconvenient.</p> | <p>historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> <p>Sustainable development as set out in the NPPF includes economic, social and environmental considerations. The policy seeks to achieve this balance and is based on a range of evidence.</p> <p>Support for the requirements of Basement Impact Assessment is noted.</p> <p>The draft policy seeks to achieve a balance by not banning basements but defining what would be acceptable development. Therefore basements can still be constructed.</p> |

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| | | <p>In this regard, the NPPF makes it clear that the need to drive and support sustainable economic development is one of the Government's Core Planning Principles (Paragraph 17) and paragraphs 18 and 19 emphasise the very great weight which the government places on the need to secure and encourage economic growth.</p> <p>The option of deep basement construction also provides benefit in allowing the construction of world class residential accommodation and facilities which is wholly consistent with status of London as a world class city and as the motor of the UK economy.</p> <p>Clearly, economic growth must be sustainable. The economic role of the planning system must be seen alongside its social and environmental functions and the emerging policy framework should seek to prevent development which is not sustainable.</p> <p>However, it would not be in conformity with the NPPF for the proposed policies to seek to prohibit economically beneficial forms of development unless there is a clear and scientifically robust evidence base to demonstrate that it is actually unsustainable.</p> <p>It is entirely reasonable for emerging policy to require proposals for deep basement construction to be accompanied by sufficient evidence as is necessary to demonstrate that any individual design proposal is sustainable. However, it would be wholly unreasonable and wholly inconsistent with national policy guidance for the new emerging plan to seek to introduce what would effectively be a blanket ban which might well result in planning permission being refused for individual proposed schemes which are in fact completely sustainable.</p> <p>It is wholly appropriate for the Council to enhance its policy framework in order to ensure the proper mitigation and management of disruption caused during construction works. Indeed it is acknowledged that some of the problems of noise and vibration, which have been experienced by residents have been wholly unacceptable.</p> <p>However, the introduction of a planning policy which seeks to ban construction work which would allow sustainable development is unsound and wholly inconsistent with the National Planning Policy Framework.</p> <p>It is therefore respectfully suggested that the Council should remove the proposed new policy restriction which seeks to prevent the construction of more than one additional basement story except on larger sites.</p> | |
| 34.3.61 | Miss Arbuthnot | 'Non-designated heritage assets' - Who does the defining? The conservation department? Or will it be restricted to listed buildings? A problem with the Council doing it could be a conflict of interest if the building or site belonged to the Council, and the Council wanted perhaps a more modern building on the site. The old Kensington Town Hall comes to mind. | <p>Most buildings of note in this Borough are either listed or in a conservation area. Reference to non-designated heritage assets add an additional degree of protection to those assets that are neither listed nor in a conservation area.</p> <p>Heritage assets are defined in the NPPF as <i>"A heritage asset is a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest."</i></p> <p>In addition to the national and statutory designations, a local planning authority may formally identify heritage assets that are important to the area. Such a designation will be material when assessing an application. A non-designated heritage asset may also be of value, and make an important positive contribution to the environment. Guidance is available in English Heritage's practice guide to PPS5.</p> |
| 34.3.61 | The Kensington Society (Anthony Walker) | 34.3.61 The Society does not consider that the acceptability of deeper basements can be related to the plot size. The impact in terms of disruption and disturbance is dependent on the amount of excavation not the size of the plot in which it is situated. Issues related to water flow etc are related to the ground conditions and not the size of the site. We only consider deeper basements might be considered for uses other than residential and then only in locations which are not predominately residential. | Noted. Text will be amended to clarify the exceptions which are likely to include larger comprehensively planned sites. |

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| 34.3.61 | Cranbrook Basements (Ciaran O'Domhnaill) | <p>I understand there is a general opinion out there that basement developments cause more disturbance to neighbours than other developments. I do not believe this to be true. "Above Ground" developments command the same amount of deliveries if not more than basement developments. They require the same amount if not more rubbish clearances. The Traffic Management Plan is an ideal mechanism to reduce such disturbance. I have personally worked on basement developments where the developer has made concessions for the benefit of the neighbours. E.g. Timed and Pre-Notified Deliveries to site, etc. The Traffic Management Plan is an ideal mechanism to control these issues. By giving neighbours a chance to comment right from the start of the planning process; much of their fears may be allayed.</p> | <p>Agreed that a competent and considerate developer/contractor can proactively deal with residents/neighbours concerns and agree an amicable way forward but this is not always the case.</p> <p>Basements involve greater excavation compared to above ground extensions.</p> <p>The policy is based on a range of evidence and construction impact is one of them.</p> |
| 34.3.61 | Cranbrook Basements (Aidan O'Connor) | <p>Existing legislation protects the planning authority and if the appropriate departments managed within their remit nuisance to residents would be dramatically reduced.</p> <p>The complaints raised are not planning related. The planning department has conducted a basement survey response which having read the comment returned by a minority of the borough was framed in a completely biased fashion and this will require further attention. The same applies to comments recorded and published at the recent draft policy consultation meetings held at the town hall.</p> <p>The Planning department is straying beyond its statutory powers with this proposal and whilst seeking to protect the larger companies working in the borough through its two storey definition it is not actually addressing the real concerns of residents but it simply chooses to try to restrict trade of bonafide contractors providing local employment and contributing through excessive fees to the very departments trying to obstruct their right to trade. I am sure the British or European judiciary have precedence in this regard.</p> <p>I wish to have my comments noted and look forward to further discussion</p> | <p>The survey had a 17% return which is quite a high response rate. The basement survey response accurately reflects the survey's findings.</p> <p>The Council is mindful of the limitations of the planning legislation and the draft policy is drafted within this framework.</p> <p>The draft policy will be subject to an independent examination in public. An independent planning inspector appointed by the Government will consider whether the policy is sound in accordance with the NPPF.</p> |
| 34.3.61 | Princess di Sirignano | <p>The developments adjacent to us at Sloane Lodge and Sloane House are of such magnitude that if you have not personally witnessed the scale and proportionality, comparable only to a major civil engineering commercial development with multi-level deep basement and several floors, you could not imagine the degree of aggressive and intrusive works with all its attending disamenity set in the context of a Conservation residential area.</p> <p>Since demolition and excavations began in the early summer of 2010 many things have been witnessed, recorded for evidence, endured and fought against. The personal costs are the greatest and that includes fees we cannot recuperate for the necessary support of our lawyers and architects.</p> <p>The main criteria are for all basement excavation it seems is;</p> <ul style="list-style-type: none"> - Proportionality - Timescales - Degree of disruption in a residential area <p>The Physical Effects are a factor of the development scale and the time taken to complete them. This could be weighted and evaluated in the same way as a risk assessment. The concept of Environmental Impact Assessments seems to apply to newts, lizards, bats and vegetation, seldom to the human environment or 'quiet enjoyment' (a concept which is however, embedded in UK national park legal frameworks).</p> <p>The undesirable elements of noise, upheaval, vermin, vibration, massive destruction and re-construction whether necessary or desirable is more than an inconvenience, it is a relentless pace that invades the human psyche and the human soul that we human beings cannot live with at constantly sustained levels.</p> <p>The impact of Noise & Nuisance is thus;</p> <p>The sensorium is so bombarded until the person is no longer able to concentrate, read, write, study or work , as I do, because of living with an intolerable concert of different machinery noises that penetrate the entire household incessantly at certain levels of differentiated tone.</p> | <p>Noted.</p> <p>The restriction on the size of basements both in terms of extent in the garden and limitation to a single additional storey will address the issues mentioned to a great extent.</p> <p>A number of other measures are being proposed such as vetting of a Demolition and Construction Management Plan by the Environmental Health department before a planning application is made.</p> <p>In addition as mentioned the Council's Environmental Health department can deal with noise issues.</p> <p>The Council is considering restrictions on noisy work in residential areas on Saturdays. This could be based on site specific circumstances in residential areas.</p> |

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| | | <p>There are two equivalents of this kind of attack on the human psyche; having to live with and endure chronic pain and various forms of torture using sound that are designed to attack the sensorium and nervous system so that the victim is weakened, exhausted unable to form thoughts coherently or concentrate. The endocrine and immune systems are weakened by prolonged adrenal exhaustion from adrenalin stores being depleted after suffering long term continuous attacks.</p> <p>This gives you an idea what we residents experience and because we have no choice in the matter and many of us cannot escape, we are 'forced' to endure because there is a lack of or inadequate policies. No one who has not experienced this can ever understand the impact we residents are subjected to.</p> <p>Furthermore the Nervous System becomes traumatized, Hypertension builds up, Heart rate increases, Breathing rate becomes shallow, Blood pressure increases, Anxiety sets in and Panic attacks can occur in particularly the elderly.</p> <p>Keith Mehaffey has been very helpful to mitigate some noise over the past year but the scale and major plant machinery used to overdevelop 95 percent of an enormous open space, creates a level of intrusion that cannot be subdued. A chorus of pneumatic drills and other heavy plant machinery that has run incessantly for almost 10 hours straight multiplied by 5 working days and a Saturday create unbearable daily suffering. The relentless pace will drive anyone to the brink of despair.</p> <p>The short respite of Saturday afternoon and Sundays is not sufficient for the Central Nervous System of the human being subjected to the level of 'City like' developments, to recuperate.</p> <p>The worst thing I have discovered since all this began, is the element of chaos that invades the house. You feel you are living in their construction site. A feeling of disorder and disharmony permeates the entire house and unsettles one's daily routine and work.</p> <p>All SATURDAY construction works on subterranean developments and open space subterranean development should be ABOLISHED. One morning a week is not enough to wake free of such horrendously intrusive building works, two mornings is needed to recover in order face the five days of noise residents are subjected to.</p> <p>In short, the system that is in place does not deal with the anti-social conditions it creates. We seem to have lost social conscience within the community of 'civilized society' and destructive materialism has reached an almost pathological state.</p> <p>I could detail many transgressions from the operations of next door, that have been logged and recorded but there is no scope here for two and a half years of accounts.</p> <p>I recount two sad stories, one of the 96 year old Austrian writer Sybille Bedford OBE, who lived at 23 Old Church Street. She wrote to the Council when works began by developers at 15 Old Church Street, the future home of Tamara Eccleston, and sent a letter from her Doctor that she slept during the day because she wrote at night. She asked if they could start later so she could sleep otherwise her health would suffer.</p> <p>The double-depth basement was excavated with 9 months of piling to ring the site. She died during the works. Another casualty was Judy Birkin OBE who lived at 21 Old Church Street, she too died age 86 at the time of the works. A sad chapter in Old Chelsea with the loss of two great personalities.</p> <p>I note the last clause in the NPPF, No.219;</p> <p>"This Framework has been drafted to reflect the law following the implementation of the Localism Act 2011, so, where appropriate, policies will only apply when the relevant legislation is in force"</p> | |
| 34.3.62 | Leigh & Glennie Ltd (Christian Leigh) | <p>34.3.62 The blanket statement that no mature trees should be removed, etc, is too broad: an arboricultural assessment is of course the proper course of action, which may (or may not) identify that a mature tree is not worthy of protection.</p> | Noted. There is a requirement for all applications for basements where there are trees to be accompanied by a full tree survey and tree protection proposal (para 34.3.62). |

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| 34.3.62 | Milner Street Area Residents' Association (Richard Grantley) | Trees/shrubs 1. We welcome the proposal (34.3.62) to protect mature trees in the context of basement developments but think that this protection should extend also to mature shrubs which are equivalent to trees (in that they have similar stature and mass). Permission was recently granted in connection with a basement development for the removal of a mature shrub which is between 6 and 7 metres high and looks just like a tree but has no protection because it is a "shrub" and not a tree. We note the concern to protect the long term future of shrub planting in paragraph 34.2.71. | Noted. The Council has the powers to protect trees under the Town and Country Planning Act but not shrubs although that may be desirable. |
| 34.3.62 | Sam Gordon Clark | Trees: Your proposals are welcome, but there will still be instances of people cutting down trees without permission, and without your knowing about it. How do you intend to police this? | Noted. We can enforce on trees which have a tree protection order or if they are in a Conservation Area but we rely on neighbours to complain against unauthorised work. We do not have the resources to police the whole Borough against unauthorised tree works. |
| 34.3.62 | The Royal Brompton and Harefield NHS Trust | 3) Revision: Supporting text Para 34.3.62 * The need to ensure that mature trees are not harmed or put at risk in the long term to make way for a basement development is acknowledged. We propose however that the option of tunnelling under trees as set out within BS 5837 2012 should be considered on a case specific basis, and not wholly dismissed. We suggest that this be reworded to allow an element of flexibility in exceptional instances. | Noted. The Council does not consider the benefits of protecting the tree are outweighed by making way for a new basement. There will be no change to this part of the reasoned justification. |
| 34.3.62 | Shrimplin Brown (Robert Shrimplin) | 1. This restrictive policy approach that seeks to prevent any mature trees from being "removed, felled, uprooted, topped, damaged, harmed or put at risk" (proposed text, paragraph 34.3.62) does not apply to other forms of development despite the fact that they could also impact upon trees. The conclusion that "the Council does not judge the benefits that may be gained from a larger basement outweigh the benefits of minimising the disturbance and risk to protected trees" (proposed text, paragraph 34.3.62) does not apply to other forms of development. Again, a specific restriction is being placed upon basement development. 2. Rather, as suggested in the remainder of the proposed paragraph, "works should be carried out in accordance with BS 5837 2012 and the Council's Trees and Development SPD. All applications for basements where there are trees will be accompanied by a full tree survey and tree protection proposal. These must include consideration of the construction phase of the proposal as well as the completed development" (proposed text, paragraph 34.3.62). | The Council has an existing policy in the Core Strategy CR6: Trees and Landscape that applies to all developments. The Council also has an SPD on Trees and Development which applies to all developments. The quoted text is only in referring to tunnelling under trees to make way for basement. As this issue can only occur in relation to basements it is reasonable for the Council to specify the position in relation to it. |
| 34.3.62 | EC Properties LP (EC Properties LP) | Policy CL7 part c. and supporting text para 34.3.62 Paragraph 34.3.62 of the document highlights that BS 5837 2012 indicates that tunnelling under trees can be an option. However, this paragraph states that the Council does not judge that the benefits that may be gained by a larger basement outweighs the benefits of minimising the disturbance and risk of protected trees, and consequently this approach will not be permitted. We propose that tunnelling under trees should be considered on a site by site basis instead of providing a blanket refusal to such works, and this should be reflected in the supporting text. | Noted. As stated the Council does not consider the benefits of protecting the tree are outweighed by making way for a new basement. There will be no change to this part of the reasoned justification. |
| 34.3.62 | Kevin Scott Consultancy Limited (Kevin Scott) | We believe these provisions are too onerous and inflexible. The impact on trees and vegetation should be considered in the same way as for any other application for development and be based on the merits of the case and, where necessary, the results of an arboricultural assessment of trees likely to be affected. | The Council has an existing policy in the Core Strategy CR6: Trees and Landscape that applies to all developments. The Council also has an SPD on Trees and Development which applies to all developments. There is a requirement for all applications for basements where there are trees to be accompanied by a full tree survey and tree protection proposal (para 34.3.62). |
| 34.3.62 | Miss Arbuthnot | A number of mature trees were removed in order for the works at 2 Edith Grove to proceed. The application to fell the trees was submitted, and granted, before any application to burrow underground. | Applications for trees are determined in accordance with tree procedures and Policy CR6: Trees and Landscape of the Core Strategy. The tree applications would have been determined on their own merit regardless of any proposals from a basement development. |

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| 34.3.62 | The Kensington Society (Anthony Walker) | 34.3.62 The Society strongly supports Policy CL7(c) and the statement here that "no mature trees should be removed, felled or uprooted, tapped, damaged, harmed or put at risk in the long term to make way for a basement development. However, should any loss be accepted we propose that a policy be added that "Any replacement tree needs to be capable of achieving the same amenity value as the tree to be lost." . | Noted. Policy CR6: Trees and Landscape of the Core Strategy also applies to basement development as it does to other developments. As the policy precludes any loss of trees of townscape value adding a reference to replacement trees will weaken the policy. |
| 34.3.63 - 34.3.65 | Norland Conservation Society (Libby Kinmonth) | Listed v Unlisted Buildings 34.3.64 quotes detrimental impact on the hierarchy of historic floor levels as the reason for not allowing basements to be built under listed buildings. In Norland, we have unlisted houses which predate some of those listed e.g. South end of Addison Avenue. We also have houses built at much the same date as most of those listed, which are not listed because they are not of such merit, but to which the same arguments about hierarchy of historic floor levels would apply (on Princedale Road, Queensdale Road, Queensdale Walk, Queensdale Place, Portland Road). This argument against allowing basements under Listed Buildings, should equally apply to these. | Noted. The Planning Act has special provisions for the preservation of listed buildings which do not apply to unlisted buildings. The NPPF states that the more important the asset, the greater the weight should be to its conservation. Therefore the same significance and weight cannot be accorded to other non-listed heritage assets. |
| 34.3.63 - 34.3.65 | James Copinger-Symes | Listed buildings (34.3.64) The current review of basement planning rules could be used to relook at the restrictions on building under listed buildings. The current restrictions do not seemed to be based on sound logic but rather on some other more general desire to reduce or limit underground development. Building below a listed building does not seem to have greater impact on the building's historic integrity, scale or layout than building under the garden and having a connection to the listed building of an insubstantial nature, which is the current and proposed policy for listed buildings. As a point to note it is quite feasible to build safely and correctly under a listed building by tunnelling from outside the building's footprint thereby having no impact on the fabric of the listed building except where the final stair entrance is made. It would appear balanced and reasonable that development under the footprint of a listed building should be allowed if the only noticeable change to the fabric of the existing listed building were limited to a stair connection of an insubstantial nature. | Noted. The significance of a listed building goes beyond visual appearance and includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Building under the footprint of the listed building can impact on these. It is only in exceptional cases that this is not the case. The NPPF states that the more important the asset, the greater the weight should be to its conservation. The draft policy attaches a proportionate weight to the significance of listed buildings. |
| 34.3.63 - 34.3.65 | Leigh & Glennie Ltd (Christian Leigh) | 34.3.64 It may not always be the case that a basement beneath a listed building inevitably has an impact upon the hierarchy of a listed building, its integrity, scale, etc. Listed buildings differ and so a blanket 'no' to this is inappropriate. | Noted. The significance of a listed building goes beyond visual appearance and includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Building under the footprint of the listed building can impact on these. It is only in exceptional cases that this is not the case. The policy is designed to deal with the large majority rather than the exceptional cases. |
| 34.3.63 - 34.3.65 | Gulvanessian Associates (Mr Gulvanessian) | Listed buildings (34.3.64) The current and proposed listed building rule for basements is that basements can be built under the garden and have a connection to the listed building of an insubstantial nature. Building directly under the footprint of the listed building by tunnelling under the floor from the outside will have no greater impact than for building under the garden. Therefore building under listed buildings while following the same principles as for building under gardens seems reasonable. | Noted. The significance of a listed building goes beyond visual appearance and includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Building under the footprint of the listed building can impact on these. It is only in exceptional cases that this is not the case. |

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| 34.3.63 - 34.3.65 | London basement (Stephen Merritt) | <p>Listed buildings (34.3.64)</p> <p>The current and proposed listed building rule for basements is that basements can be built under the garden and have a connection to the listed building of an insubstantial nature.</p> <p>Building directly under the footprint of the listed building by tunnelling under the floor from the outside will have no greater impact than for building under the garden.</p> <p>Therefore building under listed buildings while following the same principles as for building under gardens seems reasonable.</p> | <p>Noted. The significance of a listed building goes beyond visual appearance and includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Building under the footprint of the listed building can impact on these. It is only in exceptional cases that this is not the case.</p> |
| 34.3.63 - 34.3.65 | Basement Force (Simon Haslam) | <p>Listed buildings (34.3.64)</p> <p>The current and proposed listed building rule for basements is that basements can be built under the garden and have a connection to the listed building of an insubstantial nature.</p> <p>Building directly under the footprint of the listed building by tunnelling under the floor from the outside will have no greater impact than for building under the garden.</p> <p>Therefore building under listed buildings while following the same principles as for building under gardens seems reasonable.</p> | <p>Noted. The significance of a listed building goes beyond visual appearance and includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Building under the footprint of the listed building can impact on these. It is only in exceptional cases that this is not the case.</p> |
| 34.3.63 - 34.3.65 | Tessuto (Gemma Gordon-Duff) | <p>Listed buildings (34.3.64)</p> <p>The current and proposed listed building rule for basements is that basements can be built under the garden and have a connection to the listed building of an insubstantial nature.</p> <p>Building directly under the footprint of the listed building by tunnelling under the floor from the outside will have no greater impact than for building under the garden.</p> <p>Therefore building under listed buildings while following the same principles as for building under gardens seems reasonable.</p> | <p>Noted. The significance of a listed building goes beyond visual appearance and includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Building under the footprint of the listed building can impact on these. It is only in exceptional cases that this is not the case.</p> |
| 34.3.63 - 34.3.65 | The Royal Brompton and Harefield NHS Trust | <p>4) Revision: Supporting text Para 34.3.64</p> <p>* Where a new floor level is proposed underneath the original lowest floor, or the extension of an original basement is proposed within a listed building, and it is considered to have a detrimental impact, we suggest that each site should be assessed on its merits taking into account the required need for the basement accommodation and the quality of the listed building.</p> | <p>Noted. The significance of a listed building goes beyond visual appearance and includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Building under the footprint of the listed building can impact on these. It is only in exceptional cases that this is not the case. The policy is designed to deal with the large majority rather than the exceptional cases.</p> |
| 34.3.63 - 34.3.65 | The Chelsea Society (Terence Bendixson) | <p>iii) The gardens of listed buildings</p> <p>The Council's draft proposes to maintain its current policy of allowing basements under the gardens, but not the structures, of listed buildings. The Society considers that this position underrates the historic, architectural and cultural unity of houses and gardens. London's distinguishing characteristic is that it is composed, not of flats as in many Continental towns and cities, but of terrace houses with gardens - and gardens that allow trees, botanical variety and different approaches to garden design. It follows that we are deeply concerned by Paragraph 34.3.65.</p> <p>The Society urges the Council to make clear that the unity of a listed house and its garden would preclude excavation in the garden in all but the most exceptional circumstances.</p> <p>The Society proposes the following wording:</p> <p>'Basements beneath the gardens of listed buildings may be acceptable.....where the connection to the listed building is designed to be invisible from above and to leave the plan of the existing basement unaltered.'</p> | <p>Noted. The policy will be amended to preclude basements in the gardens of listed buildings. There will be some exceptions to this which will be clarified at the next stage. This is based on a precautionary approach to protect listed buildings from the risks associated with constructing a basement.</p> |
| 34.3.63 - 34.3.65 | Kevin Scott Consultancy Limited (Kevin Scott) | <p>We believe that the blanket objection to basements below listed buildings based on the impact on the hierarchy of the building is too onerous. A well designed basement can retain the hierarchy of the existing building allowing it to be properly interpreted whilst alleviating the pressure to adapt the existing building to meet the requirements of modern living. It can create a space that is more flexible than the existing building. The policy as it stands is unreasonably inflexible.</p> | <p>Noted. The significance of a listed building goes beyond visual appearance and includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things.</p> |

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| | | | <p>Building under the footprint of the listed building can impact on these. It is only in exceptional cases that this is not the case. The policy is designed to deal with the large majority rather than the exceptional cases.</p> <p>The NPPF states that the more important the asset, the greater the weight should be to its conservation. The draft policy attaches a proportionate weight to the significance of listed buildings.</p> |
| 34.3.63 - 34.3.65 | Schamroth & Harriss (James Harriss) | We disagree with the blanket assessment of the suitability of basement extensions to listed buildings (34.3.64). As with all matters relating to listed buildings, cases should be considered on their merits and incorporating an automatic presumption against development into policies is unnecessarily restrictive. | <p>Noted. The significance of a listed building goes beyond visual appearance and includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Building under the footprint of the listed building can impact on these. It is only in exceptional cases that this is not the case. The policy is designed to deal with the large majority rather than the exceptional cases.</p> <p>The NPPF states that the more important the asset, the greater the weight should be to its conservation. The draft policy attaches a proportionate weight to the significance of listed buildings.</p> |
| 34.3.63 - 34.3.65 | The Markham Square Association (David Cox) | <p>Paragraph 2.7 Box 1 Para 34.3.63 and 34.3.64</p> <p>We suggest that a Conservation Assessment should be provided for any application relating to a designated heritage asset in the form of a listed building or where demolition is proposed in a Conservation Area. Many of the same considerations apply to unlisted buildings of similar age, style and construction which are surely also worthy of protection on the same grounds.</p> <p>We support the continuation of restrictions on building under listed buildings. We are concerned about the application of the reference to "original", and suggest that the reference base position should be the position as in 1948.</p> | <p>Noted. The Planning Act has special provisions for the preservation of listed buildings which do not apply to unlisted buildings. The NPPF states that the more important the asset, the greater the weight should be to its conservation. Therefore the same significance and weight cannot be accorded to other non-listed heritage assets.</p> <p>Other policies in the Core Strategy related to conservation and design will also apply. The plan should be read as a whole.</p> |
| 34.3.63 - 34.3.65 | The Kensington Society (Anthony Walker) | <p>34.3.63 The Society considers that a Conservation Assessment should be provided for any application relating to a designated heritage asset in the form of a listed building or where demolition is proposed in a Conservation Area. We appreciate that this overlaps with conservation policies but consider for clarity it should also be included here.</p> <p>34.3.65 As it stands this would appear to permit a basement where there are differing levels under a designated heritage asset. The wording should say that no basements will be allowed under a listed building. Nor should any basements be permitted within the setting of a listed building if this harms that setting. This latter condition may apply to adjacent properties as well as the listed building itself. It should be clear that unless there are exceptional circumstances consent will not be granted, as currently worded this is not clear.</p> | <p>Noted. The Planning Act has special provisions for the preservation of listed buildings which do not apply to unlisted buildings. The NPPF states that the more important the asset, the greater the weight should be to its conservation. Therefore the same significance and weight cannot be accorded to other non-listed heritage assets.</p> <p>Other policies in the Core Strategy related to conservation and design will also apply. The plan should be read as a whole.</p> |
| 34.3.66 - 34.3.69 | The Chelsea Society (Terence Bendixson) | <p>iv) Greater protection for non-designated heritage assets</p> <p>Many houses in un-listed Victorian terraces are fragile. Many differ little from others that are listed. They badly need the same protection as those that are listed.</p> | <p>Noted. The Planning Act has special provisions for the preservation of listed buildings which do not apply to unlisted buildings. The NPPF states that the more important the asset, the greater the weight should be to its conservation. Therefore the same significance and weight cannot be accorded to other non-listed heritage assets.</p> |
| 34.3.66 - 34.3.69 | James Copinger-Symes | <p>Externally visible elements (34.3.69)</p> <p>It would seem fair and reasonable that changes to the outside of the building should be allowed if these are not visible from the street. The proposed wording appears to be more restrictive than this.</p> | <p>Noted. The policy does not preclude external manifestations such as light wells and railings where they are an existing acceptable feature of the streetscape. However if these are not an existing acceptable feature the policy is reasonable in precluding them as they would be harmful to the character and appearance.</p> |
| 34.3.66 - 34.3.69 | Gulvanessian Associates (Mr Gulvanessian) | <p>Externally visible elements (34.3.69)</p> <p>First sentence is "Externally visible elements should not be introduced to the front of the property where they are not already a feature visible from the street".</p> | <p>Noted. The policy will be amended to refer to 'acceptable' feature rather than 'visible'. Reference to street will be changed to 'streetscape'.</p> |

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| | | <p>It would seem fair and reasonable if this were amended to "Elements visible from the street should not be introduced to the front of the property where they are not already a feature visible from the street".</p> <p>The current proposed wording does not allow changes on the front of the property even if they are not visible from the street.</p> | |
| 34.3.66 - 34.3.69 | London basement (Stephen Merritt) | <p>Externally visible elements (34.3.69)</p> <p>First sentence is "Externally visible elements should not be introduced to the front of the property where they are not already a feature visible from the street".</p> <p>It would seem fair and reasonable if this were amended to "Elements visible from the street should not be introduced to the front of the property where they are not already a feature visible from the street".</p> <p>The current proposed wording does not allow changes on the front of the property even if they are not visible from the street.</p> | Noted. The policy will be amended to refer to 'acceptable' feature rather than 'visible'. Reference to street will be changed to 'streetscape'. |
| 34.3.66 - 34.3.69 | Basement Force (Simon Haslam) | <p>Externally visible elements (34.3.69)</p> <p>First sentence is "Externally visible elements should not be introduced to the front of the property where they are not already a feature visible from the street".</p> <p>It would seem fair and reasonable if this were amended to "Elements visible from the street should not be introduced to the front of the property where they are not already a feature visible from the street".</p> <p>The current proposed wording does not allow changes on the front of the property even if they are not visible from the street.</p> | Noted. The policy will be amended to refer to 'acceptable' feature rather than 'visible'. Reference to street will be changed to 'streetscape'. |
| 34.3.66 - 34.3.69 | Tessuto (Gemma Gordon-Duff) | <p>Externally visible elements (34.3.69)</p> <p>First sentence is "Externally visible elements should not be introduced to the front of the property where they are not already a feature visible from the street".</p> <p>It would seem fair and reasonable if this were amended to "Elements visible from the street should not be introduced to the front of the property where they are not already a feature visible from the street".</p> <p>The current proposed wording does not allow changes on the front of the property even if they are not visible from the street.</p> | Noted. The policy will be amended to refer to 'acceptable' feature rather than 'visible'. Reference to street will be changed to 'streetscape'. |
| 34.3.66 - 34.3.69 | Studio Indigo Ltd (Doug Indigo) | <p>&middot; Issues regarding the appearance of basements above ground through, skylights, light wells etc. are already strictly enforced and it is unnecessary to tighten controls still further.</p> | Noted. Controls are not being tightened rather they are being clarified in this regard. |
| 34.3.66 - 34.3.69 | Thurloe Residents Association (Traci K Weaver) | <p>Sections: 34.3.68 and 34.3.70 both refer to the impact of basement developments on the character of the garden and the neighbourhood. Basements often need lots of plant facilities that have sustainability implications as well as impact on residential amenity. Policy must take into consideration the cumulative effect on an area of multiple basements developments. On some streets in the Borough, a humming noise from plants can be heard from one end of a street to another. It is not sufficient to limit the noise levels; perhaps it is necessary to limit the absolute number of basements in an area. While it may be unfair, some neighbourhoods will reach a saturation point and plant facilities will then have a crushing impact on the character of an area.</p> | Noted. The possible environmental impact of plant associated with new basement development is considered by the Council's Environmental Heath Team as part of determining the planning application. Noise associated with plant is a material consideration specifically considered elsewhere within the Core Strategy (Policy CE6). |
| 34.3.66 - 34.3.69 | The Kensington Society (Anthony Walker) | <p>34.3.69 As written this would exclude lightwells in front of a building where the adjoining properties had basements but this one did not as happened for example at the western end of Abingdon Villas. It should be made clear that if the first sentence includes elements which are visible on adjoining properties and are a characteristic of the immediate area.</p> | Noted. The policy will be amended to refer to 'acceptable' feature rather than 'visible'. Reference to street will be changed to 'streetscape'. |

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| 34.3.66 - 34.3.69 | Christopher Hunt | <p>Require that temporary structures be designed in keeping with the environment/ needs of neighbours and be of high standard (Section 34.3.68).</p> <p>With some basement construction projects taking as much as 6 years, temporary structures are almost "semi-permanent". In our case, a scheme was approved where three stories of my home would receive no light, where a temporary toilet could be placed within 3 metres of my front door and where 30</p> <p>workmen would have an office a few metres from my bed. We submitted numerous complaints about the design yet Officers did not address a single concern.</p> <p>Suggestion: Insert in this section that the principles of 34.3.68 should also apply, as appropriate, to temporary structures and that their design be considered as part of an application approval and designed in keeping with the environment/needs of neighbors.</p> | Noted. This is a wider issue and not just related to basements policy. The Council has no planning control over temporary structures associated with construction. These are dealt with by highways and transport. |
| 34.3.70 | Leigh & Glennie Ltd (Christian Leigh) | <p>34.3.70</p> <p>Reference is made in the preceding paragraph 34.3.69 to any externally visible elements at the</p> <p>front of the property only being introduced if already a feature of the street. Paragraph 34.3.70 relates to visible elements to the rear of the property, i.e. in the rear garden. It would therefore be appropriate to include reference to any externally visible elements at the rear of the property reflecting the character of the surrounding rear garden area: if the character of that rear garden area is of harder landscaping, planting beds, a formalised environment, etc, then it may be appropriate for a basement design to incorporate similar features.</p> | Noted. Text will be added to clarify that in rear gardens external manifestations of basements should be sensitively designed reflecting the existing character and appearance of the building, streetscape and gardens in the vicinity. |
| 34.3.70 | Gulvanessian Associates (Mr Gulvanessian) | <p>Garden character (34.3.70)</p> <p>Gardens on top of basements need not be formal. They can equally be planted informally.</p> | Noted. |
| 34.3.70 | London basement (Stephen Merritt) | <p>Garden character (34.3.70)</p> <p>Gardens on top of basements need not be formal. They can equally be planted informally.</p> | Noted. |
| 34.3.70 | Basement Force (Simon Haslam) | <p>Garden character (34.3.70)</p> <p>Gardens on top of basements need not be formal. They can equally be planted informally.</p> | Noted. |
| 34.3.70 | Tessuto (Gemma Gordon-Duff) | <p>Garden character (34.3.70)</p> <p>Gardens on top of basements need not be formal. They can equally be planted informally.</p> | Noted. |
| 34.3.70 | Shrimplin Brown (Robert Shrimplin) | <p>1. Nor is it for the Council to control how residents wish to plant their garden. The proposed supporting text says that rear gardens often have an "informal picturesque and tranquil ambience in contrast to the busy city" and criticises gardens above basements which "can result in the garden being artificially level" or features which lead to the "urbanisation of the informal garden character" (proposed text, paragraph 34.3.70). However, residents may prefer a more formal garden, whether they have a basement or not, and this may include "urbanising" structures/features such as summer houses, paving, or lighting.</p> <p>2. In contrast to the assertion by the Council, introducing a formal garden above a basement is just as reversible as if there were not a basement below. The draft Policy's justification for requiring 1m of soil above a basement is precisely because it will enable a garden to grow.</p> | Noted. The Council is not proposing to suggest that residents plant their gardens in a certain way. However a basement can cause irreversible change to the garden restricting what can/cannot be planted in the future such as major trees. |
| 34.3.70 | ARK (Rupert Carruthers) | <p>General Matters:</p> <p>- It is proposed to restrict visible manifestations to the rear wall of the house. However, if well designed, these can be disguised by planters, screens and other soft landscaping measures and therefore have very little visual impact, even if positioned deeper within the garden area.</p> | Noted. Planters and soft landscaping measures are not permanent. Locating these features close to the building is a sensible way to minimise their visual impact. |

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| 34.3.70 | The Chelsea Society (Terence Bendixson) | &middledot; Sequences of back gardens act as informal 'garden squares' and require protection no less firm than that afforded to squares themselves. | Noted. As these are in multiple private ownership they are different from squares where a comprehensive approach is possible for protection. |
| 34.3.70 | The Kensington Society (Anthony Walker) | 34.3.70 See item 4 above. Note Baxter make it clear that the 1m does not include any allowance for water proofing or insulating the structure and must represent a minimum depth of soil | Council response: The policy on requiring 1m of permeable soil. Alan Baxter and Associates response: Agreed. |
| 34.3.71 - 34.3.72 | James Copinger-Symes | Garden basements - soil depth (34.3.71) In some areas of the borough, notable those where the ground is London Clay, the soil layer is usually less than one metre. It would seem right that the planting level required on top of a garden basement should match the vertical thickness of the existing drained permeable soil up to the current rule's one metre depth. This would protect and maintain the existing garden level. A rule requiring a greater depth of soil than exists at that particular site does not seem reasonable. | Noted. The aim of the policy is to improve the existing situation with regard to . The 1m of soil is a type of SUDs and is reasonable as it also allows planting to maintain green the and leafy character of back gardens. |
| 34.3.71 - 34.3.72 | Leigh & Glennie Ltd (Christian Leigh) | 34.3.71 and Policy CL7g It may not be appropriate in each and every case to have a 1m depth of soil above the basement. The character of a rear courtyard area may be one that would not - and never has been - one where planting takes place, e.g. small yards to the rear of formal terraces. The paragraph says this would still be sought even if a garden is hard paved to secure improvements in water-run off. But the implication of the Council's draft policy is to require a 1m deeper dig; that is a considerably greater use of resources which is not justified to see a very minor change in water run-off, and which might be achieved through other means. There may be other measures to achieve such a goal, as indeed recognised by paragraph 34.3.72. The policy should be changed to allow recognition of the character of the surrounding area. | Noted. It will be clarified at the next stage that where the character of the garden is 'small paved courtyard' other measures of SUDs will be acceptable. |
| 34.3.71 - 34.3.72 | Gulvanessian Associates (Mr Gulvanessian) | Garden planting (34.3.71) In some areas of the borough, notable those where the ground is London Clay, the soil layer is less than one metre deep. It would seem fair and reasonable that the planting level allowed on top of a basement should match the existing soil depth. Requiring greater soil depth than exists does not seem fair and reasonable. | The aim of the policy is to improve the existing situation with regard to drainage. The 1m soil is a type of SUDs and is reasonable as it also allows planting to maintain the green and leafy character of back gardens. |
| 34.3.71 - 34.3.72 | London basement (Stephen Merritt) | Garden planting (34.3.71) In some areas of the borough, notable those where the ground is London Clay, the soil layer is less than one metre deep. It would seem fair and reasonable that the planting level allowed on top of a basement should match the existing soil depth. Requiring greater soil depth than exists does not seem fair and reasonable. | The aim of the policy is to improve the existing situation with regard to drainage. The 1m soil is a type of SUDs and is reasonable as it also allows planting to maintain the green and leafy character of back gardens. |
| 34.3.71 - 34.3.72 | Basement Force (Simon Haslam) | Garden planting (34.3.71) In some areas of the borough, notable those where the ground is London Clay, the soil layer is less than one metre deep. It would seem fair and reasonable that the planting level allowed on top of a basement should match the existing soil depth. Requiring greater soil depth than exists does not seem fair and reasonable. | The aim of the policy is to improve the existing situation with regard to drainage. The 1m soil is a type of SUDs and is reasonable as it also allows planting to maintain the green and leafy character of back gardens. |
| 34.3.71 - 34.3.72 | Tessuto (Gemma Gordon-Duff) | Garden planting (34.3.71) In some areas of the borough, notable those where the ground is London Clay, the soil layer is less than one metre deep. It would seem fair and reasonable that the planting level allowed on top of a basement should match the existing soil depth. Requiring greater soil depth than exists does not seem fair and reasonable. | The aim of the policy is to improve the existing situation with regard to drainage. The 1m soil is a type of SUDs and is reasonable as it also allows planting to maintain the green and leafy character of back gardens. |

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| 34.3.71 - 34.3.72 | Studio Indigo Ltd (Doug Indigo) | &middledot; Issues of drainage impact of basements has already proved to be a misnomer based upon Councils own studies and is often an issued raised by residents to block or oppose planning applications for basements when there are no other reasons to do so. | The aim of the policy is to improve the existing situation with regard to drainage. The 1m soil is a type of SUDs and is reasonable as it also allows planting to maintain the green and leafy character of back gardens. |
| 34.3.71 - 34.3.72 | Studio Indigo Ltd (Doug Indigo) | &middledot; 34.3.71 - ridiculous to have to provide 1m soil above a basement in front yard where it is already hard paved and used as off street parking. This will never be returned to garden (more valuable as off street parking, simply increases depth unnecessarily, often will be staff accommodation which becomes even more subterranean. Where a % of amenity space is allowable for subterranean development, the proposals need to be assessed against the whole area. A terraced townhouse with front and rear garden may require some basement storage or utility beneath the front garden, the percentage of the total amenity area would be around 20%, but as a % of the front garden in isolation, it is over 75% and non permissible. Small basements need to be considered on their own merit. | Noted. A layer of permeable soil promotes sustainable development and will help slow down the flow of water run-off across a garden. The Council's existing Subterranean Development SPD sets out guidelines on soil above subterranean development in 9.2.1. |
| 34.3.71 - 34.3.72 | Shrimplin Brown (Robert Shrimplin) | 1. The introduction of SUDS is not a policy requirement on other forms of development. Similarly, there is no requirement to replace existing hard paving with permeable paving as suggested in the proposed text (proposed text, paragraph 34.3.71). | The Cores Strategy policy CE2 (part e) does have SUDs requirements for all developments. CE2 (part f) resists impermeable paving in front gardens. |
| 34.3.71 - 34.3.72 | Thames Water Property Services | Box 1 Paragraph 34.3.72 - Thames Water understand that some developers have interpreted the 1m cover of soil or permeable material to mean increasing the level of the back garden and providing raised flower beds, which would not allow natural drainage of surface water. Notwithstanding the depth of permeable cover that is provided, Thames Waters key concern is that the surface remains permeable to reduce surface water run-off. | Noted. the 1m of top soil is specified to function as SUDs in the reasoned justification to the policy. A raised flower bed will not meet this requirement. |
| 34.3.71 - 34.3.72 | The Chelsea Society (Terence Bendixson) | &middledot; The destructive long term effects of cumulative rear-garden excavation on natural drainage, natural back gardens and large trees and the need, on drainage, ecological and landscape grounds, to limit such digging severely. | Noted. The extent of basements in garden will be restricted to 50% at the next stage. This will enable half the garden to remain underdeveloped and maintain a natural landscape. |
| 34.3.71 - 34.3.72 | Environmental Agency (Andy Goymer) | The following comments are in relation to the submitted document which is relevant to our remit. Where we have not highlighted specific issues it may be assumed that we have no comments at this stage. The proposed changes to the Basement Policy are adequate in terms of protecting the development, and any residents from the risks of flooding from rivers and surface water flooding events. We welcome the focus on drainage and the requirements of a permeable surfaces to be included where a proposed basement in under a garden. We are pleased to see that the requirements for a Flood Risk Assessment (FRA), a Site Waste Management Plan and Sustainable Urban Drainage Systems (SUDs have all been included and have been given strength within the draft document. However, as mentioned within our response to the Basement Extensions: Issues Consultation - April 2012, dated 8 June 2012, we feel that the Surface Water Management Plan (SWMP) could be used to strengthen relevant policies. | Noted. Support for the focus on drainage noted. Support for adequacy of proposals in protecting residents from the risk of flooding is noted. |
| 34.3.73 | Tessuto (Gemma Gordon-Duff) | Carbon emissions and BREEAM (34.3.73) [Policy CL7 h.] The requirement that where the basement is to be constructed under an existing building, that the dwelling or commercial property to which the basement relates must be adapted to a high level of performance in respect of carbon emissions does not seem fair and reasonable especially if this requires that the whole property or dwelling has to achieve a BREEAM rating of "very good". It would be fair and reasonable if a BREEAM rating of "very good" were required for: 1. The new basement area being built. 2. The whole dwelling/property if the whole dwelling/property is being refurbished. The current working could be read as meaning that for a basement development where the new basement was being built by tunnelling underneath an existing property, with no work being planned on the rest of the above ground dwelling/property, that a "very good" BREEAM rating would be required for the whole property. In practice this could mean having to refurbish the whole house in order to install new windows, insulation on the inside of walls and so forth. There would be cases where a small basement of development of say 40m2 could require a five or six storey house to be | The Council recognises that, over the lifetime of the building, the carbon emissions associated with the construction of a typical basement extension are significantly greater than those of a typical above ground extension. This relates to increased transportation of soil, the embedded CO2 associated with the use of large quantities of concrete, as well as the need for continued mechanical ventilation and pumping. It is therefore, appropriate to develop a policy which takes the particular environmental impacts of basement development into account, and to attempt to mitigate this impacts as far as possible. The principle of retrofitting is supported by Policy 5.4 of the 2011 London Plan, which note that the "retrofitting of buildings can make a significant contribution of climate change." Indeed retrofitting of existing buildings is one of the central strands of the Mayor's strategy to reduce carbon emissions as articulated in his Climate Change Mitigation and Energy Strategy (2011). |

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| | | <p>stripped back to brick in order to install the necessary insulation.</p> <p>Apart from being an unfair and unreasonable planning requirement this would likely be counter-productive in terms of CO2 emissions as the extent of the additional works above ground could well exceed any CO2 emissions advantage.</p> <p>Carbon emissions and BREEAM (34.3.73) [Policy CL7 h.]</p> <p>Carbon emissions and other similar environmental matters are not planning considerations and are dealt with by other regulation and legislation, notably building regulations.</p> <p>The aim of using planning policy to control matters already falling under more appropriate existing regulations and regulations is incorrect and therefore unfair and unreasonable.</p> <p>Carbon emissions should be controlled through building regulations and other existing legislation and should not be included in planning policy.</p> | <p>Reducing carbon emissions through planning is a planning consideration included in the London Plan and this Council's Core Strategy.</p> |
| 34.3.73 | Studio Indigo Ltd (Doug Indigo) | <p>&middledot; 34.3.73 - Council concerns regarding sustainability, environment impact, green issues, carbon emissions are very welcome but are at complete odds with the Planning Officer requirements for single glazed windows when perfectly good double glazed options are available without impact on the visual appearance of the building.</p> | <p>Noted. The Council is seeking expert opinion on what may/ may not be possible with regards to listed buildings. The Council does not preclude double glazing on windows in unlisted buildings.</p> |
| 34.3.73 | The Royal Brompton and Harefield NHS Trust | <p>6) Revision: Supporting text Para. 34.3.73</p> <p>* We welcome the reassurance that some flexibility for reaching the specified BREEAM standard will be allowed for basements within a listed building, where it is demonstrated that the works needed to reach the necessary standard are incompatible with the special character of that listed building.</p> <p>* We do however propose that a required level for the non-residential BREEAM standard should be specified here.</p> | <p>Noted. Policy CE1(bii) of the Core Strategy considers the environmental standards sought for non-residential development within the borough. This is currently being updated to reflect the new BREEAM standards.</p> |
| 34.3.73 | Shrimplin Brown (Robert Shrimplin) | <p>1. Moreover, in the case of many older buildings this is not practical or viable to achieve these improvements.</p> | <p>Noted. The Council is seeking expert opinion on what may/ may not be possible with regards to listed buildings.</p> |
| 34.3.73 | Bell Cornwell (Tracey Rust) | <p>Paragraph 34.3.73 &. Policy CL7h</p> <p>Where a basement is proposed to an existing dwelling, to require the whole building to meet the "Very Good" Breeam Domestic for Refurbishment standard is not sound because a deficiency in relation to a dwelling as a whole already exists and would not be a consequence of the current proposal. This has been endorsed by Appeal Inspectors and most recently in relation to appeal decisions for 1 Burnhall Street, London SW3 (APP/K5600/D/12/2174477) and 6 Argyll Road, London W8 (APP/K5600/D/11/ 2162153).</p> | <p>The Council recognises that, over the lifetime of the building, the carbon emissions associated with the construction of a typical basement extension are significantly greater than those of a typical above ground extension. This relates to increased transportation of soil, the embedded CO2 associated with the use of large quantities of concrete, as well as the need for continued mechanical ventilation and pumping. It is therefore, appropriate to develop a policy which takes the particular environmental impacts of basement development into account, and to attempt to mitigate this impacts as far as possible.</p> <p>The principle of retrofitting is supported by Policy 5.4 of the 2011 London Plan, which states "<i>Within LDFs boroughs should develop policies and proposals regarding the sustainable retrofitting of existing buildings. In particular they should identify opportunities for reducing carbon dioxide emissions from the existing building stock by identifying potential synergies between new developments and existing buildings through the retrofitting of energy efficiency measures, decentralised energy and renewable energy opportunities</i>". . ." Indeed retrofitting of existing buildings is one of the central strands of the Mayor's strategy to reduce carbon emissions as articulated in his Climate Change Mitigation and Energy Strategy (2011).</p> <p>The Council notes the consultee's view that this approach to be <i>ultra vires</i>. Whilst the Council recognises that the appeal decision quoted</p> |

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| | | | <p>did not support the Council, the principle of retrofitting was examined at the EIP to the Core Strategy and was found to be sound. Furthermore, the policy has not been questioned at a number of other appeals relating to basement development.</p> |
| 34.3.73 | The Chelsea Society (Terence Bendixson) | The life-time environmental cost [energy, CO2 etc] of constructing and servicing underground spaces. | <p>Noted.</p> <p>The Council gathered evidence on the sustainability, or otherwise, of basement developments as part of the formulation of the original policy CE1, back in 2010. Consultants were commissioned and prepared a document titled, "the Life Cycle Carbon Analysis of Extensions and Subterranean Development". This concluded that the embodied carbon of a subterranean development is approximately 828kg CO2 per m2 compared to approximately 279 kg CO2 per m2 for a conventional above ground rear extension, Furthermore this study concluded that there is high level of embodied CO2 in the building materials relative to the operational CO2 emissions of subterranean development, when considered over a typical 30 year building life.</p> <p>The Council's requirement to retrofit the existing building to which the development relates recognises the higher carbon embodiment of basement development.</p> |
| 34.3.73 | Kevin Scott Consultancy Limited (Kevin Scott) | Suggested Text 34.3.73 We are pleased to note that there is a degree of flexibility on this point where listed buildings are involved and appreciate the clarification on this point in the Report on the Issues Paper Responses. This could be made clear again at 4.12 of the Requirements for a Basement Impact Assessment and C.22 of Appendix C. | Noted. These details will be amplified in the revised basements SPD. |
| 34.3.73 | The Markham Square Association (David Cox) | <p>Paragraph 2.7 Box 1 Para 34.3.73</p> <p>We are concerned that the BREEAM standards are meaningless and would like to see an assessment of all aspects of the whole project, including excavation, construction and operation. We should also like to see the inclusion of an assessment of the desirability of the living conditions in the proposed new basement, which often appear to be very poor.</p> | Noted. The requirements for each individual proposal to assess carbon emissions is considered to be too onerous and complicated. BREEAM for Domestic Refurbishment is a recognised tool to help reduce carbon emissions and is not meaningless. The proposed policy is limiting basements to a single additional storey which does not necessitate an assessment of living conditions as it would be possible to get natural light and ventilation. |
| 34.3.73 | The Kensington Society (Anthony Walker) | <p>6 Sustainability</p> <p>The Society is concerned that the current eco-homes system which relies on compliance by the occupant in the form of the performance of washing machines or provision of clothes lines is meaningless with regard to the wider and lifetime sustainability of the building.</p> <p>The Society is also concerned that the enormous energy consumption involved in the excavation, carting away and recycling of demolition and excavated material, combined with the intense energy consumption associated with concrete basement construction and the scale of heating, cooling and ventilation is not taken fully into account. See more detailed response under 34.3.73</p> <p>34.3.73 The current use of the BREEAM standards used for assessing basement projects only tackles the retrofitting of the building to which the basement is being added and does not address the broader sustainability issues of:</p> <p>excavation of large quantities of soil and its removal along with large quantities of demolition waste,</p> <p>the use of large quantities of concrete with huge embodied energy,</p> <p>energy use in operation, such as for heating swimming pools, saunas, etc, cooling and mechanical ventilation, and</p> <p>where it involves swimming pools, water use.</p> | <p>Noted. The requirements for each individual proposal to assess carbon emissions is considered to be too onerous and complicated. The use of the BREEAM for Domestic Refurbishment "very good" standard is considered to be an appropriate proxy, to mitigate the carbon impact of basement development. This standard is a recognised tool to help reduce carbon emissions and as such is not meaningless.</p> <p>The London Plan policies apply to all development not just basements.</p> <p>The Council notes that it does form part of this borough's development plan and is relevant in the determination of planning applications. Cross reference is therefore unnecessary</p> <p>A number of the elements are also already considered within the Core Strategy be this through a specific reference or through the requirements of the relevant BREEAM standard. The principal policies of relevance lie within Chapter 36 of the CS, 'Respecting Environmental Limits', a chapter which includes policies on climate change, flooding, waste and on air quality. The Subterranean Development SPD is also relevant, and includes a section on the use and comfort of basement development.</p> |

