

## Questionnaire: Response Form Revised Draft Basements SPD - Consultation on Section 6 (part) and Appendix 5

Question: [1.] Do you have any comments on Section 6 (pages 36 to 38)?

Respondent Name	User's Response	Council's Response
ASUC (Rob Withers)	page 31 - requires a basement contractor to be part of Considerate Contractors scheme - this is a restrictive practice and should not be a mandatory requirement. Our members sign up to be competent as part of membership audit but RBKC will not recognise ASUC members or refer to them.	ASUC is a trade association. The Council has responded to this point in previous consultations that it cannot require contractors to be a member of the ASUC.
Build UK (David Bishop)	<p><b>Page 31</b> - requires a basement contractor to be part of Considerate Contractors scheme - this is a restrictive practice and should not be a mandatory requirement.</p> <p>Many Build UK members undertake work competently and with consideration without being part of CCS.</p>	<p>Considerate Constructors Scheme is a not for profit scheme and includes a Code of Construction Practice which applies to all registered sites as stated in paragraph 6.4 of the Revised Draft SPD. The Code of Practice is considered relevant to the aims of the basement policy seeking to mitigate construction impact on residential living conditions.</p> <p>Build UK has two categories of membership: Contractor Members and Trade Association</p>

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		Members. It includes many prominent companies and the Council cannot endorse them by requiring Build UK membership.
Historic England (David English)	We note that the current consultation relates specifically to section 6 of the SPD (Managing Construction Impacts) and Appendix 5 (Noise, Vibration and Dust Mitigation Checklist). However, further to our meeting on 3rd December 2015, we are keen to take this opportunity to emphasise the benefits of making reference to the Royal Borough's archaeological resource in this SPD.	Noted.
Maeda Friederike	I have studied , agree with and support in all points the submission made on this draft SPD earlier today by Ms Sonia Rai (on behalf of herself , SMERA , and in association with Cllr Prof Sir AnthonyCoates , Karl Sternberg , Geoffrey Dove MBE) .	Noted.

<b>Respondent Name</b>	<b>User's Response</b>	<b>Council's Response</b>
Member, Sydney St. & District R.A. (R. Alexander)	This is a very welcome addition.	Noted.
Physic Triangle Residents Association (Margaret Thompson)	I support all these initiatives	Noted.
Physic Triangle Residents' Association (Richard Ashton)	I support it	Noted.
MISARA	<p><i>Para 6.20</i> – please insert the following at the end of the paragraph “The measures described should be detailed and specific.”</p> <p><i>Para 6.22</i> – in the sixth line, please insert, after the word “finalised”, the following “and of the guidance in this SPD (including Appendix 5) both in its draft form and when it is finalised”.</p> <p><i>Para 6.24</i> – British Standard 5228-1&amp;2: 2009 appears not to be available online and costs £284 for a member of the public to buy. Could the Council please ask the BSI for permission to provide a link to the standard (and offer to pay for</p>	<p>Para 6.20 – The checklist in Appendix 5 provides sufficient guidance to applicants about the level of detail they should be providing on these issues at the planning application stage.</p> <p>Para 6.22 – The Council cannot require applicants to be in full conformity with the Draft Basements SPD.</p> <p>Para 6.24 – The Council is not able to supply the British Standard to residents as there is a copyright on this owned by the British Standards.</p> <p>The S60 Notice provided within the proposed draft Code of Construction Practice is an example that</p>

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	<p>this if so required)?</p> <p><i>P38 – first full bullet</i> - whilst the sample Section 60 notice set out in Appendix 3 of the draft Code of Construction Practice (CoCP) is reasonably encouraging from a neighbour's standpoint, we are concerned that, judging from the only two such notices which we have seen on the website to date, these notices are relatively undemanding of an applicant.</p> <p>For example, the Section 60 notice dated 17 November 2015 under PP/14/00638 (for works including partial demolition and the addition of lower ground and basement levels) stipulates only the permitted hours of work, and:</p> <p>“3. The best practicable means to reduce noise to a minimum, as defined in Section 72 of the Control of Pollution Act 1974, shall be employed at all times.</p> <p>All plant and machinery in use shall be properly silenced and maintained in</p>	<p>provides the type of conditions that could be imposed on a site. The conditions are relatively comprehensive (particularly when compared to the S60 notices normally served by local authorities, including RBKC until recently, which are much less prescriptive) and reflect those that are often contained within S61 Prior Consents. S60 Notices will be tailored to individual sites and so further conditions may be attached, in addition to those listed in the example notice.</p> <p>Page 38 – The Council is not in a position to impose planning conditions relating to other legislation as explained in the responses to the previous consultation.</p> <p>The Council considers that most applicants will take notice of the informative and inform the Council before starting works. Many applicants may also choose to submit Section 61. Clearly the Council can impose a Section 60 notice if it received complaints about construction noise and</p>

