

Consultation Statement: Basements Supplementary Planning Document (SPD), April 2016

Regulation 12 of The Town and Country Planning (Local Planning) (England) Regulations 2012

The Council has prepared a Basements Supplementary Planning Document (SPD). In accordance with Regulation 12 of the Town and Country Planning (Local Planning) (England) Regulations 2012, this Consultation Statement sets out –

Regulation 12 (a) (i) the persons the local planning authority consulted when preparing the supplementary planning document

The Council has undertaken three previous consultations as follows –

- (1) Draft Basements SPD - 6 week consultation between 18 February and 1 April 2015
- (2) Revised Draft Basements SPD – 8 week consultation between 30 June and 11 August 2015
- (3) Revised Draft Basements Supplementary Planning Document (SPD) - Consultation on Section 6 (pages 36-38) and new Appendix 5, November 2015 – 4 week consultation between 12 November 2015 and 10 December 2015

For all of the above consultations the same consultation procedures were followed which are set out below –

The Local Planning Authority has a Local Plan consultation database which has in excess of 2,000 consultees. A mail out was sent to all consultees on the Local Plan database by email and post notifying them of the consultation and inviting comments. The Council also sent a Planning Bulletin (which is open to anyone to subscribe) by email notifying and inviting comments on the consultation. The documents were also available on-line under 'current consultations' on the planning pages of the Council's website and were open to anyone for comment. Documents were made available in all local libraries in the Borough for reference and hard copies were also available in Kensington Town Hall.

The Local Plan database includes 'general', 'specific', 'prescribed' and 'local' consultation bodies as required by legislation.

The 'general consultation' bodies include voluntary bodies such as Kensington Society, Chelsea Society and Tenants and Residents Associations, bodies which represent the interests of different racial, ethnic or national groups such as London Gypsy and Traveller Unit, bodies representing religious groups such as Church of our most Holy Redeemer, bodies representing the interests of disabled persons such as Action Disability Kensington and Chelsea and bodies which represent the interests of persons carrying out business in the Royal Borough such as KC Chamber of Commerce.

The 'specific' and 'prescribed' consultation bodies consulted included the Environment Agency; Natural England, Historic England, the Highways Agency, the Clinical Commissioning Group, Thames Water, the Homes and Communities Agency (HCA) and the Mayor of London (GLA).

The 'local' consultation bodies consulted included individual residents and persons carrying on business in the Royal Borough who signed up to the above database or Bulletin or visited the specific pages of the Council's website.

Basements SPD Working Group

In addition to the formal 6 week consultation on the Draft Basements SPD the Council also set up a working group. The working group comprises representatives from a number of residents' associations, a planning consultant and basement companies. The group met twice (on 15 January 2015 and 25 March 2015) at Kensington Town Hall and was chaired by the Executive Director for Planning and Borough Development. The minutes of these meetings have been recorded and published on the Council's website.

Regulation 12 (a) (ii) a summary of the main issues raised by those persons

(1) Draft Basements SPD, February 2015

The Council received 95 individual responses to the consultation on the Draft Basements SPD.

There was general support from residents and residents associations on the guidance provided in the Draft SPD. Some residents associations asked for further clarity regarding pre-application consultation. Many comments were received on the sections related to construction impacts. These did not alter the principles set out in the document but asked for further clarity on the details.

Many comments from all parties were received on making the requirements clear and the use of 'should' and 'must' in the document.

Some applicants and developers raised objections on the basis that the Draft SPD is setting out new and more onerous requirements than those set out in Policy CL7. Such comments related to most sections including those on pre-application consultation, design guidance and construction impacts.

Comments were received from planning consultants and others in relation to large sites. These were asking for further clarity in defining these. Some comments were made about removing or including specific sites in the document included as 'large sites'. Some commented that setting a 'rule of thumb' of 0.5 hectares was not helpful.

The Council considered the representations received on the Draft Basements SPD and published a response to each representation alongside the consultation on the Revised Draft Basements SPD. These were produced in a tabular form for each section of the Draft Basements SPD.

A separate report responding to the representations and how they have influenced the SPD has been published.

(2) Revised Draft Basements SPD, June 2015

The Council received 29 individual responses to the consultation on the Revised Draft Basements SPD.

In summary there was general support for the Revised Draft Basements SPD. The main issue following this consultation was the process through which the Council seeks mitigation of noise, vibration and dust. The planning department of the Council carefully considered these responses alongside the environmental health department of the Council to ensure that the Basements SPD (once adopted) and the Code of Construction Practice worked together to address these issues. As a result substantive changes were made to the guidance on noise, vibration and dust in the Revised Draft Basements SPD. These aspects of the Revised Draft SPD were consulted upon again.

Other comments reiterated the responses to the previous consultations and asked for more clarity.

A separate report responding to the representations and how they have influenced the SPD has been published.

(3) Revised Draft Basements Supplementary Planning Document (SPD) - Consultation on Section 6 (pages 36-38) and new Appendix 5, November 2015

The Council received about twenty five responses to this consultation. There were a number of positive comments from residents about the approach proposed to mitigate noise, vibration and dust. Whilst not asking the Council to alter the approach proposed, some residents and residents associations commented that planning conditions should also be used in addition to the upfront requirements with the planning application.

The Council had previously received very similar comments following the last consultation on the SPD. It was considered that the use of a standard planning condition in every case is a retrograde step. Information should be required upfront which allows for consultation, early consideration of these important issues and transparency. Further use of planning conditions to impose requirements dealt with by other legislation (Control of Pollution Act 1974) would not meet the legal tests for imposing conditions making the Council open to challenge.

Some responses were received objecting to the guidance. The comments suggested the guidance could be *ultra vires* as it is trying to control issues that are outside the normal remit of planning.

It was considered that no new significant issues emerged from this consultation that the Council has not considered before. However, the Council made some amendments to make the guidance even more clear. These changes were in response to the representations as well as any other factual corrections that arose.

Regulation 12 a (iii) how those issues have been addressed in the supplementary planning document

(1) Draft Basements SPD

The Council has tabulated all the responses received by collating them according to the various sections of the Draft Basements SPD and the questions in the accompanying response form. The Council's response to each comment was presented in these tables and sets out how comments have been addressed. The Council's responses were made available alongside the [Basements – Revised Draft SPD consultation](#).

(2) Revised Draft Basements SPD

The Council has set out its response to all the representations received in a separate report on the Consultation responses which was published alongside the [Revised Draft Basements SPD - Consultation on Section 6: Noise, Vibration and Dust and new Appendix 5, November 2015](#).

(3) Revised Draft Basements Supplementary Planning Document (SPD) - Consultation on Section 6 (pages 36-38) and new Appendix 5, November 2015

A separate report responding to the representations and how they have influenced the SPD has been published alongside the Basements SPD, April 2016.