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| | | <p>The London Plan contains policies dealing with these issues, and since they are part of the development plan, need to be covered in passing in the revised plan policy and spelled out in the proposed SPD. None of these issues - essential to assessing basement projects, especially the larger ones - are dealt with in the Core Strategy or the existing SPD</p> <p>Whilst the London Plan is an integral part of the development plan for Kensington and Chelsea, the London Plan policies in Section 5 of the 2011 London Plan seem not to be taken into account:</p> <p>; in the coverage of the Core Strategy; nor; in making decisions.</p> <p>In particular, for basements, as identified in para 1.2.25 of the Mayor's Housing SPG, the following London Plan policies are highly relevant:</p> <ul style="list-style-type: none"> o 5.3: sustainable design and construction o 5.4: retrofitting o 5.9: overheating and cooling o 5.12: flood risk from surface water flooding o 5.13: sustainable drainage o 5.15: water use and supplies o 5.18: construction, excavation and demolition waste o 7.12: trees o 7.18/19: biodiversity <p>This would require at the very least a listing of the relevant policies or, better, to add additional material and policies to Chapter 36 with regard to:</p> <p>excavation and demolition waste</p> <p>total energy use - including demolition and construction</p> <p>energy and water use in operation</p> <p>We understand that the GLA propose to publish a draft SPG on Sustainable Design and Construction in the spring and suggest that this should be recognised in the development of RBKC policy either in policies now being considered or in the SPD to be produced.</p> | |
| 34.3.73 | Princess di Sirignano | <p>Environment and Carbon Emissions</p> <p>'To form a basement will require a greater volume of construction material, notably Concrete which has a high Carbon Dioxide Emissions rating.' To that is added the removal of excavated material and soil by lorry from Sloane House & Sloane Lodge from an area of 700 sq meters by 18 meters deep.</p> <p>'The Environmental "footprint" of a basement project is therefore not trivial and should be viewed in light of the borough's Environmental Strategy. 'Arup Geotechnics Scoping Study/2008'</p> <p>All commercial size developments with multi-storey basements in any residential areas should be prohibited</p> | <p>Noted. The draft policy is proposing limitations on the extent of basements into the garden and a single additional storey in terms of depth.</p> <p>The Council recognises that, over the lifetime of the building, the carbon emissions associated with the construction of a typical basement extension are significantly greater than those of a typical above ground extension. This relates to increased transportation of soil, the embedded CO2 associated with the use of large quantities of concrete, as well as the need for continued mechanical ventilation and pumping. It is therefore, appropriate to develop a policy which takes the particular environmental impacts of basement development into account, and to attempt to mitigate this impacts as far as possible. The Council therefore requires the entire building to which</p> |

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| | | | the basement relates to be retrofitted to a certain standard. |
| 34.3.74 | Paul Lever | 34.3.74. The phrase "taking the cumulative impacts of other development proposals into account" is too vague. It should be followed by a sentence reading; "This may mean that, particularly in the case of narrow streets, the Council will restrict the number of basement developments which can take place at any one time." | Noted. The Council cannot impose when people implement a planning permission. |
| 34.3.74 | Studio Indigo Ltd (Doug Indigo) | Construction management requirements are only useful if they are reinforced by Council - currently they are not - this applies to both large developments in the Borough like the development of the former Commonwealth Institute or individual residents. Construction traffic can be a nuisance, particularly scaffold lorries who seem immune from parking restrictions of any kind. However the general increase in traffic has occurred over the years with particular increase in home deliveries etc. Traffic nuisance associated with construction work for basements is frequently confused with other general traffic such as general building maintenance. The Council need to recognise and acknowledge that with an aging building stock, particularly stuccoed fronted buildings, require regular maintenance to prologue the life of a building and the visual appearance of the environment. Painting is usually required every 3-5 years and this naturally generates a lot of maintenance involving builders and deliveries. | Construction should be carried out in accordance with the CTMP. The Council can enforce if complaints are made and the CTMP is not being followed. Agreed that other development also contribute to construction traffic. However the policy being proposed is based on a range of factors not just construction impact. |
| 34.3.74 | Sam Gordon Clark | Nuisance, noise, dirt etc. This is the major area of concern for most of us, and some of the comments in the residents' survey are truly horrific. It is good that CTMPs will be more detailed, and that all the relevant information will be available up front. It was disgraceful that the proposal for spoil removal from Markham Sq was not in the public domain. However, are your staff competent to judge these matters? The proposal for vehicle access to 1, South Terrace to remove spoil was completely inappropriate, and seemed to have been approved by someone who didn't know that South Terrace was a one-way street, that gets narrower towards the Brompton Rd end. Our cars don't just get dirty, we regularly lose our wing mirrors as well, and the road is often blocked. Not all skip operators request Residents' Parking suspensions - and on that subject, residents should be compensated by the developer via RBKC for the longterm loss of ResPark spaces. We are privileged to live in one of the finest conservation areas in London, and it is regrettable that it is constantly being defiled by monstrous scaffolds and skips, over protracted periods. I am glad that you are doing something about it, and am grateful for the opportunity to comment. | Noted. The CTMP is approved by qualified staff within the Highways and Transport Team. The proposed changes will enable documents to be in the public domain at the time the planning application is being considered. This will allow residents to make comments and input local knowledge which may well reveal that changes are necessary and therefore improve the CTMP. |
| 34.3.74 | The Royal Brompton and Harefield NHS Trust | 7) Revision: Supporting text Para 34.3.74 * We propose that details relating to construction traffic and whether the building compound and skip location can be accommodated on site or in the highway immediately outside the application site would be more appropriately addressed via condition post grant of any planning permission in the form of a Construction Management Plan. * Alternatively if further detail is required at the application stage further clarification on the level of detail needed at this stage should be provided within this paragraph rather than relying on a future SPD. | Noted. London Plan Policy 5.3: Sustainable Design and Construction requires at para B. that <i>"development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process."</i> London Plan SPG on Design and Construction, 2006 provides further guidance on achieving a sustainable construction phase of development. As basements are more complex and challenging than above ground projects and involve greater excavation it is reasonable to require the CTMP upfront. This will enable a better standard of information and allow people to comment. The revised SPD is better placed to amplify the information required rather than the draft policy which will become part of the Core Strategy once adopted. |
| 34.3.74 | Bell Cornwell (Tracey Rust) | Paragraph 34.3.74 &. Policy CL7i It is inappropriately premature to require details of construction traffic activity at application stage because the Local Highways Authority need to assess the proposals at implementation stage of the development, having regard to other development being carried out in the vicinity at that time and not at the original application stage. | London Plan Policy 5.3: Sustainable Design and Construction requires at para B. that <i>"development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process."</i> London Plan |

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| | | <p>Bell Cornwell refers to Bell CornweiiLLP.a Limited liability Partnership registered in England and Wales with registered number OCJ4055 t . The registered offci e is at Oakview flouse,Statoi nRoad, Hook,Hampshire RG27 9TP. A list of members&middot;names is available at the above address. We use the word 'partne(to refer to a member of the LLP or an employee or consultant with equivalent standing and qualilications.</p> <p>Construction traffic activity should therefore continue to be addressed through the discharge of a condition attached to a grant of planning permission as is currently the case. Furthermore, to impose this at application stage goes against the grain of the Government's draft policy on reducing the amount of information applicants need to provide with applications.</p> | <p>SPG on Design and Construction, 2006 provides further guidance on achieving a sustainable construction phase of development.</p> <p>As basements underneath existing buildings are more complex and challenging than equivalent above ground projects and involve greater excavation it is reasonable to require the CTMP upfront. This will enable a better standard of information and allow people to comment.</p> |
| 34.3.74 | ARK (Rupert Carruthers) | <p>Paragraphs 34.3.74/75/76 propose the preparation of a Basement Impact Assessment prior to submitting a planning application. Our comments are as follows:</p> <ul style="list-style-type: none"> - It is proposed that any planning application for a basement must include a Demolition and Construction Management Plan (DCMP) and a Construction Traffic Management Plan (CTMP) and that these need to be approved by the Bi-Borough Director of Environmental Health and the Bi-Borough Director of Transportation and Highways respectively prior to the application being determined. It is foreseeable that neither department will publish active applications for stakeholders to comment on. These may also affect the decision period of 8 weeks (or 13 weeks) set by statute therefore increasing uncertainty in relation to timeframe. - It is unrealistic to expect an applicant to develop a fully specified scheme and engage a building contractor, at risk, prior to submission. In many circumstances it might become necessary that a CTMP or DCMP needs to be altered slightly after planning approval is granted. Under the current proposals it would become necessary to re-engage in the complicated two-stage planning application process at departmental and Council level. - The cost of an application for any basement development will increase substantially. Whereas most applicants applying for large and deep basements will be able to afford this increase it will not be viable to apply for basements under smaller properties where the need for additional space is perhaps even greater and the addition of a basement would add much to the amenity and long term sustainability of the property. | <p>Noted. The process of approving DCMP and CTMP should take place before any planning application is submitted. The intention is that these documents are 'vetted' beforehand to ensure they are of a certain standard. It is expected that this will take place in parallel with the pre-application stage that most applicants follow at the moment. Therefore it does not affect the determination period (8 / 13 weeks).</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground developments. The requirements are considered proportional to the risks and issues involved in basement construction.</p> |
| 34.3.74 | The Chelsea Society (Terence Bendixson) | <p>vii) Traffic effects</p> <p>Building contractors are 'can-do' people. They can always find ways to solve construction and transport problems. But this does not mean that such solutions are acceptable in a high-density residential district. In some cases the burdens of obstruction, noise and air pollution imposed on residents for long periods are intolerable. This needs to be taken into account by traffic officers in assessing applications and drafting conditions.</p> | <p>Noted. The CTMP will take account of other developments in the vicinity and will be checked and approved by the Highways and Transport department who will consider the workability of the proposals.</p> |
| 34.3.74 | Ladbroke Association (Sophia Lambert) | <p>14. We also hope that the Council will be true to its stated policy on expecting the building compound and the skip location can be accommodated on site or in the highway immediately outside the application site. There have been applications for basement developments in mews, narrow cul-de-sacs or under buildings with no vehicular access. In these cases, it may make more sense to site skips elsewhere (provided it is not in front of somebody else's house) and to bring out spoil by hand. We note, however, that this may be impracticable and that such cases can cause such massive problems to neighbours during the construction that it must be accepted that a basement extension just cannot be allowed. At the very least, the Council should be robust in for instance requiring material be brought in and out by hand where appropriate, and be prepared to refuse applications where the problems would be too great.</p> | <p>The policy is proposing limiting the size of basements that can be built. This will reduce the construction impact. The additional measures of vetting the CTMP and DCMP before the planning application is submitted will improve the standard of information submitted. It will also allow neighbours/residents to comment on the practicality of implementing these. These measures are considered sufficient to deal with the issues raised.</p> |
| 34.3.74 | Julia Swann | <p>We were also asomewhat shocked to learn, from one of your consultation forums, that for an applicant merely to have produced a CTMP was enough - we were informed that all CMTPs are now approved as a matter of course, and that the Highways Dept will never refuse a CMTP, however ludicrous the amount of disruption it will cause. This cannot be right.</p> | <p>The Highway department does not approve all CTMPs without being satisfied about their workability. At the validation stage it is true that the Council has to accept a document even though it is not up to a certain standard. The proposed changes to have these vetted by the Transport and Highways teams are</p> |
| 34.3.74 | Miss Arbuthnot | <p>Page 14 paras 34.3.74 Not 'Construction traffic CAN cause ...' but 'Construction traffic INEVITABLY causes ...' (When has it ever not?!) '... must demonstrate ...' - How? Can this be quantified in some way? What recompense to the Council and the Council Tax payer is to be levied to deal with damage to the highway outside the application site, and to resurface the highway subsequently if/when damage occurs? Suggest that the Building Owner be required to pay in full for resurfacing the highway, and to pay the minimum of an equivalent sum to the Council to recompense the local residents for the related inconvenience. Ditto to Thames Water and to other utility companies.</p> <p>Page 14 paras 34.3.74 and 75 In this area, a significant number of properties are digging out their basements at the same</p> | <p>Noted. The details of the requirements for CTMP will be set out in the revised basements SPD. Those carrying out works which damage the highway will be liable for any resurfacing required by these works. It is not possible to require the payment of punitive damages to, as the consultee suggests, "recompense the local residents for the related inconvenience." This would be ultra vires, and beyond the powers that the Council has available to it.</p> |

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| | | <p>time, taking years about it in many cases. The roads are blocked with the boxes built into the road to hold the debris, with the grab hire lorries, with the skips, with the cement lorries, such that traffic flow is severely impeded, often for years at a time. Parking spaces are taken away for the purpose, when the number of spaces available is already significantly less than the number of cars with permits. More than one basement excavation in a small area causes horrendous congestion and can significantly lower the quality of life for the neighbouring residents, who can no longer assume that they will be able to go down a neighbouring street which may well be blocked by lorries and skips. At times this is so bad as to constitute a form of harassment, albeit not necessarily with malicious intent. The conditions you suggest can only be applied property by property, but when a number of properties are doing the same thing concurrently, the effect, however well-planned one or two of them are, can be appalling. Para 75 specifies that they must take into account the cumulative effect, but how is this to be achieved?</p> <p>Neighbours of these properties can suffer economic loss through no fault of their own for which they are not compensated. In particular, they may have to employ additional cleaning help and additional administrative help, as well as needing to use more of their own time - and the time of many people in the Borough is very expensive. Not only so, but if the Council Tax has to be used for rectifying damage to Council property and if the Council Tax is not increased proportionately, there is an opportunity loss. Should these costs and expenses not be borne by the Building Owner, who is in any case adding value to his property? Adjoining Owners, many of whom are novices in these matters, should be informed in full of all their rights and privileges, and of any and all protections afforded to them under the law. I am aware of one case where an Adjoining Owner refused entry to the Building Owner because a Party Wall Notice had not been issued, and where the Adjoining Owner was told that, under the terms of the Act, the front door could be knocked down in order to force entry.</p> | <p>The CTMP is required to take account of developments in the vicinity. The size restrictions on basements being proposed will reduce the construction duration and thereby impacts.</p> <p>The constraints on what the policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> |
| 34.3.74 | The Markham Square Association (David Cox) | <p>Paragraph 2.7 Box 1 Paras 34.3.74, 34.3.75 and 34.3.76</p> <p>We agree with these paragraphs. Although outside the scope of this policy document, the Council should be aware of the inadequacies of the party walls legislation in its application to basements.</p> | Noted. |
| 34.3.74 | The Kensington Society (Anthony Walker) | <p>34.3.74 The Society welcomes the requirement for the technical studies to be submitted with the application and approved as part of the approval of any scheme. As part of any CTMP the Society would like to see consideration of restricting working hours so that there is a break during the day for example from midday to 14.00 hours.</p> | Noted. |
| 34.3.74 | Princess di Sirignano | <p>Traffic Management</p> <p>Over the last two years a daily average of five to twelve Cement mixers carrying cement have dumped an unprecedented quantity of cement into the site of Sloane Lodge and Sloane House. The lorries never adhered to the Traffic Management scheme and would stack as early as 7:15 in South Parade, Carlyle Square and Elm Park Gardens with engines running. An Alliance of Residents was formed to report this but nothing was ever achieved.</p> <p>I doubt this can ever be effectively managed or enforced</p> | The Council notes that effective enforcement is essential for an effective CTMP which successfully mitigates the impact of basement development. The necessary enforcement powers will be through the Planning and the Highways Acts. |
| 34.3.75 | David Lion | <p>I live at 48 Scarsdale Villas and I am concerned about planned basement conversions in my street the disruption to the lives of myself and other neighbours principally for three reasons:</p> <p>the disruption caused by the building work itself. the disruption of lorries etc. to and from the site. potential damage by vibration and subsidence in the same terrace of houses.</p> | Noted. |
| 34.3.75 | Paul Lever | <p>34.3.75. Again this wording is too vague. It should be supplemented by the following additional sentence:</p> <p>"This may mean the imposition of specific restrictions on the levels of noise and vibration which may be caused and the period of the day during which noisy or disruptive work may be undertaken; as well as a limitation on the number of basement developments which can be undertaken simultaneously in the same street or in close proximity to one another."</p> | Noted. Planning policy cannot put a restriction on the number of developments that can be undertaken simultaneously in a given area. The CTMP should take account of other developments in the vicinity. |
| 34.3.75 | Guy Mayers | <p>4 Your draft policy para 34.3.75 simply says "Appropriate approval" relating to noise and dust.</p> <p>It should contain more, such as "The applicant must provide a fully working 24/7 noise meter installed and operational prior to any construction work starting which can be used to provide evidence of actual levels of construction noise produced".</p> <p>What is the evidence that a 2.3m hoarding is sufficient to prevent dust escaping from a "basement" site? Can 3m</p> | <p>Noted</p> <p>The measures put in place to mitigate the direct environmental impact of the construction of a basement form part of the DCMP, a document which must be submitted alongside the planning application. The measures that are appropriate will differ on a case by case approach. For example a basement constructed entirely beneath an existing property will require different mitigation measures to a large cut and cover excavation spanning the entire garden, The installation of a 24/7 noise meter may be appropriate in some</p> |

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| | | hoardings be made mandatory? | <p>circumstances and can be required under a s61 prior approval or within the DCMP.</p> <p>Similarly the measure necessary to prevent release of dust will vary with the nature of the build. The Council will, however, require that best practice is followed, and in relation to dust the Mayor for London's Best Practice Guidance Document „Control of dust and emissions from construction sites for larger sites,</p> |
| 34.3.75 | Bell Cornwell (Tracey Rust) | <p>Paragraph 34.3.75 & Policy CL7j</p> <p>The three year rule of planning permissions renders meaningless any attempt to assess cumulative impact in respect of noise, dust, air quality and vibration as it is not possible to predict at application stage what other works might be taking place at the time at which the approval itself might be implemented within the terms of its own condition 1 time limit. This should remain as existing, by the imposition of a condition attached to a grant of planning permission.</p> <p>These matters of noise, dust, air quality and vibration are also controlled under other statutory legislation, namely the Environmental Health Act.</p> | Noted. |
| 34.3.75 | Ladbroke Association (Sophia Lambert) | 18. We are also concerned that no reference is made in either paragraph 34.3.75 or CL7 to the importance of monitoring, especially of noise levels. The Council must be in a position to make it a condition for basement developments that there should be 24-hour recorded monitoring of noise levels. Without this, it would be much harder for the Council to impose orders under pollution legislation where this becomes necessary. Moreover, the very existence of monitoring is likely to encourage contractors to minimise nuisances such as noise. Policy 7j should be amended to add to the end: "and how noise and other nuisances will be monitored", and corresponding wording on the need for monitoring included in the supporting text. | Noted. The Council is considering means to secure additional resources for noise monitoring. |
| 34.3.75 | Tim Nodder | <p>The limits on noise of construction should be established as part of the planning application; noise from generators should be included in this, together with air quality. Measuring equipment for noise and air quality should be prescribed and monitored. This is necessary in small projects as well as large.</p> <p>Where the site is surrounded by 3 to 5 storey terraces construction noise builds up and carries a considerable way. It is not just the immediate neighbours who are affected; consultation should be appropriately extended. Each site or street may need to be treated differently, and the policy should allow for this.</p> | Noted. Appendix C – C.14 of the draft document sets out a brief outline of the requirements for a DCMP which cover these issues. The Council is considering means to secure additional resources for noise monitoring. |
| 34.3.75 | Miss Arbuthnot | One of my concerns is that many of these basements are being constructed by foreign owners and their agents who may not have the same regard for boundaries and so on as we might have. In Edith Grove, for instance, the basements currently under construction at number 2 appear to have gone underneath the road. It is not long since our road was resurfaced, but it has been completely broken up, and I have already had one puncture as a result but would not be surprised if that is repeated. Often these days we find cones blocking half the road because of the damage, because of flooding, because of huge holes and so on; Thames Water has had to attend, holes have been superficially repaired dozens of times, and who pays for the repairs? The Building Owners should pay, and not the Council Taxpayer, let alone the neighbours. | Noted. To implement the planning permission the applicant will need to establish ownership of the land. |
| 34.3.75 | The Markham Square Association (David Cox) | <p>Paragraph 2.7 Box 1 Paras 34.3.74, 34.3.75 and 34.3.76</p> <p>We agree with these paragraphs. Although outside the scope of this policy document, the Council should be aware of the inadequacies of the party walls legislation in its application to basements.</p> | Noted. |
| 34.3.75 | Princess di Sirignano | <p>The reason being that once permissions are granted, the developers become a 'law unto themselves' and there is no way to control what actually transpires especially on large sites. Even if a developer submits an Construction Method Statement that the Planners accept, the developer is under no obligation to abide by it, in fact I have seen the opposite performed and there are no enforcements.</p> <p>Noise and Nuisance seem to be the only department that has any real enforcement powers. The Considerate Contractor Scheme is effectively toothless and the BO next door to us ignored the Condition to comply for one year.</p> <p>One example of this 'law unto themselves' occurred last December when retained structures of Sloane Lodge, supposed to have been obliged by the planners to keep, were quickly cleared between a Friday to Tuesday.</p> | Noted. The Council is looking at conditions for certain cases to restrict working hours to weekdays. The proposed policy will restrict the size of basements which will reduce construction impacts. The Council is considering means to secure additional resources for noise monitoring. |

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| | | <p>These works under section 2 of the Party Wall etc Act 1996 should have had a Notice served prior under section 3 but were not.</p> <p>The only way to stop such developments taking on their own set of rules where they do as they please is to stop them from the outset.</p> <p>Such clever disregard for the rules means that adjoining neighbors must continually monitor their own properties to keep building owners from aggressive actions which reminds us that we are out of our depths against developers employed by persons to serve their own ends which sadly contribute nothing to the community or local environment.</p> | |
| 34.3.76 | David Lion | <p>I have witnessed drilling exploration at a neighbour's house in our terrace and heard rumours that our neighbours at 40, 42 and 44 Scarsdale Villas are considering basement conversions potentially at the same time.</p> <p>I would like to know how I can find out about the planning and timing of these conversions and what the council's views and proposed regulations might be towards all three conversions taking place at the same time or consecutively over a prolonged period of time which might run beyond months to several years.</p> | Noted. The planning application information on a property can be searched using the Council's website. Planning policy cannot put a restriction on the number of developments that can be undertaken simultaneously in a given area. |
| 34.3.76 | James Copinger-Symes | <p>Structural implications (34.3. 76)</p> <p>Structural implications are not a planning matter and should be dealt with through Building Control and the Party Wall Act.</p> | Noted. The Council is aware of the limitation of the planning legislation in this regard and is not proposing dealing with structural issues. |
| 34.3.76 | Gulvanessian Associates (Mr Gulvanessian) | <p>Structural implications (34.3. 76)</p> <p>Structural implications are not a planning matter and should be dealt with through Building Control and the Party Wall Act.</p> | Noted. The Council is aware of the limitation of the planning legislation in this regard and is not proposing dealing with structural issues. |
| 34.3.76 | Edward Manisty | <p>A. December Note paras 1.22/3 and 34.3.76 (final sentence): Basement development and the Planning Regime -, the Existing Position</p> <p>1.1 The above passages of the December Note seek to perpetuate the myth that under current RBKC adopted policy (for current policy see in particular Core Policy CL 2(g)) issues of structural stability are not matters that the Planning Authority is responsible for in the planning process . Rather , so it is alleged , they fall to be regulated by the Building Regulations and Party Wall Act.</p> <p>1. 2 It cannot be emphasised strongly enough that this "spin" on policy as currently adopted by RBKC is wrong in law .Relevant issues here may be summarised as follows:</p> <ul style="list-style-type: none"> * Prima facie issues of structural stability are capable of being material planning considerations under 0 para 20. * The fact that other machinery , for instance Building Regulations and the Party Wall Act , exist to regulate aspects relating to such issues , does not mean that structural stability ceases to be a material consideration for planning purposes . (Maurice v LCC [1964] 2 QB 362). * It is open to any planning authority to curtail or even eliminate the weight it gives in the planning process to any potentially material consideration .(See Lord Hoffmann's observations in Tesco Stores Ltd v Secretary of State for the Environment [1995 1 WLR 759). * However , in default of its adopted policy clearly restricting its prima facie responsibilities in the planning process in regard to issues of structural stability , this being an undoubted material consideration , such responsibility is unlimited. * Nothing in Core Policy CL 2g. in its current form or existing supporting guidance attempts to impose any such restriction .Indeed , para CL 2g. is mandatory in stating that " the Council will -- require it to be demonstrated" (inter alia) "ii. the stability of the existing or neighbouring buildings is safeguarded". * This being so RBKC is currently bound to implement this existing clear adopted policy wording , and not to argue (as its Planning Dept now does) that it has a restricted meaning that senior officers may prefer(see Tesco Stores Ltd v Dundee City Council [2012] UKSC 13, particularly per Lord Reed at para 19, p.II and the Local Government Ombudsman's Report on an investigation into complaint nos I 0 022 952 and II 000 695 about Bolton Metropolitan Borough Council [19 April2012] | <p>Noted</p> <p>1.1 Planning policy can only deal legitimately with planning issues. Basement development particularly underneath existing buildings is a complex and challenging process. A raft of other legislations apply. The courts have made it very clear that authorities implementing controls under one piece of legislation should not attempt to emulate, influence, or over-write, controls laid down under other legislation. To help understand the complement of legislation and the separate roles that each piece of primary legislation has on basements and other development the Council has also produced a note on Advice to Builders and Residents. This can be found on our website http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx.</p> <p>1.2 The cases cited do not demonstrate that structural stability is a planning issue.</p> <p>1.3 The Council does implement policy CL2g by requiring a Construction Method Statement (Construction Method Statement). However it cannot require proposals to be built in accordance with the CMS as this is outside the scope of planning legislation.</p> |

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| | | <p>,particularly at paras 61 and 67.</p> <p>* In failing to proceed in this way RBKC lays itself open both to judicial review and quashing of permissions shown to reflect its failure to address properly Core Policy CL 2g.ii. , and to claims in negligence for loss shown to be attributable to repeated failure to adhere to this Policy (see the observations of the Court of Appeal in Kane v New Forest District Council [2001J EWCA Civ 878.]</p> <p>1.3 In recent months , with the assistance of Planning Counsel , I have drawn attention in correspondence with the Town Clerk, Mr Holgate, to what is said in para 1.2 above. Whilst he has expressed disagreement in attempting to uphold the "myth" drawn attention to at para 1.1 above , he has been unable to provide any authority to support his dissent, which is made solely on the basis of bare assertion.</p> | |
| 34.3.76 | London basement (Stephen Merritt) | <p>Structural implications (34.3. 76)</p> <p>Structural implications are not a planning matter and should be dealt with through Building Control and the Party Wall Act.</p> | Noted. The Council is aware of the limitation of the planning legislation in this regard and is not proposing to deal with structural issues. |
| 34.3.76 | Basement Force (Simon Haslam) | <p>Structural implications (34.3. 76)</p> <p>Structural implications are not a planning matter and should be dealt with through Building Control and the Party Wall Act.</p> | Noted. The Council is aware of the limitation of the planning legislation in this regard and is not proposing to deal with structural issues. |
| 34.3.76 | Tessuto (Gemma Gordon-Duff) | <p>Structural implications (34.3. 76)</p> <p>Structural implications are not a planning matter and should be dealt with through Building Control and the Party Wall Act.</p> | Noted. The Council is aware of the limitation of the planning legislation in this regard and is not proposing to deal with structural issues. |
| 34.3.76 | The Royal Brompton and Harefield NHS Trust | <p>8) Revision: Supporting text Para 34.3.76</p> <p>* The incorporation of further details and clarification of the information required at application stage, in relation to ground and hydrological conditions of sites would be welcomed here.</p> | Noted. The Council may clarify additional information at the planning application stage in its local validation list. |
| 34.3.76 | Bell Cornwell (Tracey Rust) | <p>Paragraph 34.3.76 & Policy CL7k</p> <p>This paragraph explains that the structural integrity of the development itself is not controlled through the planning system but through the Building Regulations and the Party wall Act. This equally applies to safeguarding the structural stability of neighbouring buildings. As such, it is not for the LPA to require such information at application stage particularly as there is no professional expertise within the LPA to consider and comment on the content of such Engineering documents.</p> <p>As appeal Inspector's have previously advised, the effect of excavation on the structural stability of the building itself and adjacent properties is a matter for other statutory regimes, such as the Building Regulations and the Party Wall Act and does not fall under the provisions or control of the Town and Country Planning Act.</p> <p>We would refer you to the appeal decision for 44 Phillimore Gardens, London W8 (APP/K5600/A/07/2050877) which is itself already recognized and quoted in the Council's Subterranean Development SPD May 2009. In that decision the Inspector also commented "I understand concerns about the implications for neighbours of the process of excavation, demolition and construction..... However, these are matters controlled under other legislation".</p> <p>Furthermore, it is an unnecessary effort and cost to an applicant when there are detailed material planning considerations to assess, which themselves are necessarily of a discretionary subjective nature, e.g. the visual impact of lightwells and rooflights. It is necessary to get those visual design impacts assessed at the planning application stage, not construction details, which are not material or necessary if the visual impact is itself not acceptable.</p> | Noted. There are other appeal decisions where Inspectors have referred to structural stability. The planning department is charged with protecting and enhancing the valued and historic built environment of the Royal Borough. Basements underneath existing buildings are more challenging and complex than above ground developments of an equivalent size. There have been many reports of structural damage to properties in the Borough (Council carried out surveys in the summer of 2012) and on one occasion a complete collapse in Upper Phillimore Gardens during basement construction. As a precautionary approach to minimise the risk to our built environment the Council considers it reasonable for applicants to demonstrate that they have given sufficient weight to structural issues at the design stage. The benefits of such an approach are more than the inconvenience caused to applicants. |
| 34.3.76 | Ladbroke Association (Sophia Lambert) | <p>16. We welcome the references to safeguarding the structural stability of neighbouring buildings. However, it is misleading to suggest (as in the proposed paragraph 34.3.76) that structural integrity is controlled through Building Regulations and the Party Wall Act. Building Regulations do not apply to neighbouring properties (except in the extreme case where they become unsafe). All that the Party Wall Act does is to enable party wall awards to require building owners to avoid "unnecessary inconvenience" and to provide a system whereby any damage caused must be put right or compensated for. If the Council were to accept a planning application even though it was expected to cause a significant amount of damage to neighbouring properties, it would be hard for party wall surveyors to require something else. The reference to the Building regulations and the Party Wall Agreement should therefore be omitted or amended so as to avoid the impression</p> | Noted. Reference to neighbouring buildings will be deleted from the text. |

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| | | that there is no need for the Council to ensure that applications provide for structural integrity to be maintained. Policy CL 7k should be amended to "The submitted application must demonstrate that the structural stability of the applicant building and nearby buildings can be safeguarded." | |
| 34.3.76 | The Markham Square Association (David Cox) | Paragraph 2.7 Box 1 Paras 34.3.74, 34.3.75 and 34.3.76 We agree with these paragraphs. Although outside the scope of this policy document, the Council should be aware of the inadequacies of the party walls legislation in its application to basements. | Noted. |
| 34.3.76 | The Kensington Society (Anthony Walker) | 34.3.76 The information should be based on site-specific surveys. Despite this being in the SPD applications to date in some cases have relied on reference to conditions in near by sites. The Society considers that this should be incorporated in Policy. | Noted. The requirements of the Basement Impact Assessment set out in Appendix C should cover this. |
| 34.3.76 | Princess di Sirignano | Engineering & Movements in the Ground 'Some residential projects can be as large as commercial schemes. For a multi-level deep basement with several floors, the ground movements associated with this are likely to be unacceptably high. In practice ground movements cannot be reduced to zero...and underground construction will always cause some movement in the surrounding areas.' 'ArupGeotechnics Scoping Study/2008' | Noted. |
| 34.3.77 | Norland Conservation Society (Libby Kinmonth) | Flood risk 34.3.77 of the proposed Core Strategy text seems to concentrate on flooding from the Thames or from sewers. As far as we can see, there is scant consideration of the risks inherent in diverting natural water courses (e.g. on the slopes of Ladbroke and down to Norland), in the event that all houses in a lateral street put in basements, and thus create a barrier to groundwater flows. In some cases, this could make a strong case against allowing any basements (and this is mentioned in the Baxter report 9.4.7 - 11), though in more tentative terms). This possibility certainly supports no more than single storey basements. | Noted. The technical study by Arup and Baxters do not consider that basements result in any significant changes to ground water conditions. |
| 34.3.77 | Thames Water Property Services | We welcome the opportunity to comment on the Royal Borough of Kensington & Chelsea's draft policy on basements and partial review of its core strategy. As you are doubtless aware, a large number of basements have experienced flooding from combined sewers in this area following heavy rainfall - especially the widespread sewer flooding that occurred in July 2007. The problem is a complex one and Thames Water has spent the last 4 years investigating it and has now identified a programme to alleviate this problem. Thames Water are currently in discussion with its economic regulator, Ofwat, about taking this programme forward. Further details can be found at www.thameswater.co.uk/counterscreek . As a sewerage undertaker, Thames Water has two key interests in this consultation document: · Firstly, Thames Water are concerned that the sheer scale of subterranean development in the Royal Borough is impacting on the ability of rainwater to soak away into the ground, resulting in more rainfall in their sewers when it rains heavily; and · Secondly, due to the depth of some of the basements this makes them highly vulnerable to many types of flooding, in particular where development takes place close to and below the depth of large trunk sewers. The depth of some basements also places them at risk of groundwater ingress. | Noted. Does Thames Water have additional evidence to support their concern that the scale of subterranean development is impacting on the ability of rainwater to soak away into the ground. The Council's policy regarding basements requires a metre of permeable soil on top to reduce surface water run-off and thus improve the existing situation. The Council does not consider that basements built in accordance with the policy requiring SUDs has resulted in more rainfall in the sewers. The policy will be amended to include a requirement for new basements to be protected from sewer flooding by using a positively pumped device. The Engineering Design and Construction Statement will include hydrological investigations and if ground water is found to be an issue the basement will be designed accordingly. It should be noted that the draft policy is introducing a limit of a single additional storey to the depth. It should also be noted that groundwater is not within the remit of Thames Water rather it is dealt with by the Environment Agency. The Environment Agency has not raised any comments in relation to ground water. |
| 34.3.77 | Thames Water Property Services | Box 1 Paragraph 34.3.77 - Thames Water is currently working with the Royal Borough comparing the flood risk identified through its Surface Water Management Plan and Flood Risk Assessment with the risk of sewer flooding identified from our hydraulic model of the sewerage network. Thames Water would expect that this work will lead to the reclassification of Critical Drainage Areas and Flood Risk Zones in some cases, particularly in areas in close proximity to their trunk sewerage network. | Noted. The Council is working with Thames Water on the areas mentioned. Agreed the text will be amended to make positively pumped devices |

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| | | Box 1 Paragraph 34.3.77 - Under this paragraph reference is made to the need for installation of a 'positive pumped device' within areas at risk of flooding. The text should be revised to make this requirement applicable to all basements as sewers are designed to surcharge to just below cover level and as such all subterranean development is at risk, this would be consistent with the guidance contained in Part H of the Building Regulations. It is recommended that planning conditions are used on applications for basement development to ensure provision of such devices. Should such conditions not be used then, as a minimum, informatives should be attached highlighting the need for such devices to be installed in order to protect the property. | a requirement for all basements. |
| 34.3.78 | James Copinger-Symes | <p>Party wall negotiations and Agreements (34.3. 78) [Requirements of the BIA 4.22]</p> <p>It is not reasonable to expect party wall negotiations to be underway before the planning application is submitted.</p> <p>Planning permissions are valid for three years. Party Wall Awards are valid for one year.</p> <p>The proposed rule would require an owner to incur the expense of starting party wall awards for a project that may not start before those party wall awards have expired meaning additional cost and wasted effort.</p> <p>It is not fair to expect the applicant to have started party wall negotiations which could expire</p> | <p>Noted. The proposals are not written bearing in mind implications for speculative developments.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground developments./ The requirements are considered proportional to the risks and issues involved in basement construction.</p> |
| 34.3.78 | Gulvanessian Associates (Mr Gulvanessian) | <p>Party wall negotiations and Agreements (34.3. 78) [Requirements of the BIA 4.22]</p> <p>It is not reasonable to expect party wall negotiations to be underway before the planning application is submitted.</p> <p>Planning permissions are valid for three years. Party Wall Awards are valid for one year.</p> <p>The proposed rule would lead to cases where a party wall award will have to be put in place where an owner has no intention of starting construction within the life of that party wall award resulting in wasted effort and money for all.</p> | <p>Noted. The proposals are not written bearing in mind implications for speculative developments.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground developments./ The requirements are considered proportional to the risks and issues involved in basement construction.</p> |
| box1 34.3.78 | London basement (Stephen Merritt) | <p>Party wall negotiations and Agreements (34.3. 78) [Requirements of the BIA 4.22]</p> <p>It is not reasonable to expect party wall negotiations to be underway before the planning application is submitted.</p> <p>Planning permissions are valid for three years. Party Wall Awards are valid for one year.</p> <p>The proposed rule would lead to cases where a party wall award will have to be put in place where an owner has no intention of starting construction within the life of that party wall award resulting in wasted effort and money for all.</p> | <p>Noted. The proposals are not written bearing in mind implications for speculative developments.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground developments./ The requirements are considered proportional to the risks and issues involved in basement construction.</p> |
| 34.3.78 | Basement Force (Simon Haslam) | <p>Party wall negotiations and Agreements (34.3. 78) [Requirements of the BIA 4.22]</p> <p>It is not reasonable to expect party wall negotiations to be underway before the planning application is submitted.</p> <p>Planning permissions are valid for three years. Party Wall Awards are valid for one year.</p> <p>The proposed rule would lead to cases where a party wall award will have to be put in place where an owner has no intention of starting construction within the life of that party wall award resulting in wasted effort and money for all.</p> | <p>Noted. The proposals are not written bearing in mind implications for speculative developments.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground developments./ The requirements are considered proportional to the risks and issues involved in basement construction.</p> |
| 34.3.78 | Tessuto (Gemma Gordon-Duff) | <p>Party wall negotiations and Agreements (34.3. 78) [Requirements of the BIA 4.22]</p> <p>It is not reasonable to expect party wall negotiations to be underway before the planning application is submitted.</p> <p>Planning permissions are valid for three years. Party Wall Awards are valid for one year.</p> <p>The proposed rule would lead to cases where a party wall award will have to be put in place where an owner has no intention of starting construction within the life of that party wall award resulting in wasted effort and money for all.</p> | <p>Noted. The proposals are not written bearing in mind implications for speculative developments.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground developments./ The requirements are considered proportional to the risks and issues involved in basement construction.</p> |
| 34.3.78 | Studio Indigo Ltd (Doug Indigo) | <p>&middot; Consideration should be given to wider consultation/informative by clients towards their neighbours rather than rely on Council to do this work in the first instance. By doing so this goes a long way in addressing and averting neighbours worries and concerns.</p> | <p>Noted. This is mentioned in the draft document in para 34.3.78 and paras 4.17-4.19.</p> |

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| 34.3.78 | Sam Gordon Clark | Pre-consultation with neighbours: Nice idea but how do you consult with a non-resident Nigerian? Insisting on developers having a credible local representative who really can speak for his employer is essential. Either way, if you can find someone who is a neighbour to an impending basement development who is supportive of the idea, it will be a miracle. | Noted. The Council can promote best practice and cannot anticipate every eventuality. The Council cannot require a local representative to be hired. The planning application is in the public domain and neighbours can comment on it if pre-application consultation was not/ not able to be undertaken. |
| 34.3.78 | Oliver Parr | Finally, the suggestion is made by at least one resposdee that there should be a Neighbourhood Consultation Period. This seems entirely reasonable given the immense inconvenience that a basement excavation is likely to cause. However, comforting words cost nothing and no amount of prior consultation will ensure that future problems are avoided - even where the applicant's builders behave perfectly. Consequently I believe that there is no substitute for proper compensation. | Noted. The Council can promote best practice. It cannot get involved in compensation issues which are a civil matter. |
| 34.3.78 | Charles Williams | Basements Policy and CTMP We have had a few cases where neighbours have criticised the CTMP and I am not sure we have found a way of dealing with this. If the draft Basements Policy is adopted the problem will become much worse. Neighbours may struggle to understand a CMS but they can readily comprehend a CTMP and, especially if they have not been consulted ,there will be very specific objections. Now, the Basements Draft Policy proposes (34.3.78) that "Applicants wishing to undertake basements are strongly advised to discuss the proposals with neighbours and others who will be affected. Plans should be shared and party wall negotiations should be well underway with those affected before the planning application is submitted. Emerging proposals related to traffic and construction should also be shared with residents and businesses in the vicinity so that their local knowledge and their needs can be more readily taken into account" This is not mandatory so I wonder if at the pre-app stage when Highways are considering a draft CTMP our officers should consult the neighbours. What I fear is that if neighbours are not consulted on the CTMP, the Committee will be presented with trenchant criticisms of the CTMP which has been approved by Highways. The Committee may; quite reasonably consider that these criticisms have merit. What can it do? Defer. I can see no alternative. | The pre-application process is more of a vetting exercise of the CTMP by Transport and Highways. Neighbours/residents will be able to comment in the CTMP and other documents during the course of the planning application being determined. These comments will be made before the application goes to committee. Any valid issues raised will be considered before the application is decided. |
| 34.3.78 | ARK (Rupert Carruthers) | - Neighbours are currently informed of proposed developments through the advertisement mechanism during the application stage. However, we feel that more information about the issues of basement construction in relation to neighbouring properties should be provided to neighbours by the council after an application has been approved. This, together with an insistence on high quality design and professional management, would go a long way towards alleviating the understandable fears that residents have in relation to development of this nature. The information given to neighbours should include Party Wall procedures and information on the insurance policies which should be in place for any subterranean development. | The policy is being written to ensure a high standard of development takes place. These constraints on what the policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development. |
| 34.3.78 | Ladbroke Association (Sophia Lambert) | 19. This is another proposal that we particularly welcome. We note that in an ideal world each owner would involve their party wall surveyor at this early stage. The normal convention is for the building owner to pay for the adjoining owner's party wall surveyor and any engineers he involves; however, this only applies after a party wall notice has been served. As a result adjacent owners will need to pay out of their own pocket to get technical advice at the formative stage. It is therefore particularly important that documents are drafted to be as comprehensible as possible to the lay person, and we would urge the Council to make this clear in the SDP. | Noted. |
| 34.3.78 | The Markham Square Association (David Cox) | Paragraph 2.7 Box 1 Para 34.3.78 We agree with the introduction of procedures to encourage the earliest consultation with owners of neighbouring properties. This must begin with the provision of accurate and detailed information upon which neighbours can rely. | Noted. |

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| 34.3.78 | The Kensington Society (Anthony Walker) | 34.3.78 The Society recognises that applicants cannot be obliged to consult with neighbours however can it be stated that in considering objections from neighbours consideration will be given to whether or not they have been consulted by the applicant. | Para 4.21 of the draft basements policy document mentions this. |
| 34.3.78 | Christopher Hunt | <p>6 - Require the Council to defer approval of an application until it has reasonable cause to believe appropriate concerns of residents are being met (Section 34.3.78).</p> <p>It is clear from current experience that applicants need more than voluntary incentive to engage in a meaningful dialogue with neighbors. Architects and contractors know from experience that the Department will be likely to grant approval of their proposals regardless of whether they work cooperatively with neighbors. In our case, that is exactly what happened; the applicant refused to meet with neighbors yet was granted approval from the Department for absolutely everything requested despite serious concerns raised by neighbors.</p> <p>While planning law may not allow an outright refusal of an application for failure to engage with neighbors, we believe it will allow the Council to reasonably defer grant of approval until such time as sufficient engagement has occurred. The inspectorate will apply a "reasonableness" test and if the policy states clearly what is expected, it is likely the Inspectorate will rule favorably in the event of an appeal.</p> <p>Suggestion: Applicants must face consequence for failing to work with neighbors or engagement will not happen. I suggest you insert in Section 34.3.78 the statement that "The Council shall be allowed to defer grant of planning approval until such time as the Council is satisfied that reasonable engagement / negotiation with surrounding residents has occurred and that valid concerns have been addressed."</p> | <p>Noted. The Council cannot go beyond the strong advise set out in para 34.378 referred to. Further details are also set in para 4.17-4.21 of the Draft Basements Policy document. Para 4.21 states <i>"Applicants should confirm this consultation has been carried out (or otherwise) and show evidence as necessary."</i></p> <p>Going beyond what is set out in the draft basements policy document will not be reasonable in accordance with the National Planning Policy Framework (NPPF). The Council has to find a balance between different interests.</p> |
| CL7 - Proposed Policy (a) | | | |
| CL7 a | James Bartholomew | I also feel that the restriction to 75% of the garden space is too restrictive. I would prefer 80%. | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Alastair Walton | basements should not extend beyond 50% of a garden | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact |

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| | | | <p>on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Marrina Murray | <p>In particular, I do not find the 75% figure reasonable at all and, like Libby and Clive, do not see why it should exceed, at most, the "permitted development" amount that you now recognise. I am also puzzled why the 75% figure should have been chosen when I thought you had been considering a very much smaller figure/percentage only a few weeks ago.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Norland Conservation Society (Libby Kinmonth) | <p>Soakaway, hard standings and garden coverage The proposal is now to restrict the size of basements under gardens to no more than 75% (or 50% depending on ground conditions). This is based on what Baxter proposes as a "rule of thumb" i.e. not much more than a wet finger exercise.</p> <p>First question: Why 75% or 50%? Why any more than what is currently Permitted Development? ie 3m out from rear wall of house. If the Council can arbitrarily decide 75% or 50%, why not restrict basements to the maximum?</p> <p>The point is made that the policy has to be evidence-based. The 75% or 50% is put forward by Baxter as "a rule of thumb". What evidence is put forward to support this "rule of thumb"?</p> <p>Perhaps Baxter should be required to support this "rule of thumb" with substantive evidence. Otherwise it seems every bit as open to dispute as the 85%.</p> <p>Second question: 75% or 50% of what? In some cases, gardens already contain garages or other sheds on hard standings that reduce the available soakaway. In other cases, the garden can already be wholly or partially paved. IN the interests of soakaway (and reduced demand on sewerage), the aim should be to get rid of impermeable surfaces, not add to them by allowing basements occupying 50, or even 75% of the garden area. Surely any hardstanding or garage or shed should count as part of the "allowance"?</p> | <p>Alan Baxter and Associates response:</p> <p>The rule of thumb is only that! It is difficult to argue the limits on the size of a basement from a structural engineering import. They key issues are:</p> <ul style="list-style-type: none"> - Allow some garden area to drain any rainwater to the Upper Aquifer. - Allow space to grow major trees - Townscape, streetscape issues - Area/volume debate. - Construction impact on residential amenity. <p>The 50% garden coverage figure is being used by other Boroughs, so this on its own will help to justify this as a figure which is generally acceptable.</p> <p>The application to construct a basement in gardens should only be permitted if there is a zero increase in the rate of surface water run off to sewers.</p> <p>The purpose of the 1m of soil is to:</p> |

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| | | | <p>a) Support plant growth for relatively large plants b) To act as a “sponge” to retain rainwater and either allow it to soak down to the aquifer or for it to evaporate. It should not be drained to sewers.</p> <p>Council response: Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the ‘upper aquifer’. As a ‘rule of thumb’ the Alan Baxter’s report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>It is not considered appropriate to link the restrictions on basement size to permitted development rights as clearly at that scale the GPDO considers there is no need to apply planning controls.</p> <p>The reasoned justification to the policy will provide more clarification on what is a garden. Existing open areas even when paved are part of the garden, any outbuildings are not.</p> |
| CL7 a | Paul Lever | <p>- a general rule that basements should extend to no more than 50% of the garden area (as in Westminster) rather than 75%;</p> <p>Box 2: Proposed Policy</p> <p>a. Change 75% to 50%</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the ‘upper aquifer’. As a ‘rule of thumb’ the Alan Baxter’s report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the</p> |

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| | | | policy to restrict basements to a maximum of 50% of each garden within a property. |
| CL7 a | James Copinger-Symes | <p>Loss of value due to size restriction</p> <p>Home owners in the borough stand to suffer a real financial loss based on the proposed basement planning changes. Affected home owners may have a case against RBKC for compensation for this loss.</p> <p>Currently the potential net value added from maximising a property's development potential is priced into realised sale prices. This has been the case for several years. For example the current sale price of properties with the potential for say a multi-level basement under the house is significantly higher than for an identical property where that possibility is not present due to an underground obstruction.</p> <p>While this value loss is true for all affected properties it will be felt particularly keenly for owners who have made recent purchases where this premium was unavoidable.</p> <p>The restrictions to single level basements and to the size of garden basements will both lead to financial loss for some owners who might be motivated to make claim against the council.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The Council's policy needs to support sustainable development in-line with the NPPF and cannot be based on merits of potential economic gains to property owners.</p> |
| CL7 a | Vanguard Working Group (John Simpson) | <p>Para a. The 75% limit is much too high. It is presented as only a surface water issue. This is misleading. The limit on the extent of the basement is also needed to reduce the environmental and construction impact and to protect trees and the character of gardens. The wording of para a. leaves inadequate scope to take into account the circumstances of the individual case.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |