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	<p>accordance with the manufacturers' instructions.</p> <p>Any deviation from these conditions shall be notified to the Council's Noise and Nuisance Service on 020 7361 3002</p> <p>Permissible noise levels are not specified" which is neither detailed nor specific.</p> <p>As a result we are concerned that applicants may conclude that far from its being in their interests to apply for a Section 61 Prior Consent, as indicated in the draft SPD (and the draft CoCP), it would be better not to do so and wait for a less demanding Section 60 notice to be issued instead.</p> <p><i>P38, penultimate bullet</i> – we understand that many Section 60 notices are issued after work has started, because there is no obligation on applicants to inform the Council when work starts. Applicants who decide to wait for a Section 60</p>	<p>vibration.</p>

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	<p>notice might choose to ignore the informative that they “should notify the Royal Borough’s Noise and Nuisance Team when works on site will commence”. We strongly recommend the imposition of an obligation on applicants to notify the Council at least 28 days before starting work, e.g. by including a planning condition to this effect.</p>	
<p>Seymour Walk Residents Association (Nigel Lax)</p>	<p>We welcome the provision of more detailed guidance and advice on Local Plan Policy CL7: Basements in the draft SPD. We are very pleased that the Council is including more specific provisions relating to noise (this should include the imposition of a max db level at the boundary of the site), vibration and dust in the draft SPD and we particularly welcome the addition of the new Appendix 5. We would like to see the new SPD introduced as soon as possible.</p> <p>We are strongly of the view that working hour restrictions should be included as a condition of</p>	<p>Noted. The proposed draft Code of Construction Practice requires that noise levels from all sites should aim to be within a daily level of 70 dB (<math>L_{Aeq, 10hr}</math>) for airborne noise when measured at the nearest sensitive premises/site boundary. There will be circumstances, such as during demolition works, when this is not possible despite the use of the quietest plant and working methods, and therefore the 70 dB level will not be an ‘absolute’ limit. However, developers will need to demonstrate with robust evidence why it is not possible to keep within the 70 dB level.</p> <p>The Council is aiming to adopt the SPD in early</p>

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	<p>planning and not just a CTMP requirement.</p> <p>We feel that there are many instances within this section where the stronger word “must” should be used instead of “should”; for example paragraphs 6.19, 6.20 (submission of Appendix 5 with the planning application) and 6.23. These are important obligations which must be made mandatory.</p> <p>It is very important that neighbouring residents are made aware of Section 60 notices (and Section 61 Prior Consents) when they have been issued. This would help the Council with enforcement.</p> <p>We have concerns generally about the procedure with regard to the timing of the commencement of works. We would like to see an obligation to notify the Noise and Nuisance team of the date of commencement of works. This notification should take place at least 28 days before commencing work. This would enable the Council to serve a</p>	<p>2016.</p> <p>The hours of noisy works are being introduced through the Code of Construction Practice and will be enforced by the Environmental Health team. The Council cannot condition something that is already adequately controlled by other legislation as doing so would not meets the legal tests.</p> <p>The Basements SPD cannot introduce new mandatory policy requirements. It can only provide guidance on the adopted Policy CL7.</p> <p>The Council has powers under S60 of the Control of Pollution Act 1974 to publish notice of the requirements of the S60 Notice (but not S61 Prior Consents) in such a way as appears appropriate. Currently, S60 Notices do appear on the Council's planning website against the relevant development. All S60 Notices and S61 Prior Consents will contain requirements to liaise with residents, and conditions could be included within both that require the Notice/Consent to be</p>