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| CL7 a | Milner Street Area Residents' Association (Richard Grantley) | <p>Percentage of garden area to be developed</p> <ol style="list-style-type: none"> 1. No basement should cover more than 50% of the garden area (vs. a maximum of 75% suggested in the consultation paper). We note that neighbouring Westminster Council is proposing this: "To avoid the loss of trees and other soft landscaping subterranean development should extend no more than 50% of the garden area (between the boundary walls and the existing building), with the remainder of space used for drainage and planting. A minimum of 1.5m of soil should also be retained above the top cover of the whole area of the basement to allow for planting and tree pits across the entire garden." RBK&C should do the same. 2. Limiting to 50% of the garden area would also give more weight to "construction impact issues", which is a stated intention of the Draft Policy. 3. Where there has previously been an extension (or swimming pool) reducing the size of the garden, the area under the extension (or swimming pool) should be counted as part of the garden for the purpose of this calculation. Otherwise there is a loophole whereby the applicant could first build a swimming pool or extend into the garden area before applying for the basement extension. | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The reasoned justification to the policy will provide more clarification on what is a garden. Existing open areas even when paved are part of the garden, any outbuildings are not.</p> |
| CL7 a | Gulvanessian Associates (Mr Gulvanessian) | <p>Basement size under gardens limited to 75% of a existing garden in order to maintain natural drainage (34.3.59) [Policy CL7 a.]</p> <p>The limitation of basement size to 75% to allow natural drainage is arbitrary and appears not to have been based on fact or study.</p> <p>Basements in areas of River Terrace Deposits should need minimal areas to be left for drainage. A limitation to 95% build of garden should allow adequate drainage.</p> <p>Basements in areas of London Clay should not be limited in area based on the need to maintain natural drainage.</p> <p>The statements above are supported by the 2009 Arup report, page 18, section 5.1 Underground water.</p> <p>River Terrace Deposit areas</p> <p>There are generally no significant horizontal surface flows in River Terrace Deposits (sands and gravels) areas. Rather surface water moves vertically down almost immediately into the upper aquifer at the River Terrace Deposit / London Clay boundary.</p> <p>In practice the complete rainfall from an 80m2 roof area is seen to run down through River Terrace Deposit ground in an area of less than 1m2 with no increase in water flow outside this 1m2 column.</p> <p>This demonstrated vertical drainage would mean that un-built area of garden of 1 m2 to 2m2 should be sufficient for every 80m2 of built garden basement.</p> <p>London Clay areas</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The Arup report considered 'ground' water flows and related issues but did not consider 'surface' water issues. Baxter's report does consider surface water issues and recommendations in Baxter's</p> |

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| | | <p>There is minimal vertical drainage in areas where the ground is London Clay. Rather drainage occurs horizontally in the surface layer.</p> <p>In the north parts of the borough where the ground is clay the permeable layer is generally restricted to the layer of soil or made ground on top of the clay. This top permeable layer is usually less than one metre thick.</p> <p>On the basis of maintaining natural drainage basements should be built that maintain horizontal flow in the top one metre and have no restriction on overall basement area.</p> | <p>report relate to this.</p> <p>50% is considered an easily understood figure and allows for a substantial amount of garden to have a natural landscape and perform a drainage function.</p> |
| CL7 a | ESSA (Anthony Walker) | <p>2 Basement development under gardens. We consider that the open ended nature of the current proposals and the statements in the Baxter report will lead to difficulties for both applicants and the planning authority. It is clear that apart from consideration of the capacity for water soakaway which it is acknowledged will only in the best circumstances be 25% of the garden and in many cases up to 50% there are other considerations such a flexibility for planting which makes a significant contribution to the Borough. This is particularly important considering as stated in the Conservation Consultation under open spaces that this Borough has less open space than most Boroughs. We consider that the amount of development allowed under permitted development i.e. 3 m beyond the back of the premises or up to 50% of the depth of the garden which ever is the lesser should be the guide line and only in exceptional circumstances should this be exceeded.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>It is not considered appropriate to link the restrictions on basement size to permitted development rights as clearly at that scale the GPDO considers there is no need to apply planning controls.</p> |
| CL7 a | London basement (Stephen Merritt) | <p>Basement size under gardens limited to 75% of an existing garden in order to maintain natural drainage (34.3.59) [Policy CL7 a.]</p> <p>The limitation of basement size to 75% to allow natural drainage is arbitrary and appears not to have been based on fact or study.</p> <p>Basements in areas of River Terrace Deposits should need minimal areas to be left for drainage. A limitation to 95% build of garden should allow adequate drainage.</p> <p>Basements in areas of London Clay should not be limited in area based on the need to maintain natural drainage.</p> <p>The statements above are supported by the 2009 Arup report, page 18, section 5.1 Underground water.</p> <p>River Terrace Deposit areas</p> <p>There are generally no significant horizontal surface flows in River Terrace Deposits (sands and gravels) areas. Rather surface water moves vertically down almost immediately into the upper aquifer at the River Terrace Deposit / London Clay boundary.</p> <p>In practice the complete rainfall from an 80m2 roof area is seen to run down through River Terrace Deposit ground in an area of less than 1m2 with no increase in water flow outside this 1m2 column.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |

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| | | <p>This demonstrated vertical drainage would mean that un-built area of garden of 1 m2 to 2m2 should be sufficient for every 80m2 of built garden basement.</p> <p>London Clay areas</p> <p>There is minimal vertical drainage in areas where the ground is London Clay. Rather drainage occurs horizontally in the surface layer.</p> <p>In the north parts of the borough where the ground is clay the permeable layer is generally restricted to the layer of soil or made ground on top of the clay. This top permeable layer is usually less than one metre thick.</p> <p>On the basis of maintaining natural drainage basements should be built that maintain horizontal flow in the top one metre and have no restriction on overall basement area.</p> | <p>50% is considered an easily understood figure and allows for a substantial amount of garden to have a natural landscape and perform a drainage function.</p> |
| CL7 a | Basement Force (Simon Haslam) | <p>Basement size under gardens limited to 75% of a existing garden in order to maintain natural drainage (34.3.59) [Policy CL7 a.]</p> <p>The limitation of basement size to 75% to allow natural drainage is arbitrary and appears not to have been based on fact or study.</p> <p>Basements in areas of River Terrace Deposits should need minimal areas to be left for drainage. A limitation to 95% build of garden should allow adequate drainage.</p> <p>Basements in areas of London Clay should not be limited in area based on the need to maintain natural drainage.</p> <p>The statements above are supported by the 2009 Arup report, page 18, section 5.1 Underground water.</p> <p>River Terrace Deposit areas</p> <p>There are generally no significant horizontal surface flows in River Terrace Deposits (sands and gravels) areas. Rather surface water moves vertically down almost immediately into the upper aquifer at the River Terrace Deposit / London Clay boundary.</p> <p>In practice the complete rainfall from an 80m2 roof area is seen to run down through River Terrace Deposit ground in an area of less than 1m2 with no increase in water flow outside this 1m2 column.</p> <p>This demonstrated vertical drainage would mean that un-built area of garden of 1 m2 to 2m2 should be sufficient for every 80m2 of built garden basement.</p> <p>London Clay areas</p> <p>There is minimal vertical drainage in areas where the ground is London Clay. Rather drainage occurs horizontally in the surface layer.</p> <p>In the north parts of the borough where the ground is clay the permeable layer is generally restricted to the layer of soil or made ground on top of the clay. This top permeable layer is usually less than one metre thick.</p> <p>On the basis of maintaining natural drainage basements should be built that maintain horizontal flow in the top one metre and have no restriction on overall basement area.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>50% is considered an easily understood figure and allows for a substantial amount of garden to have a natural landscape and perform a drainage function.</p> |
| CL7 a | Dovehouse Street Residents' Association (Gillespie Robertson) | <p>Our principal comment is that while most of the proposed changes to previous policy are welcome, the suggested maximum limit of 75% of a garden for the extent to which a basement should be allowed to be constructed under it (Policy reference CL7 a, Text reference 34.3.59) is in the opinion of our residents too high. A figure of 50% would in our view be more than generous, regardless of soil type. This view is based on both drainage considerations and planting/tree root considerations. Whatever maximum figure is established is, we suggest, likely to be taken by some or many property owners, and by developers in particular, not as an outside limit in special circumstances but as a standard target.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the |

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| | | | <p>garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Tessuto (Gemma Gordon-Duff) | <p>Basement size under gardens limited to 75% of a existing garden in order to maintain natural drainage (34.3.59) [Policy CL7 a.]</p> <p>The limitation of basement size to 75% to allow natural drainage is arbitrary and appears not to have been based on fact or study.</p> <p>Basements in areas of River Terrace Deposits should need minimal areas to be left for drainage. A limitation to 95% build of garden should allow adequate drainage.</p> <p>Basements in areas of London Clay should not be limited in area based on the need to maintain natural drainage.</p> <p>The statements above are supported by the 2009 Arup report, page 18, section 5.1 Underground water.</p> <p>River Terrace Deposit areas</p> <p>There are generally no significant horizontal surface flows in River Terrace Deposits (sands and gravels) areas. Rather surface water moves vertically down almost immediately into the upper aquifer at the River Terrace Deposit / London Clay boundary.</p> <p>In practice the complete rainfall from an 80m2 roof area is seen to run down through River Terrace Deposit ground in an area of less than 1m2 with no increase in water flow outside this 1m2 column.</p> <p>This demonstrated vertical drainage would mean that un-built area of garden of 1 m2 to 2m2 should be sufficient for every 80m2 of built garden basement.</p> <p>London Clay areas</p> <p>There is minimal vertical drainage in areas where the ground is London Clay. Rather drainage occurs horizontally in the surface layer.</p> <p>In the north parts of the borough where the ground is clay the permeable layer is generally restricted to the layer of soil or made ground on top of the clay. This top permeable layer is usually less than one metre thick.</p> <p>On the basis of maintaining natural drainage basements should be built that maintain horizontal flow in the top one metre and have no restriction on overall basement area.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>50% is considered an easily understood figure and allows for a substantial amount of garden to have a natural landscape and perform a drainage function.</p> |
| CL7 a | Studio Indigo Ltd (Doug Indigo) | <p>• Basements extending across 85% of the site is also excessive, and even a proposal for 65% is generous and should even be reduced to 50%.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact |

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| | | | <p>on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Studio Indigo Ltd (Doug Indigo) | <p>&middledot; Architects would prefer more detailed guidance in terms of bulk and location rules that can be applied, rather than wooly worded phrases. Therefore look at specific rules - a maximum permitted depth below existing lower roof level? A % on a sliding scale relating to site area of maximum basement coverage (i.e. smaller sites have bigger %, larger smaller). % Area of total net gain against the area of the existing house (or proposed new build above ground).</p> <p>&middledot; Design guidelines could be set out with working precedents, again professional advice would be required and duly given. There are examples of non-invasive, proportionate basements that give meaningful additions to existing homes or new developments, presently the restrictions in policy are being led by the increase in double and triple storey basements.</p> <p>&middledot; Clients would prefer to pay a higher planning fee and obtain more considered advice - (although this may be out of the councils hands as part of nationwide fee government fee structures). The newly introduced pre-app advice system would prove effective alongside a set of criteria for basement development, the proposed mass of basement can be prepared relatively early on and given outline feedback as to acceptability, Currently full plans are submitted for approval and where basements sizes are subsequently restricted this is implemented post spatial planning, leading to ill considered and amended basements, which in turn leads to problematic construction and often further applications for additions to footprints and depth. An outline approval or guideline for the permissible basement allowed on a site would give constraints and a volume that could be worked within, rather than adding and omitting as an afterthought.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>Noted. The Council is mindful not to have too much prescription in its planning policies. A proportion relative to the size of the garden is considered more reasonable rather than defining it inversely proportional to the size of garden as suggested.</p> <p>The policy recognises that basements can provide extra living accommodation in existing properties and does not ban basements.</p> <p>It is not clear what is meant by 'basement sizes are subsequently restricted' as planning decisions are always accompanied by a condition to carry out works in accordance with approved plans.</p> <p>The draft policy requires a Basement Impact Assessment at the outset of the planning application process so that the complexity of the project is considered in full and planned accordingly. This will help raise the standard of proposals for basement development.</p> |

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| CL7 a | Sam Gordon Clark | Size of development: It is good that you propose reducing the percentage of garden that may be excavated from 85% to 75%, but this is still too much. 50% should be plenty. Perhaps you could consider a sliding scale depending on the size of the garden? | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Oliver Parr | <p>On the positive side, the proposal to limit basements to one level is to be welcomed</p> <p>However, the proposed reduction in the permitted proportion of a garden that may be taken up by a basement from 85% to 75% is inadequate, given the fact that it will rarely be possible to build a basement within even this reduced footprint without excavating virtually the entire garden - with all that that implies.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Earl's Court Society (Hilary Temple) | For the same reason the maximum 75% under gardens seems too high. Protection should also be given to mature shrubs not just to trees. For example Camellias can grow as tall as a small tree or even taller, taking years to do so. Replacement by a young shrub is not the answer. These and other shrubs can be as important to the local landscape as many trees, to go solely by a horticultural definition should be avoided. | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub- |

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| | | | <p>soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Jones Lang LaSalle (Kathryn Williams) | <p>- The restrictions in relation to the depth and percentage of area of the basement would not enable occupier objectives and requirements to be met.</p> <p>When evidence from Hydrological Surveyors and Ground Water Surveyors supports the ability to achieve a larger basement area then these should be approved. There is a very limited visual impact given the nature of the development below ground and it would be unreasonable to impose the single storey limit. Paragraph 154 of the NPPF sets out that "Local Plans should be aspirational but realistic. They should address the spatial implications of economic, social and environmental change." The proposed basement policy has not fully considered the impact the restrictions would have on the home owners wishing to extend their properties.</p> <p>a) Justified</p> <p>We do not consider that it is the role of planning to control basements in the way proposed by draft policy CL7.</p> <p>The evidence given to support restrictions on basement development seems to be based on feedback from the residents questionnaires, with a response of only 17%. The questionnaire was not detailed enough to obtain feedback that was constructive.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Jones Lang LaSalle (Kathryn Williams) | <p>There is no flexibility applied in the policy tests or they provide uncertainty (especially parts a and b).</p> <p>The policy does not provide a positive or flexible approach to development. The restriction area of 75% is not founded on credible evidence. Qualified surveyors and engineers must provide confirmation that the proposed basement could be sustainable at a site. Consequently there is no justification to apply this 'general rule' restriction.</p> <p>2. We propose the following, which is in line with the existing guidance in the Supplementary Planning Document (SPD) Subterranean Development (May 2009):</p> <p>"a. The basement must not exceed 85% of each garden of the property."</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |

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| | | | <p>Planning policy has to find a balance between the aspirations of the owners, consider the amenity of other residents and support development that is sustainable and contributes positively to the character and built environment of the Borough.</p> <p>The restrictions in the size of basements are not based purely on hydrology as outlined below.</p> <p>Section 55 of the Town and Country Planning Act (as amended) states “<i>development,</i>” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. As it is the role of planning to promote sustainable ‘development’, basements are included within this definition.</p> <p>Evidence is not solely based on the survey of neighbours and residents. However, 17% is quite a high response rate. The questionnaire was detailed enough to gather meaningful and relevant information.</p> <p>Draft policy CL7 (b) proposes greater flexibility for larger sites which are less constrained and where it can be demonstrated that traffic and construction impacts can be successfully mitigated.</p> <p>The suggestion for a limit of 85% in-line with the current SPD is noted.</p> |
| CL7 a | The Royal Brompton and Harefield NHS Trust | <p>1) Revision: Policy CL7 part a. and supporting text Para 34.3.59</p> <p>* Further explanation and details of the type of surface water conditions which could further limit the amount of basement excavation allowed should be provided, in addition to an explanation of how the reduction in basement coverage is subsequently calculated.</p> <p>* We suggest the following revisions to the policy wording:</p> <p>'a. As a guide, the basement must aim not to exceed 75% of each garden of the property. Where the findings of the analysis of the surface water conditions of the site demonstrate surface water drainage will not be maintained, this percentage will be reduced. The unaffected garden must be in a single area. For basements proposed as part of new development, the extent or area under the garden will be determined on an individual basis, having regard to the particular circumstances of the site.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the ‘upper aquifer’. As a ‘rule of thumb’ the Alan Baxter’s report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The revised policy is not based purely on ground conditions and hydrology so reduction in basement coverage will not be purely based on this. It will be for the EDCS to demonstrate that the site can be developed taking account of geology and ground water conditions.</p> |

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| CL7 a | Shrimplin Brown (Robert Shrimplin) | <p>1. The justification for increasing this from the current target of 85% is to be found in the supporting Alan Baxter Report. However, this report simply says that the 75% is a "rule of thumb" (paragraph 9.8.3). No evidence is presented to justify this approach or that the current target is inappropriate or has led to any problems.</p> <p>2. Similarly there is no justification for why the unaffected garden must be in a single area.</p> <p>3. Moreover, the policy states that where an analysis of surface water conditions on the site demonstrate that surface water drainage will not be maintained the percentage will be reduced. Similarly, it may be that the conditions on the site or possible alternative solutions would allow the percentage to be increased. If it is accepted that flexibility within the policy is needed, then that flexibility must be applied fairly.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The Council's approach is based on a range of evidence including a survey of residents.</p> <p>Alan Baxter and Associates response: See response to Norland Conservation Society.</p> |
| CL7 a | Thames Water Property Services | <p>Box 1 Paragraph 34.3.59 - Residents often ask Thames Water to comment on whether a basement 'not exceeding 75% of the garden' is sufficient for surface water drainage. Thames Water's view is that it depends very much on the scale of future subterranean development. It is known that 'urban creep' (the loss of permeable area) has been significant across the Royal Borough over the last 40 years - Thames Water's own research shows that around 20% of green space has been lost during this time. This rate of urban creep has had a significant affect on the performance of the sewerage network. Therefore, and because of the specific sewer flooding risk in this area, Thames Water has concerns about any development taking place outside of the current footprint of buildings.</p> <p>Policy CL7 (a) - As stated above, because of the scale of subterranean development in the Royal Borough Thames Water are concerned that any development outside of existing building structures will contribute to urban creep and increased surface water run-off.</p> | <p>Noted. The Council will revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The Council is aware of issues related to developments and surface water run-off. We are developing a SUDS tool to assist in mitigating and improving surface water run-off as a result of development. We have an existing policy CE2 in the Core Strategy that requires SUDs in line with the hierarchy in the London Plan.</p> <p>The draft basements policy in particular has a requirement in part g for the "development to include a sustainable urban drainage scheme including a minimum of one metre of permeable soil above any part of the basement beneath a garden. The current policy CL2 part g (iv) also requires adequate soil depth and material and the SPD specifies this to be 1m.</p> <p>With the above measures in place it is unclear how basements would contribute to urban creep and increased surface water run-off as the policy is designed to improve the existing situation.</p> <p>The study that shows urban creep in the Borough referred to by Thames Water is based on comparisons in aerial photography between 1971? And 2007. Basements under 1m of permeable soil would not show up in this study. The study period is 40 years while the popularity of basements is a more recent phenomenon. It is not clear what proportion of this urban creep identified in the study comprises basements (if any). Does Thames Water have further details on the contribution of basements in 'urban creep' as opposed</p> |

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| | | | to above ground development? |
| CL7 a | Cranbrook Basements (Kevin O'Connor) | CL7.a The proposed policy is unreasonable. There is no scientific basis for the arbitrary adoption of a 75% rule for retention of garden. This proposed policy change contradicts the findings of the ARUP Geotechnics Report produced for RBKC. | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>50% is considered an easily understood figure and allows for a substantial amount of garden to have a natural landscape and perform a drainage function. The Arup's report considered the potential impacts of subterranean developments on ground water levels and ground water flows. Section 7 (para 3) of the Arup's report states that <i>"in general, the effect of a new basement on ground water levels will be relatively small, and may be less significant than natural seasonal or other variations in ground water tables."</i></p> <p>However, the draft policy is referring to surface water conditions and the need to have an undeveloped area of the garden to allow surface water drainage to take place. It is not based on conditions related to ground water.</p> <p>The policy is based on a range of evidence not just on the Arup report.</p> |
| CL7 a | ARK (Rupert Carruthers) | <p>Under paragraph 34.3.59 of the supporting text the draft policy proposes to restrict development to 75% of the garden area. Our comments are as follows:</p> <p>- Alan Baxter & Associates argue that the extent of any basement covering a maximum of 75% of the garden area is an optimal figure. We feel that it should be possible to increase this figure (certainly to the previously allowed maximum of 85%) in instances where significantly improved sustainable urban drainage methods are proposed.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is |

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| | | | <p>clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>Alan Baxter and Associates response: See response to Norland Conservation Society.</p> |
| CL7 a | EC Properties LP (EC Properties LP) | <p>Policy CL7 part a. and supporting text paragraph 34.3.59</p> <p>Policy CL7 a. and the supporting paragraph 34.3.59 highlight that no basement should exceed 75% of the garden of a property. Where findings of the analysis of surface water conditions of the site demonstrate surface water will not be maintained, the percentage is proposed to be reduced.</p> <p>Para 9.8.3 of the Alan Baxter Associates background report states that where a new basement is built, water falling on the topsoil needs to be channelled or directed to an unbuilt area of the garden. The report highlights that as a rule of thumb, 25% of the garden area is likely to be sufficient to enable this to happen and therefore, a maximum of 75% of the garden should be covered by a basement. This approach results in a reduction of the 85% maximum coverage under a garden within the Council's existing policy.</p> <p>We consider that Policy CL7 should not set a blanket approach of a maximum of 75% for basement coverage below gardens across the Borough and there should be scope to provide greater coverage if it can be demonstrated that it would not be harmful in relation to drainage, landscaping etc. This is particularly the case for new developments that include residential units with basements and gardens designed as part of the scheme, where there is greater ability to design basements to take account of surface water issues. The report by Alan Baxter Associates notes that 75% is a 'rule of thumb'. Part a. of draft Policy CL7 has interpreted the Alan Baxter report literally and sought to apply the 75% rule to all development. The approach is inflexible and too prescriptive.</p> <p>Further details should be provided within the document to explain the type of surface water conditions which could result in the basement under a garden covering less than 75% of the total garden area. Furthermore, an explanation of how the appropriate reduction in basement coverage is calculated should also be provided.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>Exceptions will be set out in the revised policy and are likely to include large comprehensively planned sites.</p> <p>Alan Baxter and Associates response: Noted. See response to Norland Conservation Society.</p> |
| CL7 a | EC Properties LP (EC Properties LP) | <p>Proposed Changes to Policy CL7</p> <p>To take into account the above comments, we would recommend that Parts a, c, f and g of Policy CL7 are amended as follows:</p> <p>'a. As a guide, the basement must aim not to exceed 75% of each garden of the property. Where the findings of the analysis of the surface water conditions of the site demonstrate surface water drainage will not be maintained, this percentage will be reduced. The unaffected garden must be in a single area. For basements proposed as part of new development, the extent of area under the garden will be determined on an individual basis, having regard to the particular circumstances of the site.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). |

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| | | | <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | The Chelsea Society (Terence Bendixson) | <p>Chelsea, with its almost continuous covering of Conservation Areas, is a much-admired patchwork of houses, gardens, trees and squares, precisely because protective constraints have been so consistently applied. The proposed policy, with its prospect of neutering up to 75% of gardens, promises, over time, drastic change.</p> <p>a. 'The basement must not exceed 20% of the total area of garden (rear, side and front) per property, or extend more than three metres beyond the rear house wall, whichever is the less. Where the findings of the analysis.....'</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>It is considered that the policy will work better as a proportion of the garden rather than a very prescriptive figure of 3m for all sites.</p> |
| CL7 a | Ladbroke Association (Sophia Lambert) | <p>4. We note with some disappointment that it is proposed to reduce the current requirement on the percentage of garden that may be used for basement construction by only 10 percentage points, from 85% to 75%. We think that this is not enough. We note that 75% was the "rule of thumb" figure suggested by the Baxter Report in terms of drainage. But the Report recognises that on clay, widespread in the borough, as little as 50%, may be appropriate. We are not convinced by the argument in Appendix B.8. - light-wells can be controlled by other means.</p> <p>5. As section 9.2.7 of the Baxter report points out, basements which extend under both house and garden are also riskier to construct. And in the case of back gardens, because spoil has to be carried further, the disruption caused by the temporary works is likely to be greater than excavation under the house. For all these reasons we urge the Council to go for a lower starting-point. We believe that the following approach would be a better one and can be defended on environmental grounds:</p> <p>&middot; The starting point should be that no more than 50%, and preferably no more than 3 metres out into the garden (whichever is the lesser), should be built under, and a 3 metre strip should normally be left free at the end of the garden to allow for the planting of large trees (paragraph 9.8.6 of the Baxter Report).</p> <p>&middot; A developer would need to make out an exceptional case for building under more of a back garden, demonstrating in particular that this can be done while allowing all run-off (including water pumped out of the new basement) to be drained within the curtilage of the property (or sustainably harvested and used as grey water etc) and not into the sewers (see paragraph 9.8.3.1 of the Baxter Report). In no case should direct connection of drains into main drains and sewers be permitted (see paragraph 13.3.7 of the Baxter report).</p> | <p>Alan Baxter and Associates response: Noted. See response to Norland Conservation Society.</p> <p>Alan Baxter and Associates response: Agreed</p> |

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| | | <p>&middot; In calculating the 50%, the garden should be defined as the entire open area within the curtilage in front or behind the house as the case may be, including any parts of that area covered in structures (such as open-air swimming pools) or impermeable surfaces (such as concrete paths, forecourts or patios) - so as to avoid developers attempting to frustrate the policy by concreting over the garden (they could however, remove existing concrete). The unaffected area should be a single block, normally at the end of the garden; should be at least 50% of the garden as defined above; and should be proportionately more if there are any impermeable surfaces within the block.</p> <p>&middot; Particularly large gardens, because they allow for big stands of vegetation including large trees, are of particular environmental value. Moreover, there should be less need for basement developments to extend under a large proportion of such gardens, so in such cases a lesser percentage may be considered appropriate (see paragraph 9.8.6 of the Baxter report)..</p> | <p>Alan Baxter and Associates response: Noted.</p> <p>Alan Baxter and Associates response: deeper basements could also be considered in situations like this.</p> <p>Council response: The exceptions to policy in the second draft are likely to only relate to large sites capable of being comprehensively planned.</p> <p>Council response: Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The reasoned justification to the policy will provide more clarification on what is a garden. Existing open areas even when paved are part of the garden, any outbuildings are not. The aim of the policy is to improve on drainage issues in situations like this.</p> <p>Para 34.3.60states that the unaffected garden needs to be in a single area and when relating to a back garden it should normally be at the end of the garden.</p> <p>The policy relating to a proportion of the garden kept free of development would ensure that large gardens have a greater proportion available for planting.</p> <p>Part c of the draft Policy also relates to protection of trees which can preclude development where relevant.</p> |

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| CL7 a | Kevin Scott Consultancy Limited (Kevin Scott) | <p>• Suggested Text 34.3.59 We maintain our position on the arbitrary nature of the 75% figure as set out in the attached with reference to the 85% figure. (Also relevant to Policy CL7 a)</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Tim Nodder | <p>The maintenance and improvement of green space, including sizeable trees, between properties is highly desirable; as amenity for residents, to help with cooling as summers get hotter, to allow bio-diversity, and to assist with drainage. The consultants' report advises 3 metres width to be kept open to allow sizeable trees.</p> <p>In many streets with small back gardens this must mean that any basement should extend much less than 75%. Each site or street may need to be treated differently, and the policy should allow for this.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The 75% in the draft basements policy is a maximum limit and allows the flexibility for the actual percentage to be lower depending on surface water conditions. Para 34.3.59 sets out the circumstances where the proportion would be much less than 75% such as garden and planting considerations</p> |
| CL7 a | Trustees of the Phillimore Estate | <p>CL7 Proposed criteria a:</p> <p>RBKC's adopted SPD Subterranean Development (2009) includes various requirements that applications for basement excavation must comply with. The current SPD states that no more than 85% coverage of the garden is allowed. The draft</p> | <p>Alan Baxter and Associates response: See response to Norland Conservation Society.</p> <p>Council response: Noted. The extent of basements that can be built</p> |

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| | | <p>proposals reduce this to 75%. The justification for both requirements is to ensure that there is adequate surface water drainage. There does not appear to be a reasoned justification for the change in approach. The accompanying Report by Alan Baxter Associates does not adequately justify why 85% is considered insufficient - there appears to be no evidence of where this has had a negative impact and no evidence to substantiate why 75% is more appropriate.</p> <p>The current SPD requires the submission of a number of documents including a Construction Method Statement to ensure that there will be no unacceptable structural or other impacts. The proposed changes include replacing these with one document, a Basement Impact Assessment, which covers a number of elements and increases the level of information which must be submitted with the application. This document will provide further safeguards against any impacts from basement development and would demonstrate if 85% coverage of the garden would result in unacceptable impacts. A 75% blanket requirement is therefore not considered necessary or justified.</p> | <p>under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The policy is based on a range of evidence including the Baxter's report.</p> |
| CL7 a | Julia Swann | <p>And 75% coverage of a garden is obviously slightly better than 85% coverage. But I have to say, we feel that these restrictions are not only too timid, but the whole approach is really rather missing the point.</p> <p>A single-storey basement addition covering 75% of a garden might be fine in one context - but not in another. For example, where it is in a very tight and already densely developed conservation area, or where there are a number of adjoining (delicate) listed buildings, or where access is particularly difficult etc. the criteria should be different. If a property has a large plot, but is surrounded by smaller plots, a 75% basement will have a greater impact on the surrounding properties than if they all had equally large gardens.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property. Actual coverage may be even less depending on the site for example where there is a tree of townscape value.</p> |
| CL7 a | PTP Architects London Ltd (Satish Patel) | <p>Ratio of Garden and Plot</p> <p>• The current policy allows for 85% of inbuilt site area. There does not seem to be justification or any technical assessment to come to a reduced amount 75% of each garden area. This should be carefully reviewed taking into consideration that there is no concern of allowing rainwater into the system provided it is controlled. So this means allowance of water storage on site should be sufficient, not to further restrict the basement from 85%.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. |

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| | | <p>&middot; Currently 85% applies to the whole site. This could be amended to 85% of each garden as it does make sense to provide some in-built area in each garden.</p> <p>&middot; The policy of requiring all un-built area in one location is justifiable, otherwise each split area would not be efficient use of this area.</p> | <ol style="list-style-type: none"> 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The proposed percentage in draft basements policy does apply to 'each' garden rather than the site as a whole.</p> |
| CL7 a | The Markham Square Association (David Cox) | <p>Paragraph 2.7 Box 1 Para 34.3.59 and Box 2 a</p> <p>We are strongly in favour of a reduction in the percentage of garden under which the construction of a basement is permitted, but suggest a new formula: the smaller of (i) 3 metres beyond the rear wall into the rear garden (similar to a permitted development) and (ii) 50% (not 75%) of each garden of the property. We favour this reduction in the maximum percentage in order to reduce the amount of spoil which has to be removed from the site, and the nuisance which this creates, and to minimise the risk of flooding. In many cases, it is the total volume of spoil and other materials to be removed and building materials to be imported that is a critical factor. It appears from the Baxter report that the 85% limit was somewhat arbitrary and that it can reasonably be argued that a much greater percentage than 25% of a garden should be left to ensure water run-off into the ground.</p> <p>We are concerned that any stated maximum will in reality become a new norm or minimum, whatever wording is used, including that which is proposed. This must be resisted.</p> <p>We are also concerned about how the proposed percentage of garden will be calculated where there is a front, back and/or side garden. We suggest that the percentage limit should apply to each garden separately, rather than allow the combination of the given percentage of all the gardens to be built in, say, the rear garden only.</p> | <p>Alan Baxter and Associates response: Noted.</p> <p>Alan Baxter and Associates response: Noted</p> <p>Council response: Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |

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| | | | <p>It is not considered appropriate to link the restrictions on basement size to permitted development rights as clearly at that scale the GPDO considers there is no need to apply planning controls. The Council considers that the policy will work better as a proportion of the garden rather than a very prescriptive figure of 3m beyond the rear wall.</p> <p>The proposed percentage in part a of the draft basements policy does apply to 'each' garden rather than the site as a whole.</p> |
| CL7 a | The Kensington Society (Anthony Walker) | <p>Concern about Scale of development including both extent beyond the boundaries of the parent building and the depth of development.</p> <p>4 Basements in gardens</p> <p>The Society agrees with the proposal that any basement should occupy less of the garden area than currently permitted. We do not agree that an allowance of 25% of unoccupied area is adequate. The Baxter report confirms that the 25% is a 'guesstimate' and a minimum required for sustainable urban drainage, and that in many cases a higher proportion will be required for drainage and, for example, to enable the retention of mature trees, which will need to be established for each application. There should be a requirement for all water run-off to be dealt with by flowing into the natural ground on the site and not on the neighbouring property nor into the drainage system (Baxter 9.8.1, 9.8.3.1, 9.8.4). In the Baxter report it is noted that in anything other than well-draining soils the amount needed may well increase to 50% of the garden area.</p> <p>Allowance must also be made for maintaining the green nature of the gardens which are an important characteristic of the Borough, particularly as it is recognised in the Conservation Consultation that this Borough has less communal open space than most Boroughs. Baxter also recognises the need to protect trees and to make allowance if one has to be removed for a tree of a similar potential size and amenity value to be planted. Apart from their visual amenity trees provide additional water retention and contribute to flood control.</p> <p>Any existing sheds or other buildings should not be counted as part of the un-built area of garden. Otherwise this would create uncertainty for applicants and may give rise to difficulties in verification for the planning department; it is clear that the normal allowance may actually be less than 50% of the garden space.</p> <p>Many of the gardens in the Borough, even for large properties, are relatively small. Examples of this can be seen in Phillimore Place and Essex Gardens. The Baxter report recommends that a strip of at least 3m should be retained at the end of any garden - we propose that the rule of thumb guidance be that, and, as for Permitted Development, any basement should not extend more than 3m beyond the back of the building, or to 50% of the garden area whichever is the lesser dimension.</p> <p>It is accepted that there are larger gardens where, provided that there is adequate drainage, mature trees and allowance for generous planting is retained, it may be possible to increase that allowance provided that there is no adverse impact on the character of the area. The Society considers that implications of large-scale excavation, disposal of excavated material and the replacement construction are all energy-consuming operations which require constraint and the scale of disruption and disturbance for neighbours will need to be controlled. Any increase in area would require special justification and in any case should not exceed 60% of the garden area.</p> <p>a The basement must not exceed 60% of each garden of the property in any circumstances and in general must not extend more than 3m beyond the main back wall of the property or cover more than 50% of the garden area which ever is the smaller dimension.</p> | <p>Alan Baxter and Associates response: See response to Norland Conservation Society.</p> <p>Alan Baxter and Associates response: Noted.</p> <p>Alan Baxter and Associates response: Noted.</p> <p>Alan Baxter and Associates response: It is reasonable to be able to apply a degree of discretion and in particular to have a different approach for houses with very large gardens. Other factors such as site access may be more relevant in any decision.</p> <p>Alan Baxter and Associates response: Again, site access is a key factor in situations like this.</p> <p>Council response: Our policy is no longer based purely on drainage grounds but on maintaining an area free of development to allow flexibility to plant mature trees. A maximum limit of 50% is proposed. If anything the flexibility is only to be below this limit if for example there is a tree in the garden.</p> <p>Council response: Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact |

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| | | | <p>on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The proposed percentage in the draft basements policy is a maximum limit.</p> <p>Where the sub-soil is clay the percentage would be much lower and other factors such as existing trees could further limit the size of the basement. This is set out in the reasoned justification at para 34.3.59, 34.3.62, 34.3.70.</p> <p>Reference will be added to maintaining the green nature of gardens at the next stage of the document. Paragraph 34.3.70 of the draft basements policy document does refer to garden character. The requirement to replace trees may weaken the policy as it is predicated to resist loss of trees of townscape and amenity value (Part C of the draft policy CL7). Core Strategy policy CR6 Trees and Landscape will apply to basement developments as it does to other developments.</p> <p>The reasoned justification to the policy will provide more clarification on what is a garden. Existing open areas even when paved are part of the garden, any outbuildings are not.</p> <p>It is not considered appropriate to link the restrictions on basement size to permitted development rights as clearly at that scale the GPDO considers there is no need to apply planning controls. The Council considers that the policy will work better as a proportion of the garden rather than a very prescriptive figure of 3m beyond the rear wall.</p> <p>Larger gardens may already have large trees or have a greater scope for planting major trees. Therefore it is not considered appropriate to increase the allowance for large gardens.</p> <p>Suggested new wording is noted and the responses to above apply.</p> |
| CL7 a | Kings Road Association of Chelsea Residents (James Thompson) | Limiting basements under gardens to 75% is somewhat of a disappointment. This is still a very large imposition on a garden. A 50% cut-off would be preferable, and we urge the Council to adopt this stricter measure. The Council should look again at items B7 and B8 and adopt the stricter restriction. | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <p>1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the</p> |

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| | | | <p>borough due to construction impacts.</p> <ol style="list-style-type: none"> 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Card Geotechnics Limited (Nick Langdon) | Secondly we would also question restricting the garden area as it would seem that a better constraint, which would match the Council aim in this, would be to require that any basement occupying the garden area should replace this "catchment" area by an equal external area at the highest point of the new development. This would allow basements still to occupy garden areas but basement roof gardens or higher level terraces would replace the lost green or amenity feature. | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>Part g of the draft basements policy document requires 1m of permeable soil above any part of the basement beneath a garden. Reasoned justification (para 34.3.71) states that the original garden level should not be altered. Therefore the draft policy precludes the creation of new higher level terraces.</p> |
| CL7 a | Savills obo a number of clients (Savills obo a number of clients) | <p>CL7 Proposed criteria a:</p> <p>RBKC's adopted SPD Subterranean Development (2009) includes various requirements that applications for basement excavation must comply with. The current SPD states that no more than 85% coverage of the garden is allowed. The draft proposals reduce this to 75%. The justification for both requirements is to ensure that there is adequate surface water drainage. There does not appear to be a reasoned justification for the change in approach. The accompanying Report by Alan Baxter Associates does not adequately justify why 85% is considered insufficient - there appears to be no evidence of where this has had a negative impact and no evidence to substantiate why 75% is more appropriate.</p> | <p>Alan Baxter and Associates response: See response to Norland Conservation Society.</p> <p>Council's response: Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> |

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| | | <p>The current SPD requires the submission of a number of documents including a Construction Method Statement to ensure that there will be no unacceptable structural or other impacts. The proposed changes include replacing these with one document, a Basement Impact Assessment, which covers a number of elements and increases the level of information which must be submitted with the application. This document will provide further safeguards against any impacts from basement development and would demonstrate if 85% coverage of the garden would result in unacceptable impacts. A 75% blanket requirement is therefore not considered necessary or justified.</p> | <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>The policy is based on a range of evidence of which Baxter's report is a part.</p> |
| CL7 a | Edward Barker | <p>Maximum. basement size under a property's garden</p> <p>We are unconvinced by the change to a maximum 75% of the garden area (previously 85%)</p> <p>We feel that each scheme should be decided on its own merits rather than having a rather subjective figure.</p> <p>We feel that higher than 75% should be allowed, subject to schemes being well considered in terms of SUDS.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Knightsbridge Association (Edward Davies-Gilbert) | <p>Box 2 Policy CL7</p> <p>a) We would disagree that up to 75% of a garden should be allowed. As gardens vary in size we would like to see it limited to 50% of a garden but no more than a 4 metre extension. This would allow for natural drainage of rainwater which would otherwise be channelled through the main drainage system.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the |

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| | | | <p>garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Paul Lever | <p>34.3.59. Concerns about drainage are not the only reason for limiting the proportion of a garden under which basements can be constructed. The impact on the scope of the developments and the duration of its construction should also be taken into account. this means that normally basements should be limited to 50% of gardens, not 75%. Westminster has adopted a policy along these lines. So should Kensington and Chelsea.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> |
| CL7 a | Leigh & Glennie Ltd (Christian Leigh) | <p>34.3.59-60 and Policy CL7a</p> <p>This paragraph relates to the retention of an area of 'garden' being retained, i.e. no basement beneath. This is understood for gardens where there is soil, i.e. the conventional meaning of garden, since the objective for this policy is given as ensuring there is surface water drainage. But there are properties in RBKC which have small courtyard areas as their rear 'gardens'. These are - and always have been - entirely paved areas with no drainage, as that is part of the original character and original construction of such areas. Similar, such areas would never have larger scale planting. E.g. tightly-built up terraces, some of the grander terraces that have always relied on communal squares for amenity areas, e.g. Thurloe Square, Kensington Gate. There would be little benefit from retaining 25% of such areas as having no basement, since such areas have always been hard standing. The policy should therefore be flexible enough to recognise that in some circumstances there may be a case where, with a small rear courtyard, there may be exceptions.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. |

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| | | | Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property. |
| CL7 a | Bell Cornwell (Tracey Rust) | <p>Paragraph 34.3.59 &. Policy CL7a</p> <p>There is no justification for reducing the limitation of basements under the garden. There is no evidence of any greater adverse material planning impact from the existing 85% limitation which has been tried and tested.</p> | <p>Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>It is not considered appropriate to link the restrictions on basement size to permitted development rights as clearly at that scale the GPDO considers there is no need to apply planning controls.</p> <p>The reasoned justification to the policy will provide more clarification on what is a garden. Existing open areas even when paved are part of the garden, any outbuildings are not.</p> |
| CL7 - Proposed Policy (b) | | | |
| CL7 b | Gabrielle Teare | This is a step in the right direction as it limits basements to one storey. However there is an assumption here that the Party Wall agreement is effective but over 50% of residents say it is not. | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary |

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| | | | <p>measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> <p>It is recognised that the provisions of the Party Wall Act may not cover everything that an adjoining neighbour might expect. However planning policy can only be devised within the planning legislation. The constraints on what planning policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document.</p> <p>The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of planning legislation. The Council has also produced a note on Advice to Builders and Residents: http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> |
| CL7 b | James Bartholomew | With regard to the proposed change of policy, I would like to object to the proposal that the policy should be changed so that only one level of basement should be allowed. If it is safe, more levels should be allowed. It is difficult to expand housing in London without spoiling the appearance of the city. Building down is one way to do it. We should not circumscribe people's freedom to do what they like on their own property without very good reason. If it is safe, it should be allowed. | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that “underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>Section 55 of the Town and Country Planning Act (as amended) states “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. As it is the role of planning to promote sustainable ‘development’, basements are included within this definition</p> |
| CL7 b | Marrina Murray | While I believe that the depth of basements should be limited to a single storey maximum other than on the most exceptional sites, the maximum permissible depth should be expressed clearly and unequivocally. I believe that depth should be 3 metres. There are several different and very good reasons why the total size/volume of new basements should be limited. | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple |

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| | | | <p>basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> <p>Reasoned justification to the draft policy set out in para 34.3.61 limits single storey <i>“which is not of a depth that may be suitable for horizontal subdivision in the future”</i>. The Council considers that this provides sufficient control to have a depth that is generally considered a single storey but allows flexibility for example for proposals to include a swimming pool.</p> <p>Text will be added to clarify single storey. Text will also clarify where an additional will not be allowed.</p> <p>The reasoned justification to the policy will provide more clarification on what is a garden. Existing open areas even when paved are part of the garden, any outbuildings are not.</p> |
| CL7 b | Norland Conservation Society (Libby Kinmonth) | <p>Depth We, as NCS, support the proposal not to allow more than one storey's depth (for the good reasons given), but what does this mean? How many metres? Need to be clear.</p> <p>But 34.3.61 (and CL7 (b) says "deeper extensions may be acceptable on larger sites". What does "larger" mean? The Prince of Wales? 41a Portland Road? Need to be clear.</p> <p>Definition of Basement</p> <p>NCS would like to see a policy banning additional basements under existing basements. There are quite a few houses e.g. 47-55 Princedale Road, and the even numbers of same street, where existing basements are more or less completely below pavement level. There needs to be a definition of basement development where below pavement level basements already exist.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>Reasoned justification to the draft policy set out in para 34.3.61 limits single storey <i>“which is not of a depth that may be suitable for horizontal subdivision in the future”</i>. The Council considers that this provides sufficient control to have a depth that is generally considered a single storey but allows flexibility for example for</p> |

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| | | | <p>proposals to include a swimming pool.</p> <p>The level of the back garden relative to the lowest floor of the building will be used to assess if the lowest floor is a basement or not. Where the lowest floor is considerably below the level of the rear garden it will be considered an existing basement. This will be clarified at the next stage of the document.</p> <p>We are using the rear gardens as the bench mark rather than the pavement level. In this borough the pavement levels are historically artificially raised by soil from building works was as in this borough the pavement levels</p> |
| CL7 b | James Copinger-Symes | <p>Loss of value due to size restriction</p> <p>Home owners in the borough stand to suffer a real financial loss based on the proposed basement planning changes. Affected home owners may have a case against RBKC for compensation for this loss.</p> <p>Currently the potential net value added from maximising a property's development potential is priced into realised sale prices. This has been the case for several years. For example the current sale price of properties with the potential for say a multi-level basement under the house is significantly higher than for an identical property where that possibility is not present due to an underground obstruction.</p> <p>While this value loss is true for all affected properties it will be felt particularly keenly for owners who have made recent purchases where this premium was unavoidable.</p> <p>The restrictions to single level basements and to the size of garden basements will both lead to financial loss for some owners who might be motivated to make claim against the council.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Leigh & Glennie Ltd (Christian Leigh) | <p>34.3.61 and Policy CL7b</p> <p>The attempt to restrict basements to single storey on the basis of ease of construction and associated disturbance is not justified. This is not a land use planning matter. Other legislation exists to control disturbance to neighbours, and the Council's proposed hours of construction, and any planning conditions relating to construction, are sufficient to see such control insofar as planning legislation and control should be concerned. This is in fact covered later by paragraphs 34.3.74-75.</p> <p>Basement construction is commonly associated with other changes to the property, e.g. internal renovation, etc. These all take a long time and are concurrent with basement work, and also go beyond the basement work. So the potential for disturbance will continue well beyond basement excavation work is undertaken in any event.</p> <p>The prohibition on basements being more than one storey is not supported by any national planning guidance. It would be contrary to making more effective use of land. The stated objective - purporting to minimise construction impact - will be covered by other matters. This element of the policy must be dropped.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |

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| | | | <p>The policy allows deeper basements on sites where these impacts can be minimised.</p> <p>The Royal Borough is characterised by a very dense built up environment making effective use of land. Restrictions on the depth of basements will not result in inefficient use of land.</p> |
| CL7 b | Vanguard Working Group (John Simpson) | Para b. The single storey restriction needs to have a specific height limit (or at least strong guidance), otherwise it will have little effect. | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>Reasoned justification to the draft policy set out in para 34.3.61 limits single storey <i>“which is not of a depth that may be suitable for horizontal subdivision in the future”</i>. The Council considers that this provides sufficient control to have a depth that is generally considered a single storey but allows flexibility for example for proposals to include a swimming pool.</p> <p>We may add ‘such as 2.7 m clear floor to ceiling height’ to the reasoned justification.</p> <p>A common sense approach will be used to assess when a proposal clearly goes beyond a single storey.</p> |
| CL7 b | Howard Green | <p>I wrote to you on 22nd January with comments and objections to proposed policy CL7 (h).</p> <p>Having given this document a bit more scrutiny I now write to object to proposed Policy CL7 (b).</p> <p>The proposed policy states:-</p> <p>"The council will require basement development to adhere to the following requirements:-</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that |

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| | | <p>(b) The basement must not comprise more than one additional storey except on larger sites which are less constrained and where it can be demonstrated that traffic and construction impacts can be successfully mitigated".</p> <p>It is clear, therefore, that this embargo or veto on sub-basement extensions in dwelling houses is only because of the potential "traffic and construction impacts" arising from it.</p> <p>That is not a planning issue and it is entirely wrong for your authority to try and stop sub-basement extensions on this basis. Any extension or alteration to a property in a dense inner urban area such as Kensington & Chelsea will inevitably cause some interference with neighbours. Indeed, if that was a valid reason then no planning permissions whatsoever would be granted in the Borough (or indeed Greater London).</p> <p>2</p> <p>Furthermore, the contents of the appeal decision dated 19th June 2012 relating to 1 Burnsall Street, London SW3 3SR to which I previously referred has significance in this case. (Appeal Ref. No. APP/K5600/D/12/2174477). Another copy is attached for reference.</p> <p>In that decision the Inspector declined imposing conditions relating to Traffic Management and Considerate Constructors schemes because there was inadequate justification in accordance with Circular 11/95.</p> <p>At paras 12 and 13 he stated:-</p> <p>"12. It is made clear in Circular 11/95 that in considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification".</p> <p>"13. In this context, with respect to this single storey domestic extension there is inadequate justification for conditions in relation to the Traffic Management Plan, the Considerate Constructors Scheme and the need to require the development to be supervised by an engineer. This is especially so as these concern a number of matters that are subject to other legislation".</p> <p>You have a situation, therefore, where an Inspector has refused to impose conditions relating to the matters which you are now trying to use to actually stop development in the first place.</p> <p>There is absolutely no planning justification for Policy PL7(b) and it should not be included in the SPD.</p> | <p><i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible".</i> The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> <p>It is agreed that in the Burnsall Street appeal decision (Appeal Ref. No. APP/K5600/D/12/2174477) the Planning Inspector did not impose conditions in relation to the Traffic Management Plan , the Considerate Constructors Scheme and the need to require the development to be supervised by an engineer. However this is the only case and there are many other cases where the Inspector has either upheld the Council's decision or imposed these conditions.</p> |
| CL7 b | Milner Street Area Residents' Association (Richard Grantley) | <p>Limit to one storey</p> <p>1. The rule needs to be much tighter than proposed, as there is a loophole in the Draft Policy: a developer may build several storeys, submitting one application at a time. Ideally, only one basement floor should be permitted in any building, and that includes the lower ground floors that many houses have already. At the very most, only one storey in addition to the current lower ground should ever be allowed. A maximum storey height of (for example) 3 metres should be specified so as not to allow horizontal subdivision in future.</p> <p>2. We do not agree with the proposed exception to the rule for "larger sites which are less constrained.." (page 15) as larger sites will mean larger problems.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the |