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	<p>Section 60 Notice where no Section 61 Prior Consent had been applied for.</p>	<p>circulated to neighbouring residents.</p> <p>The Council considers that an informative as stated in the draft Basements SPD will be sufficient to encourage developers to notify the Council's prior to starting works. The 28 days prior to commencing works as suggested is already stated in the Draft Basements SPD. The Council has powers under the Control of Pollution Act to serve a section 60 notice on developers where necessary.</p>
<p>Sonia Rai (on behalf of herself , SMERA , and in association with Cllr Prof Sir AnthonyCoates , Karl Sternberg , Geoffrey Dove MBE)</p>	<p>The National Planning Policy Framework states at paragraph 123 which applies to all construction projects including basements</p> <p>“Planning policies and decisions should aim to:</p> <p style="padding-left: 40px;">avoid noise from giving rise to significant adverse impacts<sup>27</sup>on health and quality of life as a result of new development;</p>	<p>The Council is aware of paragraph 123 of the NPPF. The paragraph states “including through the use of conditions”. Conditions are used to mitigate noise from new development such as from air conditioning units which are of a permanent nature. The preceding paragraph 122 of the NPPF states <i>“In doing so, local planning authorities should focus on whether the development itself is an acceptable use of the</i></p>

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	<p>mitigate and reduce to a minimum other adverse impacts<sup>27</sup> on health and quality of life arising from noise from new development, including through the use of conditions;</p> <p>recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established;<sup>28</sup> and</p> <p>identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.”</p> <p>Therefore, it is specifically stated that planning conditions should be used to control noise.</p> <p>Indeed, RBKC Policy CE^ of the Local Plan states</p>	<p><i>land, and the impact of the use, <b>rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.</b> Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”</i></p> <p>Planning conditions can be used where the ‘other’ regimes do not offer sufficient protection. Section 60 and 61 of the Control of Pollution Act (COPA) 1974 specifically deal with Control of noise on construction sites and the Council cannot see the justification to apply conditions for something that is adequately covered in primary legislation albeit applied through another regime. As stated in paragraph 122 of the NPPF the Council has to assume that the Control of Pollution Act will operate effectively and the SPD is steering</p>

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	<p><b>Policy CE 6</b></p> <p><b>Noise and Vibration</b></p> <p>The Council will carefully control the impact of noise and vibration generating sources which affect amenity both during the construction and operational phases of development. The Council will require new noise and vibration sensitive developments to mitigate and protect occupiers against existing sources of noise and vibration.</p> <p>To deliver this the Council will:</p> <ul style="list-style-type: none"> <li>require that noise and vibration sensitive development is located in the most appropriate location and, wherever located, is protected against existing sources of noise and vibration, through careful design, layout and use of materials to ensure adequate insulation from sound and vibration;</li> <li>resist developments which fail to meet</li> </ul>	<p>applicants towards Section 61 of the COPA.</p> <p><b>Policy CE 6</b></p> <p><b>Noise and Vibration</b></p> <p>The Council is seeking to mitigate the impact of noise, vibration and dust in-line with Policy CE6 but does not consider that a standard planning condition in each case is required to achieve this objective.</p> <p>The Council's Environmental Health team currently serve and enforce Section 60 notices where necessary. The approach set out in the Basements SPD requiring applicants to submit a checklist dealing with the issue of noise, vibration and dust, followed by strong encouragement to serve a Section 61 prior consent application and finally a Section 60 notice served on the applicants by the Council where they do not submit a section 61 notice is considered a strong proactive approach. The Council is also producing its Code of Construction Practice which will work alongside</p>

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	<p>adopted local noise and vibration standards;</p> <p>resist all applications for noise and vibration generating development and plant that would have an unacceptable noise and vibration impact on surrounding amenity;</p> <p>require that development protects, respects and enhances the special significance of the borough's tranquil areas.</p> <p>Again, CE6 applies again to all construction projects including basements.</p> <p>Both paragraph 123 of the NPPF and CE6 are still in force. The only way noise can be controlled is through a planning condition. It is easy for an applicant to produce a Construction Method Statement, that says he will dig out a basement by hand, and since there is no condition, and then he uses percussive instruments causing the neighbours noise of 100dB and resulting hearing loss. Without a condition, a developer can do just</p>	<p>the Basements SPD and clearly sets out restricted hours for high impact works. Once these are in place, the Council's environmental health team can effectively enforce these hours.</p> <p><b>33 Hasker Street planning application</b></p> <p>The planning application for 33 Hasker Street (and attached condition) pre-dates the adoption of Policy CL7: Basements which requires information on how noise, dust and vibration will be mitigated at the application stage. The Council also requires a Construction Method Statement with the planning application. Therefore this information is considered upfront with the planning application. This approach is proactive and allows consultation on the submitted document. Planning conditions are used to 'make unacceptable development acceptable' and are a reactive measure. The Council's approach to require this information upfront makes it unnecessary to require it via a planning condition and ensures it is taken into</p>

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	<p>that.</p> <p>The Council seems to have applied the policy CE6 correctly in previous cases such as 33 Hasker Street, London, SW3 2LE /PP/13/02354 where the following condition was granted:</p> <p style="text-align: center;"><b>No demolition or construction shall commence until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall detail the sequence of construction and describe the best practicable measures which will be used to minimise construction noise, vibration and dust and the demolition and the development shall not be carried out other than in accordance with the</b></p>	<p>account at the application stage.</p> <p>At the time of policy formulation there were a number of responses from residents asking for as much information as possible to be submitted upfront. This was on the basis that this would allow consultation to take place with the planning application and important issues could be dealt with before planning permission is granted.</p> <p>With the new policy in place the level of information required at application stage is greater in the Royal Borough compared to other areas which is why there is less of a need to impose this type of condition than there may be elsewhere.</p> <p>As stated in the Council's previous response the Council does have the technical expertise within Environmental Health noise and nuisance team to verify the information submitted by the applicants. It is unclear why the Council should refer any information submitted on noise, vibration and dust to an external expert.</p>

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	<p><b>details so approved. (C114)</b></p> <p><i>Reason – To minimise the impact of the proposed demolition and construction on the amenity of neighbouring occupiers and to comply with policies CL5 and CE6 of the Core Strategy adopted 8 December 2010. (R114)</i></p> <p>This is absolutely necessary, and at least nine local authorities in England including Islington, Camden, Southwark and Richmond control noise from basements through a planning condition or in Camden's case a section 106 agreement.</p> <p>Further, planning permission lasts for three years. They may change builders who may use a new methodology (which is even more noisy). That will be allowed without a condition</p> <p>The Council should be consistent. They granted planning conditions to govern noise before, why</p>	<p>The items listed to be included in the CMS by Ms Rai mirror those listed in Appendix 5: Noise, Vibration and Dust Mitigation Checklist of the Revised Draft Basements SPD.</p> <p>It is also stated that this information will be required for Section 61 notice. The Revised Draft Basements SPD already makes it clear that this information (required in Appendix 5 Checklist) should form the basis of the future Section 61/60 notice.</p> <p><b>Considerate Constructors Scheme</b></p> <p>Ms Rai has reiterated the comments made in response to the previous consultation on this issue. The Council previously responded to these comments and these are reproduced below for ease of reference –</p> <ul style="list-style-type: none"> <li>• <i>The Building Control Services of Southwark Council offer a voluntary Considerate Constructors Scheme.</i></li> <li>• <i>Tower Hamlet's Code of Construction</i></li> </ul>

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	<p>not now? CE6 has not changed. Indeed, even the National Planning Policy Framework Guidance for paragraph 123 states</p> <p>So we expect the local authority may not have the expertise within the Council, but the Guidance specifically envisages that they can seek specialist assistance, which the Applicant can pay for.</p> <p>The CMS should include details of:</p> <ul style="list-style-type: none"> <li>construction equipment to be used</li> <li>time scales and very detailed schedules of works</li> <li>estimated sound levels and duration, with evidence as to those how those values are arrived at</li> <li>details of mitigation</li> <li>Precise details are required of method and</li> </ul>	<p><i>Practice refers to the national Considerate Constructors Schemes not a local one.</i></p> <ul style="list-style-type: none"> <li>• <i>Islington's Noise Service Code of Practice states "We do not have an Islington-specific considerate contractors scheme but we do encourage contractors to take part in the national scheme."</i></li> </ul> <p><i>The Council will not be creating its own Scheme as it cannot endorse particular contractors, there will be little merit in doing so given there is a national scheme already. This Council has already taken a number of measures including a new policy, new procedures, strong enforcement team etc to protect residential living conditions.</i></p> <p><i>In any case setting up such a scheme is outside the remit of a Supplementary Planning Document.</i></p> <p><i>Whilst the national scheme may not be perfect it does offer an added degree of protection. As stated in the Revised Draft SPD (page 32) the</i></p>