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| | | | <p>next stage of policy preparation.</p> <p>1. Noted. The level of the back garden relative to the lowest floor of the building will be used to assess if the lowest floor is a basement or not. Where the lowest floor is considerably below the level of the rear garden it will be considered an existing basement. This will be clarified at the next stage of the document.</p> <p>Reasoned justification to the draft policy set out in para 34.3.61 limits single storey “which is not of a depth that may be suitable for horizontal subdivision in the future”. The Council considers that this provides sufficient control to have a depth that is generally considered a single storey but allows flexibility for example for proposals to include a swimming pool.</p> <p>The text will be amended to clarify that deeper basements may be allowed in exceptional circumstances rather than refer to larger sites. The exceptional circumstances would be where construction impacts can be largely contained within the site and not impact on neighbours. This will include the ability to accommodate plant and material on site and not require suspension of parking bays. This could relate to properties with a wide access (how wide?), which are detached or large commercial sites.</p> |
| CL7 b | Gulvanessian Associates (Mr Gulvanessian) | <p>Limiting basement size to single storey (34.3.61) [Policy CL7 b.]</p> <p>Limiting basement size to single storey would be a coarse planning rule which would restrict some owners unfairly from increasing the size of their properties. This could mean that some current owners will suffer a real financial loss.</p> <p>The driver behind the limitation to single storey basement developments seems to be reduction in construction impact. If this is the intention it is not fair and reasonable as many single storey basement developments have greater construction impact than small scale multi-storey basements.</p> <p>Multi-storey basements are not per se larger than single storey basements. A two-storey basement of 8m by 8m will have total floor area of 128m². A single storey basement of 8m x 25m will have a total floor area of 200m². The construction of this example single storey basement will, all other things being equal, have a larger impact than the multi-storey basement.</p> <p>There are single storey basements in RBKC and across London of over 300m² while there are many multi-level basements with a total floor area across all levels much less than this. Mews and small footprint terraced houses are examples of properties where multi-level basements would likely be smaller than many larger single storey basements.</p> <p>Therefore the limitation to single storey basements as a tool to reduce construction impact is unfair and unreasonable.</p> <p>Controlling construction impact by effective use of other existing regulations and legislation would be more appropriate.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that “underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>The text will be amended to clarify that deeper basements may be allowed in exceptional circumstances rather than refer to larger sites. The exceptional circumstances would be where construction impacts can be largely contained within the site and not impact on neighbours. This will include the ability to accommodate plant and material on site and not require suspension of parking bays. This could relate to properties with a wide access (how wide?), which are detached or large commercial sites.</p> <p>The Council’s policy needs to support sustainable development in-</p> |

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| | | | line with the NPPF and cannot be based on merits of potential economic gains to property owners. |
| CL7 b | ESSA (Anthony Walker) | <p>1 Single level basements. These should be defined as a single level below the lowest level developed on the site at July 1948. This should apply to extensions to existing buildings or new build. The height should be no more than 3.5 m from the existing floor level down to the proposed floor level. This should apply to all residential developments or developments in a predominantly residential area. For other forms of development such as commercial or cultural we consider that deeper development may be acceptable subject to mitigation of any adverse impacts.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>1. Noted. The level of the back garden relative to the lowest floor of the building will be used to assess if the lowest floor is a basement or not. Where the lowest floor is considerably below the level of the rear garden it will be considered an existing basement. This will be clarified at the next stage of the document.</p> <p>Reasoned justification to the draft policy set out in para 34.3.61 limits singles storey <i>“which is not of a depth that may be suitable for horizontal subdivision in the future”</i>. The Council considers that this provides sufficient control to have a depth that is generally considered a single storey but allows flexibility for example for proposals to include a swimming pool.</p> <p>The text will be amended to clarify that deeper basements may be allowed in exceptional circumstances rather than refer to larger sites. The exceptional circumstances would be where construction impacts can be largely contained within the site and not impact on neighbours. This will include the ability to accommodate plant and material on site and not require suspension of parking bays. This could relate to properties with a wide access (how wide?), which are detached or large commercial sites.</p> |
| CL7 b | London basement (Stephen Merritt) | <p>Limiting basement size to single storey (34.3.61) [Policy CL7 b.]</p> <p>Limiting basement size to single storey would be a coarse planning rule which would restrict some owners unfairly from increasing the size of their properties. This could mean that some current owners will suffer a real financial loss.</p> <p>The driver behind the limitation to single storey basement developments seems to be reduction in construction impact. If this is the intention it is not fair and reasonable as many single storey basement developments have greater construction impact than small scale multi-storey basements.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple |

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| | | <p>Multi-storey basements are not per se larger than single storey basements. A two-storey basement of 8m by 8m will have total floor area of 128m². A single storey basement of 8m x 25m will have a total floor area of 200m². The construction of this example single storey basement will, all other things being equal, have a larger impact than the multi-storey basement.</p> <p>There are single storey basements in RBKC and across London of over 300m² while there are many multi-level basements with a total floor area across all levels much less than this. Mews and small footprint terraced houses are examples of properties where multi-level basements would likely be smaller than many larger single storey basements.</p> <p>Therefore the limitation to single storey basements as a tool to reduce construction impact is unfair and unreasonable.</p> <p>Controlling construction impact by effective use of other existing regulations and legislation would be more appropriate.</p> | <p>basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> |
| CL7 b | Basement Force (Simon Haslam) | <p>Limiting basement size to single storey (34.3.61) [Policy CL7 b.]</p> <p>Limiting basement size to single storey would be a coarse planning rule which would restrict some owners unfairly from increasing the size of their properties. This could mean that some current owners will suffer a real financial loss.</p> <p>The driver behind the limitation to single storey basement developments seems to be reduction in construction impact. If this is the intention it is not fair and reasonable as many single storey basement developments have greater construction impact than small scale multi-storey basements.</p> <p>Multi-storey basements are not per se larger than single storey basements. A two-storey basement of 8m by 8m will have total floor area of 128m². A single storey basement of 8m x 25m will have a total floor area of 200m². The construction of this example single storey basement will, all other things being equal, have a larger impact than the multi-storey basement.</p> <p>There are single storey basements in RBKC and across London of over 300m² while there are many multi-level basements with a total floor area across all levels much less than this. Mews and small footprint terraced houses are examples of properties where multi-level basements would likely be smaller than many larger single storey basements.</p> <p>Therefore the limitation to single storey basements as a tool to reduce construction impact is unfair and unreasonable.</p> <p>Controlling construction impact by effective use of other existing regulations and legislation would be more appropriate.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Tessuto (Gemma Gordon-Duff) | <p>Limiting basement size to single storey (34.3.61) [Policy CL7 b.]</p> <p>Limiting basement size to single storey would be a coarse planning rule which would restrict some owners unfairly from increasing the size of their properties. This could mean that some current owners will suffer a real financial loss.</p> <p>The driver behind the limitation to single storey basement developments seems to be reduction in construction impact. If this is the intention it is not fair and reasonable as many single storey basement developments have greater construction impact than small scale multi-storey basements.</p> <p>Multi-storey basements are not per se larger than single storey basements. A two-storey basement of 8m by 8m will have total floor area of 128m². A single storey basement of 8m x 25m will have a total floor area of 200m². The construction of this example single storey basement will, all other things being equal, have a larger impact than the multi-storey basement.</p> <p>There are single storey basements in RBKC and across London of over 300m² while there are many multi-level basements with a total floor area across all levels much less than this. Mews and small footprint terraced houses are examples of properties where multi-level basements would likely be smaller than many larger single storey basements.</p> <p>Therefore the limitation to single storey basements as a tool to reduce construction impact is unfair and unreasonable.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. |

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| | | Controlling construction impact by effective use of other existing regulations and legislation would be more appropriate. | Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Studio Indigo Ltd (Doug Indigo) | <p>• Proposed restrictions to a single basement are welcome, but what happens with swimming pools in basements - is the pool a second basement?</p> <p>• What defines a single storey basement? It could easily be envisaged that basements of 6 meter ceiling heights are constructed with mezzanines being introduced at a later date.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>Reasoned justification to the draft policy set out in para 34.3.61 limits single storey <i>“which is not of a depth that may be suitable for horizontal subdivision in the future”</i>. The Council considers that this provides sufficient control to have a depth that is generally considered a single storey but allows flexibility for example for proposals to include a swimming pool.</p> |
| CL7 b | Sam Gordon Clark | One storey only: Clearly a good idea. | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |

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| CL7 b | Buller Welsh Limited (Nigel Buller) | <p>I wish to object to the proposed Policy CL7 (b) that states:-</p> <p>"The council will require basement development to adhere to the following requirements:-</p> <p>(b) The basement must not comprise more than one additional storey except on larger sites which are less constrained and where it can be demonstrated that traffic and construction impacts can be successfully mitigated".</p> <p>I have read the Baxter report, summaries of both public meetings and the proposal document and cannot find any substantive planning reason for this in-principle restriction, unlike the remainder of the proposed amendments.</p> <p>My objection to this is therefore that the apparent core reason why basements of more than one storey [in single dwelling houses] are being targeted is to avoid the disruption the works cause to the neighbours.</p> <p>I do not believe that is a planning issue and certainly not one which should stop development all together.</p> <p>I note that the matter of spoil is part of that argument and would comment that spoil is now almost completely recycled from building sites. This is especially so where the requirements of a consent including basement development requires, as part of the BREEAM Residential Refurbishment Very Good rating imposed by it, suitably responsible disposal to recycling sites. This aspect is therefore not an active issue from a sustainability position.</p> <p>Therefore, there is no planning reason why there should not be sub-basements. It is purely to do with disturbance to neighbours and if that were a reason for stopping development in an urban area then almost no development at all would be permitted.</p> <p>RBKC, along with all other LPA's we have worked, with invariably deal with such reasons for residents' objection (disruptions caused to neighbours during construction) by dismissing them as non-planning reasons although commonly a construction methodology condition is required to mitigate potential unreasonable behavior by the constructing contractor.</p> | <p>Alan Baxter and Associates response: Noted.</p> <p>Alan Baxter and Associates response: While excess soil may be recycled, it is still preferable for it not to be excavated in the first place from a sustainability viewpoint.</p> <p>Council response: The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Earl's Court Society (Hilary Temple) | <p>Though it would be preferable not to give blanket approval to a single basement, since no one really knows the effect of a whole street of basements on the underground water flow, or heave and subsidence on a clay substrate with flotation building techniques.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced</i> |

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| | | | <p><i>houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible". The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</i></p> |
| <p>CL7 b</p> | <p>Jones Lang LaSalle (Kathryn Williams)</p> | <p>There is no flexibility applied in the policy tests or they provide uncertainty (especially parts a and b).</p> <p>- The policy also applies to the limit to one storey to prevent construction traffic. There is no valid planning basis for this approach.</p> <p>These are not planning matters that should be considered at application stage and we therefore question the legality of these restrictions. The supporting text of the Basements Review document states that construction, noise and structural matters are not planning matters as they are dealt with under separate legislation. However, there would be significant overlap with the Party Walls Act (1996), the Control of Pollution Act (1974) and the Environmental Protection Act (1990).</p> <p>Paragraph 187 of the NPPF confirms that:</p> <p>"Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area." We do not consider that policy CL7 is in line with this guidance.</p> <p>a) Policy Wording Suggestion</p> <p>3. We request that the following is removed:</p> <p>"b. The basement must not comprise more than one additional storey except on larger sites which are less constrained and where it can be demonstrated that traffic and construction impacts can be successfully mitigated."</p> <p>The restriction on the depth of the basement should be related to structural and ground water issues only. Paragraphs 34.4.59 and 34.3.60 do not provide adequate justification why the basement should be one storey only (uncertainty could prevail).</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| <p>CL7 b</p> | <p>The Royal Brompton and Harefield NHS Trust</p> | <p>We welcome the proposal that deeper basement extensions may be acceptable on larger sites which are less constrained, and where impacts can be successfully mitigated.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary |

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| | | | measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Shrimplin Brown (Robert Shrimplin) | 1. The consultation document highlights the "tight urban grain and the constrained nature of many of the Borough's Roads" (proposed text, paragraph 34.3.61). It is therefore unclear what sites, if any, might be considered "less constrained". | The draft policy proposes basement development to be restricted to one additional storey due to the following reasons: <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that "underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible". The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Cranbrook Basements (Kevin O'Connor) | <p>CL7.b This policy is unreasonable. It is a matter of scientific fact and proven by the most eminent Chartered Structural Engineers and Geotechnical Engineers that multiple level basements can be constructed without damage to adjoining buildings and certainly to meet Damage Category 1 and Category 2 as set out in BRE Digest 251 which has been referred to within the Baxter Report dated December 2012 as being satisfactory.</p> <p>The proposal to limit basements to a single level of construction is arbitrary and is not based on sound structural engineering.</p> <p>The Local Planning Authority do not have the statutory power to refuse to grant planning consent based upon 'Traffic & Construction Impacts' that are controlled by alternative legislation.</p> | <p>Alan Baxter and Associates response: Noted.</p> <p>Council response: The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that "underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible". The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |

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| CL7 b | The Chelsea Society (Terence Bendixson) | <p>We support:</p> <ul style="list-style-type: none"> • The limit on basements to a single level - though the Society urges the Council to base this limit on a maximum internal ceiling height of 2.7m. | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>We may add ‘such as 2.7 m clear floor to ceiling height’ to the reasoned justification.</p> |
| CL7 b | The Chelsea Society (Terence Bendixson) | <p>b. 'The basement must not comprise more than one additional storey or have an internal floor to ceiling height of more than 2.7 metres. Basements of greater depth may be acceptable under some larger buildings and/or gardens provided that they are not on streets fronted by any residential buildings and do not share a party wall with a residential building.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>We may add ‘such as 2.7 m clear floor to ceiling height’ to the reasoned justification.</p> |

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| CL7 b | Ladbroke Association (Sophia Lambert) | <p>6. We strongly support such a limit and believe that there is excellent justification for this limitation. It is especially important for terrace houses; anything built on clay; and purpose-built apartment blocks, all of which, as the Baxter Report makes clear, pose particular problems. Lower basements bring:</p> <ul style="list-style-type: none"> &middot; greater engineering problems, including underpinning to neighbouring properties, possible need for piling, physical interventions to resist natural ground water levels and flows etc, all bringing a greater risk of damage to neighbouring properties; &middot; longer temporary and often noisier temporary works leading to greater inconvenience to the neighbourhood; &middot; greater environmental problems from the additional spoil disposal; &middot; a greater risk of water diversion and flooding and other potential future problems that increase with depth. As the Baxter Report says (paragraph 1.3), basements of more than one storey in depth create a permanent irreversible change in ground conditions, and this permanent and irreversible disturbance increases rapidly with depth. Although there have long been double basements under large commercial buildings, there is little long-term experience of basements under Victorian terrace houses usually built on minimal foundations. So the precautionary principle needs to be applied. &middot; greater costs and uncertainties over whether the project will proceed. As was pointed out in one of the workshops, experience had shown that schemes with two or more basements increasing problems of cost and feasibility and that many/most of these schemes had been speculative and, even where permitted, had not proceeded. Permissions had often been sought more to increase the resale value of the property than for the applicant to build out the scheme. <p>7. As the Council accepts that in larger buildings a less restrictive approach may be appropriate, the policy is reasonable one as it will allow for exceptional cases. As noted above, the Baxter Report identifies a particular problem with clay, identifying it as generally unsuitable for excavations deeper than a single level. At least one third of the borough is Londonclay, and in most cases (particularly in the Ladbroke area) this clay layer is solid and easily identifiable. The Baxter Report also points out that in certain areas, such as Notting Hill, there are high groundwater flows (paragraph 6.3). If in larger properties lower basements are allowed, this should not be where the soil is clay or where there is high groundwater; and/or major pumping would be required (paragraph 11.6 of the Baxter Report). Indeed, in some circumstances a major pumping requirement may be enough justification to refuse permission even for a single basement.</p> <p>8. Guidelines will need to be devised for new-build. Again a restrictive approach is recommended, although the counter-balancing advantage of providing more parking spaces may be a factor that can be taken into account.</p> <p>9. It will be important for the single-storey basement to be well-defined. We suggest an internal height restriction of 3 metres (floor to ceiling) which we are advised should be adequate for all normal purposes (in fact 2.7m is we understand normally accepted as adequate).</p> <p>10. Allowance will need to be made for swimming pools to extend below the floor level. We note that the experts recommend a minimum depth of 0.9m and a preferred one of 1m for "swimming for fun and enjoyment" and "swimming for fitness" (www.swimming.org [http://www.swimming.org/]). So we suggest that any excavation below basement ground level should not extend beyond the area of the pool or deeper than say 1.2m.</p> <p>11. A decision also needs to be taken as to the extent to which it should be permissible to build under existing basements. Clearly a situation needs to be avoided where people can build a second or even third basement under a recently built one. One possibility would be to accept as existing basements only those already in existence in say 1 July 1948. But we think it would be safer, fairer and clearer to say that where there is already a basement (i.e. as opposed to a lower ground floor of which at least a part is above ground level), that should count as the single-storey basement and no further basements should be built beneath it. Existing basements could however be extended within the limits above.</p> | <p>Alan Baxter and Associates response: Noted.</p> <p>(7) Alan Baxter and Associates response: Pumping of any quantity of groundwater should only be permitted during construction. Permanent pumping of the Upper Aquifer should not be permitted.</p> <p>(9) Alan Baxter and Associates response: This appears to be a reasonable approach.</p> <p>(10) Alan Baxter and Associates response: The revised draft policy by RBKC addresses this issue.</p> <p>Council response: The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the</i> |

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| | | | <p><i>underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible</i>". The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> <p>Reasoned justification to the draft policy set out in para 34.3.61 limits singles storey <i>"which is not of a depth that may be suitable for horizontal subdivision in the future"</i>. The Council considers that this provides sufficient control to have a depth that is generally considered a single storey but allows flexibility for example for proposals to include a swimming pool.</p> <p>We may add 'such as 2.7 m clear floor to ceiling height' to the reasoned justification.</p> |
| CL7 b | Thurloe Residents Association (Traci K Weaver) | <p>Policy CL7</p> <p>b. It is desirable that "basements must not comprise more than one additional storey." However, a story needs to be quantified or else could be subject to abuse.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. <p>Reasoned justification to the draft policy set out in para 34.3.61 limits singles storey <i>"which is not of a depth that may be suitable for horizontal subdivision in the future"</i>. The Council considers that this provides sufficient control to have a depth that is generally considered a single storey but allows flexibility for example for proposals to include a swimming pool.</p> |
| CL7 b | Trustees of the Phillimore Estate | <p>CL7 Proposed criteria b:</p> <p>Proposed criteria b of Policy CL7 states that the basement must not comprise more than one additional storey except on larger sites. The Trustees agree that basement excavation should not result in unacceptable impacts on the surrounding area, including structural stability and drainage. However, whilst we recognise that in some instances basements which are greater than 1 storey may result in unacceptable impacts, it is not the case that all such basements will be. The requirement to submit a Basement Impact Assessment to assess the impacts of subterranean development will provide further safeguards against any negative impacts. The extent of excavation which is allowed should be assessed on a case</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple |

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| | | by case basis and there should not be a total restriction of basement extensions which are greater than 1 additional storey. | basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i> . The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Schamroth & Harriss (James Harriss) | In general support for basement extensions to be limited to a single storey (34.3.61) | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Julia Swann | There are undoubtedly some good points in your proposals: it will be an improvement when you limit the excavations to a single storey, as opposed to (it would appear) an unlimited number of storeys. | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the |

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| | | | next stage of policy preparation. |
| CL7 b | PTP Architects London Ltd (Satish Patel) | <p>Restriction to single basement</p> <p>The proposed policy to restrict any new basements to only a single storey should be removed. This policy is mainly based on the concern with the additional nuisance and disruption this would arise out of the additional basement works being carried out at the same time. The main points to consider in assessing this policy are:</p> <ul style="list-style-type: none"> &middot; Alan Baxter report does not conclude that there is any structural or technical reason to reduce the no. of stories. &middot; Nuisance and disruption are not planning considerations and therefore policy should not be based on something that is not a planning matter. &middot; This restriction should be for reasons that are for technical reasons that are based on the stability of adjoining properties and should be assessed on each individual site and not a borough wide restriction. &middot; Is a legal opinion been obtained that such restriction can be introduced under planning control? &middot; Any restriction should be based on technical concerns, such as a specific site having a high or low level of water table or some other specific site conditions. Another example is a very small mews or street where the access is restricted due to construction vehicles and again this should be assessed on each site based on evidence for practical reasons and should not be based on social opinion or inconvenience. &middot; There is mention of large sites could be considered for additional stories. There should be definition of what is large and small and what planning grounds different rules should apply to different site thereby undermining the rights of owners of smaller sites. This is unreasonable and discriminatory. | <p>Alan Baxter and Associates response: Agreed,</p> <p>Alan Baxter and Associates response: The decision should take account of a variety of issues including the accessibility of the site for construction vehicles.</p> <p>Alan Baxter and Associates response: Site accessibility should be a key factor</p> <p>Alan Baxter and Associates response: It is difficult to set definitions which cover all situations. The size of the site is a factor as is the site accessibility, ground conditions etc. If a set of definitions or rules are provided, there will always be situations where they may not apply</p> <p>Council response: The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |

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| CL7 b | The Markham Square Association (David Cox) | <p>Paragraph 2.7 Box 1 Para 34.3.61 and Box 2 b</p> <p>We support the principle of a limit upon the depth of the basement, but we suggest that the limit should be stipulated more clearly than by reference to "one additional storey" in order to avoid dispute. We suggest a limit of 3 metres from floor to ceiling. This is suggested as a compromise in order to place some limit upon the amount of spoil which has to be removed from the site and in order to reduce construction impact. We do not agree that a greater depth should be permitted on "larger sites" as we believe that the arguments which drive the decision to limit the depth apply also to larger sites. Indeed, the greatest construction impact arises from the "larger" sites, even those with just larger gardens or larger house footprint than their neighbours.</p> <p>This will continue unless new size limits are carefully formulated, strictly applied and recognised as not creating any right or entitlement. They must be subject to other considerations and provisos, as indicated in paragraph 34.3.59 onwards, and refused (not simply constrained in size or made subject to conditions) on those grounds if appropriate. It should be acknowledged that some projects - whatever their nature - are sometimes too big for a site and/or location</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | The Kensington Society (Anthony Walker) | <p>We welcome the restriction of one level but consider that considerably greater definition is essential in the interests of both applicants and the administration of the policies.</p> <p>2 Single level basements</p> <p>The Society strongly supports the proposal that only a single level of basement should be permitted for residential developments and for any other uses in predominantly residential areas. Precisely what constitutes a basement should be defined. We propose that it should be an additional level below that which existed in July 1948. If that has already been constructed then no further basements should be allowed and, if the existing building is to be demolished, the depth which may be permitted should still be determined by this level. The Society suggests 1948 because the modern planning system dates back to that year and most of the historic form of the Borough was in existence by that time.</p> <p>3 Depth of basement</p> <p>The Society considers that the depth of a basement under a residential property should be limited to 3.5m from the surface of the existing lowest floor to the upper surface of the new basement floor. This is partly to reduce the amount of disturbance from excavation and construction, partly to reduce the amount of new construction which is not energy efficient and partly to relate to the hierarchy of floors in the existing building. If there are particular uses which require greater depth, such as a swimming pool, then all surrounding spaces should comply with the 3.5 m dimension and the lowest level of the pool should be 4.5m. The depth of any foundations below these levels should be as shallow as practicable.</p> <p>b The basement must not exceed more than one additional floor of 3.5m from floor to floor below the lowest floor level which existed in July 1948 under residential properties or in primarily residential areas. For non commercial use deeper floors or additional levels may be considered dependent on the nature of the uses proposed and where mitigated.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Kings Road Association of Chelsea Residents (James Thompson) | Limiting basements to one storey is welcome. | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple |

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| | | | <p>basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> |
| CL7 b | Card Geotechnics Limited (Nick Langdon) | <p>Firstly it would appear that the Borough sees restricting basements to a single storey as a means to shorten disruption to neighbours. Whilst this might at first sight seem logical there are sufficient abandoned basement projects around London to suggest that a poorly designed and constructed single storey basement can more effectively blight a road and neighbouring properties for longer than a deeper more substantial basement designed as it should be with greater regard to the issues of impact such a development requires. In our opinion it would be a surer approach to concentrate on the requirements of a basement impact assessment done by appropriately qualified professionals. This is a greater safeguard, we believe, than confining developments to a single storey and then perhaps seeking to enforce "high ceilinged" single storey subterranean rooms either at planning or, at more expense for all, at appeal.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Savills obo a number of clients (Savills obo a number of clients) | <p>CL7 Proposed criteria b:</p> <p>Proposed criteria b of Policy CL7 states that the basement must not comprise more than one additional storey except on larger sites. The Trustees agree that basement excavation should not result in unacceptable impacts on the surrounding area, including structural stability and drainage. However, whilst we recognise that in some instances basements which are greater than 1 storey may result in unacceptable impacts, it is not the case that all such basements will be. The requirement to submit a Basement Impact Assessment to assess the impacts of subterranean development will provide further safeguards against any negative impacts. The extent of excavation which is allowed should be assessed on a case by case basis and there should not be a total restriction of basement extensions which are greater than 1 additional storey.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. |

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| | | | <p>Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> |
| CL7 b | Edward Barker | <p>Depth of new basements</p> <p>We do not feel that it should be as simplistic as allowing only one basement level.</p> <p>We feel that each scheme should be decided on its merits, for instance a two storey basement may well be appropriate on a more spacious and less restricted site.</p> <p>Alan Baxter's report does not suggest restricting basements to one level only, only requesting 'special care' is taken in their design.</p> <p>There are several aspects of a basement more important to its impact than the depth of the excavation (such as its proposed construction method, careful selection of the right contractors to carry out the work etc.)</p> <p>We are concerned that the fact that a single basement limit is only for existing properties, means people may try and get around this by demolishing houses just so they can rebuild as new without the 'existing' restriction. This may lead to far more destructive and disruptive projects.</p> <p>To be architecturally successful, in terms of natural light, basements often benefit from lightwells and double height spaces. To remove our ability to do this, the design of people's homes will suffer and may require more artificial light or more rooflights visible externally to serve the compromised spaces with light.</p> | <p>Alan Baxter and Associates response: Each scheme needs to be considered on its merits.</p> <p>Alan Baxter and Associates response: Agreed.</p> <p>Alan Baxter and Associates response: Agreed.</p> <p>Alan Baxter and Associates response: Noted.</p> <p>Alan Baxter and Associates response: Noted.</p> <p>Council response: The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL7 b | Princess di Sirignano | <p>There should be major distances between basement excavations and adjacent owners who do not have the same and limited to one basement only. If a resident has one basement already then permission for an additional should be refused.</p> | <p>The draft policy proposes basement development to be restricted to one additional storey due to the following reasons:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and |

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| | | | <p>complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>“underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible”</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> |
| CL7 b | Christopher Hunt | <p>4 - Require in the policy that larger and more complex proposals include a risk assessment and required adjustments to mitigate the larger risks.</p> <p>The policy allows the Department to approve highly risky basements simply if the Applicant can find a single engineer to say the project can be completed. Missing from this approach is a systematic consideration of the risks and consequences of failures. Also missing is an analysis of what adjustments might be made to reduce the risks and impacts.</p> <p>In our case, the applicant was given approval to dig nearly 10 metres out to the extreme edges of his property and under party walls on three full sides. Despite the serious risks, the project was approved because the applicant was able to find one engineer to say the project could be done "in theory and on paper." But the engineer's assessment was largely based on the premise that contractors behave to a high standard, that few unusual circumstances are encountered, that there would be no extreme events (e.g., weather, ground movement) etc. The engineer was never once asked to opine on the level of risk, what could go wrong and whether there could be simple adjustments made to improve the proposal.</p> <p>Had the engineer been asked to give a full opinion and conduct a risk assessment, he would have indicated there were serious risks of structural damage and safety. In recommending ways to mitigate the risk, he would have likely indicated there were several simple adjustments that could have allowed a more balanced proposal. For example, they could have simply recessed the proposed basement walls by a metre or two to reduce the risk of collapse and structural damage.</p> <p>Suggestion: Include in Section c.9 the requirement that in more complex basement proposals with potential for significant structural or safety risks, the applicant complete a risk assessment identifying the major risks inherent in the project, potential consequences resulting from failures and mitigating measures that can be taken. The Council should be required to consider these risks and require mitigating measures as part of the approval process, up to and including a reduction in the size of the project and a requirement for relocation of neighbors if serious risks are apparent.</p> <p>7 - Do not retreat from the 4 metre depth restriction.</p> <p>There is no doubt the 4 metre depth restriction will be challenged by the building community. However, the restriction is good policy. Because of the nightmare basement next to us, we will have to relocate and leave our home for much of what will likely be a 3+ year construction process, almost entirely at our own cost. While we respect that people want to improve their homes, there needs to be some balance. The Council should keep the 4 metre restriction and should also more precisely define what is meant by "one storey" in Policy CL7b to avoid abuse (e.g., of applicants simply submitting successive one storey extensions below one another) as follows: "The basement must not comprise more than one additional storey below the lowest floor in the original design of the building"</p> | <p>Noted. The draft policy is introducing a limit on the size of basements to 50% of each garden and a single additional storey. The exception would be for large comprehensively planned sites where issues are expected to be considered in an even greater detail than proposed. It is also proposed to have a second chartered engineer to check the Engineering Design and Construction Statement before it is submitted to the Council.</p> <p>The definition of a single storey will be clarified at the next stage.</p> |
| CL7 - Proposed Policy (c) | | | |
| CL7 c | James Bartholomew | <p>I would also like to suggest that a person should be allowed to cut down a tree on his or her own land. It should be regarded as his or her right. I speak as someone who has planted more trees than he has cut down.</p> | <p>Noted. The Council's existing policies are covered in detail in the Core Strategy - CR6 'trees and landscaping' and the SPD 'trees and development' which would also apply. The Council will require the protection of existing trees and the provision of new trees that complement existing or create new, high quality green areas which deliver amenity and biodiversity benefits.</p> |

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| CL7 c | Shrimplin Brown (Robert Shrimplin) | 1. All development near trees puts them at risk. Even working in front gardens, well away from trees in rear gardens, can put them at risk from piling and general disturbance. The Council are therefore correct to suggest that tunnelling under trees "will" put it at risk, but the answer is not simply to prevent this but to undertake a risk assessment to assess the development's feasibility. | Noted. The Council's existing policies are covered in detail in the Core Strategy - CR6 'trees and landscaping' and the SPD 'trees and development' which would also apply. Para 34.3.62 requires basement applications to be accompanied by a full tree survey and tree protection proposal. |
| CL7 c | Cranbrook Basements (Kevin O'Connor) | CL7.c This policy is unreasonable. The Local Planning Authority does not derive statutory powers to control the nature of "Future Tree Planting of a Suitable Size". Owner occupiers have the right to decide whether or not to plant trees within their own garden and in many instances the planting of large trees in an urban environment can have a negative impact on the visual amenity of adjoining owners and more importantly may lead to damage to the shallow foundations of adjacent buildings which are founded on a clay sub-soil. | Noted. The Council's existing policies on trees are covered in detail in the Core Strategy - CR6 'trees and landscaping' and the SPD 'trees and development' which also apply. The Council wants to maintain the informal character of the gardens often in contrast to the busy city to the front. |
| CL7 c | EC Properties LP (EC Properties LP) | We also have concerns about the wording of part c of Policy CL7. We query how the potential growth of trees in adjoining gardens can be properly assessed and we are concerned that the policy will be subjective and there is no criteria upon which to assess such impact. | Noted. The Council's existing policies on trees are covered in detail in the Core Strategy - CR6 'trees and landscaping' and the SPD 'trees and development' which also apply. |
| CL7 c | EC Properties LP (EC Properties LP) | c. There must be no loss, damage or long term threat to trees of townscape or amenity value, and the ability of future tree planting of a suitable size and scale both on site and in neighbouring gardens must not be prejudiced. | Noted. |
| CL7 c | Ladbroke Association (Sophia Lambert) | &middledot; As proposed, trees of townscape or amenity value should not be disturbed. We do not know how such trees are defined, but assume that it will be the same definition as is used in connection with the requirement for tree works applications. Given the propensity for diseases or other faults to be discovered in mature trees by developers who find the trees are in their way, there should also be a requirement for any trees removed, for whatever reason, to be replaced by one of similar amenity value, and for a condition imposing replacement should the new planting not 'take' after a full planting season. | Noted. The Council's existing policies on trees are covered in detail in the Core Strategy - CR6 'trees and landscaping' and the SPD 'trees and development' which also apply. |
| CL7 c | The Kensington Society (Anthony Walker) | c as existing | Noted. |
| CL7 - Proposed Policy (d) | | | |
| CL7 d | Norland Conservation Society (Libby Kinmonth) | Policy CL7 (d) "substantial harm" to heritage assets What does this mean? How would this be defined? Need to be clear? What counts as a "heritage asset"? In a CA, arguably, not just Listed Buildings. Please accept these as constructive suggestions to try to help formulate a really clear policy. | Noted. The word 'substantial' will be removed Heritage assets are as defined in the National Planning Policy Framework and explain in the draft Basements Policy document. |
| CL7 d | Vanguard Working Group (John Simpson) | Para d. 'Substantial' is definitely the wrong word. It implies that significant harm to heritage assets is permissible. | Noted. The word 'substantial' will be removed. |
| CL7 d | Shrimplin Brown (Robert Shrimplin) | 1. Statute already protects the setting of listed buildings and requires conservation areas to be preserved and enhanced by development. There is therefore already protection for heritage assets. 2. The Council are seeking to create a new definition of heritage asset as being "a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest". This is too vague to be of use in planning decision making. Moreover, if these assets were considered to be of enough significance to be worthy of protection then the impact of other forms of development should also be considered, not simply basements. | Noted. Heritage assets are as defined in the National Planning Policy Framework and explain in the draft Basements Policy document. |
| CL7 d | Cranbrook Basements (Kevin O'Connor) | CL7.d No comment. | Noted. |

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| CL7 d | The Chelsea Society (Terence Bendixson) | <p>d. Delete 'substantial'.</p> <p>New policy for listed buildings.</p> <p>'The unity of design of listed houses and gardens will preclude excavation in the garden in all but the most exceptional circumstances. Where basements are acceptable, connecting passageways between basement and listed building should be invisible from above and leave the plan of the existing basement unaltered.</p> | <p>Noted. The word 'substantial' may be removed.</p> <p>Policy will specify that excavation under listed buildings is not allowed.</p> <p>Policy will be extended to preclude basements being constructed in the gardens of listed buildings. This is to minimise the risk to the structure of listed buildings from such developments. There will be some exceptions to this which will be defined.</p> |
| CL7 d | King Knight Build Ltd (King Knight Build Ltd) | <p>The text within these paragraphs deals with the Council's particular proposed approach to the construction of new basements to serve Listed Buildings and undesignated Heritage Assets and has to be read in conjunction with proposed part d. of draft policy CL7.</p> <p>In general terms I would respectfully suggest these matters would be more properly dealt with through the separate and more detailed policies within the plan which deal with the protection of the historic environment.</p> <p>One of the disadvantages of including issues such as matters of heritage conservation as ancillary components of the policy for basement development is that the nuances and context of the wider policy objectives of both the council and government become lost as a result of the need to produce one or two line policy statements.</p> <p>By way of example the text of proposed section d. of the draft policy simply states that :-</p> <p>" The scheme must not cause substantial harm to heritage assets"</p> <p>The government places great weight on the importance of the conservation of the historic environment which is one of the core principles set out in paragraph 17 of the NPPF. However, the NPPF does not include any absolute presumption in favour of preservation or conservation of Heritage Assets and provides a sophisticated, proportionate and evidence based approach which seeks to balance harm caused by any individual design proposal against the wider benefits of the intended development.</p> <p>It is very difficult for the balance and sophistication of the approach set out within the NPPF to be properly expressed as an ancillary part of the policy for basement development and it is respectfully suggested that ancillary elements of this type should be removed from within the text of the draft policy.</p> <p>In addition, the way in which the proposed text of the policy itself and the way in which the supporting text is worded would seem inconsistent with the principles of national planning policy guidance for the management of the Historic Built Environment. Indeed, there would also seem to be inconsistencies between the supporting text and the proposed policy wording provided for consultation by the Council.</p> <p>By way of example, whilst the supporting text refers to undesignated heritage Assets (paragraph 34.3.67) the actual proposed wording of part d. of the proposed policy makes no distinction between designated and undesignated asset. Furthermore, neither the supporting text or the proposed policy wording makes reference to the need for any harm to a designated asset to be justified and provides no acknowledgement that substantial harm to a Listed Building can be justified in exceptional circumstances.</p> <p>The wording of the supporting text in paragraphs 34.3.64 and 34.3.65 also suggests a standardised approach to development affecting Listed Buildings in which permission for the construction of a basement within the garden of a Listed Building will be given positive consideration whilst proposals for the construction of a basement below the footprint of a Listed Building will normally be refused.</p> <p>The NPPF is absolutely clear that development proposals which affect Listed Buildings should be determined on the basis of an evidenced based approach and careful assessment of the actual heritage value of each individual building and the actual level of harm which will result from each individual development proposal.</p> <p>In this context the standardised blanket approach suggested by the proposed wording of the supporting text is inconsistent with the NPPF.</p> | <p>Noted.</p> <p>Other relevant policies in the plan including those relating to conservation and design (e.g. Core Strategy Policy CL2) will also apply to basements.</p> <p>The 'harm' (including less than substantial harm) set out in the NPPF in relation to listed buildings needs to be balanced against 'public' benefit.</p> <p>Policy will specify that excavation under listed buildings is not allowed.</p> <p>Policy will be extended to preclude basements being constructed in the gardens of listed buildings. This is to minimise the risk to the structure of listed buildings from such developments. There will be some exceptions to this which will be defined.</p> |

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| | | It is respectfully suggested that the proposed supporting text, which purports to suggest this standardised approach should be removed. Alternatively, the text should be amended to explicitly acknowledge that there may well be cases where the construction of the basement below the footprint of a Listed Building results in "less than substantial" harm which can be justified and should be permitted. | |
| CL7 d | Julia Swann | Most of all, Conservation Areas and listed buildings clearly need greater protection than they receive at present. Your Appendix B, Alternative Options, has some better suggestions. One is B3 (Resist all basements within the curtilage of a listed building). I feel that this is the policy the Council should adopt. Also, in B4 (Resist all basements within a conservation area), you say that "proposals must be assessed on their merits, and a 'blanket ban' would not be appropriate" - but is this actually happening? Or are approvals being waved through as a matter of course? I feel that if not a blanket ban, the Council do at least need some new, more stringent, criteria that will strengthen their hand in conservation areas and make it easier for them to actually "assess (proposals) on their merits". Another alternative might be to 'grade' conservation areas, in the same way as listed buildings are graded, and to apply more stringent conditions to "Grade 1 areas". | Noted. Other relevant policies in the plan including those relating to conservation and design (e.g. Core Strategy Policy CL2) will also apply to basements. Policy will specify that excavation under listed buildings is not allowed. Policy will be extended to preclude basements being constructed in the gardens of listed buildings. This is to minimise the risk to the structure of listed buildings from such developments. There will be some exceptions to this which will be defined. |
| CL7 d | The Kensington Society (Anthony Walker) | d The scheme must not cause substantial harm to heritage assets and where the proposals would cause less than substantial harm this must be justified by the public benefits arising from the scheme. | Noted. The word 'substantial' will be removed from the draft policy. |
| CL7 d | English Heritage (Richard Parish) | Policy CL7d states that "The scheme must not cause substantial harm to heritage assets". The phrase "substantial harm" reflects the Government's published National Planning Policy Framework which sets out the considerations which must be taken into account when a development proposal causes "substantial" or "less than substantial harm" to heritage assets. As the proposed policy refers only to substantial harm clarification should be provided in respect of proposals which are considered to cause "less than substantial harm". We would recommend that this Policy is amended as follows. "The scheme must not cause substantial harm to heritage assets. Where proposals are considered to cause harm that is less than substantial the scheme must demonstrate that the public benefits outweigh any harm to the significance of the heritage asset." It must be noted that this advice is based on the information provided by the Royal Borough and for the avoidance of doubt does not reflect our obligation to advise the Royal Borough on, and potentially object to, any specific development proposal which may subsequently arise from this, or later versions of the Core Strategy, and which may have adverse effects on the environment despite sustainability appraisal. | Noted. The word 'substantial' may be removed. Policy will be extended to preclude basements being constructed in the gardens of listed buildings. This is to minimise the risk to the structure of listed buildings from such developments. There will be some exceptions to this which will be defined. |
| CL7 - Proposed Policy (e-f) | | | |
| CL7 e - f | Shrimplin Brown (Robert Shrimplin) | 1. Other than in Conservation Areas there is no requirement for development to maintain or improve the character of a building or the wider area. The policy is therefore seeking to introduce an additional criteria that is not in accordance with planning law. This approach does not apply to extensions to houses and is clearly designed to frustrate basement development. | The Council has existing policies on extensions e.g. Core Strategy Policy CL2. Parts e-f of proposed policy CL7 set out particular requirements in relation to the external manifestations of basements which is a similar approach to other developments. The Council's Core Strategy Policy CL2: New Buildings, Extensions and Modifications to Existing Buildings sets out detailed requirements for extensions. This policy is designed to improve the quality and character of buildings and the area. The emerging basement policy similarly relates to character in relation to the external manifestations. |
| CL7 e - f | Shrimplin Brown (Robert Shrimplin) | 1. Conservation Areas exist in order to preserve the special character of areas. Elsewhere the control of development is deliberately more relaxed, allowing various forms of small scale additions to houses. There is no reason why lightwells and railings should not be treated similarly as other forms of small scale development. | The Council has existing policies on extensions e.g. Core Strategy Policy CL2. Parts e-f of proposed policy CL7 set out particular requirements in relation to the external manifestations of basements which is a similar approach to other developments. |

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| CL7 e - f | Cranbrook Basements (Kevin O'Connor) | <p>CL7.e This policy is unreasonable. The assessment of any basement planning application must be judged on its merits and it cannot be required to "improve the character of the existing building". If the basement is sensitively designed and does not have a net negative effect on the existing building or wider environment then it should be approved. Reference to 'improve the character of the building garden or wider area' are unreasonable and should be removed.</p> <p>CL7.f This policy is unreasonable. Each planning application must be considered on its merits. The proposed policy pre-supposes that no type of light-well or railing can ever be acceptable on any property where neither exists within the street.</p> <p>This proposal is illogical and misguided. There is evidence of Planning Appeals where Planning Inspectors have disagreed with Local Authorities on this very point and multiple circumstances where light-wells have been found to be acceptable on Grade II and Grade II* Listed Buildings.</p> <p>The Local Authority has provided no evidence whatsoever to support this proposed policy particularly on the basis that the vast majority of light-wells to front and side elevations are almost always virtually invisible.</p> <p>The net effect of this unreasonable policy would be to deny the applicant the right to form a bedroom or other habitable area to the front of the proposed basement due to the lack of natural daylight and natural ventilation. This is wholly unreasonable.</p> <p>A simple comparison could be drawn to a Local Authority Policy relating to extensions above ground which would simply state no extension would ever be permitted in any road where no other had been constructed. Clearly this policy would be unacceptable and each case should be taken on its merits. Similar consideration should be given to all light-wells on a case-by-case basis.</p> | <p>Planning controls can legitimately seek to improve the built environment.</p> <p>The policy is considered reasonable to maintain the character of the existing streetscape.</p> <p>Lightwells and railings are an existing positive feature in many streets in the Borough. The policy only precludes these where these would not be in keeping by introducing them where these are not a positive character. Therefore the policy is reasonable and is not designed to deny proposals from natural daylight/ ventilation.</p> <p>The Council's Core Strategy Policy CL2: New Buildings, Extensions and Modifications to Existing Buildings sets out detailed requirements for extensions. This policy is designed to improve the quality and character of buildings and the area. The emerging basement policy similarly relates to character in relation to the external manifestations.</p> |
| CL7 e - f | EC Properties LP (EC Properties LP) | <p>Policy CL7 part f.</p> <p>Part f. of draft Policy CL7 states that 'The basement must not introduce light wells and railings to the front or side of the property which are visible from the street, where these are not a feature of that street'. We assume that the policy relates to the development of basements within existing buildings, and not to new build developments where the provision of lightwells and introduction of railings could form part of the overall design and be of benefit to the scheme. We consider that the current wording of the policy should be amended to make the distinction between existing buildings and new developments.</p> | <p>Noted. Lightwells and railings are an existing positive feature in many streets in the Borough. The policy only precludes these where these would not be in keeping by introducing them where these are not a positive character. Therefore the policy is reasonable and is not designed to deny proposals from natural daylight/ ventilation.</p> |
| CL7 e - f | EC Properties LP (EC Properties LP) | <p>f. In relation to existing buildings, the basement must not introduce light wells and railings to the front or side of the property which are visible from the street, where these are not a feature of that street.</p> | <p>Noted. Lightwells and railings are an existing positive feature in many streets in the Borough. The policy only precludes these where these would not be in keeping by introducing them where these are not a positive character. Therefore the policy is reasonable and is not designed to deny proposals from natural daylight/ ventilation.</p> |
| CL7 e - f | PTP Architects London Ltd (Satish Patel) | <p>Light Wells and Ventilation</p> <p>The policy of not allowing light wells should be reviewed taking into consideration the following points.</p> <ul style="list-style-type: none"> -Light wells can provide natural light and ventilation and make the basements healthier and efficient. -Carefully located and appropriate size of light wells adjacent to the main walls should be allowed as these would not cause unacceptable nuisance or pollution of artificial lighting. -Uses of such light wells are good for natural ventilation that would restrict or reduce the amount of mechanical ventilation and result in lower energy consumption. - There are no restrictions to providing artificial lighting in the gardens and therefore to simply restrict any spillage of artificial light is also unjustifiable. - Lights very close to the main walls on front and rear should be allowed and well defined in the policy so it is clear. | <p>Noted. Lightwells and railings are an existing positive feature in many streets in the Borough. The policy only precludes these where these would not be in keeping by introducing them where these are not a positive character. Therefore the policy is reasonable and is not designed to deny proposals from natural daylight/ ventilation.</p> |
| CL7 e - f | The Kensington Society (Anthony Walker) | <p>The impact of the presence of basements on the green areas of gardens including the presence of plant rooflights and similar interventions and on the proper management of both water run off and flooding.</p> <p>(e) '... opportunities to improve the character and appearance...roof lights, plant, ventilation ducts or outlets, and means....'</p> | <p>Statement – unable to respond.</p> |

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| | | (f) as existing | |
| CL7 - Proposed Policy (g) | | | |
| CL7 g | Norland Conservation Society (Libby Kinmonth) | <p>At our table, there was doubt as to the purpose of the 1m of top soil. The developer seemed to think that rain landing on the "roof" of a subterranean garden basement would be drained off into the sewer system. Others thought that the idea was that this rain would be drained off into the surrounding 25% soakaway. Apparently Hammersmith apply a different policy: not more than 50%, but no 1m cover; this has the advantage of less digging out and backfilling with topsoil.</p> <p>The purpose of this needs to be made clear and justified.</p> | <p>Noted. A layer of permeable soil promotes sustainable development and will help slow down the flow of water run-off across a garden. The Council's existing Subterranean Development SPD sets out guidelines on soil above subterranean development in 9.2.1.</p> |
| CL7 g | Metropolis Green LLP (Miranda Pennington) | <p>Basements Core Strategy Review</p> <p>Sustainable Urban Drainage Measures - Supporting Text 34.3.72 and Policy CL7 g.</p> <p>There appears to be a minor inconsistency in the language regarding the requirement for sustainable drainage systems in basement developments. While the supporting text in section 34.2.72 notes that "In addition to the 1m permeable soil other sustainable urban drainage measures are likely to be (emphasis added) required", Policy CL7 section g. notes that "The development must include (emphasis added) a sustainable urban drainage scheme including a minimum of one metre of permeable soil above any part of the basement beneath a garden".</p> <p>Metropolis Green supports measures to ensure the management of surface water runoff in line with best practice. However, as we have noted previously, in our experience the ability to reduce surface water runoff is often limited by the size of the permeable area of the majority of sites undergoing basement development. We suggest that greater flexibility and clarity is provided in this regard in Policy CL7 g., with clarification of what sustainable drainage techniques the Royal Borough will accept. For example, where infiltration and the use of permeable paving is not feasible given the size of a site, are rainwater harvesting or attenuation systems deemed suitable if implemented in line with the SUDS hierarchy to the extent possible?</p> | <p>Noted. A layer of permeable soil promotes sustainable development and will help slow down the flow of water run-off across a garden. The Council's existing Subterranean Development SPD sets out guidelines on soil above subterranean development in 9.2.1.</p> <p>Sustainable urban drainage systems (SuDS) are addressed in the draft Policy in paragraph C.25. The Council is developing a new SuDS tool to calculate the increase of surface water run-off.</p> |
| CL7 g | Shrimplin Brown (Robert Shrimplin) | <p>1. The justification for 1m spoil depth above basements advanced in the Alan Baxter Report is that it would "allow for the cultivation of normal gardens above them" (paragraph 9.7.5). However, there is no evidence presented as to why this is an appropriate depth.</p> <p>2. Trees and plants in actual fact live in the active "topsoil" within the first 50cm where there is enough air and water for organisms to operate. Providing more depth than this does not deliver additional benefits to plants.</p> | <p>Alan Baxter and Associates response: The 1m depth is derived from arboriculturists advice as the minimum to support growth of reasonable size trees. While 0.5m may provide air and water, it is not sufficient for structural stability. Many tree types would require more than 1.0m of soil to provide long term stability.</p> <p>Council response: Noted. A layer of permeable soil promotes sustainable development by allowing the provision for landscape to be reinstated following development and will help slow down the flow of water run-off across a garden. The Council's existing Subterranean Development SPD sets out guidelines on soil above subterranean development in 9.2.1.</p> |
| CL7 g | Cranbrook Basements (Kevin O'Connor) | CL7.g This policy is unreasonable. The proposed policy contradicts the findings of the report prepared by ARUP Geotechnics. | Noted. |
| CL7 g | EC Properties LP (EC Properties LP) | <p>Policy CL7 part g.</p> <p>We are concerned that part g. of draft Policy CL7 is too prescriptive. Whilst a minimum of 1 metre top soil may be required in certain circumstances, the policy as drafted fails to recognise that there will be proposals where only part of the garden space is taken up leaving opportunities for deeper planting within the rest of the garden. In these circumstances, a 1 metre depth of soil is not required.</p> | <p>Noted. A layer of permeable soil promotes sustainable development by allowing the provision for landscape to be reinstated following development and will help slow down the flow of water run-off across a garden. The Council's existing Subterranean Development SPD sets out guidelines on soil above subterranean development in 9.2.1 – including sustainable urban drainage systems.</p> |