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	<p>equipment to be used during the construction process</p> <p>Neighbours have been consulted (to ensure that mitigation has taken into account their particular amenity)</p> <p>All of this should be contained in a separate expert report by an acoustic and construction expert, which should be checked by an expert instructed by the Council (at the Applicants cost)</p> <p>NB: All this information will be required for S61 agreement and should be readily available.</p> <p>This part makes no reference to an Acoustic expert. In order to comply with policy, it is submitted an acoustic expert report setting out method and equipment and mitigation is required, which needs to be made into a planning condition. A whole section is required as to what an acoustic expert report needs to contain. The small k) at page 31 is not sufficient.</p>	<p><i>Scheme does have a complaint procedure.</i></p>

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	<p>Considerate Constructors Scheme</p> <p>The Considerate Constructors Scheme has no sanction for breach of the Scheme. Hence, membership is pointless if there is no sanction for breaching it.</p> <p>Many other local authorities have created their own code of conduct (such as London Borough of Tower Hamlets, Southwark and Islington). Compliance with such a code can then be made a planning condition.</p> <p>It is submitted that RBKC should have a code of construction for Constructors which can then be made a planning condition, as Islington states it can do so.</p> <p>CTMP</p> <p>Paragraph 6.12 states that there should be 3m clear of carriageway. Since vehicles are allowed to park legally on a single yellow line (for five minutes) and for unloading/loading (for 40</p>	

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	<p>minutes), it is submitted that the 3m clear of carriageway must take into account legally parked cars and thus be 3m clear on the presumption that there will be parked cars, or 6m clear kerb to kerb.</p> <p>Further, it is essential that the CTMP is considered incomplete and thus the application refused if it is shown that inadequate consultation has taken place with residents.</p> <p>It is also essential that all construction vehicles should comply with the Highway Code, and do not reverse in a street.</p> <p>Noise and Dust</p> <p>An expert report is required by an acoustic/construction expert. This can be done in two ways</p> <p>a) An independent expert jointly instructed by the applicant and council (at the applicants</p>	

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	<p>cost)</p> <p>b) The Applicant produces a report, and the Council instructs an acoustic/construction expert (at the applicants cost) to check the report produced by the applicant.</p> <p>The expert report must deal with method of construction, equipment to be used during construction, estimated sound levels, and mitigation to be used.</p> <p>Compliance with this report must be made a planning condition. Please see Appendix A for the types of planning conditions that other local authorities make.</p> <p>The CMS should be assessed by an expert. The Planning department acknowledge that they have inadequate knowledge, and it is specifically envisaged that external specialist knowledge may be required. In basements, it is always required.</p> <p>Submission of a section 61 notice is not a</p>	

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	<p>planning requirement. Therefore, the approach that the Planning department is reactive. As I understand it, only five applications have ever been made for section 61 COPA. This means, that construction starts and then a section 60 notice may be served. This is reactive and means that residents may suffer horrendous noise, before any control is placed on the construction</p>	
<p>St Quintin and Woodlands Neighbourhood Forum (HENRY PETERSON)</p>	<p>Page 36 refers the reader to Policy CL7I which requires noise on a basement project to be kept to 'acceptable levels'. Neither document defines acceptable, but refers to reader onwards to the Code of Construction Practice. Is it possible to have some basic guidance in the SPD as to what noise levels become 'unacceptable'? The Code states that noise level should be within a 'daily noise level' of 79dB. What does 'daily noise level mean?</p> <p>Could there be some examples give e.g. 'it is not acceptable to have pneumatic drills or hammer drills operating at high noise levels for more than</p>	<p>The draft Code of Construction Practice requires that noise levels from all sites should aim to be within a daily level of 70 dB (LAeq, 10hr) for airborne noise when measured at the nearest sensitive premises/site boundary. The 70 dB (LAeq, 10hr) is effectively an average noise level over a 10-hour (8am – 6pm) working day. For High Impact Works, such as concrete breaking using pneumatic tools, further restrictions in terms of hours of works are proposed - 9am to noon and 2pm to 5:30pm, Monday to Friday. However, it is acknowledged that even with breaks and using the quietest plant and methods, there will be</p>