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| CL7 g | EC Properties LP (EC Properties LP) | g. The development must include a sustainable urban drainage scheme, and where required to enable the establishment of larger planting within a garden, including a minimum of one metre of permeable soil above any part of the basement beneath a garden'. | Noted. A layer of permeable soil promotes sustainable development by allowing the provision for landscape to be reinstated following development and will help slow down the flow of water run-off across a garden. The Council's existing Subterranean Development SPD sets out guidelines on the requirement to provide a 1m layer of permeable soil above the top cover of a basement in 9.2.1. Sustainable urban drainage systems (SuDS) are addressed in the draft Policy in paragraph C.25. The Council is developing a new SuDS tool to calculate the increase of surface water run-off. |
| CL7 g | The Chelsea Society (Terence Bendixson) | g. '.....one metre of permeable soil above all parts of the basement....' | Noted. |
| CL7 g | Ladbroke Association (Sophia Lambert) | &middledot; There should be no change to the level of the garden and the present requirement for a metre of soil should as proposed be retained or preferably increased to 1.5m. | Noted. The Council's existing Subterranean Development SPD sets out guidelines on soil above subterranean development and a requirement of a 1m layer of permeable soil above the top cover of a basement will remain. |
| CL7 g | PTP Architects London Ltd (Satish Patel) | SUDS &middledot; More clarity and the reasons for this policy should be provided as it is not clear what are the consequences of the rain water drainage as a result of basements. &middledot; London clay in itself stops any water drainage. So what is happening to the rain water currently in gardens without any basements should be evaluated and any new policy should be based on such assessment. &middledot; Provision of rain water storage with controlled release in the drainage system is acceptable and therefore the policy should clarify this in more detail. | Surface water flooding is addressed in detail in the Alan Baxter's report at 9.5.2. Sustainable urban drainage systems (SuDS) are addressed in the draft Policy in paragraph C.25. The Council is developing a new SuDS tool to calculate the increase of surface water run-off. |
| CL7 g | The Kensington Society (Anthony Walker) | g add ' and all paving shall be permeable' add at the end of the sentence "an demonstrate the reduction of site drainage". | Noted. A layer of permeable soil will be required above the top cover of a basement. The Council's existing Subterranean Development SPD sets out guidelines on soil above subterranean development in 9.2.1. |
| CL7 - Proposed Policy (h) | | | |
| CL 7 h | barrollwebber (Elizabeth Barroll) | Page 15 - Box 2: Proposed Policy - Item h: "Where the basement is to be constructed under existing building" AND OR GARDEN " the dwelling or commercial property....." Currently the dwelling must be adapted even with a basement only under the garden. | The policy will be amended to make it clear that the entire property will be retrofitted to the relevant environmental standards when a basement is proposed. This includes both basements beneath the original property and/or beneath its garden. |
| CL 7 h | Howard Green | I write to object to one element of Proposed Policy CL7 i.e. Criterion (h) which would require:- "CL7(h). Where the basement is to be constructed under an existing building the dwelling or commercial property to which the basement relates must be adapted to a high level of performance in respect of carbon emissions and this must be verified at pre-assessment stage and after construction has been completed...". This condition is ultra vires because it fails the test of being relevant to the development to be permitted, as set out in Circular 11/95, since any deficiency in relation to the dwelling as a whole already exists and is not as a consequence of the proposed basement. I am aware that you have a similar criterion in your existing basement policy but that does not change the fact that it is ultra vires. Indeed, an Inspector has stated that just recently in an appeal decision dated 19th June 2012 relating to 1 Burnsall Street, London SW3 3SR. Appeal Ref. No. APP/K5600/D/12/2174477. Copy attached for reference. 2 | The Council recognises that, over the lifetime of the building, the carbon emissions associated with the construction of a typical basement extension are significantly greater than those of a typical above ground extension. This relates to increased transportation of soil, the embedded CO2 associated with the use of large quantities of concrete, as well as the need for continued mechanical ventilation and pumping. It is, therefore, appropriate to develop a policy which takes the particular environmental impacts of basement development into account, and to attempt to mitigate this impacts as far as possible. The retrofitting of the entire building is considered to appropriate, as it is only by taking a property wide approach can the carbon emissions associated with the new basement be properly mitigated. The Council also notes that it is extremely rare for a basement to be dug |

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| | | <p>I particularly draw your attention to paragraph 14 when he stated:-</p> <p>"14. For subterranean extensions the council's SPD requires the whole of the extended dwelling to meet Level 4 of the Code for Sustainable Homes. However, such a condition fails the test of being relevant to the development to be permitted, as set out in Circular 11/95, as any deficiency in relation to the dwelling as a whole already exists and would not be a consequence of the current proposal".</p> <p>Whilst you are proposing to 'water down' the requirements in relation to any existing dwelling or commercial premises the criterion as set out in proposed Policy CL7(h) is clearly ultra vires.</p> <p>Indeed, its continued imposition could be a reason for an Award of Costs against your authority in any planning appeal. In that respect paragraph 829 of Circular</p> <p>03/2009: Costs Awards in Planning Appeals and other Planning Proceedings states:-</p> <p>"829. The following are examples of circumstances which may lead to an Award of Costs against the planning authority:-</p> <p>* Imposing a condition that is not necessary, precise, enforceable, relevant to planning, relevant to the development permitted or reasonable and therefore does not comply with the advice in DOE Circular 11/95 on The Use of Conditions in Planning Permissions".</p> <p>An Inspector has recently stated that the condition does not comply with Circular</p> <p>11/95 and it would be entirely wrong, therefore, for your authority to persist in the inclusion of this criterion.</p> <p>The review of your basement policy should be taken as an opportunity to remove this unreasonable and ultra vires criterion.</p> <p>I would also draw attention to the Inspector's comments concerning Conditions relating to the submission of a Traffic Management Plan, the Considerate Constructor's scheme and the need to require the development to be supervised by an engineer. The Inspector was of the opinion that these were also unnecessary " ...especially so as these concern a number of matters that are subject to other legislation". Several of the other criteria in Policy CL7 should also, therefore, be removed.</p> <p>However, my main objection is to the continued requirement for the existing dwelling to be upgraded in terms of carbon emissions since that is clearly ultra vires.</p> | <p>in isolation, with the vast majority of such projects being associated with the refurbishment of the wider building.</p> <p>The principle of retrofitting is supported by Policy 5.4 of the 2011 London Plan, which note that the "retrofitting of buildings can make a significant contribution of climate change." Indeed retrofitting of existing buildings is one of the central strands of the Mayor's strategy to reduce carbon emissions as articulated in his Climate Change Mitigation and Energy Strategy (2011).</p> <p>The Council notes the consultee's view that this approach to be <i>ultra vires</i>. Whilst the Council recognises that the appeal decision quoted did not support the Council, the principle of retrofitting was examined at the EIP to the Core Strategy and was found to be sound. Furthermore, the policy has not been questioned at a number of other appeals relating to basement development.</p> <p>With regard the provision of a Traffic Management Plan' the Council is of the view that the traffic generated by the implementation of a permission is material in the determination of that permission. The construction traffic generated by the excavation phase of a basement can be considerable and, if not managed properly, have a significantly adverse impact upon the amenity of those in the vicinity. Whilst the Council notes that construction traffic can be partially addressed by the Highway Act, the provision of a CTMP at validation stage of a planning application is considered necessary to ensure that this impact is properly addressed.</p> <p>Similarly the requirement that the development is supervised by a structural engineer is considered essential to help reduce the risk of the structural stability of adjoining properties being harmed. Structural stability is material in determining a planning application .</p> |
| CL 7 h | Basement Force (Simon Haslam) | <p>Carbon emissions and BREEAM (34.3.73) [Policy CL7 h.]</p> <p>The requirement that where the basement is to be constructed under an existing building, that the dwelling or commercial property to which the basement relates must be adapted to a high level of performance in respect of carbon emissions does not seem fair and reasonable especially if this requires that the whole property or dwelling has to achieve a BREEAM rating of "very good".</p> <p>It would be fair and reasonable if a BREEAM rating of "very good" were required for:</p> <ol style="list-style-type: none"> 1. The new basement area being built. 2. The whole dwelling/property if the whole dwelling/property is being refurbished. <p>The current working could be read as meaning that for a basement development where the new basement was being built by tunnelling underneath an existing property, with no work being planned on the rest of the above ground dwelling/property, that a "very good" BREEAM rating would be required for the whole property. In practice this could mean having to refurbish the whole house in order to install new windows, insulation on the inside of walls and so forth. There would be cases where a small basement of development of say 40m2 could require a five or six storey house to be stripped back to brick in order to install the necessary insulation.</p> | <p>The Council recognises that, over the lifetime of the building, the carbon emissions associated with the construction of a typical basement extension are significantly greater than those of a typical above ground extension. This relates to increased transportation of soil, the embedded CO2 associated with the use of large quantities of concrete, as well as the need for continued mechanical ventilation and pumping. It is, therefore, appropriate to develop a policy which takes the particular environmental impacts of basement development into account, and to attempt to mitigate this impacts as far as possible.</p> <p>The retrofitting of the entire building is considered to appropriate, as it is only by taking a property wide approach can the carbon emissions associated with the new basement be properly mitigated.</p> <p>The Council also notes that it is extremely rare for a basement to be dug in isolation, with the vast majority of such projects being associated with the refurbishment of the wider building. There will, therefore, be very few circumstances where, as the applicant</p> |

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| | | <p>Apart from being an unfair and unreasonable planning requirement this would likely be counter-productive in terms of CO2 emissions as the extent of the additional works above ground could well exceed any CO2 emissions advantage.</p> <p>Carbon emissions and BREEAM (34.3.73) [Policy CL7 h.]</p> <p>Carbon emissions and other similar environmental matters are not planning considerations and are dealt with by other regulation and legislation, notably building regulations.</p> <p>The aim of using planning policy to control matters already falling under more appropriate existing regulations and regulations is incorrect and therefore unfair and unreasonable.</p> <p>Carbon emissions should be controlled through building regulations and other existing legislation and should not be included in planning policy.</p> | <p>describes, no work is planned for the rest of the building. However, even in these circumstances, it is appropriate for the retrofitting of the entire building, if the impact of the basement is to be properly taken into account.</p> <p>The principle of retrofitting is supported by Policy 5.4 of the 2011 London Plan, which note that the “retrofitting of buildings can make a significant contribution of climate change.” Indeed retrofitting of existing buildings is one of the central strands of the Mayor’s strategy to reduce carbon emissions as articulated in his Climate Change Mitigation and Energy Strategy (2011).</p> <p>The Council does not concur with the consultees view that “carbon emissions and other similar environmental matters are not planning considerations.” Para 93 of the NPPF is explicit in noting that, “planning plays a key role on helping shape places and to secure radical reductions in greenhouse gas emissions.” It goes onto say in paras 94 to 99 that LPA should plan for development which reduces greenhouse emissions. Carbon dioxide is a key green house gas.</p> |
| CL 7 h | Nash Baker Architects (Simon Baker) | <p>Carbon emissions and BREEAM (34.3.73) [Policy CL7 h.]</p> <p>What evidence has the council that basements are un-environmental? I believe this claim is unsubstantiated and probably wrong in the long term. It might be that basements construction has a higher than average embodied energy than above ground construction, but long term basement are generally environmentally friendly due to their excellent thermal mass. Most modern houses in Europe are built with basements for this reason. Has the council sought BREEAM advice on this matter?</p> <p>It therefore seems unjustified that new basements should meet standards higher than the already very high requirements set by Building Regulations. This is particularly true of basement under existing buildings, which are required to refurbished (upgrade) their entire house to enable them to build a basements of any size.</p> <p>Has the council looked at the practicality of upgrading an average house in the borough; the time, expenses and disruption? In many instances the cost and disruptive will not be prohibitively high for the developer which is, I believe, the council's true intention. Instead it will encourage the total re-develop (possibly demolition) of the property which will increase the build time and disruptions to neighbours. Furthermore to achieve the BREEAM requirement there will be an increased reliance on "Air Source Heat Pump" which are essential Air Conditioning Units running in reverse. These are totally unsuitable for London but help give the necessary credits.</p> <p>I recommend that the council invest in several case studies, to establish the consequences of using BREEAM ratings on basement extensions before passing this policy.</p> | <p>The Council gathered evidence on the sustainability, or otherwise, of basement developments as part of the formulation of the original policy CE1, back in 2010. Consultants were commissioned and prepared a document titled, “the Life Cycle Carbon Analysis of Extensions and Subterranean Development”. This concluded that the embodied carbon of a subterranean development is approximately 828kg CO2 per m2 compared to approximately 279 kg CO2 per m2 for a conventional above ground rear extension. Furthermore this study concluded that there is high level of embodied CO2 in the building materials relative to the operational CO2 emissions of subterranean development, when considered over a typical 30 year building life.</p> <p>The recently commissioned Baxter’s report does confirm that “once constructed, basements tend to perform much better in environmental terms than above ground construction.” The purpose of the policy is not to compensate for the ongoing use of the structure, but for its initial building. The impact largely relates to the uses of large amounts of concrete as well as the traffic generated with the excavation and disposal of the spoil.</p> <p>This disruption associated with retrofitting a building to meet the necessary environmental standards is not considered to be significant when compared to the excavation of a basement. It is also unlikely to be of a nature that causes large movements of construction traffic.</p> <p>The Council is considering whether the BREEAM standard is the appropriate environmental standard.</p> |
| CL 7 h | Metropolis Green LLP (Miranda Pennington) | <p>Application of BREEAM Domestic Refurbishment - Supporting Text</p> <p>34.3.73, Policy CL7 h. and Appendix C, Section C.22</p> <p>Metropolis Green welcomes further clarity regarding the application of the BREEAM Domestic Refurbishment environmental assessment scheme to basement developments, and the flexibility of this application with respect to listed buildings. It is noted in supporting text section 34.3.73 that the Council will take a pragmatic approach to using the</p> | <p>The policy and its supporting text must be read together. It is therefore clear that the standard sought is BREEAM Domestic for Refurbishment “very good”. There is, therefore no advantage in repeating the standard, and indeed the need for flexibility for listed buildings, within the policy.</p> <p>The Council is currently seeking specialist advice on whether SAP or</p> |

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| | | <p>standard of Very Good under BREEAM Domestic Refurbishment "as a proxy to achieve energy savings across the whole building". Our comments and concerns regarding the proposed revisions to the Core Strategy supporting text and proposed Policy CL7 h. are as follows:</p> <p>* Proposed Policy CL7 h. does not explicitly reference a requirement for development to achieve a BREEAM Domestic Refurbishment rating of Very Good, instead relying on text regarding "a high level of performance in respect of carbon emissions". However, it is implied through supporting text section 34.3.73 and the requirement for a BREEAM Domestic Refurbishment Very Good pre-assessment in Appendix C, section C.22 that the Council expects this level of achievement. For the sake of clarity and consistency, the Royal Borough should strongly consider revising the proposed policy to include clear text regarding the application of BREEAM Domestic Refurbishment, whilst including the pragmatism and flexibility for listed buildings noted in the supporting text.</p> <p>* Proposed Policy CL7 h. requires that dwellings and commercial properties are "adapted to a high level of performance in respect of carbon emissions and this must be verified at pre-assessment stage and after construction has been completed". With respect to the pre-assessment verification, the Royal Borough should strongly consider clarifying if Standard Assessment Procedure (SAP) or Simplified Building Energy Model (SBEM) calculations are required at the pre-assessment stage or if a BREEAM pre-assessment prepared by a licensed assessor without detailed SAP or SBEM calculations is sufficient.</p> <p>* In supporting text 34.3.73 and Appendix C section C.22, the Royal Borough notes that it is relying on the BREEAM Domestic Refurbishment scheme as a proxy, specifically to achieve energy savings and carbon emission reductions across developments. It must be noted that the BREEAM Domestic Refurbishment environmental assessment scheme addresses a number of issues beyond energy and carbon emissions. As noted in our previous comments regarding the application of environmental assessments to basement developments, some issues are difficult to achieve, depending on the scope of the refurbishment of the above ground portions of the dwelling. While Metropolis Green does not object in principle to the application of the BREEAM Domestic Refurbishment scheme to dwellings with basement development, we believe the Royal Borough should be aware that the scope of the assessment is beyond the issues noted in the revisions to the Core Strategy.</p> | <p>SBEM calculations will be required a for the pre-assessment stage. The conclusions will be included in the next draft of the policy.</p> <p>The Council considers that the BREEAM Domestic Refurbishment, "very good" standard is the appropriate environmental standard to aim for. Our experience would suggest that this can be reached in most circumstances. The Council also notes that it is extremely rare for a basement development to be carried out not in conjunction with the refurbishment of the rest of the building. The Council does, however, take the view that there may be circumstances when the policy will require additional works to be carried out on those parts of the property previously un affected. This is considered reasonable to ensure that the environmental effects of basement developments are properly addressed.</p> |
| CL 7 h | Jones Lang LaSalle (Kathryn Williams) | <p>4. We request the following is amended:</p> <p>"h. Where the basement is to be constructed under an existing building, the dwelling or commercial property to which the basement relates must be adapted to a high level of performance in respect of carbon emissions and this must be verified at pre-assessment stage and after construction has been completed. Where a new building with a basement is proposed, the same applies to the entire building."</p> <p>We proposed the following wording:</p> <p>"The new basement to be constructed must meet the EcoHomes assessment 'Very Good' which must be verified at pre-assessment stage and after construction has been completed."</p> <p>There is no justification to support the requirement of the entire dwelling or property to reduce carbon emissions and is an unreasonable criteria to meet. The EcoHomes BREEAM Assessments are an established method of achieving improvements in energy efficiency and we consider it more appropriate to apply this to the new basement extension only.</p> | <p>The Council recognises that, over the lifetime of the building, the carbon emissions associated with the construction of a typical basement extension are significantly greater than those of a typical above ground extension. This relates to increased transportation of soil, the embedded CO2 associated with the use of large quantities of concrete, as well as the need for continued mechanical ventilation and pumping. It is, therefore, appropriate to develop a policy which takes the particular environmental impacts of basement development into account, and to attempt to mitigate this impacts as far as possible.</p> <p>The retrofitting of the entire building is considered to appropriate, as it is only by taking a property wide approach can the carbon emissions associated with the new basement be properly mitigated. The Council also notes that it is extremely rare for a basement to be dug in isolation, with the vast majority of such projects being associated with the refurbishment of the wider building.</p> <p>The principle of retrofitting is supported by Policy 5.4 of the 2011 London Plan, which note that the "retrofitting of buildings can make a significant contribution of climate change." Indeed retrofitting of existing buildings is one of the central strands of the Mayor's strategy to reduce carbon emissions as articulated in his Climate Change Mitigation and Energy Strategy (2011).</p> |
| CL 7 h | The Royal Brompton and Harefield NHS Trust | <p>5) Revision: Policy CL7 part h.</p> <p>* We propose that the required high level of performance in respect of carbon emissions should be determined on a case by case basis both where a basement is proposed beneath an existing building and where a new building with a basement is proposed. We welcome the acknowledgement that some flexibility will be allowed within a listed building.</p> | <p>The policy sets out a clear presumption that the entire property be retrofitted to the relevant environmental standard where a basement is proposed. This is considered necessary if the environmental impact of the construction of the basement is to be taken into account. The Council does however recognise that the individual</p> |

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| | | | <p>circumstances of a building will be considered where relevant. This is integral to the planning system, and as such should not be added to each individual policy. This is particularly the case when the building in question is not residential, and where other environmental standards may be more appropriate.</p> |
| CL 7 h | Shrimplin Brown (Robert Shrimplin) | <p>1. Moreover, it is clear from the fact that restrictions are being proposed on basement development that do not apply to other forms of extensions to houses, for example to improve the sustainability performance of the rest of the house or to improve the character of the building, that the intention of the guidance is indeed to frustrate basement development. This is contrary to people's right, appropriately controlled by the planning, to seek to improve and extend their houses.</p> | <p>The function of the policy is not to “frustrate basement development”, with owners remaining able to “improve and extend their homes.” The intention of the policy is to ensure that the environmental impact of the basement is properly taken into account when the “improvement” takes place. The steady increase in applications granted and being implement since the adoption of the original policy in December 2010 shows that the policy is not so draconian as to stifle such development.</p> |
| CL 7 h | Shrimplin Brown (Robert Shrimplin) | <p>1. It is entirely inappropriate to seek revisions to the performance of other parts of a building which are entirely unrelated to the basement. This approach does not apply to extensions to houses and is clearly designed to frustrate basement development.</p> <p>1. The policy is imprecise as it does not specify what the "high level" of performance it is seeking to achieve.</p> | <p>The Council recognises that, over the lifetime of the building, the carbon emissions associated with the construction of a typical basement extension are significantly greater than those of a typical above ground extension. This relates to increased transportation of soil, the embedded CO2 associated with the use of large quantities of concrete, as well as the need for continued mechanical ventilation and pumping. It is, therefore, appropriate to develop a policy which takes the particular environmental impacts of basement development into account, and to attempt to mitigate this impacts as far as possible. The retrofitting of the entire building is considered to appropriate, as it is only by taking a property wide approach can the carbon emissions associated with the new basement be properly mitigated.</p> <p>This approach is not taken for all extensions – as conventional above ground extensions do not have the same carbon footprint, and as such do not require the same mitigation measures. As such the intension is not merely to “frustrate basement development”. The steady increase in applications granted and being implement since the adoption of the original policy in December 2010 shows that the policy is not so draconian as to stifle such development.</p> <p>The policy and its supporting text must be read together. It is therefore clear that the standard sought is BREEAM Domestic for Refurbishment “very good”.</p> |
| CL 7 h | Cranbrook Basements (Kevin O'Connor) | <p>CL7.h This policy is unreasonable. It is not within the powers of the Local Planning Authority to require the existing building which is unaffected by the proposed basement to be upgraded to meet a higher level of thermal performance to satisfy an arbitrary carbon emission target.</p> <p>Appeals to the Planning Inspectorate have demonstrated that the Local Authority does not have the powers to impose any such condition and planning consent has been granted on appeal.</p> <p>It is unreasonable to require a domestic householder to carry out significant alterations to the existing building which is otherwise unaffected by the works particularly when these improvements to thermal performance and the like are not required under the statutory process or the Building Regulations.</p> | <p>The Council recognises that, over the lifetime of the building, the carbon emissions associated with the construction of a typical basement extension are significantly greater than those of a typical above ground extension. This relates to increased transportation of soil, the embedded CO2 associated with the use of large quantities of concrete, as well as the need for continued mechanical ventilation and pumping. It is, therefore, appropriate to develop a policy which takes the particular environmental impacts of basement development into account, and to attempt to mitigate this impacts as far as possible.</p> <p>The retrofitting of the entire building is considered to appropriate, as it is only by taking a property wide approach can the carbon emissions associated with the new basement be properly mitigated.</p> <p>The Council also notes that it is extremely rare for a basement to be dug in isolation, with the vast majority of such projects being associated with the refurbishment of the wider building. There will,</p> |

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| | | | <p>therefore, be very few circumstances where, as the applicant describes, no work is planned for the rest of the building. However, even in these circumstances, it is appropriate for the retrofitting of the entire building, if the impact of the basement is to be properly taken into account.</p> <p>The principle of retrofitting is supported by Policy 5.4 of the 2011 London Plan, which note that the "retrofitting of buildings can make a significant contribution of climate change." Indeed retrofitting of existing buildings is one of the central strands of the Mayor's strategy to reduce carbon emissions as articulated in his Climate Change Mitigation and Energy Strategy (2011).</p> <p>The Council notes the consultee's view that appeals to PINS have demonstrated that the LPA does not have the powers to require who building retrofitting.</p> <p>Whilst the Council recognises that one appeal decision quoted did not support the Council, the principle of retrofitting was examined at the EIP to the Core Strategy and was found to be sound.</p> <p>Furthermore, the policy has not been questioned at a number of other appeals relating to basement development.</p> |
| CL 7 h | The Kensington Society (Anthony Walker) | h as existing | Support for retrofitting is noted. |
| CL7 - Proposed Policy (i) | | | |
| CL 7 i | Paul Lever | <p>Box 2: Proposed Policy</p> <p>i. Replace by:</p> <p>"i. Traffic and construction activity must be organised so as not to harm road safety, significantly increase traffic congestion, nor place unreasonable inconvenience on the day to day life of those living and working nearby. The number of basement developments permitted to take place simultaneously in the same street may therefore in some cases need to be limited."</p> | <p>The purpose of the CF7(i) is to explain that the application demonstrates that traffic and construction activity is carried out in an appropriate manner. The vehicle by which this is achieved will be set out in an associated SPD, and through the Council's local list. This is currently through a CTMP.</p> <p>It would not be appropriate to have the detail as to how the ambitions may be achieved within the policy.</p> <p>The Planning Acts set out the time for which an application remains valid (three years). The Council cannot require that a permission is implemented at any particular time within this three year period.</p> <p>The CTMP will require that cumulative impact of multiple basements in a small area is considered. However, the emphasis will be how this impact can be effectively managed than refusing the granting of a consent in itself.</p> |
| CL 7 i | James Copinger-Symes | <p>Construction impact (34.3.61; 34.3.75) [Policy CL7 i.]</p> <p>The real reasons for attempting to limit the size of basement developments through the 75% garden basement rule and the no multi-storey basement rule seem more to do with trying to control construction impact than anything else.</p> <p>Construction impact should be managed using other existing appropriate regulation namely: environmental protection, control of pollution and highways legislation.</p> <p>Planning rules should not be incorrectly used to attempt control of construction impact.</p> | <p>There are a number of reasons for restricting the size of basements as follows and minimising construction impact is one of them.</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the |

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| | | | <p>garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <ol style="list-style-type: none"> 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. 4. The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| CL 7 i | Leigh & Glennie Ltd (Christian Leigh) | <p>34.3.74-76 and Policy CL7i-k</p> <p>The obligation to provide detailed information on construction traffic, noise control, structural methodology, etc, is highly onerous on the applicant. These are matters that of course must be addressed before construction starts. But they are matters that are best dealt with by rigorous conditions. The preparation of such information is extremely costly, and that cost would be wasted if there are other objections to an application (objections which may not just be to the basement element of a scheme) leading to a refusal of planning permission. It is unreasonable to put an applicant to such expense on matters not related to land use planning issues, i.e. entirely to do with construction disturbance and building control matters. It should be remembered - and reiterated as from before - that basement works are very commonly undertaken in association with other extensive renovation work to properties in the Borough. These would lead to disturbance and noise to neighbours, but the planning policies are not seeking to require details of construction methods for such works. It is therefore inequitable to seek such up-front detail purely for basement works.</p> <p>These proposals should therefore be dropped and retained as matters to be sought at through the discharge of planning conditions.</p> | Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The requirements are considered proportionate to the complexity of basements. These will ensure that proposals are thought through in detail from the outset and raise the standard of the planning applications. |
| CL 7 i | Gulvanessian Associates (Mr Gulvanessian) | <p>Construction impact - inclusion in policy (34.3.61; 34.3.75) [Policy CL7 i.]</p> <p>Construction impact lies outside the remit of planning regulation and therefore should not be included in planning policy.</p> <p>Control over construction impact should be exercised under environmental protection, control of pollution and highways legislation. Inappropriate and unreasonable planning rules should not be introduced as a replacement for other existing control measures already set out in legislation.</p> | It is widely accepted that construction impacts are considered as part of a planning application. London Plan Policy 5.3 Sustainable Design and Construction (B) states that <i>"development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process."</i> This is supported by the London Plan SPD on Sustainable Design and Construction. |
| CL 7 i | Gulvanessian Associates (Mr Gulvanessian) | <p>Submitted application must demonstrate how traffic and construction activity will be organised so as not to harm road safety [Policy CL7 i.]</p> <p>The method of organisation for traffic and construction activity should not be needed as part of the planning application and can be dealt with as a planning condition.</p> | Noted. Requiring this information upfront will enable proposals to be properly thought through and to be consulted upon as part of the planning application. This will enable those affected in the neighbourhood to comment and highlight any issues at an early stage. |

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| CL 7 i | London basement (Stephen Merritt) | <p>Construction impact - inclusion in policy (34.3.61; 34.3.75) [Policy CL7 i.]</p> <p>Construction impact lies outside the remit of planning regulation and therefore should not be included in planning policy.</p> <p>Control over construction impact should be exercised under environmental protection, control of pollution and highways legislation. Inappropriate and unreasonable planning rules should not be introduced as a replacement for other existing control measures already set out in legislation.</p> | It is widely accepted that construction impacts are considered as part of a planning application. London Plan Policy 5.3 Sustainable Design and Construction (B) states that " <i>development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process.</i> " This is supported by the London Plan SPD on Sustainable Design and Construction. |
| CL 7 i | London basement (Stephen Merritt) | <p>Submitted application must demonstrate how traffic and construction activity will be organised so as not to harm road safety [Policy CL7 i.]</p> <p>The method of organisation for traffic and construction activity should not be needed as part of the planning application and can be dealt with as a planning condition.</p> | Noted. Requiring this information upfront will enable proposals to be properly thought through and to be consulted upon as part of the planning application. This will enable those affected in the neighbourhood to comment and highlight any issues at an early stage. |
| CL 7 i | Basement Force (Simon Haslam) | <p>Construction impact - inclusion in policy (34.3.61; 34.3.75) [Policy CL7 i.]</p> <p>Construction impact lies outside the remit of planning regulation and therefore should not be included in planning policy.</p> <p>Control over construction impact should be exercised under environmental protection, control of pollution and highways legislation. Inappropriate and unreasonable planning rules should not be introduced as a replacement for other existing control measures already set out in legislation.</p> | It is widely accepted that construction impacts are considered as part of a planning application. London Plan Policy 5.3 Sustainable Design and Construction (B) states that " <i>development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process.</i> " This is supported by the London Plan SPD on Sustainable Design and Construction. |
| CL 7 i | Basement Force (Simon Haslam) | <p>Submitted application must demonstrate how traffic and construction activity will be organised so as not to harm road safety [Policy CL7 i.]</p> <p>The method of organisation for traffic and construction activity should not be needed as part of the planning application and can be dealt with as a planning condition.</p> | Noted. Requiring this information upfront will enable proposals to be properly thought through and to be consulted upon as part of the planning application. This will enable those affected in the neighbourhood to comment and highlight any issues at an early stage. |
| CL 7 i | Tessuto (Gemma Gordon-Duff) | <p>Construction impact - inclusion in policy (34.3.61; 34.3.75) [Policy CL7 i.]</p> <p>Construction impact lies outside the remit of planning regulation and therefore should not be included in planning policy.</p> <p>Control over construction impact should be exercised under environmental protection, control of pollution and highways legislation. Inappropriate and unreasonable planning rules should not be introduced as a replacement for other existing control measures already set out in legislation.</p> | It is widely accepted that construction impacts are considered as part of a planning application. London Plan Policy 5.3 Sustainable Design and Construction (B) states that " <i>development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process.</i> " This is supported by the London Plan SPD on Sustainable Design and Construction. |
| CL 7 i | Tessuto (Gemma Gordon-Duff) | <p>Submitted application must demonstrate how traffic and construction activity will be organised so as not to harm road safety [Policy CL7 i.]</p> <p>The method of organisation for traffic and construction activity should not be needed as part of the planning application and can be dealt with as a planning condition.</p> | Noted. Requiring this information upfront will enable proposals to be properly thought through and to be consulted upon as part of the planning application. This will enable those affected in the neighbourhood to comment and highlight any issues at an early stage. |
| CL 7 i | Earl's Court Society (Hilary Temple) | In CL7 section I there is no definition of "unreasonable inconvenience" It rests in the eye and ears of the speaker.. A developer, who was at the first workshop, clearly considered that subjecting neighbours to three years of disruption was not unreasonable | Noted. Further details of the requirements for a CTMP will be set out in the revised SPD. An outline is presented in Appendix C of the draft document. The proposals will allow the CTMP to be consulted upon as part of the planning application. Any views on the unreasonableness of proposals can be raised at that stage. |
| CL 7 i | Jones Lang LaSalle (Kathryn Williams) | <p>5. We request the following is amended:</p> <p>"i. The submitted application must demonstrate how traffic and construction activity will be organised so as not to harm road safety, significantly increase traffic congestion, nor place unreasonable inconvenience on the day to day life of those living and working nearby."</p> | It is widely accepted that construction impacts are considered as part of a planning application. London Plan Policy 5.3 Sustainable Design and Construction (B) states that " <i>development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that</i> |

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| | | <p>We proposed the following wording:</p> <p>"The proposals should seek to minimise potential noise or disturbance to those living or working nearby"</p> <p>The proposed wording adequately ensures that there would be no transport issues with the development during the construction phase. Day to day inconvenience during standard working hours is not a planning issue.</p> | <p><i>they are considered at the beginning of the design process.</i>" This is supported by the London Plan SPD on Sustainable Design and Construction.</p> |
| CL 7 i | Shrimplin Brown (Robert Shrimplin) | <p>1. The lack of clarity in the proposed policy, referring for example to not placing "unreasonable inconvenience" upon those living and working nearby, also risks creating argument and uncertainty for both applicants and neighbours.</p> <p>2. Moreover, the Council's survey of local opinion which has informed the need for a new Basements SPD found that of all the questionnaires sent out to neighbours affected by basement development only 8.5%-12.75% raised any concern about noise, traffic, dust, or vibration. Of those that actually responded to the questionnaire only half raised a concern. It is therefore far from clear that residents feel this issue is of concern and worthy of further planning controls, particularly bearing in mind the additional cost burden it would place on the Council.</p> | <p>Noted.</p> <p>1. Planning policy cannot define every eventuality rather it is designed to seek a reasonable balance between those constructing a basement and those who are living in the vicinity. Further details of the requirements for a CTMP will be set out in the revised SPD. An outline is presented in Appendix C of the draft document.</p> <p>2. As noted in Appendix D of the draft Basements Policy document there was a 17% response rate to the neighbours' survey. Of those who responded between 50-60% felt that the impacts of noise, traffic, dust and noise had not been kept within reasonable limits.</p> |
| CL 7 i | Shrimplin Brown (Robert Shrimplin) | <p>1. There is no definition of what might constitute "unreasonable inconvenience". Any building project will inevitably cause some disruption but this risks imposing an unreasonable burden on development.</p> | <p>Noted. Planning policy cannot define every eventuality rather it is designed to seek a reasonable balance between those constructing a basement and those who are living in the vicinity. Further details of the requirements for a CTMP will be set out in the revised SPD. An outline is presented in Appendix C of the draft document.</p> |
| CL 7 i | Cranbrook Basements (Kevin O'Connor) | <p>CL7.i This policy is unreasonable. The Local Planning Authority does not have the statutory power to require planning applicants to demonstrate compliance with matters that are controlled by alternative primary legislation. Parliament has provided primary legislation which controls Construction Operations, Road Safety, Environmental Health and related issues. None of these matters fall under planning legislation and an attempt to interfere with alternative legislation is entirely unreasonable.</p> | <p>It is widely accepted that construction impacts are considered as part of a planning application. London Plan Policy 5.3 Sustainable Design and Construction (B) states that "<i>development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process.</i>" This is supported by the London Plan SPD on Sustainable Design and Construction.</p> |
| CL 7 i | Miss Arbuthnot | <p>Page 16 Proposed policy CL7(i) I would like you to insert 'with particular reference to cyclists' after 'road safety,' because lorries are notorious in their disregard for cyclists, and that applies particularly to building sites in my experience. (I have procured a toy hooter which I use on approaching basement sites, to the amusement of the workmen. It works better than a bicycle bell, being louder, and is perceived as a joke, so not aggressive.)</p> <p>I witnessed a near miss of an accident outside my house on my way to the library just now, to use the internet. The grab lorry pulled out from 2 Edith Grove with impunity (I assume that if they have mirrors they know not their purpose?), while the traffic was reduced to a single lane and trying to negotiate its way past the blockage. How the lorry mounted the ridge created by the subterranean development without at least pausing I did not work out, but clearly it assumed the road belonged to it and, far from being a cross-London Red Route, was a quiet country lane with no likelihood of traffic. Perhaps all lorry drivers engaged in anything to do with these developments should be required to pass a special driving test.</p> | <p>Noted. The draft document is proposing to have the requirement for a DCMP upfront.</p> <p>The constraints on what planning policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> |
| CL 7 i | The Kensington Society (Anthony Walker) | <p>The construction impact of the proposals which can have a devastating impact on the local community with no benefit to that community.</p> <p>I add ' and shall take account of any other similar activities in the surrounding area and be so organised to ensure that the cumulative effect is not detrimental to the activities in the area nor to the access of residents and emergency vehicles including keeping pavements clear of all storage of hoarded areas and vehicles'.</p> | <p>The CTMP will take account of other developments in the vicinity. Para 34.3.74 of the draft document mentions the 'cumulative' impact of other development proposals. This is also outlined in Appendix C (C.20) and will be further detailed in the revised SPD.</p> |

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| CL 7 i | Kings Road Association of Chelsea Residents (James Thompson) | Giving more weight to construction impact issues is welcome. | Support noted. |
| CL 7 i | Christopher Hunt | Require that emergency vehicle access be considered in TMPs. In our case, emergency vehicle access was not adequately considered, placing residents at considerable risk. Sections CL7i and C20 of the proposed policy should reference emergency vehicle access. | Noted. This will be considered in detail when revising the existing basements SPD. |
| CL7 - Proposed Policy (j) | | | |
| CL7 j | Paul Lever | Box 2: Proposed Policy j. Replace by: "j. Construction must be carried out in such a way as to minimise potential impacts such as noise, vibration and dust for the duration of the works. Specific restrictions may therefore be imposed on the levels of noise and vibration which may be caused and on the hours during which noisy or disruptive work may be undertaken; as well as on the number of basement developments which can be undertaken simultaneously in the same street or in close proximity to one another." | Noted. The requirements suggested may be imposed on a case by case basis. Planning policy is not a suitable place to define working hours. |
| CL7 j | Leigh & Glennie Ltd (Christian Leigh) | 34.3.74-76 and Policy CL7i-k The obligation to provide detailed information on construction traffic, noise control, structural methodology, etc, is highly onerous on the applicant. These are matters that of course must be addressed before construction starts. But they are matters that are best dealt with by rigorous conditions. The preparation of such information is extremely costly, and that cost would be wasted if there are other objections to an application (objections which may not just be to the basement element of a scheme) leading to a refusal of planning permission. It is unreasonable to put an applicant to such expense on matters not related to land use planning issues, i.e. entirely to do with construction disturbance and building control matters. It should be remembered - and reiterated as from before - that basement works are very commonly undertaken in association with other extensive renovation work to properties in the Borough. These would lead to disturbance and noise to neighbours, but the planning policies are not seeking to require details of construction methods for such works. It is therefore inequitable to seek such up-front detail purely for basement works. These proposals should therefore be dropped and retained as matters to be sought at through the discharge of planning conditions. | The requirements are considered proportionate to the risks associated with constructing a basement. |
| CL7 j | Milner Street Area Residents' Association (Richard Grantley) | Construction noise - enforcement 1. We agree that "the submitted application must demonstrate how the construction will be carried out in such a way as to minimise potential impacts such as noise, vibration and dust for the duration of the works" (page 15), and other requirements to specify how noise will be mitigated. The Council should also use noise monitors during construction (if necessary at the expense of the applicant) to ensure that these measures are implemented. | Noted. |
| CL7 j | Gulvanessian Associates (Mr Gulvanessian) | Submitted application must demonstrate how the construction will be carried out in such a way as to minimise potential impacts such as noise, vibration and dust for the duration of the works [Policy CL7 j.] The method of organisation for minimising potential impacts should not be needed as part of the application and can be dealt with as a planning condition. | Noted. Requiring the information upfront will raise the standard of the application and enable neighbours to be consulted. |
| CL7 j | London basement (Stephen Merritt) | Submitted application must demonstrate how the construction will be carried out in such a way as to minimise potential impacts such as noise, vibration and dust for the duration of the works [Policy CL7 j.] The method of organisation for minimising potential impacts should not be needed as part of the application and can be dealt with as a planning condition. | Noted. Requiring the information upfront will raise the standard of the application and enable neighbours to be consulted. |

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| CL7 j | Basement Force (Simon Haslam) | Submitted application must demonstrate how the construction will be carried out in such a way as to minimise potential impacts such as noise, vibration and dust for the duration of the works [Policy CL7 j.] The method of organisation for minimising potential impacts should not be needed as part of the application and can be dealt with as a planning condition. | Noted. Requiring the information upfront will raise the standard of the application and enable neighbours to be consulted. |
| CL7 j | Tessuto (Gemma Gordon-Duff) | Submitted application must demonstrate how the construction will be carried out in such a way as to minimise potential impacts such as noise, vibration and dust for the duration of the works [Policy CL7 j.] The method of organisation for minimising potential impacts should not be needed as part of the application and can be dealt with as a planning condition. | Noted. Requiring the information upfront will raise the standard of the application and enable neighbours to be consulted. |
| CL7 j | Shrimplin Brown (Robert Shrimplin) | 1. The construction of a basement does not affect the principle of development. There is no suggestion that requiring this information via condition, as is currently the case, has caused any problems. The Council also concede that it is not relevant to the principle of development and do not explain why this approach has changed. | Noted. It is important that these issues are properly thought through in advance as basement developments can cause disproportionate impacts on residential amenity. Requiring the information upfront will raise the standard of the application and enable neighbours to be consulted. |
| CL7 j | Cranbrook Basements (Kevin O'Connor) | CL7.j This policy is unreasonable. Please refer to our comment under Policy CL7.i. The Local Planning Authority does not have statutory power to control any matter which is the subject of alternative statutory control including: x Environmental Health x Building Regulations x Highways Act x Party Wall Act x Health & Safety Act | The Council is aware of the limitations of the planning regime. The constraints on what the policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development. |
| CL7 j | The Kensington Society (Anthony Walker) | j add 'The period for the construction of the basement shall be identified as part of the application and shall not exceed that period by more than one month.' | The duration of works cannot be controlled within the scope of planning legislation. |
| CL7 - Proposed Policy (k) | | | |
| CL7 k | Leigh & Glennie Ltd (Christian Leigh) | 34.3.74-76 and Policy CL7i-k The obligation to provide detailed information on construction traffic, noise control, structural methodology, etc, is highly onerous on the applicant. These are matters that of course must be addressed before construction starts. But they are matters that are best dealt with by rigorous conditions. The preparation of such information is extremely costly, and that cost would be wasted if there are other objections to an application (objections which may not just be to the basement element of a scheme) leading to a refusal of planning permission. It is unreasonable to put an applicant to such expense on matters not related to land use planning issues, i.e. entirely to do with construction disturbance and building control matters. It should be remembered - and reiterated as from before - that basement works are very commonly undertaken in association with other extensive renovation work to properties in the Borough. These would lead to disturbance and noise to neighbours, but the planning policies are not seeking to require details of construction methods for such works. It is therefore inequitable to seek such up-front detail purely for basement works. These proposals should therefore be dropped and retained as matters to be sought at through the discharge of planning conditions. | The requirements are considered proportionate to the risks and construction impacts associated with constructing a basement. It is important that these issues are properly thought through in advance as basement developments can cause disproportionate impacts on residential amenity. Requiring the information upfront will raise the standard of the application and enable neighbours to be consulted. |

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| CL7 k | Vanguard Working Group (John Simpson) | Para k. An 'intention' as to structural stability is inadequate. It leaves dangerous scope for the less scrupulous developer subsequently to adopt other engineering solutions which precisely do not safeguard structural stability. Existing policy CL2g(i) and the reference to former CD32 in the SDP should be retained. The Party Wall Acts may cover aspects affecting the party wall, but that is not a reason for the Council to abandon its role for safeguarding the structural stability of neighbouring properties, particularly in light of the many problems that have arisen in this respect. | The policy may be amended at the next stage to remove the work 'intended'. |
| CL7 k | Gulvanessian Associates (Mr Gulvanessian) | Submitted application must demonstrate how it is intended to safeguard the structural stability of the application building and nearby buildings [Policy CL7 k.] Structural stability is not a planning matter and should be dealt with through other existing regulation, notably Building Control and the Party Wall Act. Damage to neighbouring properties Damage to neighbouring properties is a civil matter that should be dealt with through the Party Wall Act. It is unfair and unreasonable that planning rules are introduced when a legislated means of control already existing. | Noted. This applies in existing Core Strategy Policy CL2 (part g (ii)). The policy has been used by Planning Inspector's in recent appeal decisions. However the Council is not liable for any structural damage caused through the implementation of planning applications. These are civil matters. |
| CL7 k | Edward Manisty | B. December Note para 2.4, Box !:Supporting Text Para 34. 3.76 ,(final sentence) and Box 2 -Proposed Policy , para k.: Basement Development and the Planning Regime-the New Proposal. 2.1 If adopted by the Council the suggested new policy wording would mean that what is now "myth" as per para 1. 1 above would become effective as a matter of law. 2.2 All should be aware that in such event far from increasing the existing safeguards for owners in regard to structural stability issues in the planning process , as misleadingly suggested in the December Note , they would be dramatically curtailed . Effectively the responsibility of RBKC in law in regard to issues of structural stability would become a mere illusion , which it is assumed is the real intention of those senior officers who propose the extinction of the existing Core Policy CL 2 g .ii. 2.3 Such a result is particularly to be deplored given the routine failure of RBKC's Planning Dept to pay more than lip service to the Authority's adopted policy procedures for the registration/validation of applications for basement development , as to which see part C below, particularly at para 3. 2 . 2.4 It is to be hoped that for the reasons mentioned previously Councillors will reject the changes to existing adopted policy examined above. | Noted. The Council is not liable for any structural damage caused through the implementation of planning applications. These are civil matters. However the policy may be amended at the next stage to remove the work 'intended' from CL2 (part k). The proposals are designed to improve the quality of applications received by requiring a range of information upfront with mechanisms of prior checking. |
| CL7 k | London basement (Stephen Merritt) | Submitted application must demonstrate how it is intended to safeguard the structural stability of the application building and nearby buildings [Policy CL7 k.] Structural stability is not a planning matter and should be dealt with through other existing regulation, notably Building Control and the Party Wall Act. Damage to neighbouring properties Damage to neighbouring properties is a civil matter that should be dealt with through the Party Wall Act. It is unfair and unreasonable that planning rules are introduced when a legislated means of control already existing. | Noted. This applies in existing Core Strategy Policy CL2 (part g(ii)). The policy has been used by Planning Inspector's in recent appeal decisions. However the Council is not liable for any structural damage caused through the implementation of planning applications. These are civil matters. |
| CL7 k | Basement Force (Simon Haslam) | Submitted application must demonstrate how it is intended to safeguard the structural stability of the application building and nearby buildings [Policy CL7 k.] Structural stability is not a planning matter and should be dealt with through other existing regulation, notably Building Control and the Party Wall Act. Damage to neighbouring properties Damage to neighbouring properties is a civil matter that should be dealt with through the Party Wall Act. It is unfair and unreasonable that planning rules are introduced when a legislated means of control already existing. | Noted. This applies in existing Core Strategy Policy CL2 (part g(ii)). The policy has been used by Planning Inspector's in recent appeal decisions. However the Council is not liable for any structural damage caused through the implementation of planning applications. These are civil matters. |

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| CL7 k | Tessuto (Gemma Gordon-Duff) | <p>Submitted application must demonstrate how it is intended to safeguard the structural stability of the application building and nearby buildings [Policy CL7 k.]</p> <p>Structural stability is not a planning matter and should be dealt with through other existing regulation, notably Building Control and the Party Wall Act.</p> <p>Damage to neighbouring properties</p> <p>Damage to neighbouring properties is a civil matter that should be dealt with through the Party Wall Act.</p> <p>It is unfair and unreasonable that planning rules are introduced when a legislated means of control already existing.</p> | <p>Noted. This applies in existing Core Strategy Policy CL2 (part g(ii)). The policy has been used by Planning Inspector's in recent appeal decisions.</p> <p>However the Council is not liable for any structural damage caused through the implementation of planning applications. These are civil matters.</p> |
| CL7 k | Shrimplin Brown (Robert Shrimplin) | <p>1. This requirement is already covered by the Party Wall Act and is a requirement of the existing SPD.</p> | <p>Noted.</p> |
| CL7 k | Cranbrook Basements (Kevin O'Connor) | <p>CL7.k This policy is unreasonable. The Local Planning Authority does not have the statutory power to control matters relating to structural stability of either the subject or adjacent properties. These matters are already controlled by alternative legislation including but not limited to:</p> <ul style="list-style-type: none"> x Building Regulations x Party Wall Act x Health & Safety Act | <p>Noted. This applies in existing Core Strategy Policy CL2 (part g(ii)). The policy has been used by Planning Inspector's in recent appeal decisions.</p> <p>However the Council is not liable for any structural damage caused through the implementation of planning applications. These are civil matters.</p> |
| CL7 k | The Kensington Society (Anthony Walker) | <p>k as existing</p> | <p>Noted.</p> |
| CL7 k | City & south west London Construction (Andrew Beal) | <p>I have belatedly become aware of the consultation for the proposed changes to the council's planning policy for basements and wish to register the interest of HSE. I understand the consultation closes today.</p> <p>HSE is the regulator for health and safety during construction work. The construction of basements is technically challenging and high risk. The risk is real - in London in recent years there have been two fatal accidents caused by collapsing excavations and a number of building collapses, some of which have resulted in serious injury to site workers. Other workers have been seriously injured falling into unprotected excavations.</p> <p>Because of this, HSE construction inspectors in London have been targeting basement projects during routine inspection and campaigns. They have found good practice and acceptable standards on some sites but have come across poor performance on many sites with enforcement action taken on one in three projects.</p> <p>Many of the problems found by HSE inspectors on domestic basement projects have arisen because of poor planning, particularly in relation to excavation support and propping of existing structures. Contractors have specific duties under the Construction (Design and Management) Regulations 2007 to plan, manage and monitor the construction work in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health and safety. For basement work this includes:</p> <ul style="list-style-type: none"> - identifying temporary works such as supports or propping needed to maintain the stability of any excavation or existing structure; - appointing a competent temporary works engineer to design the propping and devise a safe sequence for installation; - communicating the sequence to those carrying out the work - method statements with a number of diagrams setting out how work is to be carried in a safe manner are an effective way of doing this; - providing sufficient materials in good time for the temporary support. | <p>Noted.</p> <p>Text may be modified at the next stage to include reference to the suggestions regarding temporary works/propping.</p> |

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| | | <p>I understand that the proposed planning policy will require the applicant to submit:</p> <ul style="list-style-type: none"> * Engineering Design and Construction Statement * Demolition and Construction Management Plan <p>I do not know whether the planning guidelines will provide additional detail as to the required content of these two elements of the planning application but I would hope that guidance addressing applicants to the issues I have identified above could be included.</p> <p>I have made this submission at short notice and would be grateful for the opportunity to provide more information. I would be happy to meet a representative of RBKC if this would be helpful.</p> | |
| Review of Documentation (Section 4) | | | |
| 4.1 - 4.7 | Ashley McNeile | <p>I have contributed to RBK&C's basement consultation process by attending the discussion sessions recently held at the Town Hall, and would like to emphasise three points that I feel important from the residents' perspective.</p> <p>The first concerns the frustration that we feel when engaging with the complexity of applications. We examine these in considerable detail to try to discover their impact on our property and our lives, but when entering objections often receive the response that particular elements are not planning matters. Even if it were clear to residents which matters they might properly object to in the planning context, there remain others (construction methods and processes for example) that are apparently resistant to objection at planning stage - and hence remain immune to public comment. With some of the documents that applicants are required to submit by the Council, particularly those concerned with engineering and construction issues, it appears that the applicant "gets 100% in the exam merely by answering every question, whether the answer is any good or not". This is a source of misunderstanding and frustration for residents who spend time and effort understanding and scrutinizing technical material in an application, only to discover that the content is not material to the decision and their objections are ignored. (I think the proposals under consultation will improve this - and that is a good thing!)</p> | Noted. The draft policy is seeking to raise the standards of the planning application by requiring prior vetting of the technical studies accompanying the application. These documents will be available for people to comment on as part of the planning application. |
| 4.1 - 4.7 | Shrimplin Brown (Robert Shrimplin) | <p>4.5 - As the consultation document explains, the justification for the new policy approach arises from the desire to control the construction impact of basements. However, it also makes clear that "planning is primarily designed to assess the final physical form and use of a proposed development. Construction is not normally regarded as a planning matter..." (paragraph 1.22). The consultation document therefore seeks to fundamentally alter the role of planning by weighing the construction process in the balance when deciding on the principle of development (paragraph 4.5). This is contrary to planning statute.</p> <p>4.3 - The current approach of requiring information relating to construction impacts via condition is entirely appropriate and there is no evidence presented to suggest that this has caused problems. It does mean the neighbours do not have the benefit of seeing this information before development is permitted, but they do have the comfort that the information required is set out in detail in the Council's SPD and in standard conditions. In contrast, providing meaningful details before a development has been approved and before a contractor has been appointed not only adds an unreasonable additional burden on the applicant but also risks being meaningless as the relevant details are not yet known.</p> | <p>London Plan Policy 5.3: Sustainable Design and Construction requires at para B. that <i>"development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process."</i> London Plan SPG on Design and Construction, 2006 provides further guidance on achieving a sustainable construction phase of development.</p> <p>Therefore the Council considers it is reasonable that these issues are considered at the beginning of the process.</p> |
| 4.1 - 4.7 | Thurloe Residents Association (Traci K Weaver) | <p>Party Wall Agreements</p> <p>Section 4.22 It is laudable that the Council intends to "recommend that the party wall process is initiated as close to the beginning of the process as possible," but this only addresses adjoining properties. As many Borough properties are terraced houses, shouldn't the Council recommend consultation with other near neighbours who may be affected by a basements development? Obviously PWA does not "protect" these properties</p> | Noted. The Council is encouraging pre-application consultation with neighbours likely to be affected (see para 34.3.78 and 4.19) |

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| 4.1 - 4.7 | The Markham Square Association (David Cox) | Paragraph 4.5 We endorse the proposals with regard to requiring more information "up front". We believe it is important that as many as possible of the details of these issues are specified, consulted upon and considered at the initial application stage. It is also important that any revisions are consulted upon, and that planning documents (such as the EDCS, DCMP and CTMP) and planning conditions are monitored and enforced. We do not believe that this happens satisfactorily at present due to limited staff availability. | Noted. |
| 4.11 | Holland Park West Residents Association (Sally Mizani) | The traffic management plan, needs to be adequately policed, once the build begins and to take into account small residential access. | Noted. The CTMP does take account of access restrictions. |
| 4.13 | Holland Park West Residents Association (Sally Mizani) | A geological survey must be required, especially in high flood zones and any underground river courses taken into consideration, as if basements run through a river course, this displaces the river into neighbouring properties, which if may not be sealed or have anti-flood devices installed. | Noted. The EDCS should take account of site geology and ground water conditions as specified in Appendix C, C.9 of the Basements Draft Policy document. |
| 4.13 | Thames Water Property Services | Paragraph 4.13 - If the Flood Risk Assessment in the Basement Impact Assessment is to 'take account of climate change' more guidance needs to be provided including the time horizon, which emissions scenario has been used and which data (UKCP09 for example). | Noted. |
| 4.14 | Holland Park West Residents Association (Sally Mizani) | The proposal to allow up to 75% of garden used is inadequate, as this does not take into account different plot sizes. Also one metre of earth on top, is inadequate, for a normal size basement, as a run off. Planters placed on top of non-permeable substances, i.e.: concrete, give no run off or absorption. | Noted. Appendix C, C.25-C.26 of the Basements Draft Document sets out that the Council will be using a SuDS tool to calculate increase in run-off and will recommend SuDS solutions to reduce run-off. |
| 4.14 | Thames Water Property Services | Paragraph 4.1.4 - The National SuDS Standards and the London Plan section 4A.14 set out a hierarchy for the drainage of surface water and a preference for sustainable urban drainage. It would be helpful if the Sustainable Urban Drainage report is specifically required to comply with the latter and the former when it takes effect. | Noted. The hierarchy is already referred to in Policy CE2 of the Core Strategy. |
| 4.15 | Holland Park West Residents Association (Sally Mizani) | The council, must not lift conditions of this, without informing neighbours. | There are no proposals to do this. |
| 4.17 - 4.21 | Ashley McNeile | The third point also concerns information available to residents. The extended construction processes throw up numerous problems for adjoining and nearby properties, which it is clear that the Council recognise. We approve of the proposal that developers and contractors should make early and regular efforts to consult and inform residents of construction programmes. The Council, however, still has responsibilities for work taking place in its streets and for the safety and comfort of residents. Each project should be accompanied by a document jointly issued by developer and Council concerning the routes by which residents' concerns may be expressed and attended to, whether these, for example, are for noise, vibration, dust, structural safety, traffic management or night time light spill. | Noted. The Council's Environmental Health department will continue to be responsible for enforcing noise and dust issues and the transport and highways department will be responsible for enforcing issues regarding highways. |
| 4.22 - 4.23 | Rachel Jiang | 3. Party Wall matters are notoriously slow and this is precisely because of difficult, objecting neighbours. Simply starting the process early, or consulting these neighbours, will not ease the pain of the process. It just adds costs earlier on for the developer, who will not know what is likely to be approved by way of basement construction, or if at all. The fact that subterranean development size below garden space is now proposed to be more arbitrarily dependent on drainage considerations just adds to the likelihood of plan amendments. This change will undoubtedly add material costs to any applicant who would have incurred substantial fees already for architectural work, the two-tier structural engineers design and reviews, as well as party wall surveyors works. | Noted. The additional costs would still be a very small proportion of the cost of building the basement. Considering issues upfront will be beneficial to the applicant as it will become apparent if the proposals are practically implementable which may even lead to cost savings in the long term. |

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| 4.26 - 4.27 | Ladbroke Association (Sophia Lambert) | <p>25. We welcome the Council's intention to elaborate this. It needs to cover far more subjects (waste disposal, for instance, does not seem to be mentioned at all, or at any rate is not easy to find) and to be rebranded and given far more prominence.</p> <p>26. We also believe that there is a case for a voluntary pre-construction code for developers to be promoted by the Council and will be writing separately about this.</p> | Noted. |
| 4.8 - 4.10 | Guy Mayers | <p>5. That would mean that policy 4.10 is inadequate and in order to redress the cries of most of your respondents should be strengthened to cope better with noise and dust.</p> | Noted. |
| 4.8 - 4.10 | Milner Street Area Residents' Association (Richard Grantley) | <p>Safeguarding stability of neighbouring buildings</p> <p>1. Better protections are needed for neighbours needed where not covered by the Party Wall Act (i.e. over 9m away). The Council needs to take more responsibility for this: the paper needs to make this clear and set out more clearly the protections that are given to neighbours and who is responsible for them.</p> <p>2. The proposed second qualified structural engineer (see 4.9) must be independent of the applicant. The independent structural engineer would report to the Council, but his/her fee would be met by the applicant. Both the applicant's and the independent structural engineer must agree to take responsibility/liability for any problems that occur, particularly in respect of properties not covered by the Party Wall Act.</p> | <p>Noted.</p> <p>1. The Party Wall Act is completely separate from the provisions of the planning system. The constraints on what planning policy cannot do are referred to in para 1.22 – 1.23 of the Basements Draft Policy document. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. The Council has also produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> <p>2. The Council will consider this when reviewing planning procedures related to basements.</p> |
| Section 4 General | Rachel Jiang | <p>1. There is already a lot of mandatory investigative work required before an application can be submitted for basement construction. The amount of money that is needed to be invested in the application stage - bearing in mind of the uncertain outcome - is already in the region of £10,000 excluding architectural fees. This includes arboricultural, site investigative, engineering, BREAM, construction and traffic investigations etc. No other development - including complete new builds, require this amount of heavy financial upfront investment for planning. Therefore one needs to be sensible in terms of what to ask of applicants to pay, with serious cost-benefit analysis being considered for those wishing to construct basements.</p> <p>2. A lot of the works now appears to be front loaded to pre-application stage. From an applicant's point of view, this is potentially exceptionally difficult to deliver from a practical point of view. The CTMP, DCMP, as well as engineers design of temporary propping etc are typically the works of a basement contractor. However without appointing the said contractor, nobody will undertake these substantive amount of paper works. On the other hand in order to engage the contractors so as to produce the documents, one needs to be very advanced by way of structural, architectural design as well as contractor tender procurement. This is all against a backdrop of no planning approval and a huge question mark to project go-ahead. Therefore a mini industry will appear whereby basement "consultants" - regardless of their size/credentials/experiences, will offer a desk top service of producing the council required papers to get applications through planning. All of which will be theoretical and for the purpose of ticking boxes, rather than what we currently have now - a properly prepared CTMP by a fully committed, carefully selected basement firm who will prepare the drafting knowing that he will see through the project in full, albeit post planning approval.</p> <p>4. It appears that a large part of the proposed amendment to the current way in which basements are being considered for planning, is to satisfy neighbours and to address their concerns. In this regard, and if the council indeed is serious about committing any potential future applicant to such a vast, increased amount of financial burden and paper works, then perhaps one should also ask that any objections raised to application during the consultation stage, be made public and on a named basis, to be left on the public portal, and for as long as the planning application is visible to the public. This is only fair, given one is now asking applicants to take extreme steps to address every single possible concern there may or may not be.</p> | <p>Noted. The additional costs would still be a very small proportion of the cost of building the basement. Considering issues upfront will be beneficial to the applicant as it will become apparent if the proposals are practically implementable which may even lead to cost savings in the long term.</p> <p>Objections made as part of planning applications are made public and are available on-line. It is however not understood how making personal details of objectors public would help the process.</p> |

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| Section 4 General | Pyramus & Thisbe Club (Andrew Schofield) | <p>The report "Royal Borough of Kensington & Chelsea Residential Basement Study Report" dated December 2012 prepared by Alan Baxter and Partners is very helpful. However, the commentary regarding the party wall process, appointment of surveyors and what jurisdiction surveyors have is extremely misleading and in some areas incorrect. We recommend, and we are happy to work with RBKC and Alan Baxter and Partners, that information regarding the party wall legislation is re-drafted where appropriate.</p> <p>We recommend that the sequence of works, traffic management etc is considered at the planning stage.</p> <p>It should be made mandatory that a contact telephone number is provided by the contractor for neighbours to use should the need arise.</p> <p>We recommend and wholly support the need to instruct chartered engineers to deal with the structural matters relating to these complex refurbishment and basement projects. The engineer should be retained for the duration of the project.</p> <p>Geotechnical assessment of the long term implications of any basement and movement monitoring of adjoining properties should be mandatory. Chartered engineers have a duty of care not just to the neighbour undertaking the development but also adjoining neighbours and should design basements to mitigate as far as possible potential damage and consider/ design basements in the knowledge that neighbours have the right (subject to planning) to form a basement on adjoining land in the future.</p> <p>Whilst it may be possible to agree a party wall award in advance of planning permission being granted, in most cases there may well be insufficient detail available mainly due to specialist contractors not being instructed. Ensuring that neighbours wishing to undertake building works will follow the party wall procedures and will be liable for any damage caused by the building works is far more important.</p> <p>We wholly support the need to ensure that only qualified and highly experienced contractors undertake single storey and double storey placements not just within RBKC but across England and Wales. There is a clear correlation between a good quality experienced contractor undertaking single and double storey basements resulting in little or no damage to adjoining properties compared to lesser experienced and, in most cases, cheaper contractors providing cheaper quotations undertaking similar work resulting in significant damage to adjoining properties and in some cases complete collapse of adjoining buildings.</p> <p>In residential situations we strongly recommend that schedules of condition are mandatory when undertaking single storey or double storey basement works. These schedules of condition, bearing in mind the structural and geotechnical implications, must be extended to cover the whole of the adjoining property/land next to the proposed basement(s) both internally and externally.</p> | <p>Alan Baxter and Associates response: An experienced Party Wall Surveyor has been consulted together with an engineer specialising in party wall work. Their comments were taken on board and incorporated into Section 10.</p> <p>Alan Baxter and Associates response: Agreed.</p> <p>Alan Baxter and Associates response: Geotechnical consultants can advise re ground movements regarding changes in load. However it is likely that the majority of movements are as a result of the method and sequence of construction, the temporary works and the care and diligence of the contractor.</p> <p>Alan Baxter and Associates response: Agreed.</p> <p>Alan Baxter and Associates response: Noted.</p> <p>Alan Baxter and Associates response: Agreed.</p> |
| Section 5 5.1-5.5 (Permitted Development and Article 4) | | | |
| 5.1 - 5.5 (section 5) | Stuart Bates | - Permitted Development of a basement under the boundary of an existing property without having to apply for planning permission should no longer stand. This is too big an issue and controls need to be available from the outset. | Support noted. |
| 5.1 - 5.5 (section 5) | Alastair Walton | We believe Permitted Development should be removed | Support noted. |

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| 5.1 - 5.5 (section 5) | Marina Murray | Also, and fundamentally, I do not believe that the current RBKC approach to permitted development is correct and look forward to discussing this with you. You should also know (and I would like you to record particularly please) that the developers at our table said that if RBKC applied greater controls to subterranean development, developers would "do more and more as permitted development". | Support noted. Also noted disagreement on the Council's interpretation of the General Permitted Development Order. |
| 5.1 - 5.5 (section 5) | Norland Conservation Society (Libby Kinmonth) | Art 4 to bring all basements into Planning Control? We would say definitely yes. For two reasons: first, this would ensure full BIM due diligence requirement; second, this PD only applies to Unlisted Buildings, but we would argue (above) that many of our 1850's unlisted buildings are just as vulnerable, and therefore needing protection, as Listed. | Support for borough wide Article 4 direction noted. |
| 5.1 - 5.5 (section 5) | Vanguard Working Group (John Simpson) | Existing practice and the Article 4 proposal for Permitted Development need thorough review. The need to balance benefits and detriments and Human Rights Act issues should be given greater emphasis. | Noted. |
| 5.1 - 5.5 (section 5) | Milner Street Area Residents' Association (Richard Grantley) | Permitted development 1. We strongly agree that all basement developments across the borough should be brought within the remit of the planning system, and not treated as Permitted Development. We have been told by a council officer that the majority of "horror stories" on basements are from permitted developments, so it important that these are brought under planning control. 2. The estimated cost of £65,000 p.a. resulting from an Article 4 Direction (see, for example, 5.4 of the consultation paper) is very small in the context of the Council's overall budget and should not be a barrier to the very considerable benefit of this change. | Support for borough wide Article 4 direction noted. |
| 5.1 - 5.5 (section 5) | ESSA (Anthony Walker) | 5 Article 4 directions We support the use of Article 4 directions where appropriate to ensure that any basement works are subject to the policies above. We consider that this is likely to be appropriate in Mews and similar restricted developments in the ESSA area. | Support for area specific Article 4 direction noted. |
| 5.1 - 5.5 (section 5) | Studio Indigo Ltd (Doug Indigo) | Basements under house seem fair and reasonable and is typical of most European houses and should remain allowable under permitted development. | Objection noted. |
| 5.1 - 5.5 (section 5) | Sam Gordon Clark | Permitted development: You're going in the right direction, but please get on with it. Why haven't you applied for an Article 4 direction ages ago? | Support for borough wide Article 4 direction noted. |
| 5.1 - 5.5 (section 5) | Oliver Parr | as is the suggestion that Permitted Development rights may be removed from basements already sanctioned | No we are consulting on whether this should be taken forward. |
| 5.1 - 5.5 (section 5) | Earl's Court Society (Hilary Temple) | The main and most important thing is that the Council uses its powers under article 4 directions to impose the necessity for planning permission as outlined in the Consultation paper. We are aware that this will cost the Borough money and possibly some areas could be exempted, but the absolute minimum would be all conservation areas and any row of pre-first world-war houses, including any local shops or desirable pubs, and, as suggested in your draft, narrow streets. Borough- wide would be much better. | Support for area specific Article 4 direction noted. |

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| 5.1 - 5.5 (section 5) | Jones Lang LaSalle (Kathryn Williams) | <p>- We consider that any attempt to introduce an Article 4 Direction taking basements out of permitted development is an unnecessary gross infringement of the house owner's right</p> <p>There is a requirement to achieve 600 houses per annum in the Borough until 2027/28 under Core Strategy policy CH1. The RBKC Annual Monitoring Report 2012 states in paragraph 10.7 "the net gains for approvals in the Borough were 783 for 2010/11 and 860 for 2011/12 till the end of March which is a very healthy supply when considered against the target." Yet the approvals do not convert into completions with only 175 built in 2010/11 and 102 in 2011/12. The Annual Monitoring Report quotes from E C Harris titled 'The London Prime Residential development Pipeline: A Continued Magnet for Global Investment' potential reasons as being the lack of finance and the lack of skilled construction workforce to build.</p> <p>The need for more houses could be significantly reduced if home owners were allowed to create the space needed within the boundary of their ownership. Policy CL7 is overly protective.</p> | Objection noted. The Borough is meeting its housing targets and there is no identified need to reduce demand for homes. |
| 5.1 - 5.5 (section 5) | Jones Lang LaSalle (Kathryn Williams) | <p>6. We do not support the blanket removal of permitted development rights.</p> <p>Article 4 Directions should be rarely used. They will produce uncertainty.</p> <p>It is estimated by the council to cost well in excess of £65,00 pa. The cost to the applicant of producing all of the documents that form the Basement Impact Assessment (BIA) (as would be required under these proposed changes) on each application is circa £85-150,000. This figure would need to be compensated to the applicant if the basement could normally be constructed through permitted development.</p> <p>The NPPF states in paragraph 200 that "the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so." We do not consider that the local amenity and wellbeing of the area would be compromised throughout the entire Borough in order to justify the Article 4 Direction.</p> | <p>Support for area specific Article 4 direction noted.</p> <p>The Council believes that the introduction of an Article 4 direction meets the requirements specified in the NPPF.</p> |
| 5.1 - 5.5 (section 5) | Shrimplin Brown (Robert Shrimplin) | <p>1. The proposed Basement SPD runs entirely contrary to this by adding another layer of control into the planning system. Moreover, in doing so it adds another cost to the Council. As the consultation document accepts, "when a planning application is required because permitted development rights have been removed, no fee is payable. This means the full cost of assessing applications must be carried by the Council. This means that the full cost of assessing applications must be carried by the Council. It is estimated that this cost, if Borough wide, is likely to be in the region of £65,000, though this cost could rise significantly were the number of eligible applications to increase" (paragraph 5.4).</p> | Objection noted. |
| 5.1 - 5.5 (section 5) | Thames Water Property Services | <p>Paragraph 5.3-5.4 - Given the loss of permeable area that has occurred across the Royal Borough over the last 40 years and the strain that this now puts the sewerage network under in this particular area following heavy rainfall, Thames Water's view is that it is essential that the Royal Borough makes a direction under Article 4 of the GPDO to remove permitted development rights for basements. Within the consultation document it is stated that an Article 4 direction could apply to the whole Borough or to more targeted areas such as narrow streets. Should any Article 4 direction focus on targeted areas rather than the whole Borough then these areas should include Critical Drainage Areas and Flood Risk Zones 2 and 3.</p> | Support for area specific Article 4 direction noted. |

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| 5.1 - 5.5 (section 5) | ARK (Rupert Carruthers) | <p>Paragraph 5.0 of the draft policy proposes to remove permitted development rights for basements directly underneath the footprint of existing dwelling houses. Our comments are as follows:</p> <ul style="list-style-type: none"> - The procedure needs to be clarified. It is clear that the Council will have to forego the planning fee but this represents only a tiny portion of the significant cost for a preparation of a planning application that would otherwise not be necessary under PD rights. - By removing permitted development rights the council is trying to bring under its control matters that are regulated by other legislation currently in existence and relate solely to amenity. This could be the only aim of such a policy as proposals currently falling under permitted development rights have no external manifestation and therefore have no impact on the visual character of a property or neighbourhood. - As the council cannot refuse planning permission for any type of development solely because of the effect its implementation will have upon the amenity of residents it is difficult to see why it should choose to restrict permitted development rights in this instance for that very purpose. | Council's have the power to introduce Article 4 directions to remove permitted development rights where this is warranted by local circumstances. Basements that are permitted developments can have the same issues as those that need planning permission. |
| 5.1 - 5.5 (section 5) | Ladbroke Association (Sophia Lambert) | 20. We fully support the proposal to make Article 4 directions in respect of basements under the footprint of the house. We note that this would involve extra expense for the Council. But we believe that this will be money well spent and could well be matched by equivalent savings as the application of planning controls to these developments is likely to prevent problems, especially during construction, that the Council might otherwise have to deal with. | Support noted. |
| 5.1 - 5.5 (section 5) | Schamroth & Harriss (James Harriss) | We strongly disagree with the proposal to withdraw permitted development rights for basement extensions. It is generally agreed that PD rights have been reduced in ways which were not anticipated when the current rules were drafted (e.g. the application of the 3m limit to 'side-infill' extensions) and a blanket withdrawal of rights in this way would seem to be an extraordinary interference with residents' rights and quite unwarranted by the circumstances. | Objection noted. |
| 5.1 - 5.5 (section 5) | The Markham Square Association (David Cox) | <p>Paragraph 5.0</p> <p>Please note that, for reasons we have provided elsewhere, we believe that paragraph 5.1 is incomplete and therefore misleading.</p> <p>We support the making of a direction under Article 4 of the GPDO for the reasons stated. It is vital that these developments are brought within planning control. We support its introduction across the Borough, rather than just specific areas. We consider the estimated cost of £65,000 per annum to be a very reasonable price to pay.</p> | Support for borough wide Article 4 direction noted. |
| 5.1 - 5.5 (section 5) | The Kensington Society (Anthony Walker) | <p>We support the focused use of Article 4 directions in areas where a lack of proper planning and management of the works can be severely detrimental to the amenity of the area.</p> <p>7 Article 4 directions</p> <p>The Society supports the proposal to use Article 4 directions. The Society believes that this could be limited to specific areas or types of building. They should be used where the execution of the work is likely to cause disturbance and disruption and where therefore there would be advantage in having to follow the planning process, not least so as to ensure that these are taken into account. The Society proposes that mews developments and sites in cul-de-sacs are a particular class of development where Article 4 directions should be used to ensure that all the normal safeguards are achieved. The Society recognises that there maybe a cost, but suggest that in many cases the applicant will wish to carry out other works which still require consent and that therefore the loss of fee income may be less than suggested under permitted development. The Society anticipates that in each ward there may be specific areas where similar situations exist in non mews areas where either there are restricted street widths or significant terraces of buildings.</p> | Support for area specific Article 4 direction noted. |

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| 5.1 - 5.5 (section 5) | Kings Road Association of Chelsea Residents (James Thompson) | The Council is to be commended for its plan to remove Permitted Development rights, and we encourage them to do so. The current situation is entirely anomalous and the use of an Article 4 Direction would bring matters into line. Great resentment has been caused by the fact that planning permission is required for minor alterations to a house, but not for the excavation of a basement. As to the budgetary implications, I think that most residents would consider the projected expenditures money well spent. In calculating future costs it should be borne in mind that the removal of Permitted Development rights may somewhat reduce the number of applications. | Support noted. |
| 5.1 - 5.5 (section 5) | Preety and David Hudd | <p>We have been residents of the Royal Borough of Kensington and Chelsea for over thirty years. We have been living at our current address of 21 Gloucester Walk for the last eighteen years.</p> <p>We are rather at a loss of trying to understand the current stance by RBK&C Council of trying to withdraw a homeowner's right to build a Basement or a Basement Extension under the existing Permitted Development for Basement Extensions policy.</p> <p>Following a quick search of the various planning websites, we have noticed that neither Westminster, Camden nor Hammersmith & Fulham have any current plans to withdraw the permitted development rights for basement extensions, so why does Kensington & Chelsea feel the need to do so?</p> <p>The Council's proposal to withdraw the right to build a Basement or Basement Extension may prove to be uneconomical for the Council as they will lose some revenue they receive through planning applications. In the current economic climate, the adoption of the southern European extended family practice is more prevalent than ever before, with some families choosing to have their elderly parents move in instead of putting them into a home. Therefore, we strongly disagree with the Council's proposal to withdraw the policy and would prefer the policy to be left unchanged.</p> <p>We shall be following this process closely and hope that the Council changes its mind.</p> | Objection noted |
| 5.1 - 5.5 (section 5) | James Wyman | <p>In particular, the proposed imposition of a basement specific RBKC Article 4 Direction designed to restrict residents' Permitted Development rights.</p> <p>Surely this directive would be unprecedented in the sweeping nature of its scope.</p> <p>Given that most habitable basements require lightwells, and these are sought via the planning process, it should be possible to tackle development proposals on their merits - rather than curtailing the rights of residents throughout the entire borough.</p> | Objection noted. |
| 5.1 - 5.5 (section 5) | Edward Barker | <p>Permitted Development (PD) of basements</p> <p>These schemes which fall under this criteria, having no lightwells or glazing, do not have any visual impact on the streetscene. We query why, in that case, this is becoming a planning issue.</p> <p>There is also a proposal to limit light wells and new glazing to basements in rear gardens, due to concerns of glazing being visible in gardens. We feel that, when designed well and with consideration, and not being visible from street, these are a positive contribution.</p> | Objection noted. |

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| 5.1 - 5.5 (section 5) | Milan Seckovic | <p>We are rather at a loss of trying to understand the current stance by RBK&C Council of trying to withdraw a homeowner's right to build a Basement or a Basement Extension under the existing Permitted Development for Basement Extensions policy.</p> <p>Following a quick search of the various planning websites, we have noticed that neither Westminster, Camden nor Hammersmith & Fulham have any current plans to withdraw the permitted development rights for basement extensions, so why does Kensington & Chelsea feel the need to do so?</p> <p>The Council's proposal to withdraw the right to build a Basement or Basement Extension may prove to be uneconomical for the Council as they will lose some revenue they receive through planning applications. In the current economic climate, the adoption of the southern European extended family practice is more prevalent than ever before, with some families choosing to have their elderly parents move in instead of putting them into a home. Therefore, we strongly disagree with the Council's proposal to withdraw the policy and would prefer the policy to be left unchanged.</p> | Objection noted. |
| 5.1 - 5.5 (section 5) | Tony Holt | Para 5.4. There must be a way out of this, possibly by a new bye-law. | Objection noted. |
| 5.1 - 5.5 (section 5) | Princess di Sirignano | Permitted Development Rights for Basement Excavations should be removed from the General Permitted Development Order and all should be put through the planning process. | Support noted. |
| 5.1 - 5.5 (section 5) | 3xArchitecture (Michael Mozny) | <p>Paragraph 5.0 of the draft policy proposes to remove permitted developments rights for basements directly underneath the footprint of existing dwelling houses. Our comments are as follows:</p> <ul style="list-style-type: none"> - The procedure needs to be clarified. It is clear that the Council will have to forego the planning fee. However, will the council cover the significant cost for a preparation of a planning application that would otherwise not be necessary under PD rights. - By removing permitted development rights the council is trying to bring under its control matters that are regulated by other legislation currently in existence and relate solely to amenity. This would be the primary aim of such policy as proposals currently falling under permitted development rights have no external manifestation and therefore have no impact on the visual character of a neighbourhood. - As the council cannot refuse planning permission for any type of development solely because of the effect its implementation will have upon the amenity of residents of the Borough it is difficult to argue why it should choose to restrict permitted development rights for that very purpose. | The Council will not be liable to any costs to applicants. Council's have the power to introduce Article 4 directions to remove permitted development rights where this is warranted by local circumstances. Basements that are permitted developments can have the same issues as those that need planning permission. |
| 5.1 - 5.5 (section 5) | Knightsbridge Association (Edward Davies-Gilbert) | <p>5.0 Permitted Development</p> <p>We support the removal of permitted development rights for basements as proposed by RBKC.</p> | Support for borough wide Article 4 direction noted. |
| 5.1-5.5 (section 5) | Christopher Hunt | <p>Disallow Permitted Development (PD) for Basements.</p> <p>Under the current policy, applicants are exploiting the PD rule to circumvent protections for residents. In our case, the applicant sought to use PD to complete as much construction work as possible without needing a public hearing, complete a CMS or have a construction traffic management plan. The applicant was then going to ask for permission to complete the incremental work for a much larger basement on the argument that "only a little more needed to get done." The Department was 100% aware the Applicant was using PD as a loophole for this purpose (they had already submitted plans for a larger basement) yet endorsed the approach despite our protests. This abuse of policy must be stopped.</p> | Support noted. |
| Appendix B | | | |
| Appendix B | Bell Cornwell (Tracey Rust) | <p>Appendix B- 8.3</p> <p>The impact of a basement extension within the curtilage of listed buildings within the Borough has been thoroughly tried and tested at appeal and consistently judged in principle not to harm their architectural or historic special importance, nor their setting. There is no reason to change the policy as it exists, other than to clarify that the extensions should not be under the original building.</p> | Policy will be modified to preclude basements in the gardens of a listed building with some exceptions. This is a precautionary approach reflecting the significance of listed buildings and risks to the listed building associated with constructing basements in close proximity to them. |

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| Appendix C | | | |
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| Appendix C General | Norland Conservation Society (Libby Kinmonth) | <p>Basement Impact Assessment</p> <p>At our table there was a difference of opinion between the Planning Consultant and Developer, (who maintained that the requirement for BIM's before submission was not part of Planning Law), and those representing Residents' interests (who very much welcome the BIM proposal). As NCS, we very much welcome the proposal for BIM's to support applications (rather than post application), particularly bearing in mind the technical problems involved in understanding and designing/engineering for, individual site underground conditions.</p> <p>This leaves open the question as to who is going to vet/critique the BIM's and ensure they are properly thought through. This will inevitably require a lot more "expert help" (from outsiders?), and therefore much greater cost than a normal planning application. How will this cost be covered?</p> | Support for the BIA is noted. The Council can make its own local validation list comprising documents relevant and proportionate to the scale and type of development. Given the issues related to basements the Council considers it is important to consider these issues at the start of the planning application process. There will be a fees charged to the applicant for vetting the CTMP and the Demolition and Construction Management Plan (DCMP). The applicant will also pay for the Engineering design and Construction Statement to be checked by the second engineer. Therefore the costs will be covered by the applicant. |
| Appendix C General | Vanguard Working Group (John Simpson) | <p>Consultation Process</p> <p>The final version of the Basement Impact Assessment should be made available to the public with sufficient time in advance of any planning decision to enable them to be properly considered. Last minute changes should not be allowed.</p> <p>Where subsequent changes to the BIA of a major nature are requested (for example to the DCMP or the CTMP as envisaged under C.15 and C.21) there should be further public consultation.</p> <p>For the pre-application consultation applicants should be encouraged to make available detailed plans and other information. They should also provide details to the Planning Department of the nature and extent of their consultation.</p> <p>Consultation would be helped if developers were required pre validation to place an informative board outside the property giving a graphic description of the proposed development.</p> | The requirement is that the BIA is submitted with the planning application and therefore becomes a public document once the application is validated. Public can comment on these documents as they can on any aspect of the application. If major changes are needed the application can be refused for example on transport grounds. The requirement to have these documents at the start of the process with prior agreement of the transport and environmental health teams is designed to encourage the applicants to consider the range of issues at the beginning of the process and to raise the standard of the submission. Para 4.17-4.19 of the draft policy document outlines the Council's emphasis on pre-application consultation by applicants. Whilst the Council cannot require the applicants to undertake this pre-application consultation, it is considered that documents such as CTMP will not be of a high standard if they are produced in isolation with no public consultation. |
| Appendix C General | Milner Street Area Residents' Association (Richard Grantley) | <p>Joined up approach to consultation and planning approval</p> <p>1. We agree with the proposal to require additional Basement Impact assessment (BIA) documents to be submitted at the time of the application. Some of these involve other departments of RBK&C (e.g. Highways, Environmental Health and Building Control). It is important, therefore, that requirements relating to other departments are included in and subject to the same Planning Approval process - i.e. included in public consultation and subject to approval through/via the Planning Department. Any changes to any of these documents would be subject to the same Planning Approval process.</p> | Support for the BIA is noted. The documents once submitted as part of the planning application will be available for public comment. The prior approval by other relevant department will help raise the standard of the submitted document but will not preclude them from public consultation as part of the planning application. |
| Appendix C General | Bell Cornwell (Tracey Rust) | <p>NPPF & Streamlining the Planning Application Process</p> <p>Paragraph 193 of the NPPF advises that local planning authorities should "..... only request supporting information that is relevant, necessary and material to the application in question".</p> <p>Much of the information being requested under the new draft policy is not material, not relevant to planning and therefore not necessary. Furthermore it flies in the face of the Government's draft policy to reduce the amount of information applicants need to provide with applications.</p> | Basements are more complex projects and raise issues not encountered in above ground development. At the heart of the NPPF is a presumption in favour of sustainable development. The Council currently requires the CTMP and the Construction Management Plan through planning conditions. The proposals to make this information part of the planning application will support the applicant to demonstrate that the proposals are 'sustainable development'. |
| Appendix C General | The Chelsea Society (Terence Bendixson) | <p>We support:</p> <p>The requirement on applicants to have detailed documents 'up front'.</p> | Noted. |

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| Appendix C General | The Chelsea Society (Terence Bendixson) | <p>viii) Teamworking</p> <p>The vetting of basement applications requires inputs from Council staff involved in planning, historic conservation, traffic, structural engineering and so on. Given the complex problems raised by applications that involve basements, we urge the Council to consider setting up, under senior officers, joint teams composed of a case officer, structural engineer, traffic engineer and conservation officer. A key role of such teams would be examining 'up front' construction and traffic documents.</p> | Noted. The Council has existing processes in place to co-ordinate the workings of various departments and these are considered adequate. |
| Appendix C General | Ladbroke Association (Sophia Lambert) | <p>22. We are disappointed that the Council has failed to pursue a number of other proposals that we have put to them, including the following.</p> <ul style="list-style-type: none"> - Making use of Section 106 agreements to alleviate community problems during construction. We have for instance suggested that agreements under S. 106 could pay for a dedicated officer to facilitate the resolution of problems during the construction phase (with each developer paying a small sum that would go towards the officer's costs); and/or for the Council employing their own engineer to validate the proposed EDCS and CTMP. A S.106 agreement could also be used to obtain an undertaking from the developer that, in the event of really major damage to neighbouring properties, he will pay for an independent structural engineer (approved by the Council) to make a study of the cause of the major damage, with a view to benefiting the community by showing how this could be avoided in future. -Requiring contractors (and all sub-contractors working on the subterranean excavation and construction part of the project) to belong not just to the Considerate Constructors Scheme, but also to an appropriate specialist body such as the Association of Specialist Underpinning Contractors. There is a general view among the experts that the majority of problems caused by basement development are caused by faulty work procedures by and insufficient supervision of non-expert contractors and sub-contractors. We have no reason to doubt this view, and none of the changes proposed by the Council really address it. At the very least, contractors and sub-contractors should be required to belong to a relevant professional body. -Requiring developers based overseas to appoint a valid agent in the UK who can deal with all matters on their behalf before and during the whole construction period and for 12 months thereafter. Even if it is not considered possible to make this a planning condition, this could be pressed by the Council as good practice. <p>Council expertise</p> <p>23. We are concerned as to whether the Council will have the expertise to check the detailed documentation that it is rightly proposing to require. We accept that safeguards will be built in in, e.g. the requirement for sign-off by a second structural engineer (who must be independent of the developer). But even under the present less demanding regime of construction method statements, we have seen statements passed that are quite obviously inadequate even to the non-expert (a matter about which we shall be writing separately). Our strong impression is that in some cases all officers do is go through a box-ticking exercise to check that the required matters are mentioned.</p> <p>24. We understand that the Council's previous experience is that employing their own engineer does not add value. Nevertheless, we think this should be looked at again and the possibility considered of using section 106 to raise a levy which could be used to employ a suitable expert to check the adequacy of the documents tabled by basement developers, in particular insofar as they impact on the neighbours, for the good of the community.</p> | <p>We are considering using s106 monies for additional resources. The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. Requiring the other suggested proposals would be beyond the proper remit of the Planning Act. The Council has produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> <p>The Council cannot require owners to appoint UK based agent.</p> <p>The current system of validation will be improved with the greater checks required before submitting the planning application are designed to raise the standards of submission.</p> |
| Appendix C General | Schamroth & Harriss (James Harriss) | <p>the Council's requirements for 'additional' material at planning stage are already more onerous than most other local authorities; we doubt that they achieve anything except to make the planning process more complicated and expensive and the proposed requirements will have the same effect the Government's stated aim is to make the planning process simpler; many of the proposed policies seem to go against this</p> <p>We urge the Council to keep a sense of proportion in its policies for dealing with what are generally straightforward proposals for domestic extensions.</p> | Noted. Basements underneath existing buildings are more complex and challenging than above ground extensions. The Council's requirements are considered proportionate to this. |

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| Appendix C General | King Knight Build Ltd (King Knight Build Ltd) | <p>My client, Knight Build Ltd is a successful building contractor with extensive experience in the construction of deep basements within central London and wholly understands and supports the introduction of new planning policies which seeks to ensure that new subterranean construction is sensitively designed in order to minimise the adverse impact of this form of development.</p> <p>With this in mind my client would wish to express his particular support for the proposal for the introduction of a requirement for any planning application to be supported by a detailed Basement Impact Assessment.</p> <p>Irrespective of this emerging policy requirement it is clear to my client that there is a real need for both his own company and other responsible contractors to be able to offer residents and property owners the security of a structured system of certification to validate the technical adequacy of proposals for basement construction.</p> <p>Very high quality geotechnical expertise is now available which allows accurate prediction, and more importantly, accurate control of the physical impact of proposed subterranean development and there are a number of well established methodologies for the safe construction of deep basements which reduce and minimise the impact of construction works on the amenity of local residents.</p> <p>With this in mind, my client is currently working with the Building Research Establishment (BRE) and a number of technical specialists to seek to develop a protocol for the design and management of deep basement construction and an appropriate system of independent validation and certification.</p> <p>In this regard I have enclosed with this letter a short email from the Building Research Establishment which provides an update in respect of the trusts progress in seeking internal approval for the establishment of a scheme of certification for basement construction.</p> <p>My clients initial view is that any such system of certification should encompass analysis of a number of key aspects of project design and implementation which extend beyond the proposed requirements set out within the public consultation draft of your policy.</p> <p>In particular, my client would respectfully suggest that your new policy should include a requirement for the independent certification of contractor competence and experience together with a certified system of site monitoring and on-site control of construction works.</p> <p>Clearly, both building control and party wall procedures provide established systems of regulation during the construction phase. However, my client considers that the current policy review provides an opportunity to bring forward a more intensive and independently verified system of on-site monitoring which would give enhanced security and peace of mind for local residents.</p> <p>Whilst acknowledging the need for planning controls to be both reasonable and enforceable my client would ask you to consider the possibility of a mandatory requirement for development of this type to be accompanied by an appropriate financial bond designed to guarantee the proper protection of the interests of adjoining residents.</p> <p>In this regard I am writing to enquire whether it would be helpful for you to meet with my clients technical group and the Building Research Establishment in order to discuss the possibility of the development of a protocol and system of independent validation and my clients proposals for establishment of a specialist professional body to provide pre-assessment and certification of contractor competence.</p> <p>In seeking to establish a professional body of this type (The Confederation Of Basement Constructors) my client is seeking to go beyond the establishment of a simple self regulating trade body and by working with the Building Research Establishment he is seeking to provide an open, inclusive and genuinely independent system of third party audit and certification which will ensure that all the individuals, contractors and sub-contractors involved within basement projects are suitably qualified and that the very best standards of engineering and construction work are achieved.</p> | Noted. A meeting with the BRE to explore a certification scheme has been organised. |

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| Appendix C General | PTP Architects London Ltd (Satish Patel) | <p>Other points</p> <ul style="list-style-type: none"> -The requirement of additional documentation and reports should take into consideration that no contractor would be appointed till such time the applicant decides to proceed with construction. -Similarly the party wall process and consultation can only proceed if the construction is to commence. -Guidance on highway concerns should be clearly defined and ideally a typical format of the highways statement should be available for all to be used as guidance in finalising any such documentation. - The whole process of basements should be more easier and well defined so the process of the application is much smoother for all concerned. | Noted. The requirements would help raise the standard of proposals. As basements underneath existing buildings are more complex and challenging than equivalent above ground developments it is important that these issues are properly thought through right at the beginning of the process. |
| Appendix C General | The Kensington Society (Anthony Walker) | <p>5 Technical documents</p> <p>The Society strongly supports the submission and approval of Construction Traffic Management Plans and Construction Method Statements with all applications, and that developers should consult of these as part of any pre-application consultation. However this must be more than a tick box exercise. Because they will then form part of the approval the CTMP and the CMS must be examined to ensure that there is a full risk assessment to ensure that account has been taken of all eventualities, that the management process has been fully considered and that they are specific to the particular site and area.</p> | Noted. The proposals require checking/ vetting of these documents prior to the submission of the planning application. This will help raise the standard of proposals. |
| Appendix C General | Kings Road Association of Chelsea Residents (James Thompson) | Providing more information when the application is submitted is welcome. | Support noted. |
| Appendix C General | Preety and David Hudd | In addition, the current application for planning seems to be rather duplicative. Some of the information required by RBK&C Council during the initial stages of a planning application is normally covered at a later date by other departments of the Council once planning permission has been granted. For example, the Council requests structural information which is entirely unnecessary, as the Environmental Health Department and the Building Control Department are obliged to deal with the same point at a later stage. | Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The requirements are considered proportionate to the complexity of basements. These will ensure that proposals are thought through in detail from the outset and raise the standard of the planning applications. |
| Appendix C General | Edward Barker | <p>When and what information needs to be provided in an application</p> <p>The changes will introduce more upfront expense and risk to clients when submitting basement applications. As well as a slower process to prepare info upfront, we are concerned that applications may take longer by the time they are approved by all departments.</p> <p>The request to provide reports such as the Basement Impact Assessment, at an early stage is likely to require a contractor to be appointed even before submitting for planning, to assist with info requested. This is logistically difficult.</p> | <p>Noted. The planning application process will not take any longer as the 'vetting/approval' by other departments should take place at the pre-application stage.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The requirements are considered proportionate to the complexity of basements. These will ensure that proposals are thought through in detail from the outset and raise the standard of the planning applications.</p> |
| Appendix C General | Milan Seckovic | In addition, the current application for planning seems to be rather duplicative. Some of the information required by RBK&C Council during the initial stages of a planning application is normally covered at a later date by other departments of the Council once planning permission has been granted. For example, the Council requests structural information which is entirely unnecessary, as the Environmental Health Department and the Building Control Department are obliged to deal with the same point at a later stage. | Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The requirements are considered proportionate to the complexity of basements. These will ensure that proposals are thought through in detail from the outset and raise the standard of the planning applications. |
| Appendix C General | Pole Structural Engineers (Simon Pole) | My practice routinely provides a basement impact assessment for such basements and I would welcome this concept being extended so that the design engineer can demonstrate the practical and safety issues for the construction itself. The additional recommendations for a Engineering design and construction statement (EDCS) is welcomed. | Noted. |

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| C.22 | Vanguard Working Group (John Simpson) | C.22 Compliance with BREEAM should not be seen as a licence to carry out an environmentally unfriendly development. It should be combined with a requirement (i) to limit the extent of excavation and demolition in order to reduce environmental impact, and (ii) to show how environmental impact of construction will be minimised. | Basement developments will be subject to other policies in the development plan including London Plan Policies on climate change and specifically Policy 5.3: Sustainable Design and Construction and Policy 5.16 Waste Self-Sufficiency. |
| C.23 | Thames Water Property Services | Appendix C Section C.23 - Thames Water commend the requirement for a Flood Risk Assessment. As noted above, the current work on comparing the hydraulic model of the sewerage network with the surface water management plan needs to help redefine Flood Risk Zone 2, 3 and Critical Drainage Areas and therefore influence when a Flood Risk Assessment is required and as set out in relation to Paragraph 4.13 further guidance is required about climate change. | Noted. |
| C.25 - C26 | Thames Water Property Services | Appendix C Section C.25 - As noted above, due to the impact of urban creep in this area over the last 40 years, Thames Water consider it essential for basement development to be limited to within the footprint of existing buildings in Flood Risk zones 2, 3 and Critical Drainage Areas. Reference needs to be made to the forthcoming National SuDS Standards and the London Plan section 4A.14. | Noted. The study that shows urban creep in the Borough referred to by Thames Water is based on comparisons in aerial photography between 1971? And 2007. Basements under 1m of permeable soil would not show up in this study. The study period is 40 years while the popularity of basements is a more recent phenomenon. It is not clear what proportion of this urban creep identified in the study comprises basements (if any). Does Thames Water have further details on the contribution of basements in 'urban creep' as opposed to above ground development? The Council is revising the draft policy to limit the extent of garden coverage to 50% which will enable flexibility of planting major trees. Policy CE2 of the Core Strategy specifically deals with flooding issues and includes reference to London Plan hierarchy. |
| C.27 | Vanguard Working Group (John Simpson) | C.27 The Arboricultural Report should address whether the requirements of para c. of new CL7 are met and should extend to trees both in the application property and surrounding it. | Any trees likely to be affected by development will need to be included in the arboricultural report. Policy CR6: Trees and the requirements of the SPD on Trees and Development will apply to basement developments as they do to any other developments. |
| C1- C2 | Vanguard Working Group (John Simpson) | C.2 A BIA should be required for extensions to existing basements as well as new basements. | Yes, this is the intention of the draft policy. |
| C11 - C17 | Guy Mayers | 6. "How long, Oh Lord, how long" must the neighbourhood put up with the noise, dust, traffic, vermin etc? Is it sufficient that (a) the applicant can name their construction timing and (b) that there is no sanction should that be overshot? Would this be addressed if RBK&C were to require a substantial deposit with each application to be returned providing the conditions of the CDMP were met? | It is outside the remit of the planning system to require construction to be completed within a specified period. A good CTMP and DCMP should address traffic, noise and dust related to construction. |
| C11 - C17 | Vanguard Working Group (John Simpson) | C.12 The DCMP should also include details of all proposed excavation and structural demolition, together with volume calculations. | Noted. |
| C11 - C17 | Studio Indigo Ltd (Doug Indigo) | The success of a basement construction is often down to the experience of a contractor and his team, unsuccessful basements are usually as a result of inexperienced contractors appointed by owners who want a cheap job. Perhaps a scheme can be developed like the 'Considerate Contractors Scheme' especially for basements constructions. | Appendix C, para C.14 requires registering the site with the Considerate Contractor Scheme |
| C11 - C17 | Sam Gordon Clark | Considerate builders scheme: This is a joke. Who notices any difference in behaviour between those who advertise their membership, and those who don't. There is much anecdotal evidence of abusive workmen - ask a traffic warden. | Noted. |

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| C11 - C17 | Ladbroke Association (Sophia Lambert) | 15. Increasing problems are being caused by cases where several major works are taking place in the same street. This can lead to streets being regularly blocked or semi-blocked because of multiple uncoordinated lorry movements. It is not enough for CTMPs to be required to take account of other developments for which permission have been given as there is no knowing what order the works will be in. A system must be devised for ensuring that, when the construction phase is reached, traffic movements and the taking up of parking places is coordinated so as to reduce the inconvenience, even if it means that construction on a second or third project may need to be delayed. A planning condition should require developers to accept restrictions imposed by the Council where this is necessary. This is also an area where all developers carrying out works in a street or area could be required to enter into a Section 106 agreement to finance the setting up of a Council-led liaison group or a monitoring officer to deal with these problems. | CTMPs are required to take account of other developments and in some cases this may mean a delay in implementing the project. These issues will be considered in detail in the revised basements SPD. |
| C11 - C17 | Pyramus & Thisbe Club (Andrew Schofield) | There are a number of well established and professional considerate contractors who undertake basements on a day to day basis and their involvement results in little or no damage and much reduced inconvenience, distress etc to neighbouring owners/occupiers. The reverse is evident where a more cavalier attitude is taken towards neighbourly relations and contractors are appointed mainly on the basis of price in place of ensuring there is considerable experience in dealing with the complex nature of basement construction. Taking into consideration the above there is much misunderstanding as to what powers there are in the Party Wall etc Act 1996 and how the surveyors who administer the process should act. | Noted. |
| C18 - C21 | Vanguard Working Group (John Simpson) | C.18 The CTMP should relate to the whole development project, not just the excavation or basement extension as has sometimes been past practice. C.20 Coordination should extend to neighbouring or nearby development sites and the method of coordination should be spelt out and the cumulative effects of other developments should be specifically assessed. The requirement to keep informed local residents and to deal with complaints should not be a box-ticking exercise: details should be spelt out. | The detailed requirements of the CTMP will be included in the Basements SPD in due course but will relate to the whole development and not just the basement extension. The CTMP does consider other development sites. The Council emphasises consultation with the local residents. |
| C18 - C21 | Milner Street Area Residents' Association (Richard Grantley) | Construction Traffic Management Plans (CTMPs) 1. We welcome the proposed requirement for Construction Traffic Management Plans (CTMPs) to be submitted with all applications for basement developments. 2. Criteria for acceptability of CTMPs need to be made clear and published by RBK&C. We welcome the proposal (C.20) to set out the detailed requirements of the CTMP in the Basements SPD. 3. In paragraph C.20, the term "adjacent site" needs to be clarified. 4. CTMPs should be included with planning documents and considered as part of public consultation process and the decision by the Planning Committee. 5. The Draft Policy proposes (paras 4.11 and C.18) that the CTMP must be approved by the Director of Transportation and Highways before being submitted with the planning application. If this is done, the CTMP should still be included in the planning application documents and the public consultation. A previous sign-off by Highways should not override any possible objections by the public when the application is considered for approval by the Planning Committee. 6. The unacceptability of a CTMP must be grounds for refusal of the planning application. 7. If a CTMP has been approved as part of planning application, the Council must enforce it. The Draft Policy proposes that CTMPs are enforced by planning condition. It must also be made clear to the public who in the Council is responsible for the enforcement, and that they have the power to stop the development if the condition is not met. (In the past, complaints from neighbours about non-compliance with CTMPs have not been adequately followed up and enforced.) | Comments 1 and 2 are noted. 3. Term 'adjacent' site will be clarified. 4. This is the intention of the draft policy. 5. The CTMP will be subject to public consultation as part of the planning application and prior approval by highways will not override and valid objections. 6. Yes, the proposed process will enable this to happen where relevant although the process is designed to raise the standard of the submission |