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	(x) hours per day? Or (y) minutes in any one hour?	circumstances where it will not be possible to stay within the 70 dB level.
The Markham Square Association (David Cox)	<p>We welcome the provision of more detailed guidance and advice on Local Plan Policy CL7: Basements in the draft SPD. We are very pleased that the Council is including more specific provisions relating to noise, vibration and dust in the draft SPD and we particularly welcome the addition of the new Appendix 5. We would like to see the new SPD introduced as soon as possible.</p> <p>We feel that there are many instances within this section where the stronger word “must” should be used instead of “should”; for example paragraphs 6.19, 6.20 (submission of Appendix 5 with the planning application) and 6.23. These are important obligations which must be made mandatory.</p>	<p>Noted. The Council is aiming to adopt the SPD in early 2016.</p> <p>The Basements SPD cannot introduce new mandatory policy requirements by using ‘must’. It can only provide guidance on the adopted Policy CL7.</p> <p>The Council has powers under S60 of the Control of Pollution Act 1974 to publish notice of the requirements of the S60 Notice (but not S61 Prior Consents) in such a way as appears appropriate. Currently, S60 Notices do appear on the Council’s planning website against the relevant development. All S60 Notices and S61 Prior Consents will contain requirements to liaise with residents, and conditions could be included within both that require the Notice/Consent to be</p>

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	<p>It is very important that neighbouring residents are made aware of Section 60 notices (and Section 61 Prior Consents) when they have been issued. This would help the Council with enforcement.</p> <p>We have concerns generally about the procedure with regard to the timing of the commencement of works. We would like to see an obligation to notify the Noise and Nuisance team of the date of commencement of works. This notification should take place at least 28 days before commencing work. This would enable the Council to serve a Section 60 Notice where no Section 61 Prior Consent had been applied for.</p>	<p>circulated to neighbouring residents.</p> <p>The Council considers that an informative as stated in the draft Basements SPD will be sufficient to encourage developers to notify the Council's prior to starting works. The 28 days prior to commencing works as suggested is already stated in the Draft Basements SPD. The Council has powers under the Control of Pollution Act to serve a section 60 notice on developers where necessary.</p>
Tony Holt	<p>It is difficult to read all 95 pages of this consultation.</p> <p>My concern is with new basements dug beneath a building in multiple occupation (Flats). We are such a case.</p>	<p>The Basements policy and the Draft SPD do provide the measures to mitigate the harm from all types of basement development including like the one stated.</p>

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	<p>The long-term lease owner of half the basement had planning permission to dig out a sub-basement beneath his half of the building. The freeholder gave his permission but the other long-term flat owners had no say.</p> <p>We are deeply concerned that the excavations will cause damage to our flat, not only to its decoration (plasterwork, wall coverings, joinery etc.) on which we have spent considerable sums, but also the fabric of the building, also at the disruption to our lives during the works.</p> <p>The planning permission is now well out of date but there is always the threat that it may re-appear.</p> <p>There needs to be protection in the SPD for such cases.</p>	

**Question: [2.] Do you have any Comments on Appendix 5?**

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ASUC (Rob Withers)	<p>page 88 - should read may be a member of the Institute of Acoustics as this is anti competitive and the role could be fulfilled by others as well.</p> <p>Page 89 - The working hours are reflective of the requirements of the new code , however that is still in consultation with results pending - it is unfair to include those hours here without the outcome of the new code on Noisy Working being published.</p>	<p>Page 88 – the Council has recognised noise, vibration and dust during the construction of basements as a significant issue and wants to ensure that somebody with the appropriate technical expertise has prepared the relevant report to address this important issue.</p> <p>Page 89 – Noted. The Revised Draft SPD is pre-empting what may be included in the Code of Construction. As both documents are in a Draft form, clearly the Council will ensure that the final version correctly refers to the contents of the adopted Code of Construction Practice which is expected to happen in parallel with the SPD.</p>
Build UK (David Bishop)	<p><b>Page 88</b> - should read may be a member of the Institute of Acoustics as this is anti-competitive and the role could be fulfilled by others as well.</p> <p><b>Page 89</b> - The working hours are reflective of the requirements of the new code, however that is still in consultation with results pending - it is unfair to</p>	<p>Page 88 – the Council has recognised noise, vibration and dust during the construction of basements as a significant issue and wants to ensure that somebody with the appropriate technical expertise has prepared the relevant report to address this important issue.</p>