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| C18 - C21 | The Markham Square Association (David Cox) | <p>Appendix C Para C.18</p> <p>We consider from our own experience that greater scrutiny of CTMPs is required. They must be genuinely analysed against guidelines and must not be the subject simply of a "box ticking" exercise. All works and associated storage must be limited to the curtilage of the property being developed, or, at most, to one space immediately outside the property being developed. They must ensure that traffic delivering and removing materials to and from the site is restricted to space next to the curb immediately outside the property being developed. The CTMP must apply to the whole of the proposed development, not just the basement development.</p> <p>Appendix C Para C.21</p> <p>More vigilant enforcement of planning requirements and conditions is required. If necessary, more staff should be employed. Where the applicant wishes to amend any of its planning documents (EDCS, DCMP or CTMP) or any planning conditions, a further public consultation should be required. (It is not clear from the wording in paragraph C.15 and C.21 whether this is what is proposed.)</p> <p>The Council must also take into account the cumulative effect of more than one project in a defined area and the effect of the simultaneous execution of projects. This must be addressed in the planning documents (especially the CTMP) and the planning conditions.</p> | <p>Noted.</p> <p>Appendix C Para C.18 - The prior 'vetting/approval' of the CTMP is intended to allow greater scrutiny of the CTMP. People will be able to comment on the CTMP as part of the planning application process.</p> <p>Appendix C Para C.21 - These issues will be considered in detail in the revised basements SPD. The CTMP does consider other development sites.</p> |
| C18 - C21 | The Kensington Society (Anthony Walker) | <p>In particular the Council should, in line with the Transport SPD, ensure that wherever possible that the works, including any skips, plant and materials storage or work space are kept within the site, any traffic to deliver or remove materials from the site should stand next to the kerb, and the applicant must demonstrate a strategy to deal with any other construction activities along the road or nearby roads so that the cumulative impact does not cause additional disturbance or disruption to the community or through traffic. The practice of not requiring parking suspension for single yellow lines needs to be removed and all skips or hoarding spaces on the highway should require permission. At all times access for emergency vehicles must be maintained. A standard list of headings should be established. This should be incorporated in revision of the Transport SPD.</p> | <p>Noted. These issues will be considered in detail in the revised basements SPD.</p> |
| C3 -C10 | Vanguard Working Group (John Simpson) | <p>C.5 What happens if the applicant subsequently decides to adopt a completely different engineering solution? This must be addressed, otherwise the EDCS may become a charade.</p> <p>C.9 The words 'adjoining' and 'adjacent' are unduly limitative. Replace by 'neighbouring'.</p> | <p>The planning system is not designed to deal with enforcing the EDCS. The Council has produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> <p>These issues will be considered in detail in the revised basements SPD.</p> |
| C3 -C10 | Edward Manisty | <p>C , December Note paras 4.4 , 4.9 and Appendix C 8 -the proposed EDCS procedure and related matters.</p> <p>3.1 The proposed new "up front" EDCS procedure is presented as providing an enhanced level of comfort to owners on the structural stability front , primarily because the EDCS would have to be signed off by two structural engineers .</p> <p>3.2 This is a false prospectus, in the light of the proposed removal (see part B above) of RBKC's existing unlimited responsibility, as outlined in part A above, to ensure the continued structural stability of adjacent property. Under the proposed new regime such matters would be delegated wholly to the two structural engineers retained by the applicant , in circumstances where in operating the relevant registration/validation procedures (as to which see the Subterranean Development SDP- Adopted May 2009,particularly at the Executive Summary, Flowchart and paras 1.1.5 and 6.1. 3 and the Validation Requirements 2011- Local Validation List and its APPENDIX-Validation Requirements 2011- Explanatory Guidance,) the Planning Dept routinely fails to give submitted applications for basement development and supporting materials even the most cursory examination prior to registration of the application .Thus even the inclusion among the papers submitted of reports expressly called for by policy guidance is often not checked , and little if any , consideration is given to the contents of reports that are submitted and their adequacy in properly addressing relevant policy guidelines .The registration/ validation process appears in practical terms to be little more than uncritical "rubber stamping". I speak from personal experience of such failings in regard to the applications for basement development made last year for 109 Ladbroke Road (one) and 113 Ladbroke Road (five), and can point to at least two other recent cases of basement</p> | <p>The Council does not have 'unlimited' responsibility to ensure continued structural stability of adjacent property. The Council requires a Construction Method Statement but the planning department cannot enforce this.</p> <p>It is proposed that such matters are checked by two separate 'chartered' engineers. While paid for by the applicant the chartered engineers are bound by their 'professional code of conduct' and would have professional indemnity in place.</p> <p>There is scope to improve the existing system hence the proposals to require checking of these technical documents before planning application is submitted.</p> <p>These issues will be considered in detail in the revised basements SPD.</p> |

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| | | <p>development where I am aware that similar failings in the registration/validation process arose .</p> <p>The most overt confirmation of this unfortunate state of affairs is shown in an internal message passing between officers in the Planning Dept relating to the basement application for 109 Ladbroke Road (PP/12/02421). It is from Luke Perkins (Development Manager Team Leader North) to Nathan Barrett (Senior Planning Officer : Team North) , in circumstances where the Application had been received on 18 June 2012 and registered on 9 July 2012. The message was sent some two months later on 13 Sept 2012 , and reads :</p> <p>"Nathan, I have had a look at this and Graham has asked me to double check. Main thing really is : can you tell where they have addressed the 10 bullet points from section 6.1.3 of the SPD in their various CMS documents?</p> <p>If this is not clear to you, challenge the agent to get the engineer to spell it out in an email or letter. Otherwise it is very easy for Mr Manisty (or others) to claim the CMS is inadequate.</p> <p>Having looked at itl can't see any calculations.</p> <p>Doing this will save a lot of trouble at committee (and at the JR...)</p> <p>Luke"</p> <p>["Graham" is presumably Graham Stallwood, Head of Development Management, RBKC and "the JR" presumably relates to the prospect of judicial review proceedings being brought against RBKC . The message may be accessed on the Planning Web pages for the 109 Application, being the first of the Officer Notes published on 22 Oct 2012 under the designation "Various".]</p> <p>3.4 The introduction of the requirement that the EDCS documentation should be signed off by two structural engineers , both of whom would be the agents of the applicant , is unlikely in practical terms to afford much comfort to adjacent owners , and indeed is likely to make it more difficult for them to challenge effectively doubtful or erroneous conclusions of the two agents of the applicant, rather than the single such agent under the current dispensation . Councillors may conclude that any such problems might be overcome by putting forward alternative procedures relating to the two structural engineers mirroring those in place under the Party Wall Act. Ie. Adjacent owners would be given the right within a short defined period to nominate a structural engineer to sign off the EDCS on their behalf . Such a nominee would be the agent of the nominating adjacent owner , but fees would be underwritten by the applicant , who if a nomination was made would only be required to retain a single structural engineer himself. If no such nomination was made by an adjacent owner within the defined period then the applicant's two appointees would be charged with carrying out their responsibilities having regard to the interests of both the applicant and adjacent owners.</p> | |
| C3 -C10 | Edward Manisty | <p>3.3 The suggested EDCS ,which, entirely constructively, it is proposed shall contain a considerably expanded range of technical information that will need to be absorbed and checked by the Planning Dept at the registration/validation stage , will make no real impact , unless something radical is done to strengthen the registration/validation process at the Town Hall. In this respect I suggest Councillors should insist that if the new regime is adopted the registration/validation procedures are meaningfully strengthened within the Planning Dept so that any EDCS submitted is subjected to genuine and detailed vetting before the application is registered, and not as now, routinely "rubber stamped". The best way of achieving this might be for RBKC to employ one or more qualified structural engineers to supervise such vetting.</p> | <p>The existing validation process does not enable the quality of the submitted documents to be checked at validation stage. The information is subject to detailed scrutiny as part of assessing the planning application. However the proposed requirement for the EDCS to be signed off by two separate engineers will help raise the standard of the information submitted with the planning application. The engineers will be bound by their professional code of conduct to undertake a fair assessment of the proposals.</p> |
| C3 -C10 | Sinclair Johnston & Partners (Thomas Musson) | <p>As rightly identified the projects which receive most adverse attention, and are indeed in the minority are those which are "poorly designed, poorly planned, poorly managed or poorly constructed".</p> <p>We, therefore, support the most important aspect to address this which is that a Chartered Structural Engineer or Chartered Civil Engineer with experience in subterranean developments in London should be engaged to undertake the design and monitor the works during construction. However, one aspect is not considered or discussed and that is that many basement developments are undertaken on a "design and build basis" where the Engineer is engaged by the contractor and usually has no responsibility to monitor or indeed visit the site during the works.</p> | <p>Noted. Appendix C, para C.8 (last bullet) states "a chartered or Civil Engineer must be retained to detail the structural works, review the contractor's proposal, method statements and temporary works proposals and monitor the construction.</p> |

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| C3 -C10 | Thames Water Property Services | Appendix C Section C.9 - It would be useful to set out how an individual Basement Impact Assessment should assess the cumulative effect of a new basement on groundwater. | Noted. This would not be a reasonable requirement. |
| C3 -C10 | Ladbroke Association (Sophia Lambert) | 17. It will be important that the EDCS include a clear statement of the amount of damage expected in terms of a recognised scale and that the Council should be prepared to refuse applications that go above a level of damage that experts consider unreasonable. The Baxter Report suggests, reasonably, that when basements are procured they should be designed and constructed to limit the damage to Category 1 and certainly no more than Category 2. See also Paragraph 14.4.1h. | Council response: The details of the EDCS will be set out in the SPD in-line with the recommendations in the Baxter's Report. Alan Baxter and Associates response: Agreed. |
| C3 -C10 | Miss Arbuthnot | You say things about Construction Engineers' reports, but in principle I would have thought that in order to keep the water table as it is, and to make sure that the surrounding land and property remains stable, it would be no bad thing to insist that in all cases of subterranean development columns be sunk at least $\frac{1}{2}$ yard in from the Party Wall, a yard apart, surrounded and filled with concrete $\frac{1}{2}$ yard deep/thick (a suggestion put forward by my brother). One of your appendices says that about a third of the neighbours who responded to your questionnaire had had party wall agreements, with one in five reporting that the agreement had not been adhered to, and that of the RAs, over half of those who had entered into Party Wall Agreements were unhappy with the outcome. If you put in a condition such as this to support the Party Wall it could help to obviate some of the difficulties. | Noted. It will not be possible for planning policy to specify such details which are better dealt with by a structural engineer. |
| C3 -C10 | Card Geotechnics Limited (Nick Langdon) | We would also ask for the Council to give careful consideration to those undertaking the EDCS. Particularly, who signs these off and indeed the enforcement of the policy. We would welcome this process overall and hope that it will be enforced to ensure betterment of the process. We note that it is proposed the EDCS should be signed off by a Chartered or Civil Engineer. We would wish to suggest that this is not a question of "or" and that the appropriate professional is a Chartered Civil Engineer or Chartered Geologist with a minimum of 5 years post chartered experience in Geotechnics. This would bring them in line with the defined Association of Geotechnical and Geo-environmental Specialists (AGS) grade of Geotechnical Specialist recognised by various bodies. We are seeing poor quality documents elsewhere being signed off by those with less educational and professional experience that do not comply with CPG4 and are concerned. In the long run an approach that doesn't enforce the signing off criteria will be to the detriment of the Councils experience in matters going forward. Some of our senior staff act as reviewer and examiners for both the CEng and CGeol professional qualifications and our consensus would be that such responsibility with the EDCS demands the professional credibility that chartered status develops. There remains, too, the issue of the detail the EDCS requires at a relatively early stage of the planning process and the implied financing needed for individuals applying to sustainably improve their own property. Prediction of ground movements requires investment in a good intrusive ground investigation which is not easily achievable in some sites without disruption compatible to the actual construction process. Secondly it also requires significant structural design and knowledge of the construction process to be used to provide the meaningful predictions of ground movement the process rightly demands. It represents a costly process for the relatively modest and sensible developments the Borough may be asked to look at amongst the more involved ones. To this end it may be less intimidating to individual householders to have a two stage EDCS. The desk based scoping and scheming stages with an initial, but numerated ground movement impact assessment, which is acknowledged to set a worst case scenario for Damage Category limitations would form the first stage to be considered and signed off. This staging allows the more mundane project to proceed at reasonable cost and the grandiose to actively consider implications to neighbours. Following this initial phase the second phase, one of intrusive investigation, uncovering, structural scheming in detail and the construction methodology can be worked up for something that has been "Considered in Principle". This second stage is then "Approved" setting the original prediction against the more detailed and specific design proposals signed off by appropriately qualified professionals. It could be that the process is flexible enough to allow the larger commercial projects to run a single combined stage application. Clearly the Council will require outside assessment on the more complex proposal but here again the first stage could be accommodated in-house with some experience and training and only the more complex or those that depart significantly from the initial considered stage require external verification. | Noted. These issues will be considered in detail in the revised basements SPD. |
| C3 -C10 | Tony Holt | C.3. page 26. This EDCS is excellent and needs to be done carefully before the application is submitted. | Noted. |

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| C3 -C10 | Pole Structural Engineers (Simon Pole) | <p>Many homeowners do not appoint party wall surveyors and many surveyors lack sufficient construction knowledge to deal with these matters. Unless more robust measures are put in place by the party wall profession, and more neighbours appoint appropriately experienced surveyors, it may be necessary for RBKC to demand particular foundation solutions such as the examples in the appendices, avoiding Special Foundations. Some engineers have commented that they do not like prescriptive designs being proposed, but until such time that the industry fully understand the party wall limitations for neighbours, with regard to Special Foundation, I consider this very necessary. This is a difficult point to communicate easily and quickly in writing so would be pleased to discuss any issues arising.</p> | <p>Noted. The Council cannot require specific foundation types in the planning policy as this is outside the scope of planning regulations.</p> |
| C3-C10 | Christopher Hunt | <p>2 - Strengthen the CMS policy language to prevent abuse and to make the CMS more rigorous.</p> <p>The CMS approach has the potential to be a very effective policy tool. But as it is currently being implemented, the CMS has become a less meaningful "check the box" exercise that is providing false comfort. In our view, there are four primary reasons for this.</p> <p>First, in our case there was no condition requiring that the applicant follow the CMS when building the project, thereby giving the applicant wide flexibility to take approaches quite different than those represented to gain approval. In our case the Applicant represented in the CMS that the work would be done by a firm of high credentials (Alan Baxter) and that certain supervisory steps would be taken. In approving the project, the Councillors on the PAC specifically stated that their approval was based on the reputation of the contractor, as well as from personal assurances given by the constructor and architect during the PAC meeting about the specific oversight they would provide. Following approval, however, we have been told the team has been fired with no indication of who will be replacing them. Because the CMS was not conditioned, the entire story presented in the CMS is now largely irrelevant. One could argue a reconsideration of the approval should now be required given the changes.</p> <p>Second, the current and proposed policies leave the Department with considerable discretion to determine the level of analysis that must be completed to meet the policy intent. In our case, which involved the equivalent of a nearly three storey excavation below terraced properties on three full sides, the final approved CMS had only one single sentence that even mentioned structural stability of neighbouring homes. While the Department considered that to be sufficient, the owners of the neighbouring properties believe considerably more analysis was needed. In our view (which is shared by many in the legal community) the Department inappropriately takes the view that more detailed analysis is not required at the planning stage, arguing that these matters are to be solely left to building regulation or the Party Wall Act. While that reasoning may be suitable for a simple basement, it does not work for larger and more risky projects. It is only at the planning stage that a project can be stopped for judgments made about riskiness, burdens on neighbors, fairness and disproportionate impacts. Neither the Party Wall Act nor building regulations are set up to allow a surveyor or engineer to unilaterally exercise discretion to disallow a project because he/she considers it too risky or inappropriate. We believe planning law allows Councils to require more analysis on critical aspects such as structural stability and the policy needs to require that a reasonable standard of analysis be completed based on the circumstances of each case.</p> <p>Third, in our experience applicants are being allowed to include "aspirational" or unrealistic projections for construction durations, numbers of vehicles, etc. Applicants are not being held accountable for what they promise so they provide estimates that they hope will increase their chance of securing approval. The projections in our case defied common sense yet remained unchallenged by the Department. Without accurate data, a decision to "reasonably" reject a basement as overly burdensome or risky is impossible.</p> <p>Lastly, as indicated above, there is the issue of whether the policy is adequately followed. In our case, not only did the Department not initially require a CMS pre-approval, but the first CMS the Department approved was hastily assembled, non-compliant and contained significant errors. We submitted lengthy comments documenting the problems but not a single change was made. Instead, the Department represented the CMS as being fully compliant and the project was approved.</p> <p>Suggestion: The policy language around the CMS needs to be strengthened, but ideally with the help of external counsel. I am aware the Department has certain views that they say limit what they can/should do to protect residents, but I know from working with external counsel that many believe the CMS can be far more effective and binding than what the Department is doing today.</p> | <p>Noted. The Council cannot condition the CMS as this is outside the scope of planning regulations.</p> <p>The Council is proposing that these documents are now checked by two separate chartered engineers before being submitted to the Council with the planning application. This will allow people to comment on the technical documents as part of the planning application process.</p> <p>The policy is proposing restrictions on the size of basements which in part is based on a precautionary approach to minimise risks associated with constructing basements underneath existing buildings.</p> <p>These issues will be considered in detail in the revised basements SPD.</p> |

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| General Comments | | | |
| General comments - Structural | Gabrielle Teare | <p>This was an issue for me my house has been damaged c £30000 by two basements externally and internally on all 3 floors. It is a historic house and old and previously had no cracks now I have cracks some floor to ceiling in every room. I could only claim £2000 from my neighbour as his surveyor claimed no damage had been caused so I have been left with a damaged house and severely out of pocket.</p> <p>Your draft document does not address these very real neighbour concerns. it is too difficult to get financial redress via The Party Wall Act unless you go to court. We should not have to go to court because my neighbour undertakes work. It is simply too expensive.</p> <p>What should happen is the neighbour has to have all the neighbours as named parties on liability insurance so they can claim directly without having to hope for a reasonable owner.</p> | <p>The planning system is not designed to deal with these issues. Damage to a property by a neighbour is a civil matter as set out in para 1.22 of the Basements Draft Policy document.</p> <p>The Council has produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> |
| General comments - Structural | Paul Lever | <p>We live in a street, Jubilee Place, where two new basements are under construction, one of them in the house immediately adjoining ours, and a third is subject to a planning application. So we have direct experience of the problems which such developments can cause.</p> <p>We are glad that the Council has at last recognised the deficiencies in the existing policy and the anger which it has generated on the part of ordinary residents whose lives are blighted by basement construction.</p> | Noted. |
| General comments - Structural | Rose Anderson | <p>All I would like to say is that in general I feel some concern when I see more and more basement renovations taking place across the Borough . I feel that the process is undermining in some way the stability of the ground and that what affects one property, or consecutive properties as the case may be, must surely have some sort of knock -on effect on the surrounding foundations and properties.</p> <p>From an engineering perspective I have no experience and maybe my concerns are unjustified, I hope so, but living on the 3rd, top floor of a house in Holland Road, I am aware of the considerable reverberations the heavy traffic outside causes . When the nuclear waste train travels along the line at Olympia late at night it feels like a mini earthquake on the 3rd floor and you can literally feel the house shaking. There are also cracks which appear to be increasing in depth both in the basement and upper level of the property and we have also suffered from sewage flooding into the basement on three occasions in recent years - as have a considerable number of other properties on Holland Road and the surrounding roads, as I am sure you are away.</p> | Noted. The technical report by Alan Baxter's Associates presents useful information on structural issues. |
| General comments - Structural | Nicholas Bell | <p>As your research shows, it is neighbours who suffer when basements are being constructed, and it is they who the council should be protecting.</p> <p>How can the disruption and suffering be minimised? In controlling the way that a basement is constructed, the council should pay attention to the time that the construction work takes. These developments tend to take far longer than other types of construction. I would have thought that the council could agree with the developer how long it would be reasonable for the basement development to complete. Unless the developer could demonstrated that circumstances arose outside his control that delayed the project, the work should be completed within the time allocated. If not, the council should apply a charge for each day that the project overruns until the work is finally completed.</p> | Noted. It is outside the remit of the planning system to require construction to be completed within a specified period. |
| General comments - Structural | Schamroth & Harriss (James Harriss) | <p>We would make the following general observations:</p> <p>basement extensions are now an established and popular form of development and the construction techniques are well developed & understood</p> <p>usually the extent of professional input and contractor expertise are higher on basement extensions than above ground alterations and they are therefore no more likely to give rise to damage to adjoining buildings than other forms of domestic refurbishment.</p> | Noted. Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. There is evidence to show that in many instances where proposals are not executed properly there has been structural damage to properties. |

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| General comments – Structural | Onslow Neighbourhood Association (Eva Skinner) | <p>In its defined neighbourhood the ONA has experienced developments with subterranean excavations in and around Selwood Place, and the proposed deep excavation at Park House, Pelham Street, is also in its neighbourhood. But the greater part of the ONA neighbourhood has Victorian terrace houses laterally converted into flats with communal gardens protected by the London Squares Preservation Act 1932. This greater part of the ONA neighbourhood has been free of proposals for subterranean excavation. It has, however, had a number of cases where extensive internal alteration of a flat, including the total or lateral removal of an internal wall or walls, has produced the same consequences for flats on higher floors or otherwise adjacent as subterranean excavation. In particular, there has been one instance in the ONA neighbourhood where demolition of an internal wall produced an immediate drop (of about one foot) of the floor above. Fortunately the flat above was being prepared for complete internal redecoration at the time and all its furniture had been removed and its usual occupants had gone away, so that no contents were damaged or persons injured. In less fortunate circumstances, that incident could have had horrific consequences.</p> <p>The ONA would therefore like to invite the Council, once it has completed its present review of subterranean excavation, to undertake a corresponding review of the regulation of major internal alteration of multi-storey buildings divided into residential flats.</p> | <p>Noted.</p> <p>Internal alterations to buildings do not require planning permission unless the building is listed. Therefore this can generally not be covered by planning policy.</p> |
| General comments – Structural | Tony Holt | <p>I write to comment on the following papers to do with basements, on which consultation is open until 31 January 2013.</p> <ol style="list-style-type: none"> 1. Residential basement study report 2. Basements- draft policy for public consultation and other matters 3. Alan Baxter Report 2012. <p>Before dealing with each paper in turn, I would like to make several observations.</p> <p>Neighbouring properties. Although much is made of movement due to geological shift and heave, there is very little consideration of consequences for neighbouring properties. Despite the autonomy of responsibility for structural integrity of buildings, there is no reason why neighbours should be expected to live with the consequences of basement works including structural damage to their own buildings, and to have to repair damage after the works are done.</p> <p>Damage. Further, structural damage is defined in para 10.8 page 35 of Alan Baxter's report 1 above as being in excess of 5mm. and anything less as being 'aesthetic' and, by implication, tolerable. But this aesthetic cracking still has to be rectified at great inconvenience and cost to the neighbouring owner. I question whether this risk is acceptable at all and that therefore basement excavation should be banned altogether.</p> <p>Financial protection. There is no mention in these papers of financial protection against the client being unable financially to complete the works. There should be a bond, insurance or funds deposited in escrow before works start to ensure that the excavation works can be complete satisfactorily. This need not include the cost of finishing, but should cover for full structural completion of the works. This was mentioned in the original Ove Arup Report of several years ago, but not mentioned at all in these reports.</p> <p>Compensation. There should be some form of recompense to neighbours for the inconvenience, possibly a lump sum or re-housing in equivalent standard accommodation while the works are on-going. Para 9.9 refers.</p> <p>Long term insurance. Insurance should be taken out at the beginning to last for several years (ten?) after work has been completed. This will allow for owners selling and moving on soon after completion.</p> <p>Multi-occupation. In multi-occupation buildings where properties are often in long-term leasehold among various owners, there should be clear protection of the owners and planning permission conditional on universal agreement of the leaseholders to the works. I have direct experience of this situation which is, at present, deeply unsatisfactory.</p> | <p>Alan Baxter and Associates response: Basements should be designed and constructed so as to limit any damage. If damage does occur, it should be repaired at no cost to the neighbours as required by the Party Wall Award.</p> <p>Alan Baxter and Associates response: This should be covered in the Party Wall Award. Aesthetic cracking should still be repaired and redecorated at no cost to the neighbour.</p> <p>Alan Baxter and Associates response: This can be covered by the Party Wall Award and a reference to this has been added to the report Section 10 of the ABA Report.</p> <p>Alan Baxter and Associates response: This is beyond the remit of the report.</p> <p>Alan Baxter and Associates response: This is beyond the remit of the report.</p> <p>Alan Baxter and Associates response: This is beyond the remit of the report.</p> |
| General comments – Structural | Pole Structural Engineers (Simon Pole) | <p>I write in support of the excellent document referred above.</p> <p>I write as a chartered Structural Engineer and Building Surveyor experienced in Party Wall matters, having dealt with hundreds of basements either as a design engineer or equally as an "advising Engineer" to the party wall profession acting for neighbours of such developments.</p> | <p>Noted.</p> |

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| | | <p>I have written various papers on basements and the specific issues arising from " Special Foundations " (Party wall term frequently referred to in section 10 of the report)) i.e. when reinforced concrete underpinning is used to support a party wall but is integral with the developers building.</p> <p>The Institution of Structural Engineers have asked that I write a book on this all important subject as untold damage is already being caused by joining up our terraces of houses in this complex way, creating future dangers and future redundancy via limitation regarding how our terraces housing stock can subsequently be developed. Unfortunately the party wall profession has not adequately dealt with the matter of Special Foundations and the industry struggles to understand them since the legislation dates from the 1930 and 1939 London building Acts, when today's "integral" basements were probably not anticipated.</p> | |
| General comments - AB Report | Norland Conservation Society (Libby Kinmonth) | <p>Final point: The Baxter report is excellent, and goes way beyond what can be included in the Core Strategy (sorry, Local Plan). But would it not be a good idea to include it as an Appendix that should be followed in detail by any basement applicant?</p> <p>Manpower</p> <p>At the last meeting it was expressed that should be regular on-site inspection by Council planners</p> <p>1) to deal with or respond to residents' complaints and fears</p> <p>2) to monitor the site for irregularities, bad practice and unmanageable levels of noise, pollution and heavy traffic movement.</p> | <p>Alan Baxter and Associates response: Noted.</p> <p>Council response: Noted. The report by Alan Baxter's and Associates is a useful evidence base document. It will be used to formulate policy but cannot be included as an appendix to the Core Strategy.</p> <p>The Council is considering means to secure additional resources for noise monitoring and for the CTMP.</p> |
| General comments - AB Report | Hurst Peirce & Malcolm (Lawrance Hurst) | <p>I write to comment on clause 1.7 and the whole of section 10 in the Alan Baxter Residential Basement Study Report relating to the Party Wall etc Act 1996:</p> <p>Clause 1.7 mentions Section 7 of the Act. This should be section 6.</p> <p>I suggest that clause 1.7 and the whole of section 10 are reviewed by an experienced party wall surveyor, to make sure they address the application of the Act correctly. It is a statutory process and some of the opinions set out in the current draft imply that discretion exists as to how the Act is applied.</p> | <p>Alan Baxter and Associates response: Clause 1.7 refers to Section 7 of the ABA report. It should read section 10 and will be revised accordingly.</p> <p>Section 10 has been reviewed by an experienced Party Wall Surveyor and a number of minor clarifications have been made.</p> |
| General comments - Construction impacts | Guy Mayers | <p>2. As the published comments from Residents Associations and Neighbours makes clear a major problem arises DURING the construction phase when Noise, vibration, traffic and dust are highlighted as problems causing misery to the majority of your electors who were surveyed.</p> <p>3. Despite this the Alan Baxter report para 12.11 is regrettably silent on noise and dust.</p> | <p>Alan Baxter and Associates response: Not part of the scope of the report.</p> <p>Alan Baxter and Associates response: Noise from plant is referred to in 12.11. Report was drafted to cover engineering issues primarily.</p> |
| General comments - Construction impacts | Vanguard Working Group (John Simpson) | <p>Issues of process and enforcement need to be addressed in order to ensure that the new policy will achieve its intended purpose, having particular regard to past problems (highlighted by case studies).</p> <p>Consideration should be given to the requirements for sustainable development within the National Planning Policy Framework. A basement under a residential property in a dense urban area may provide little or no economic benefit to the neighbourhood whilst causing social and environmental damage (see description of economic, social and environmental dimensions in the NPPF Introduction, para 7)</p> <p>The environmental impact of basement works is inadequately covered. Include express obligations to limit the extent of excavation and demolition for environmental reasons and to demonstrate that construction methods minimise environmental impact.</p> <p>The cumulative impact of several projects needs to be addressed more specifically. Currently it is referred to in the supporting text, but nowhere in the proposed policy and only once in the BIA requirements (C.9 in relation to groundwater).</p> | <p>Noted. The NPPF has a 'presumption' in favour of sustainable development. The policy has to balance social, economic and environmental issues.</p> <p>The Basement Impact Assessment proposed in the Basements Draft Policy Document includes many elements that relate to the environmental impact of basements.</p> <p>These issues will be considered in detail when revising the basements SPD. The CTMP and DCMP are required to consider the cumulative impact.</p> <p>It will be made clear that the documents once submitted as part of the planning application will be available for public comment. The prior</p> |

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| | | It should be made clear that fulfilling validation requirements will not pre-empt the decision of the Planning Applications Committee. On the contrary it will enable the PAC to grant or refuse permission on a more informed basis. | approval by other relevant department will help raise the standard of the submitted document but will not preclude them from public consultation as part of the planning application. |
| General comments - Construction impacts | Milner Street Area Residents' Association (Richard Grantley) | <p>Pumps and fans</p> <p>1. There should be no increase in noise from the finished building. (The paper discusses noise from construction work, but not from the completed development.) Subterranean developments are likely to require powerful water pumping and air extraction equipment to be working continuously. These must not be audible in quiet residential areas. The Council's Supplementary Planning Document on Noise (May 2009) already says that "noise emitted by external building services plant and equipment shall not increase the existing concurrent measured lowest LA90(15min) background noise level at any time when the plant is operating". The Draft Policy should emphasise that all basement developments are required to comply in full with the SPD on Noise.</p> <p>2. The SPD on Noise also says that applications where external plant and equipment is proposed should be submitted with a noise survey and a report prepared by a competent acoustician who shall be a member of the Institute of Acoustics, and that recommendations for mitigation, if required, should be specified.</p> <p>3. Any further addition of pumps or fans that were not shown clearly in a planning application and agreed under the SPD requirements, must be subject to a further planning application (and the requirements of the Noise SPD met). It should not be possible for pumps and fans to be added later without permission being required (as seems to be possible at present). (NB: this should apply to other developments as well.)</p> | <p>1. The basements policy does not operate in isolation and all other relevant policies of the Development Plan apply.</p> <p>2. The SPD on Noise referred to applies to basement developments as it does to other developments.</p> <p>3. Planning decisions include a condition for development to take place in accordance with the approved plans. If further additions are not permitted development planning application will be required.</p> |
| General comments - Construction impacts | Nicholas Bell | <p>As your research shows, it is neighbours who suffer when basements are being constructed, and it is they who the council should be protecting.</p> <p>How can the disruption and suffering be minimised? In controlling the way that a basement is constructed, the council should pay attention to the time that the construction work takes. These developments tend to take far longer than other types of construction. I would have thought that the council could agree with the developer how long it would be reasonable for the basement development to complete. Unless the developer could demonstrate that circumstances arose outside his control that delayed the project, the work should be completed within the time allocated. If not, the council should apply a charge for each day that the project overruns until the work is finally completed.</p> | Noted. It is outside the remit of the planning system to require construction to be completed within a specified period. |
| General comments - Construction impacts | Oliver Parr | <p>The excavation of a basement in a contiguous property is one of the most unpleasant things that a resident can experience. Unlike a loud party, an excavation lasts for months, and often years, and causes damage, stress, noise and dirt beyond comparison. Given that nearly all basement extensions add value to a property, it is only reasonable that neighbours who have to suffer the noise, dirt, damage and inconvenience should be compensated. Moreover the amount of compensation should be geared to the time taken to complete the work - with a premium being applied after a certain time.</p> <p>I would like to see the Council properly acknowledge the antisocial nature of basement excavations by stating clearly that it is opposed in principle to them and will only give permission where its powers cannot support a refusal. If it really is beyond the power of the Council to impose compensation (and this I question) then at the very least it behoves the Council to lobby Parliament for changes to be made to planning legislation to provide it with the necessary powers. The Community Infrastructure Levy is ineffective as a means of providing compensation to those affected by contiguous development - indeed that is clearly not its purpose.</p> | <p>Noted. The draft policy includes proposals to address issues regarding the construction impact of basement development. However, as set out in para 1.22 of the Basements Draft Policy document "<i>planning is primarily designed to assess the final physical form and use of a proposed development</i>". The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. Requiring compensation for neighbours is beyond the proper remit of the Planning Act. The Council has produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> <p>The Council has had meetings with the Department for Communities and Local Government to seek changes to the legislation at the national level. However, the Council is required to work within the existing system. The Council cannot impose a ban on basement development in the Borough.</p> |

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| General comments – Construction impacts | Karen Clark | <p>I have two points to make as the consultation period runs out.</p> <p>- There is a need to compensate neighbours with payments when these basement developments are being done. The noise, mess, inconvenience, not to talk about direct damage to neighbours needs to be acknowledged and payment needs to be made. This could be in relation to the cost of the development, so only in the high end developments, say over a million or so.</p> <p>- These basement developments usually are done by very rich people, who usually do not stay in the area long enough to pay full council tax or such when the work is finished. There should be a cost to apply and assess the work when it is in a high end bracket, which would cover for council's cost of checking and supervising the work. So self financing.</p> <p>Best of all would to be lobbying with the Mayor's office for some rights to councils to stop the mad developments that cause misery and long term add to the risk of flooding in K&C.</p> | <p>Damage to a property by a neighbour is a civil matter as set out in para 1.22 of the Basements Draft Policy document. The draft policy includes proposals to address issues regarding the construction impact of basement development. However, as set out in para 1.22 of the Basements Draft Policy document "<i>planning is primarily designed to assess the final physical form and use of a proposed development</i>". The Council considers that the requirements proposed in the draft policy have gone as far as they reasonably can within the remit of Planning Legislation. Requiring compensation for neighbours is beyond the proper remit of the Planning Act.</p> <p>The Council has produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> |
| General comments – Construction impacts | The Chelsea Society (Terence Bendixson) | <p>The role of the Human Rights Act in enabling residents to enjoy their homes.</p> <p>ix) Sloane House and Sloane Lodge, Old Church Street</p> <p>This is a case in which very large basements are being dug in the front and rear gardens of a listed building. The work is expected to take two to three years. The contractors are highly professional and are 'Considerate', but the scale of the civil engineering and the presence of residents in two adjacent houses (one with a party wall) is unfortunate. The Chelsea Society urges Policy Officers to interview Mr Keith Mehaffey on the lessons of this case. He has been obliged to visit on several occasions over the past year.</p> <p>Below is an extract from an email message to Mr Mehaffey following his visit on 29 January 2013.</p> <p>Vibration augmented the noise today. Almost everything in the house that was not well anchored was vibrating; radiator grills, glass, metal, doors not completely closed, decorative objects, vases. It was quite something.</p> <p>The worst thing I have discovered since all this began is an element of chaos that invades the house and the experience that you are actually living in their construction site. The feeling of disorder and disharmony that permeates the entire house due to the extremes of a major construction site unsettles one's daily routine and work.</p> | <p>Noted. The proposed draft policy would enable construction impact to be considered at the beginning of the process.</p> |
| General comments – Construction impacts | Miss Arbuthnot | <p>Have just gone through this in great haste, to meet your deadline, and without reading the other documents I had planned to go through first - but would not have been in time had I read them.</p> <p>In principle, and in general terms, it seems to me that the draft policy is sensible for one-off basement developments, but the problem is that we are having so many of them, with all the related congestion, dust, dirt, noise, destruction of road surfaces, danger to cyclists (sometimes life-threatening) and so on that I would like to ban all further developments for a five-year moratorium, and after that only allow perhaps one a year within a mile radius, the next 'year' not to start until after the completion of the first project - but I don't suppose that is possible. I don't know how to deal with that problem, but others, who have spent more time thinking about it, may come up with some ideas.</p> | <p>Noted.</p> |
| General comments – Sustainability | ESSA (Anthony Walker) | <p>4 Sustainability We consider that the current documents do not take adequate account of the energy used in the construction process. We understand that there is emerging guidance and suggest that the policy should refer to the need to comply with such emerging guidance which will be defined in the SPD or other documents from time to time as necessary</p> | <p>Noted. This will be considered in detail when revising the SPD.</p> |

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| General comments – Sustainability | Ladbroke Association (Sophia Lambert) | <p>1. The Ladbroke Association generally welcomes the draft policy on basements issued by the Council in December 2012, although we believe that in some respects the Council could go further.</p> <p>2. We remain of the view that the principles of sustainable development should be applied to basement developments and that, in doing so, the lengthy construction phase needs to be taken into account along with the long-term effects. As the Council recognises in its Sustainability Appraisal, recent basement development in the Borough has rarely been used to create new residential units, so they do not significantly relieve the pressure on housing. As the facilities are available only to the household, they provide no general social benefits to the neighbourhood, except possibly insofar as the provision of new garaging space relieves pressure on street parking (and this would normally apply only in buildings in multi-occupation or used for commercial purposes). Any economic benefits are limited to the short-term (work on the construction). The environmental dis-benefits on the other hand are potentially considerable. In the short term, only too often there is damage to neighbouring properties and huge disruption to the neighbourhood during the construction phase. In the longer term there is additional energy use (we are not sure that the Baxter Report has taken into account that some of these basements contain quite heavy machinery to manipulate lifts and other equipment) and the potential for additional drainage problems and further damage to nearby buildings.</p> | <p>Alan Baxter and Associates response: This plant may be housed in the basement, but is used for the whole house. It is likely that much of the plant would be provided regardless of the size of the basement.</p> <p>Council response: Noted.</p> <p>The existing basements policy and the draft policy both recognise that the carbon emissions of basement developments are greater than the equivalent above ground development. Therefore the policy requires basement developments to achieve “very good” BREEAM Domestic for Refurbishment standard, or the equivalent BREEAM for non-residential uses, as a proxy to achieve energy savings across the whole building.</p> |
| General comments – Social | Basement Force (Simon Haslam) | <p>Employment in the construction sector</p> <p>The UK is experiencing difficult economic times with continued low, zero or negative growth. The construction sector has been particularly badly affected with the sector losing 60,000 jobs and output falling 9% in 2012. This was on top of job losses and falling output every year since 2008.</p> <p>One of the major contributing factors to the 2011 London riots was unemployment and poverty.</p> <p>It would seem particularly unfair if during these times a council in London were introducing planning policy which sought to reduce employment opportunities.</p> | <p>The aim of the proposed policy is not to reduce employment opportunities but to address a number of issues experienced in this Borough with regards to basement development.</p> |
| General comments – Social | Cranbrook Basements (Ciaran O'Domhnaill) | <p>I believe the pending proposals are unfair and unnecessarily focussed on basement developments. Some of the potential problems discussed with a basement development are not basement specific. Such problems are as prevalent if not more prevalent across the other aspects of above ground development.</p> <p>I would also ask the RBKC take into account all the livelihoods that may be affected by such proposals; both Direct Employees and Sub-Contractors. My colleagues within the basement industry are highly skilled and knowledgeable. They take great pride in their work and do their utmost to ensure successful and high quality projects are completed and delivered. As with any industry there may be a small minority who give the rest of us a bad name. But this would be a lesser percentage within our construction sector versus others. There is a higher barrier to entry into the basement industry for reasons that include Financial, Knowledge and Skill Set necessity. If this is a concern why not set up some kind of an approved contractor scheme.</p> | <p>Noted.</p> |
| General comments – Social | Tessuto (Gemma Gordon-Duff) | <p>General points</p> <p>Employment in the construction sector</p> <p>The UK is experiencing difficult economic times with continued low, zero or negative growth. The construction sector has been particularly badly affected with the sector losing 60,000 jobs and output falling 9% in 2012. This was on top of job losses and falling output every year since 2008.</p> <p>One of the major contributing factors to the 2011 London riots was unemployment and poverty.</p> <p>It would seem particularly unfair if during these times a council in London were introducing planning policy which sort to reduce employment opportunities. This might strike an especially unpleasant note if the wealthiest residential borough in London was driving such a policy.</p> | <p>The aim of the proposed policy is not to reduce employment opportunities but to address a number of issues experienced in this Borough with regards to basement development.</p> |

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| General comments – Social | Cranbrook Basements (Steve Kennedy) | <p>I am writing regarding the recent Basement Consultation Event I attended on 21st January.</p> <p>I would like my following comments noted for further Consultation.</p> <p>I am a Contracts Manager for a Basement Construction Firm.</p> <p>As a high proportion of our projects are in the borough I am very concerned that the changes that are being proposed would dramatically effect not only my livelihood but also that of my colleagues and the many numerous sub-contractors and suppliers.</p> <p>This is even more of a concern due to the fact that most of the personnel and suppliers involved are specialists in their field and only work on these type of Construction Projects.</p> <p>As a Firm we regularly call on the combined efforts/skills of 60 people over the course of a normal project.</p> <p>With us having on average 5 projects in the borough at any one time you are looking at the livelihoods of a few hundred people!</p> <p>Multiply that across the other contractors throughout the borough and you are talking of a few thousand people!</p> <p>I would just like to ask if this has ever been thought of or considered by either the Borough or the Residents ?</p> <p>I think this is even more of a concern in these current tuff economical times.</p> <p>I also thought the Government wanted to ease the planning rules to " Get the Builders Working and kick start the Construction Industry ". These current Basement Proposals all seem to me to be very Contradictory to this view.</p> <p>Please can you forward my comments to all those concerned and I look forward to the boroughs comments regarding my points.</p> <p>As I mentioned at the top of this e-mail please register my comments to the consultation progress.</p> | <p>Noted.</p> <p>The aim of the proposed policy is not to reduce employment opportunities but to address a number of issues experienced in this Borough with regards to basement development. The policy has to find a balance between economic, social and environmental issues in accordance with the NPPF.</p> |
| General comments – Social | Cranbrook Basements (Kevin O'Connor) | <p>The draft proposals are nothing short of an attack on the basement industry which is carrying out an entirely legal process whilst meeting all of its legal obligations. The Local Authority already has very significant powers to control construction operations on a daily basis but it is the failure to exercise those powers which have lead to the complaints of a small number of residents - as evidenced by the tiny response to the consultation.</p> <p>The basement industry employs thousands of 'blue and white collar workers' as well as contributing millions of pounds annually to the Exchequer. Any attempt to restrict the entirely legal enjoyment of individual's rights is to be resisted.</p> | <p>The aim of the proposed policy is not to reduce employment opportunities but to address a number of issues experienced in this Borough with regards to basement development. The policy has to find a balance between economic, social and environmental issues in accordance with the NPPF.</p> |
| General comments | Christopher Hunt | <p>Re: Comments on 2012 Draft RBKC Basement Policy</p> <p>These comments are submitted to be included with RBKC's request for public consultation on its December 2012 draft basement policy.</p> <p>I respond on behalf of several residents who over the past 2 and a half years have challenged a massive and ill-conceived basement proposal. Our basement ordeal involved several legal challenges which required considerable legal input and analysis. As a result of this process, we are highly familiar with the current policy, planning law generally and the practices of the RBKC Planning Department (the "Department").</p> <p>While some of the comments below are somewhat critical, the intent is not to be pejorative. Rather, our goal is simply to highlight flaws in the current approach that we believe urgently need to be corrected. We have no vested interest other than a moral responsibility to help improve policy so that others do not endure the same circumstances as us.</p> <p>Add a step to the policy consultation to gain feedback from residents about how the Department's procedures and practices can be improved to enable better implementation of the policy.</p> | <p>The Council notes the spirit in which these comments are made.</p> <p>The Council is satisfied that its interpretation of what can, and cannot, be achieved through the planning system, through the provisions of the Planning Acts, is correct.</p> <p><i>Basement policy formulation: review of problems.</i> The council recognises the value that the experience of residents living next to basement digs can have in ensuring that a robust and effective policy is drafted. To this end the Council has carried out considerable consultation on this matter. This has included a number of open meetings in which residents and other stakeholders have been invited to comment on the content of the draft policy, and on the associated policy. In addition there have been four meetings of the 'basement working group' set up to discuss the detail of how the prospective policy may work in practice.</p> |

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| | | <p>The new policy will only be effective if it is implemented properly. We believe there have been significant process-related issues with how the Department has administered the current basement policy in RBKC which have led to significant hardship for many residents. These issues need to be fully understood to adapt the policy so as to ensure adequate implementation in the future. If the current experiences of residents indicate significant problems, the policy must either include a defined process to fix these issues or the policy wording must be highly prescriptive so as to remove any potential for further problems.</p> <p>Through our two and a half year ordeal, there were several instances where we encountered violations of the current policy or other issues. For example, the Department initially recommended approval of the massive basement project next to us before the applicant had even prepared a Construction Method Statement (CMS), which is a critical component of an application and is specifically required by policy to be completed before any approval is granted. When an initial CMS finally was completed, it contained numerous errors and omissions which the Department refused to correct despite numerous complaints (see next section). When we were left with no choice but to take our case to judicial review, our legal team documented around 20 significant problems with the approval which caused questionable enforceability of many elements and opened substantial leeway for the applicant to act in ways that would have been inconsistent with the policy intent. After a costly legal process, the approval was struck down by the Court. These are just a few examples of perhaps 10-15 serious problems. Despite numerous complaints, the Department has yet to adequately explain why all these problems occurred or to provide any indication similar problems will not occur going forward.</p> <p>Unfortunately, our experience does not appear to be atypical. I have been contacted by many other residents who have reported similar problems. Indeed, a reading of the 250 pages of written comments in response to the basement survey suggests these problems are widespread. Based on my conversations, I believe there is as much anger with the processes and behaviours that are followed during the approval processes for basements as there is with the physical act of constructing them.</p> <p>When we and others have tried to engage the Department about these problems, we have encountered defensiveness and an unwillingness to engage in a productive discussion or to admit to areas that could be improved. This provides little confidence improvements will be made without intervention. We therefore believe it is critical this be addressed as part of the policy process so as to ensure the new policy is successful.</p> <p>Suggestion: Add a step to the basement policy formulation process that would allow for a review of process-related problems residents have had. This could take the form of a simple one night hearing in which residents are allowed to provide evidence of procedural problems. Alternatively, the Council could ask for written documentation or hold a series of focus groups. The intent would not be to duplicate or rehash all the issues around basements. Rather, this feedback step should be very specifically focused on the issue of process and behaviours. The Council can then use this feedback to either address the issues with changes in the Department, or to insert appropriate wording directly into the policy.</p> <p>Require, directly in the policy, a process to measure how basements are being implemented to create some accountability.</p> <p>One of the most basic traits of human nature is that people exercise greater care when their work is measured and they are held accountable for what they do. Imagine if we built airplanes yet never measured whether they crashed, or if we gave drugs to people yet never kept track of what happened. We would never be assured those responsible exercised the care necessary to ensure standards are met and would fail to learn from failures. Yet this is exactly what we are allowing with basements in RBKC.</p> <p>The Department is currently allowed to approve basements with little to no accountability for what they approve. Similarly, applicants are likewise not held accountable for many promises made during the application process. Planning law allows the Council to establish greater accountability and to track performance to ensure bad practices are stopped and to identify where policy is not working.</p> <p>Had a suitable program been in place these past years, the Council would be much more informed about actual problems with basements. I am aware of three serious basement collapses within just blocks of my house that were not even mentioned in the Alan Baxter study (two resulted in abandonment of the home and major rebuild, one resulted in serious damages). Yet these are not considered by the new policy because no data exists.</p> <p>Suggestion: Add a provision to the policy requiring that all applicants be required to complete a post completion report upon completing works. The report should document all damage to surrounding properties, material problems arising</p> | <p><i>Post completion report:</i> A requirement for applicants to carry out a post completion report relates to procedure rather than policy, and as such does not form part of the Core Strategy review. That said, the council will consider this further, having particular regard to its legality, its reasonableness, and whether the administration will have resource implications.</p> <p><i>Independent critique:</i> The Council recognises that the draft policy will be subject to independent examination by the planning inspectorate before it can be considered "sound" and ultimately adopted. Members of the public and professionals involved in the development of basements can make representations, and where the planning inspector considers it appropriate, will be allowed to appear at the hearings. This is a transparent and open process which will enable all the assumptions of both the Council and of interested parties to be fully tested.</p> |

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| | | <p>during construction, any enforcement actions and any significant material deviations from approved plans/conditions. It should also require that applicants solicit and include input from neighbours documenting any issues. The results should be tabulated annually, with the results used to evaluate the performance of the Department and Council and all the data made publicly available so it is made clear how everyone performed. We have confirmed with legal counsel that implementing a measurement program is absolutely allowed by law. If implemented correctly, it would have no net cost to the Borough.</p> <p>Engage external counsel to provide independent legal challenge on the proposed policy.</p> <p>Anyone familiar with UK planning law knows that it is complicated, intricate and often unclear. Many elements are open to interpretation and there is often no single answer about what is allowed. Over our odyssey, we often heard the Department make claims about what planning law says. These claims were often expressed as absolutes with no room for nuance or interpretation. I personally often found the Department's legal positions biased against residents' rights and, in some cases, not entirely correct. In reading the proposed policy, it appears to me that the proposed policy is being heavily influenced by the same reading of planning law and somewhat one dimensional interpretation.</p> <p>Many believe more can be done legally to protect residents than proposed in the policy. For example, some planning lawyers believe the Department has greater authority to reject highly risky and burdensome basements than it is choosing to use. Similarly, some believe the Department could go further to require that a CMS be more binding. Some would also argue that it would be permissible for the Department to introduce requirements to make up for deficiencies in the Party Wall Act regarding how basements are handled.</p> <p>Suggestion: Given the impact this policy will have on the lives of so many residents, would it not be appropriate to supplement the policy development process by hiring an independent lawyer to critique various elements of the policy and to provide independent legal challenge to the Department's views? The Council should welcome a robust debate rather than rely solely on the views of a few parties in the Department. To ensure this is fair and unbiased, the selection and management of the independent counsel should be done from outside the Department.</p> | |
| General comments | Basement Force (Simon Haslam) | <p>Overall intention of the planning changes</p> <p>The main intentions of the proposed planning changes seem to be to:</p> <ol style="list-style-type: none"> 1. Reduce the negative impact to local residents during construction. 2. Reduce the risk of negative structural effects on adjoining buildings during and after construction. 3. Increase the professionalism of the building companies on site during construction. <p>These are all reasonable and fair intentions however it does not appear that they will be most effectively controlled through planning regulation. Planning legislation does not seem to suit the sort of control that is desired.</p> <p>At the same time the other regulations do not seem adequate.</p> <p>A further point is that while all of the required paperwork may be provided this does not ensure that the work on site is carried out correctly or safely.</p> <p>An option that might make a difference is a major change in how building works are overseen. Building Control Inspectors are the only overseeing party not under the direct pay of the home owner who visit site regularly. Building Control's current responsibility is to ensure that a project is planned and built in accordance with building regulations.</p> <p>An option might be that building control also take on additional responsibilities that might include oversight of environmental, health and safety, structural safety, and construction impact.</p> <p>Building Control taking on this sort of broad oversight would need cross-agency responsibility changes and is outside the scope of this review on planning. However it could well offer a practical route to reducing negative construction impact on residents, reducing the risk of negative structural effects on adjoining building and drive improvement in the professionalism of building companies on site.</p> | <p>London Plan Policy 5.3: Sustainable Design and Construction requires at para B. That "development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process. London Plan SPG on Design and Construction, 2006 provides further guidance on achieving a sustainable construction phase of development.</p> <p>The suggestion to extend the remit of building control is noted. The Council's various departments currently undertake enforcement of the different aspects of development and it is not considered appropriate that these elements are dealt with by extending the responsibilities under building control.</p> |