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	include those hours here without the outcome of the new code on Noisy Working being published.	Page 89 – Noted. The Revised Draft SPD is pre-empting what may be included in the Code of Construction. As both documents are in a Draft form, clearly the Council will ensure that the final version correctly refers to the contents of the Code of Construction Practice if it is also adopted at the same time or before the Basements SPD.
Health and Safety Executive (John Moran)	<p>REVISED DRAFT BASEMENTS SUPPLEMENTARY PLANNING DOCUMENT – CONSULTATION SPECIFICALLY ON SECTION 6 (PAGES 36-38) APPENDIX 5</p> <p>Thank you for your request to provide a representation on the above consultation document. When consulted on land-use planning matters, the HSE where possible will make representations to ensure that compatible development within the consultation zones of major hazard installations and major accident hazard pipelines (MAHPs) is achieved<sup>1</sup>.</p>	Noted.

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	<p>We have concluded that we have no representation to make at this stage of your local planning process. This is because there is insufficient information in the consultation document on the location and use class of sites that could be developed. In the absence of this information, the HSE is unable to give advice regarding the compatibility of future developments within the consultation zones of major hazard installations and MAHPs located in the area of your local plan.v</p>	
Maeda Friederike	See above under heading 1 .	Noted.
Member, Sydney St. & District R.A. (R. Alexander)	Also a very welcome addition	Noted.
Physic Triangle Residents Association (Margaret Thompson)	I support all these initiatives	Noted.
Physic Triangle Residents' Association (Richard Ashton)	I support it	Noted.

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MISARA	<p>Q4 – after this question we suggest inserting a new question 5, with yes/no boxes: “Please confirm that you will act in accordance with the guidance set out in the above documents”</p> <p>Q5- we suggest requiring details of the Owner/Applicant in any event, as the originally appointed main contractor could be removed, walk away or become insolvent.</p> <p>Q10 – please can you clarify what is meant by the words “<i>or outside the periods above if they will be audible at the site boundary</i>” as they appear to add nothing<sup>[1]</sup>. We also suggest that works which are noisy but not high impact should be prohibited between noon and 2pm if they would disturb an adjacent restaurant or cafe with tables outside.</p> <p>Q13</p> <p>The reference to “limits specified in Section 10.0 of the Code of Construction Practice” should be amended as no limits are specified in Section</p>	<p>Q4 – This applies to the whole document. Ultimately it will be the Council who determines if applicants have sufficiently demonstrated compliance with the policy.</p> <p>Q5 – The Council will have details of owners/applicants as part of the planning application.</p> <p>Q10 - <i>or outside the periods above if they will be audible at the site boundary</i>” means exactly what it says i.e. works which are audible outside the site boundary for example at 9pm on a weekday are not permitted as 9pm is outside the stipulated time</p> <p>Q13 - the noise and vibration limits currently are within section 11 of the draft CoCP and this referred to in Q13.</p> <p>The preceding paragraph is clear that location</p>

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	<p>10.0.</p> <p>In our view, either the statement “Please append this information”, or the preceding paragraph, needs to be expanded to specify what information needs to be appended. Given the importance of noise monitoring, this is a major omission.</p> <p>We have had some unhappy experiences of applicants and their acoustic consultants wrongly identifying the nearest receptor points (contrary to the requirements of the Noise SPD) and making incorrect calculations of the decibel reduction due to distance attenuation; and of no or incomplete responses from the Noise and Nuisance team when we have pointed out the mistakes. We understand that there will be no consultation with affected residents on the content of Section 60/61 notices/Prior Consents before they are issued, which is most regrettable. Consequently, it is all the more important that the applicant is required to identify in his application (i) the exact positions on the site boundary which are nearest to the</p>	<p>need to be agreed with the Environmental Health team. It is not considered more guidance is required to elaborate on this issue.</p> <p>The Noise &amp; Nuisance Team does endeavour to verify that the correct receptors have been identified and that calculations are robust. However, it is acknowledged that occasional mistakes are made by applicants. These mistakes should be reduced further as developers (and their consultants) become more familiar in submitting applications and the required information. Although there is no specific provision within the Control of Pollution Act to enable residents to be consulted on the content of S60/61 Notice/Consents, the Council is under a legal duty under the Act to consider the need to protect residents in the vicinity from the effects of noise when under this section.</p>