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| General comments | Dovehouse Street Residents' Association (Gillespie Robertson) | I appreciate that we are right at the deadline for comments, but would like to explain that in the first place, despite being a Residents' Association properly registered with the Council, we can find no record of receiving a specific written approach from you in September last year asking for answers to what we can see from your website was your list of questions to Residents' Associations at that stage. We have however in the meantime become aware of the continuing consultation process through your Department's periodic e-mail advices on planning matters in general, but we decided to delay commenting until we could discuss the matter at our Annual General Meeting, which has only just taken place, and could thus have an opportunity to address the issue with a substantial number of our members being present. | Noted. The details of the resident's association have been added to our LDF database and will be contacted in the future. |
| General comments | Studio Indigo Ltd (Doug Indigo) | <p>While there are points we are in agreement with, there are elements that are presently open to interpretation or conflicting with existing policies or building control criteria. We are happy to further discuss the proposed amendments if required, and if you have any comments regarding the points below, please don't hesitate to get in touch.</p> <p>Studio Indigo Feedback:</p> <ul style="list-style-type: none"> &middot; Council have to acknowledge and take some responsibility for increase in basements as their policies above ground are so restrictive and seek to minimise if not fossilise the built environment. &middot; Therefore any review of basements should take into consideration policies for and approach to development and allow a less restrictive approach to development. &middot; Having said that the explosion in basements is out of control with double and triple basements proliferating, with residents taking advantage of the Councils relaxed approach to these developments. <p>Client's feel 'Dealing with residents is easier than an unreasonable Planning Officer'</p> | <p>Noted. A large proportion (70%) of the Borough is within designated conservation areas and has about 4,000 listed buildings. Policies to protect conserve and enhance these heritage assets are supported nationally.</p> <p>The review of the basements policy is being undertaken in response to an increase in the number of basement applications and local concerns regarding these.</p> |
| General comments | Studio Indigo Ltd (Doug Indigo) | <ul style="list-style-type: none"> &middot; The language of the proposed amendments is still vague in certain areas, leaving it potentially subjective and open to interpretation. Planning guidelines in other areas are specific and based on precedents, the equivalent points RE basements should be clarified in greater detail so as to be less open to abuse and manipulation. A professional panel or consultation would benefit the forming of these policies ensuring they are in keeping with buildability and practicality, while not restricting subterranean works beyond any potential gain. &middot; More rigorous enforcement of policies post planning consent | Noted. |
| General comments | Studio Indigo Ltd (Doug Indigo) | <ul style="list-style-type: none"> &middot; Planners should not be ruling on design matters, too open to individual interpretation, more direct guidance required - Propose a design panel or consultation with nominated professionals. RBKC are currently visiting sites to review the construction process and what the works entail, if favourable projects are selected the architects can be consulted to discuss successful examples of work as a means to establish precedents. &middot; Architects are not against the proposed amendments in their entirety, but they need to be reviewed against what we feel still allows for meaningful additions to homes rather than subterranean land-grabbing. Basement works add useable beneficial additions to traditional homes, allowing these homes to meet the requirement of a modern home without harming the character of the existing buildings. Piecemeal extensions to houses in past years have added useable space to the detriment of the existing buildings, whereas considered basements add additional area without compromising the building above ground. | <p>Noted. The Council has an Architectural Appraisal Panel (AAP). It considers and advises on major developments in the Borough.</p> <p>The draft policy recognises that basements are useful in providing additional space in properties and does not propose a ban on basements.</p> |
| General comments | Sam Gordon Clark | <p>Since the many of the issues for consultation often appear more than once in various bits of your documentation, it seemed simpler to e-mail my comments directly. Overall it is clear that RBKC is moving in the right direction, but too slowly. However, you have my support.</p> <p>Timespan of development. Can you not make a judgement of how long a project should take, insist on it, and impose heavy fines on those who exceed it?</p> | Noted. It is outside the remit of the planning system to require construction to be completed within a specified period. |

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| General comments | Earl's Court Society (Hilary Temple) | <p>Having considered the proposals it is clear that the proposals for obtaining planning permission put forward in this document are basically good.</p> <p>Anything you can do to hasten the process of bringing in the necessary directives would be greatly appreciated. We fear a rush to start building to beat the deadline as soon as it is known they are going to be imposed in future.</p> | Noted. |
| General comments | Ashley McNeile | <p>I think that the Council should be congratulated for these efforts to improve the current situation, and urge that the process be completed as soon as possible!</p> <p>The second point concerns conditional consents and how these are policed and enforced. Residents feel powerless and let down by the Council in this, and the Council doesn't seem committed to building and maintaining the enforcement capacity needed to police the conditions it issues on planning consents, leaving residents exposed to the consequences of abuse. The Council should commit to maintaining enforcement capacity to match the volume of planning consents and conditions it grants.</p> <p>That said, I think that the Council's planners should be congratulated for their efforts to improve the current situation, and urge them to complete the process as soon as possible.</p> | Noted. |
| General comments | Sinclair Johnston & Partners (Thomas Musson) | <p>We have been involved in the borough for the past thirty years advising on developments including subterranean extensions. These have been very successfully completed, and indeed some such as 9 Tregunter Road were reported in the press 20 years ago as the future of residential development.</p> <p>The draft policy addresses a number of issues which are of concern to local residents and are to be commended.</p> | Noted. |
| General comments | Jones Lang LaSalle (Kathryn Williams) | <p>We act for a number of clients who bring forward basement developments within the Royal Borough of Kensington and Chelsea.</p> <p>We therefore submit these representations to the draft policy, for which the consultation ends on 31 January 2013. Our principal representations are set out below in bold in italics.</p> <p>Paragraph 182 of the National Planning Policy Framework (NPPF) sets out that a local planning authority should submit a plan for examination that it considers to be "sound." The plan policy should meet the following criteria:</p> <p>? Positively prepared - the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;</p> <p>? Justified - the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;</p> <p>? Effective - the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and,</p> <p>? Consistent with national policy - the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.</p> | Noted. |
| General comments | Jones Lang LaSalle (Kathryn Williams) | <p>- Much of the end impact of basement development is not seen. Construction does not influence whether other developments are approved and it ought not to be a material planning consideration for basements. There is no reason to support it in the area of basement development.</p> <p>There is a lack of evidence where a number of basements have been constructed over the last 10 years to determine whether basement development has had a negative impact, as confirmed in the Basement Owners Survey November 2012.</p> <p>Paragraph 158 of the NPPF sets out that "each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals." Therefore, further</p> | <p>London Plan Policy 5.3: Sustainable Design and Construction requires at para B. that "<i>development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process.</i>" London Plan SPG on Design and Construction, 2006 provides further guidance on achieving a sustainable construction phase of development.</p> <p>There has been an increase in the number of basement applications in the Borough. Basement developments have resulted in a number of issues that the local community feels very strongly about. This is apparent from the number of responses received to this review of the</p> |

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| | | <p>evidence is needed to support the restrictions set out in policy CL7 before these standards are applied.</p> <p>- Residents wish to live in the borough because of the fine houses. Some houses are quite small whereas others can be large. It is often true that building upwards is often limited because of conservation issues; it would therefore be entirely appropriate to allow residents to build such extensions to meet the particular needs of this particular family.</p> <p>a) Effective</p> <p>The RBKC Annual Monitoring Report 2012 provides details of the number of basement developments in figure 9.1 from 2008 - 2012. In total 1226 applications have been submitted and 143 applications have been refused (11.6%). The majority (88%) of applications were considered to be acceptable basement development and therefore we question the need to restrict basement development, when the existing policy is effective in delivering good development.</p> | <p>basements policy.</p> <p>The Alan Baxter's report , survey of residents and neighbours, the range of consultation in reviewing the policy form the evidence base for the emerging policy.</p> <p>A large proportion (70%) of the Borough is within designated conservation areas and has about 4,000 listed buildings. Policies to protect conserve and enhance these heritage assets are supported nationally. The policy recognises that basements are useful in enlarging properties and the draft policy is not proposing a ban on basements.</p> <p>Applications were assessed on the current basements policy and were found acceptable in relation to the current policy. This does not preclude the current policy to be reviewed in light of the NPPF, an increase in the number of basement applications and corresponding issues highlighted by the residents of the Borough.</p> |
| General comments | Cranbrook Basements (Kevin O'Connor) | <p>We have read the Minutes of the Basement Consultation event which have been published on the RBKC planning website and wish to formally record our objection to the accuracy and content of the Minutes as currently drafted.</p> <p>The meeting was attended by a number of representatives from this company who were distributed evenly amongst the various discussion groups and the balance of the Minutes as drafted in no way reflects all of the comments that were made.</p> <p>There were very significant representations against the informal proposals made by RBKC although the Minutes do not reflect this. Far greater emphasis is given to complaints by a small but vocal group of residents.</p> <p>For the avoidance of doubt the general consensus was not that basement construction should be restricted in anything like the manner which is indicated in the draft proposals.</p> <p>A number of our staff will be attending the next meeting this evening and we would ask that a fair and balanced set of Minutes are produced to reflect all of the comments made by all of those who attend.</p> | <p>Noted.</p> <p>The large majority of the attendees at the event were residents/ representatives of the residents groups. The notes reflect the proportion of residents and developer groups present at the consultation event.</p> |
| General comments | Cranbrook Basements (Kevin O'Connor) | <p>We have carried out an initial review of the proposed changes to the Basement Planning Policy and have attended both of the informal meetings at Kensington Town Hall which took place earlier this month.</p> <p>We are extremely concerned at the changes proposed which when taken as a whole will most certainly amount to a very significant attempt to restrict the legal rights of individuals to carry out development of their property and also place unreasonable burdens upon professionals working within the industry.</p> <p>The central point is that the Local Planning Authority is seeking to acquire powers to control matters which do not relate to the Town & Country Planning Act. This is unlawful.</p> <p>All of the concerns which have been raised by the Local Planning Authority are already addressed under the following statutory instruments:</p> <ul style="list-style-type: none"> x The Building Regulations x The Party Wall Act x The Health & Safety Act x The Environmental Health Act x The Highways Act | <p>Noted.</p> <p>Para 1.22 of the Basements Draft Policy document acknowledges the limitations of the planning system. The Council has produced a note on Advice to Builders and Residents http://www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx which may be helpful in understanding the raft of other legislation covering basements and other development.</p> <p>London Plan Policy 5.3: Sustainable Design and Construction requires at para B. that "development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process." London Plan SPG on Design and Construction, 2006 provides further guidance on achieving a sustainable construction phase of development. Therefore it is not considered that the proposals are seeking to control matters which do not relate to the Planning legislation. All the elements of the Basement Impact Assessment are currently required by planning conditions. The proposals are requiring these documents to be submitted along with the planning application.</p> <p>The Council can make its own local validation list comprising</p> |

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| | | <p>Aggrieved residents also have the right to seek protection through the Courts where they feel that an individual developing their property has behaved unreasonably.</p> <p>However well intentioned the draft policies of the Planning Authority may be they are misguided and it is certain that they will be the subject of legal challenge during the formal review process and in the event that they are adopted subsequently.</p> <p>It is extremely unfortunate that the Local Authority have not engaged with the basement industry particularly as the Local Authority already holds the power to address all of the issues that have been raised during the recent residents meetings at Kensington Town Hall.</p> <p>We would welcome the opportunity to work with the Local Authority and to offer improvements to the experience of local residents so far as is reasonably possible. We offer to meet with you and work positively to achieve change within the framework of the existing adoptive policies.</p> <p>It is inevitable that legal challenges to the Local Authority proposals will arise given the nature of the Borough's residents and the very significant financial damage which will be caused to substantial employers within the Basement Industry who withstand to lose many millions of pounds of revenue as a consequence of the changes.</p> <p>It is unreasonable for local rate payers to be put to the cost of defending these actions when the basis of the proposed revisions to policy is misconceived and can be amended prior to adoption to become more robust and thereby avoid the inevitable appeals and litigation.</p> <p>I hope to hear from you regarding direct consultation.</p> | <p>documents relevant and proportionate to the scale and type of development. Given the issues related to basements the Council considers it is important to consider these issues at the start of the planning application process.</p> <p>The Council is engaging with the basements industry. The public consultation events are open to everyone and were attended by representatives from the basements industry. We are also setting up a basements working group which will include people representing a variety of interests including representatives from the basements construction industry.</p> <p>The aim of the proposed policy is not to reduce employment opportunities but to address a number of issues experienced in this Borough with regards to basement development.</p> |
| General comments | ARK (Rupert Carruthers) | <p>- It appears that opinion is guided largely by very vocal groups opposed to basement development while those in favour of or indifferent to basement development generally do not respond to consultation. The opinions of these lobby groups appear to be taking precedent over the needs of applications. This lack of balance is reflected in the current consultation document. There are many sound arguments for the use of carefully designed and well-managed basement developments, which are not addressed in this document. Amongst these are the need to adapt existing, largely Victorian, housing stock in high density urban areas to the changing demands of contemporary lifestyles and the increasing demand for family homes in areas where larger scale development is rarely possible.</p> | <p>The Alan Baxter's report , survey of residents and neighbours, the range of consultation in reviewing the policy form the evidence base for the emerging policy.</p> <p>The policy recognises that basements are useful in enlarging properties and the draft policy is not proposing a ban on basements rather it is seeking to define acceptable basement developments in this Borough based on evidence.</p> |
| General comments | ARK (Rupert Carruthers) | <p>In Summary:</p> <p>We believe that with an emphasis on good design and management by qualified and experienced professionals many of the matters of concern raised by residents and covered by the draft consultation document could be effectively alleviated without recourse to blanket rules governing specific aspects of basement development. In general a modestly sized but poorly designed and badly managed basement development will have a far greater impact on the short and long term amenity of neighbouring properties than a well designed and professionally managed development of a much larger scale. This self-evident truth seems to have been largely ignored by the current document in favour of the imposition of relatively arbitrary limitations on the scale of development. We believe that the council should be seeking to control quality rather than scale.</p> <p>There are clearly real and legitimate concerns about subterranean development, many of which relate to relatively short term disruption and loss of amenity. Attempting to control these through restrictive planning regulation is, for the most part, inappropriate and ultimately fails to address the real issues. Tighter control by Environmental Health and Highways would more effectively address these issues. Concerns about structural integrity and sustainability are equally important but these would be more effectively and appropriately dealt with through Building Control and the Party Wall Act.</p> | <p>Noted. The Basements Draft Policy document highlights the need for good design and management.</p> <p>The scale of development can have impacts on a range of issues such as character and environment. The draft policy seeks to achieve a balance by not banning basements but defining what would be acceptable development.</p> <p>London Plan Policy 5.3: Sustainable Design and Construction requires at para B. that <i>“development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process.”</i> London Plan SPG on Design and Construction, 2006 provides further guidance on achieving a sustainable construction phase of development. Therefore it is not considered that the proposals are seeking to control matters which do not relate to the Planning legislation. All the elements of the Basement Impact Assessment are currently required by planning conditions. The proposals are requiring these documents to be submitted along with the planning application.</p> |
| General comments | The Chelsea Society (Terence Bendixson) | <p>1. INTRODUCTION</p> <p>The Chelsea Society welcomes the Council's decision to review its policies on basements and the opportunity to take part in the review. We strongly support several proposed changes but fear that the Council is being, overall, too supportive of</p> | Noted. |

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| | | basement construction. | |
| General comments | Pyramus & Thisbe Club (Andrew Schofield) | Various extracts were included in the submission please refer to the attached file | Noted. |
| General comments | Pyramus & Thisbe Club (Andrew Schofield) | The above report has been brought to the attention of the Pyramus & Thisbe Club. Please find attached a letter from my fellow member and immediate past chairman, which I hope you will find of interest. Your attention is particularly drawn to the explanation of the Party Wall etc. Act and Summary. You may be aware that the club is actively involved in advising on the propose Subterranean Development Bill. If you have any queries then please don't hesitate to get in contact. | Noted. |
| General comments | Pyramus & Thisbe Club (Andrew Schofield) | <p>In relation to the above we welcome and support the majority of the proposed methods of granting consent for basements and engagement with neighbours.</p> <p>About the Pyramus & Thisbe Club</p> <p>The Pyramus & Thisbe Club was set up in the 1970's by the late John Anstey. As you may be aware John Anstey is the well known author of "Party Walls and What to do with them" and "Boundary Disputes and How to Resolve Them". Both books are published by The Royal Institution of Chartered Surveyors.</p> <p>The Pyramus & Thisbe Club is an organisation for construction professionals with a particular interest in matters relating to the Party Wall etc Act 1996. Whilst the majority of members are surveyors, the Club also includes architects, structural engineers, solicitors, barristers and others with an interest in the subject.</p> <p>The Pyramus & Thisbe Club is organised on a regional basis and covers the whole of England and Wales. Most members of the Club have considerable experience and knowledge in party wall matters. The Club seeks to advance knowledge of the Party Wall etc Act 1996 and promote best professional practice in its application.</p> <p>Relevant Extracts</p> <p>We fully appreciate that the topic of basement construction is wide ranging and therefore we have limited our comments to the Party Wall etc Act 1996, surveyors acting on behalf of their appointing owners and any references to the service of notice and party wall awards.</p> <p>Basement Review - Core Strategy Draft Policy - Strategic Environmental Assessment/ Sustainability Appraisal- December 2012</p> <p>We have no comment to add in relation to this document.</p> <p>Tri-Borough Equality Impact Analysis Tool -Conducting an Equality Impact Analysis</p> <p>We have no comment to add in relation to this document.</p> | Noted. |
| General comments | Pyramus & Thisbe Club (Andrew Schofield) | We welcome RBKC's support to lobby Government to agree to an Amendment Act ensuring necessary changes are made to the current 1996 Act to reflect modern methods of construction. | Noted. |

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| General comments | Thurloe Residents Association (Traci K Weaver) | <p>The review of the planning policy framework concerning the development of basement extensions within the Borough has provided a much-needed opportunity for residents to express their views on this emotive subject. The public consultation events have provided a valuable forum for residents, builder, developers and other professionals engaged/interested in basement development to discuss various aspects of it. The representatives of Thurloe Residents Association (TRA) that attended these and other consultations events over the past two months were greatly impressed by the willingness of the policy makers at RBKC to listen and, hopefully, take on board some of the ideas presented in the forums.</p> <p>Although TRA is generally supportive of the revised changes to RBKC basement policy, there are a few areas that should be explored more fully. We would like to highlight those issues that most concern our residents.</p> | Noted. |
| General comments | Kings Road Association of Chelsea Residents (James Thompson) | <p>When the consultation began I circulated the details to KRACR members (32 RA's representing 1500 households) and to my Considerate Basement Development Group (another 160 households) and gave them my first impressions, urging that they write to you with their own opinions. I attach a copy of my briefing note below.</p> <p>Briefly, the response of KRACR is that given by our Vice-Chairman, Lord Grantley, which he has already sent you in his other role as Chairman of MISARA. The response of the Considerate Basement Development Group is that given by my colleague Sophia Lambert, sent to you from the Ladbroke Association.</p> <p>In summary, we see the proposed changes as a welcome step forward, and if the further changes proposed by MISARA and the Ladbroke Association can be incorporated, and the provisions strongly enforced, it will have the strong support of a majority of residents, and of a significant number of Councillors.</p> | Noted. |
| General comments | Cranbrook Basements (David Kavanagh) | <p>Having attended both discussion meetings on the proposed basement planning policy changes (9th & 21st January), I would like to point out that whilst the views of local residents were recorded in great detail within the subsequently published meeting minutes, the views of industry attendees, went largely unheard. I would therefore urge you to consider the views of those in the industry and not just those of local residents, whose opinions have largely been informed by experience of inconsiderate contractors - a fact borne out by the number of photographs myself and colleagues were shown (by residents) of hazardous construction sites spilling out onto the pavement. I feel that it would be far more constructive for the Local Authority to use the powers it has outside of the planning system to crack down on unprofessional and inexperienced contractors, rather than penalise those who operate to the highest professional standards.</p> | Noted. The Council will take into account the range of views expressed. |
| General comments | Savills obo a number of clients (Savills obo a number of clients) | <p>Savills The London Planning Practice represents a number of key clients and landowners in the Royal Borough of Kensington and Chelsea, including Finchatton, Echln and Bailey, and Build Buro amongst others.</p> <p>Our concerns focus on three key areas of the proposed new policies- namely Policies CL3, CP4 and CL7- and relate to concerns about certain aspects of these new policies being unnecessary or unworkable.</p> | Noted. |
| General comments | MMP Design (Steve Masters) | <p>We have no objections to our designs being checked, it occurs on a daily basis within the Building Control system and under the Party Wall Act. It does however seem excessive in this particular situation, especially when in your own words this would not necessarily be 'the exact structure' and would in any case be dealt with through the Building Regulations process.</p> | Noted. |
| General comments | Golborne Forum (Susie Parsons) | <p>BASEMENTS</p> <p>The Golborne Forum considered a previous consultation document on Basement Development Issues in June 2012 and agreed not to submit detailed comments as the document showed that no planning permissions were granted for development including a basement extension in 2010 or 2011 in Golborne. The Forum did, however, support the focus on defending gardens and trees in the consultation document. The Forum's position remains unchanged and there is nothing to add in response to the latest consultation document.</p> | Noted. |

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| General comments | Milan Seckovic | My wife and I, proprietors of 17 Gloucester Walk, were not able to submit our feedback on time for the consultation period deadline yesterday due to unforeseen internet connectivity issues. In the hope that our views can still be considered, please find attached a letter outlining our objections to the proposed withdrawal of permitted development for basement extensions. | Noted. |
| General comments | Tony Holt | 2. Basements-draft policy for Public Consultation and other matters Page 6 - procedures. Third bullet point. One hears that the building regulations and the Party Wall Act are clumsy and not very effective in the case of basements. I have no first hand experience. Page 6- permitted development. But residents and neighbours need to be protected. That is what they pay Council Tax for. | |
| General comments | Natural England (Jamie Robert Melvin) | The consultation which we have been offered the opportunity to comment on is of a low risk/priority for Natural England and so we will not be offering representations at this time. The lack of further comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may be able to make comments that will help the Local Planning Authority (LPA) to fully take account of the environmental value of areas affected by this plan in the decision making process. | Noted. |
| General Comments | The Chelsea Society (Terence Bendixson) | 3. DETAILED OBSERVATIONS ON THE DRAFT i) Economic, social and environmental objectives NPPF The National Planning Policy Framework (Introduction Para. 7) requires development to deliver economic, social and environmental benefits. The Society urges the Council to introduce a new paragraph in (1.0 INTRODUCTION), quoting the NPPF and spelling out how basement developers need to meet such NPPF objectives. The Society suggests the following wording: 'The NPPF requires all development to deliver on economic, social and environmental objectives. Developers of basements are therefore expected to set out fully and methodically the economic, social and environmental benefits and detriments of what they propose. This should be part of the design and access statement.' | Noted. Government guidance in the NPPF applies and the draft policy is written in accordance with the NPPF but it is not good practice to repeat guidance in NPPF in local policies. |
| Box 2 – Policy CL7 | | | |
| Proposed policy - Policy CL7 | Stuart Bates | - No basement development should be permitted under a back garden. With such a structure underneath only a metre of soil it can no longer be described as a garden. | Noted. The policy has to balance different interests and support sustainable development. The policy therefore restricts the size of basement but does not ban them. |
| Proposed policy - Policy CL7 | Paul Lever | The changes which are proposed, for example the limitation of basements to one storey, the restriction of working hours to weekdays and the requirement for fuller documentation on construction processes to be submitted along with the application itself, are welcome and will help mitigate some of the worst effects of basement construction. But they do not go far enough. An underlying reason for this is the Council's reluctance to accept that the impact of the construction phase of basement development should be as central a concern in the planning process as the eventual visual appearance of the building; and not, as the draft policy persists in implying, a subsidiary issue. We therefore urge the Council to insist on further conditions for the granting of a planning application for the construction of a basement, namely: - a requirement on the developer to fulfil specific conditions for the limitation of noise, vibration etc; - in the case of short, narrow streets a limitation to one basement construction at a time if such construction would mean on occasions the complete closure of the street. | Noted. The policy has to balance different interests and support sustainable development. The policy therefore restricts the size of basement but does not ban them. |
| Proposed policy - Policy CL7 | Keith Cunningham | It seems to me that consistency of judgement will be most important if the new policy is to have credibility and be understood by professionals in the property/planning industry and applicants alike, some of whom may not be well versed in planning policy or regulation. At present RBKC is consulting on a change to policy which if implemented would see a maximum development of 75% of the garden area allowed in respect of subterranean development. This is 10% less than | Noted. The extent of basements that can be built under gardens is based on a number of reasons set out below: 1. There has been a significant increase in the number of |

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| | | <p>the maximum previously permitted. Under current plans this 75% maximum could be reduced to a lower percentage figure, for example 50%, where there were concerns regarding flooding and the ground conditions pertaining locally.</p> <p>In order to ensure consistency of judgements it will be necessary to show the allowable limit road by road on a detailed map of the borough. Where the extent of basement development allowed is less than 75% there should be supporting text explaining the reason for this decision. This should ensure that planning officers judgements will be consistent and comprehensible within this new policy framework.</p> | <p>basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts.</p> <ol style="list-style-type: none"> 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>Based on the above reasons the Council has decided to revise the policy to restrict basements to a maximum of 50% of each garden within a property.</p> <p>Ground water conditions can vary within very short distances and the Council cannot provide such detailed information on a map.</p> |
| Proposed policy - Policy CL7 | Vanguard Working Group (John Simpson) | <p>Summary of main outstanding issues</p> <p>The proposals go a long way to address some of the issues we have been discussing. The main shortcomings of the proposal are: (copied to CL7 a - K)</p> | Noted. |
| Proposed policy - Policy CL7 | ESSA (Anthony Walker) | <p>3 Technical documents We strongly support the requirement for all technical documents to be submitted with the planning application and signed off as part of that process. We consider that the SPD will need to include a very specific list of items to be satisfied as a basis and the applicant obliged to provide whatever other information is needed depending on the specific nature of the site. Generally all site storage, huts or working space should be kept within the site boundaries and lorries or other deliveries should take place from the curbside.</p> | Noted. |
| Proposed policy - Policy CL7 | Jones Lang LaSalle (Kathryn Williams) | <p>Our Representations</p> <p>a) Positively prepared</p> <p>There is a need for more housing floorspace within the borough. Therefore the policy would not objectively meet development and infrastructure requirements of the area.</p> | Noted. The requirement is to meet housing targets not increase housing floorspace. |
| Proposed policy - Policy CL7 | Jones Lang LaSalle (Kathryn Williams) | <p>a) Consistent with National Policy</p> <p>- Policy CL7 is not in accordance with the policies and principles of the National Planning Policy Framework.</p> <p>Paragraph 14 of the NPPF sets out that "at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For plan-making this means that:</p> <ul style="list-style-type: none"> -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 | <p>Sustainable development includes economic, social and environmental considerations. The policy seeks to achieve this balance and is based on a range of evidence.</p> <p>The scale of basement proposals in this Borough warrants a bespoke policy rather than a good design guide.</p> |

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| | | <p>- specific policies in this Framework indicate development should be restricted."</p> <p>- The policy is drafted in a negative way and if it is to be included then it should be positive in terms of its construction - Basement development will be encouraged (where planning permission is necessary) provided it achieves the highest quality of design</p> <p>This policy tests would therefore not meet the development needs of the area.</p> <p>- The policy items are more appropriate for a good design guide.</p> | |
| Proposed policy - Policy CL7 | Jones Lang LaSalle (Kathryn Williams) | <p>1. We question the legality of some of the issues used to control basement development</p> <p>Conclusions</p> <p>We request that the council make the suggested amendments to policy CL7 to provide flexibility and compliance with national planning policy.</p> <p>Please would you confirm receipt of this letter and provide any further correspondence in relation to the Basement Policy Review to Kathryn Williams or Jeff Field at these offices.</p> | Noted. The Council is mindful that the draft policy needs to be in accordance with the NPPF. |
| Proposed policy - Policy CL7 | Shrimplin Brown (Robert Shrimplin) | <p>1. The recent NPPF emphasised the need for the planning system to work more effectively to stimulate development. It introduced a presumption in favour of sustainable development "so that it is clear that development which is sustainable can be approved without delay" (paragraph 15).</p> <p>2. More recently the Government have pledged to consult on increasing the scope of Permitted Development Rights, for a limited time period (Ministerial Statement, 6 September 2012).</p> | <p>1. Agreed. Sustainable development includes economic, social and environmental considerations. The policy seeks to achieve this balance and is based on a range of evidence.</p> <p>2. Noted.</p> |
| Proposed policy - Policy CL7 | The Chelsea Society (Terence Bendixson) | 'Basement development must be of the highest quality in design, environmental performance and execution'. | Noted. |
| Proposed policy - Policy CL7 | Trustees of the Phillimore Estate | The proposed policy CL7 introduces new restrictions on basement excavation and comments are provided below on certain aspects of this. | Noted. |
| Proposed policy - Policy CL7 | Schamroth & Harriss (James Harriss) | We consider the amount of additional information that is proposed to be required for basement extension applications (paras. l, j & k of the proposed Policy CL7) to be unduly onerous for domestic extensions. A lot of this information is more properly dealt with by other Council departments at later stages in a project, such as Building Control, Environment & Traffic & Highways. The effect of requiring this information at such an early stage in the project is to increase costs unnecessarily and complicate the planning process. | Noted. Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The requirements are considered proportionate to the complexity of basements. These will ensure that proposals are thought through in detail from the outset and raise the standard of the planning applications. |
| Proposed policy - Policy CL7 | King Knight Build Ltd (King Knight Build Ltd) | Whilst very supportive of the objectives of your Council in seeking to respond to residents concerns regarding basement construction my client would however ask you to give further consideration to the proposed wording of both your new draft policy and associated draft supporting text. | Noted. |
| Proposed policy - Policy CL7 | Julia Swann | <p>The real issue is that many of these developments are destroying the nature of the most precious parts of the Borough, and the Planners should have discretion in granting or refusing these applications: decisions should not be the result of just applying formulae, such as you propose.</p> <p>There used to be a principle against "over intensification", and if for example turning a small historic cottage or mews house in a conservation area into a huge development of gym, swimming pool, library etc is not an inappropriate intensification, goodness knows what is. Over-intensification is the same problem whether it is happening below ground or above ground. This should come into your new policy.</p> <p>Most of all, the Planning Department must regain the ability to advise that what is suitable in one site may not be suitable for another.</p> | Noted. The policy will restrict basements in proportion to the size of gardens and a single additional storey. These will be flexibility in the policy to further reduce the extent in the garden where for example there is an existing tree or townscape value. The Planning department will also be able to consider the external manifestations of each proposal on their own merit using a policy as a guideline. The policy will provide a starting basis for assessing development and will not be used as a formula. |

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| Proposed policy - Policy CL7 | Onslow Neighbourhood Association (Eva Skinner) | <p>The Onslow Neighbourhood Association learnt with pleasure that the Royal Borough of Kensington and Chelsea Council was undertaking a review of its current planning approach to basements. The ONA accordingly welcomed the publication of the above Draft Policy. The members of the ONA concerned with preparing this response have also had the advantage of reading the Kensington Society's response to the draft Policy. The Onslow Neighbourhood Association generally supports the proposals in the Council's draft Policy, subject to the detailed comments contained in the Kensington Society's response, which the ONA would like respectfully to adopt.</p> | Support for proposals noted. Also noted support for Kensington Society's comments. |
| Proposed policy - Policy CL7 | The Markham Square Association (David Cox) | <p>This is the submission on behalf of The Markham Square Association to the RBKC Basements Draft Policy for Public Consultation dated December 2012. We have recent experience in the Square of planning applications for the development of sub-basements and of the Council's approach to the enforcement of a planning condition requiring a CTMP. There are some aspects of the Draft Policy which we welcome (such as the reduction in the extent of development under gardens, the depth restriction and the making of a direction under Article 4). Our particular concerns relate to the process of construction of basements and the impact upon neighbouring properties.</p> <p>Miscellaneous</p> <p>We have three miscellaneous points:</p> <p>The Draft Policy is unclear as to whether, and if so how, it applies to the construction of new basements. We believe that the same principles should apply where applicable (limitation on construction under percentage of gardens, restriction on depth etc.).</p> <p>We also consider that the impact of the Human Rights Act needs to be taken into account. These developments provide no benefit to the community yet generate enormous local upheaval.</p> | <p>Noted. The Policy applies to all basements. This will be clarified at the next stage.</p> <p>Sustainable development includes economic, social and environmental considerations as set out in the NPPF. The policy seeks to achieve this balance and is based on a range of evidence. Therefore additional reference to the Human Rights Act is not considered appropriate.</p> |
| Proposed policy - Policy CL7 | The Kensington Society (Anthony Walker) | <p>We welcome the proposed strengthening of the policies but feel that in many areas this has not gone far enough. We recognise that this is a complex area and would welcome a further discussion before the policies are finalised.</p> <p>Overview</p> <p>Members of the Kensington Society have attended all the workshops and consultation meetings and support the proposal to strengthen the policies with regard to basements outlined in the Core Documents.</p> <p>The Society is however concerned that the greater the strength of the policies, the greater the need to ensure that they are very carefully considered. It is clear from the discussions that there are many issues arising from the document published in December 2012, and the Society urges the Council to ensure that there is an opportunity for a further review of the document before the final proposals are published.</p> <p>8 Human Rights Act and NPPF</p> <p>The Society considers that particularly with regard to basement development but also with regard to other forms of development the Policies should recognise the need to recognise a balance of Human Rights in accordance with the Human Rights Act and give proper consideration to economic, social and environmental issues in accordance with the National Planning Policy Framework.</p> <p>9 Cumulative impacts</p> <p>All aspects of basement development should take account of the cumulative impacts of a series of such developments just as other planning policy takes account of the cumulative impact of different uses on infrastructure provision.</p> | <p>Noted.</p> <p>Sustainable development includes economic, social and environmental considerations as set out in the NPPF. The policy seeks to achieve this balance and is based on a range of evidence. Therefore additional reference to the Human Rights Act is not considered appropriate.</p> <p>The CTMP will take account of the cumulative impact. The cumulative impact of constructing a number of basements on the residential amenity of the Borough is one of the reasons supporting the proposed restrictions in the policy.</p> |
| Proposed policy - Policy CL7 | Kings Road Association of Chelsea Residents (James Thompson) | We strongly support the general thrust of the new proposals. | Support for the proposals is noted. |

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| Proposed policy - Policy CL7 | Card Geotechnics Limited (Nick Langdon) | <p>We write as an organisation who has worked on a significant number of basement projects in the last year or two that have either come directly under the BIA guidance of the London Borough of Camden or been strongly influenced by it. We have also reviewed BIA submissions by others on behalf of the LBC. From using these as a bench mark there would be much in the proposals by the Borough to be welcomed in giving clarity to a complex process. However, we set out some concerns and observations which we hope will assist discussions at the review of this consultation.</p> | Noted. |
| Proposed policy - Policy CL7 | Savills obo a number of clients (Savills obo a number of clients) | <p>Policy CL7</p> <p>The proposed policy CL7 introduces new restrictions on basement excavation and comments are provided below on certain aspects of this.</p> | Noted. |
| Proposed policy - Policy CL7 | MMP Design (Steve Masters) | <p>MMP Design are a Consulting Civil & Structural Engineering practice and we have been working in the field of Subterranean Development since 1999. To date we have completed the permanent structural design of more than 650 such schemes of which at least 80 have been within the Royal Borough of Kensington & Chelsea.</p> <p>We are obviously aware of your Draft Policy for consultation and generally support your efforts to ensure that these developments are designed and constructed by the appropriate professionals and with the necessary consideration of all affected parties.</p> <p>There are however two specific issues within the Draft Policy which are of particular concern and about which we would like to express our views. We would like the following comments to be noted for further consultation.</p> <p>* Bearing in mind the extensive investigation and specialist design input that will be required to take a Subterranean Development to the planning stage, surely to then impose a blanket restriction on the extent of such a development is a complete contradiction in terms of the expert opinion you have expressly sought.</p> <p>* You require a chartered Civil or Structural Engineer to be involved in the drafting of and to sign off the Engineering Design and Construction Statement yet also then require that Engineer's work to be checked by another chartered Engineer.</p> | <p>Noted.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The requirements are considered proportionate to the complexity of basements. These will ensure that proposals are thought through in detail from the outset and raise the standard of the planning applications.</p> <p>There are a number of reasons for restricting the size of basements as follows and minimising construction impact is one of them.</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> |
| Proposed policy - Policy CL7 | Cranbrook Basements (Ciaran O'Domhnaill) | <p>I believe both the "1-Storey" rule and the "75% Garden Rule" are both wholly unfounded and generalistic. Cases can be made for basement developments that fall outside these guidelines. Such developments can be structurally and hydrologically justified by chartered members of their respective professions. Other boroughs such as Camden allow the use of Basement Impact Assessments as a means of justifying such developments. Why can RBKC not follow a similar process?</p> | <p>Noted.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The requirements are considered proportionate to the complexity of</p> |

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| | | <p>The "usage" argument has been raised but I believe this to be irrelevant across all residential developments. All developments that are undertaken are undertaken to increase the "habitable space" of the property. The same amount of people still reside in the dwelling and therefore no more of the borough's resources are commanded by these basement extensions.</p> | <p>basements. These will ensure that proposals are thought through in detail from the outset and raise the standard of the planning applications.</p> <p>There are a number of reasons for restricting the size of basements as follows and minimising construction impact is one of them.</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> |
| <p>Proposed policy - Policy CL7</p> | <p>Cranbrook Basements (Aidan O'Connor)</p> | <p>It is in the strongest possible terms that I wish to have my disapproval of the draft policy registered.</p> | <p>Objection to the draft policy noted.</p> |
| <p>Proposed policy - Policy CL7</p> | <p>James Wyman</p> | <p>I wish to express my concerns in relation to the detail of your 'Draft Policy' prepared in December 2012 for 'Basements...and other matters'.</p> <p>Also it is extremely unlikely that basements themselves are of a great sensory concern to the vast majority of residents - apart from during the construction phase.</p> <p>The current basement boom could be seen in a more positive light and policy should concentrate on generating local benefits from this construction activity.</p> <p>As the Community Infrastructure Levy aims to achieve just this - it is hard to see what purpose the current policy proposals seek to achieve - other than greater powers of control.</p> <p>Local planning policy needs to reduce its focus on being overtly restrictive and begin to engage with a more productive strategy for development.</p> | <p>Noted.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The requirements are considered proportionate to the complexity of basements. These will ensure that proposals are thought through in detail from the outset and raise the standard of the planning applications.</p> <p>There are a number of reasons for restricting the size of basements as follows and minimising construction impact is one of them.</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to |

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| | | | <p>drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that "underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible". The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> |
| Proposed policy - Policy CL7 | Edward Barker | <p>I write with comments on the proposed new basement policy, within your consultation period, on behalf of our architectural practice. We are active in the borough on several basement schemes both complete and upcoming.</p> <p>Firstly I would like to say we welcome the consultation. We want to ensure that schemes that we work on are positive for the borough and welcome RBKC's attempts to answer residents' concerns. Basements in RBKC are an emotive subject and it is right for policy to be reviewed if issues are being experienced.</p> <p>However we are concerned about several of the changes, which may affect our clients and future business.</p> <p>We are unconvinced that the proposals respond to genuine changes advised in the Alan Baxter report, seemingly being introduced more to placate pressure from vocal residents' groups.</p> <p>Our comments relate to proposed changes to policies on:</p> <ul style="list-style-type: none"> - Maximum basement size under a property's garden - Depth of new basements - When and what information needs to be provided in an application - Permitted Development (PD) of basements | <p>Council response: Noted.</p> <p>Basements underneath existing buildings are more complex and challenging than equivalent above ground extensions. The requirements are considered proportionate to the complexity of basements. These will ensure that proposals are thought through in detail from the outset and raise the standard of the planning applications.</p> <p>There are a number of reasons for restricting the size of basements as follows and minimising construction impact is one of them.</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. 2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4). 3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape. <p>The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that "underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible". The Royal Borough has a</p> |

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| | | | very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation. |
| Proposed policy - Policy CL7 | Tony Holt | Policy CL7. As above for para 13.3 above, there need to be added the further financial points about indemnity and so forth. | Noted. Planning policy cannot include requirements for financial indemnity. |
| Proposed policy - Policy CL7 | Princess di Sirignano | Subterranean development cannot be stopped but my view is that policies should severely restrict those developments and most importantly the large scale ones on the criteria stated at the beginning of these comments. | Noted. |
| Background | | | |
| background - current situation - review - proposal policy - procedures - permitted dev | 3xArchitecture (Michael Mozny) | <p>Under paragraph 34.3.59 of the supporting text the draft policy proposes to restrict development to 75 % of the garden area. Our comments are as follows:</p> <ul style="list-style-type: none"> - Alan Baxter argue that the extent of any basement covering a maximum of 75% of the garden area is an optimal figure. It should be possible to increase this figure (possibly to the previously allowed maximum of 85%) in those instances where significantly improved sustainable urban drainage methods are proposed. <p>The supporting text under paragraph 34.3.61 makes reference to restricting basement development to a depth not suitable for further horizontal subdivision. Our comments are as follows:</p> <ul style="list-style-type: none"> - The Alan Baxter report makes very little mention of deep basement construction. In the few instances where it does much emphasis is put on the methodology and in no circumstance does it expressly advise against it. The question is raised in the Q&A section (question 4) of the Baxter report and the consultants argue here merely that special care is to be taken when deep basements are designed. - Most basements have little if any visual impact on the city- and streetscape. How far do the powers of the Planning and Development Control go in order to control development such as basements? The depth of a basement has no relation to its visual appearance at ground level. - It can be argued that deeper basements result in more significant construction impact and therefore a greater loss of amenity to the neighbouring properties / occupants. However, the extent of construction is almost more closely related to method rather than size and construction methodology is and should be controlled through the assessment of the Basement Impact Assessment. To accommodate functional requirements a single basement over a larger area could cause greater disturbance than a double basement over a smaller area. - To achieve a more optimal distribution of light and a better spatial experience double height spaces are quite often preferable in subterranean development. Therefore less manifestation at ground level (such as horizontal glazing at ground level) could often be achieved by choosing a double basement. - It appears that opinion is guided largely by very vocal groups opposed to basement development while those in favour of or indifferent to basement development generally do not respond to consultation. - It has been mentioned that basement development is a result of contemporary lifestyle and spatial requirements. If people are precluded from extending their homes they might otherwise buy multiple properties and combine resulting in lower densities within the borough. <p>Paragraphs 34.3.74/75/76 propose the preparation of a Basement Impact Assessment prior to submitting a planning application. Our comments are as follows:</p> <ul style="list-style-type: none"> - It is proposed that any planning application for a basement must include a Demolition and Construction Management Plan (DCMP) and a Construction Traffic Management Plan (CTMP) and that these need to be approved by the Bi-Borough | <p>Alan Baxter and Associates response: See response to Norland Conservation Society.</p> <p>Alan Baxter and Associates response: Noted – however too often this does not happen.</p> <p>Alan Baxter and Associates response: Agreed, but deeper basements invariably have greater risks.</p> <p>Alan Baxter and Associates response: Noted.</p> |

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| | | <p>Director of Environmental Health and the Bi-Borough Director of Transportation and Highways respectively prior to the application being made. It is foreseeable that neither department will publish active applications for stakeholders to comment on. It is also affects the decision period of 8 weeks (or 13 weeks) set by statute. Furthermore can it be questioned whether either department will adhere to any timeframe set by the Council therefore increasing uncertainty in relation to timeframe.</p> <p>- In certain circumstances it might become necessary that a CTMP or DCMP needs to be altered slightly after planning approval is granted. Under the current proposals it would become necessary to re-engage in the complicated two-stage planning application process at departmental and Council level.</p> <p>- The costs for all basement developments will increase substantially. Whereas most applicants applying for large and deep basements will be able to afford this increase it will not be affordable or even viable to apply for basements under small properties even where this would add much to the amenity of the property.</p> <p>Paragraph 5.0 of the draft policy proposes to remove permitted developments rights for basements directly underneath the footprint of existing dwelling houses. Our comments are as follows:</p> <p>- The procedure needs to be clarified. It is clear that the Council will have to forego the planning fee. However, will the council cover the significant cost for a preparation of a planning application that would otherwise not be necessary under PD rights.</p> <p>- By removing permitted development rights the council is trying to bring under its control matters that are regulated by other legislation currently in existence and relate solely to amenity. This would be the primary aim of such policy as proposals currently falling under permitted development rights have no external manifestation and therefore have no impact on the visual character of a neighbourhood.</p> <p>- As the council cannot refuse planning permission for any type of development solely because of the effect its implementation will have upon the amenity of residents of the Borough it is difficult to argue why it should choose to restrict permitted development rights for that very purpose.</p> <p>General Matters:</p> <p>- It is proposed to restrict visible manifestations to the rear wall of the house. However, if well designed, these can be disguised by planters, screens and other soft landscaping measures and therefore have very little visual impact even if positioned deeper within the garden area.</p> <p>- The Alan Baxter report frequently proposes the timely and continuous engagement of structural and civil engineers. This should be expanded to other qualified consultants such as chartered architects. Through their education and experience chartered architects will be able to advise on most aspects of contract administration and construction, including Party Wall matters (which are frequently mentioned, but it is agreed that these are civil matters and cannot be bound into the planning system) and other general planning issues. An experienced architect might for instance advocate the use of a top-down basement construction method to reduce nuisance to neighbours and minimise the risk of structural damage to neighbouring properties.</p> <p>More information about the issues of basement construction in relation to neighbouring properties should be provided to neighbours by the council at the point when a proposal is approved rather than advising during the application process. This information should include Party Wall procedures.</p> | <p>Alan Baxter and Associates response: Noted.</p> <p>Alan Baxter and Associates response: Agreed</p> <p>Alan Baxter and Associates response: The onus is on the developer, house owner or his team to advise neighbours of the key issues.</p> <p>Council response: There are a number of reasons for restricting the size of basements as follows:</p> <ol style="list-style-type: none"> 1. There has been a significant increase in the number of basement proposals in the borough. This has resulted in a disproportionate impact on the residential amenity of the borough due to construction impacts. |

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| | | | <p>2. Basements (or any development) can have a negative impact on surface water run-off. Therefore a proportion of the garden should remain free of development to enable water to drain through to the 'upper aquifer'. As a 'rule of thumb' the Alan Baxter's report (Dec 2012) states that where the sub-soil is gravel 25% of the garden and where the sub-soil is clay between 25% to 50% of the garden should be left free of development (para 9.8.3 and 9.8.4).</p> <p>3. Requiring a reasonable proportion of private garden space free of any development allows flexibility in planting major trees and maintaining a natural landscape.</p> <p>4.</p> <p>The Alan Baxter Report (Dec 2012) states that multiple basement levels are very much more challenging and complex than single level basements. It makes references to this issue at para 8.6 (h), 9.3.6.5 and in the recommendations at para 13.3.3 where it states that <i>"underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible"</i>. The Royal Borough has a very special historic character and to reduce the risk as a precautionary measure the Council will restrict basements to single storey. Certain exceptions may apply such as for large comprehensively developed sites. These will be set out at the next stage of policy preparation.</p> <p>The draft policy does not preclude deeper basements on larger sites where traffic and construction impacts can be successfully mitigated. The exception will be clarified at the next stage.</p> <p>Externally visible elements of basements can have a visual impact as outlined in para 34.3.68-34.3.70 of the Basements Draft Policy document.</p> <p>London Plan Policy 3.5 states <i>"Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified"</i>.</p> <p>The prior approval of the CTMP and DCMP is seen more as a vetting exercise. As the application will not be valid without these approvals the 8 week/13 week statutory determination period for planning applications will kick in after the approval of these documents by transport and highways and environmental health departments. The wording will be clarified on the process of prior 'approval' in the next stage of preparation of the policy.</p> <p>Council's have the power to introduce Article 4 directions to remove permitted development rights where this is warranted by local circumstances. Basements that are permitted developments have the same issues as those that need planning permission and should be subject to the same rigorous requirements of the Basement Impact Assessment.</p> <p>The external manifestations of basements can lead to light spillage and impact on the character of the garden if these are not kept close to the building line. Planters etc are temporary features and do not offer permanent screening.</p> |

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| | | | Reference to chartered architects is noted. This may be added when the Basements SPD is revised. |
| background - current situation - review - proposal policy - procedures - permitted dev | Buller Welsh Limited (Nigel Buller) | <p>I wish to object to the proposed Policy CL7 (b) that states:-</p> <p>"The council will require basement development to adhere to the following requirements:-</p> <p>(b) The basement must not comprise more than one additional storey except on larger sites which are less constrained and where it can be demonstrated that traffic and construction impacts can be successfully mitigated".</p> <p>I have read the Baxter report, summaries of both public meetings and the proposal document and cannot find any substantive planning reason for this in-principle restriction, unlike the remainder of the proposed amendments.</p> <p>My objection to this is therefore that the apparent core reason why basements of more than one storey [in single dwelling houses] are being targeted is to avoid the disruption the works cause to the neighbours.</p> <p>I do not believe that is a planning issue and certainly not one which should stop development all together.</p> <p>I note that the matter of spoil is part of that argument and would comment that spoil is now almost completely recycled from building sites. This is especially so where the requirements of a consent including basement development requires, as part of the BREEAM Residential Refurbishment Very Good rating imposed by it, suitably responsible disposal to recycling sites. This aspect is therefore not an active issue from a sustainability position.</p> <p>Therefore, there is no planning reason why there should not be sub-basements. It is purely to do with disturbance to neighbours and if that were a reason for stopping development in an urban area then almost no development at all would be permitted.</p> <p>RBKC, along with all other LPA's we have worked, with invariably deal with such reasons for residents' objection (disruptions caused to neighbours during construction) by dismissing them as non-planning reasons although commonly a construction methodology condition is required to mitigate potential unreasonable behaviour by the constructing contractor.</p> | <p>Alan Baxter and Associates response: These comments were responded to earlier – this appears to be a duplicate copy.</p> <p>Council response: Noted. Restriction to a single storey on small sites will reduce the construction impact of basements. The draft policy does not preclude deeper basements on larger site, which are less constrained where such impacts can be successfully mitigated.</p> <p>London Plan Policy 5.3: Sustainable Design and Construction requires at para B. that <i>“development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process.”</i> London Plan SPG on Design and Construction, 2006 provides further guidance on achieving a sustainable construction phase of development.</p> |