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	<p>receptor points, and at which noise monitoring will be conducted, and (ii) to explain in detail his own calculations (if any) of decibel reduction due to distance attenuation, so that affected residents can comment.</p> <p>[1] Please also see our comments on similar wording in the draft CoCP</p>	
Seymour Walk Residents Association (Nigel Lax)	We would like to see the same details of the Owner/Applicant in any event as the person ultimately responsible for compliance.	The Council will have details of owners/applicants as part of the planning application.
Sonia Rai (on behalf of herself , SMERA , and in association with Cllr Prof Sir AnthonyCoates , Karl Sternberg , Geoffrey Dove MBE)	Appendix 5 deals with the with main issues, however, compliance to be a planning condition. Otherwise, the Applicant could state he intended to use the quietest methods, and the best mitigation, and gain planning permission. Then, he could completely ignore it which will result in a huge loss of amenity to residents. This has happened when no planning condition is imposed,	It is noted that Ms Rai acknowledges that Appendix 5 deals with the main issue. As stated in paragraph 6.21 <i>“Use of the checklist will also assist with the submission of a Section 61 Prior Consent Notice under the Control of Pollution Act 1974 or if that is not undertaken will assist the Council in serving a Section 60 notice under the same Act”</i> . Paragraph 6.24 (fourth bullet)

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	<p>and this will be allowed under this regime, if you do not follow suit asd other local authorities have done so, and in line with you have previously done (see 33 Hasker Street)</p>	<p>also states for applicants that <i>“The information submitted using the checklist in Appendix 5 should form the basis for the Section 61.”</i></p> <p>The Council's Environmental Health team enforces Section 60/61 notices and it is not considered that planning conditions are the appropriate mechanism for dealing with these issues as stated in the response above and in the previous consultation response submitted by Ms Rai.</p> <p>Response regarding 33 Hasker Street has been provided above.</p>
<p>St Quintin and Woodlands Neighbourhood Forum (HENRY PETERSON)</p>	<p>Section 9 of the Appendix requires a high degree of precision and independent expertise. It is hard to believe that most architects/contractors involved in standard domestic basements will provide information base don genuine assessment rather than using figures simply to complete the form.</p>	<p>As stated in the guidance on Q9 the section should be completed with the assistance of a competent acoustician who should be a member of the Institute of Acoustics. It is recognised that it may be difficult to specify precise details at the point of planning application. Nevertheless applicants are expected to provide as much detail as possible at this stage and the</p>

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		information submitted will form the basis of a Section 61/60 notice before the start of construction on-site.
The Markham Square Association (David Cox)	Q5 We would like to see the same details of the Owner/Applicant in any event as the person ultimately responsible for compliance.	The Council will have details of owners/applicants as part of the planning application.
Tony Holt	see above	Noted. Response provided above.

**Question: [3.] Do you have any other comments?**

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Build UK (David Bishop)	<p>Build UK provides a strong collective voice for the contracting supply chain in construction. It brings together 27 of the industry's largest Main Contractors and 40 leading trade associations representing over 11,500 Specialist Contractors.</p> <p>Build UK focuses on key industry issues that can deliver change and enable the contracting supply chain to improve the efficiency and delivery of construction projects to the benefit of the industry's clients.</p> <p>Build UK was created as a result of a merger between the National Specialist Contractors' Council (NSCC) and UK Contractors Group (UKCG) in 2015.</p>	Noted.
Cranbrook Basement (Robert Walker)	<p>We wish to raise objection to the revised draft consultation (specifically on Section 6 pages 36-38 and new Appendix 5).</p> <p>There is already an existing large body of</p>	Adopted Policy CL7: Basements has policy criterion (I) which states "ensure that construction impacts such as noise, vibration and dust are kept to acceptable levels for the duration of works." The Revised Draft

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	<p>environmental and safety requirements relevant to construction projects, in the form of primary legislation (Acts of Parliament), secondary legislation (Statutory Instruments, including Regulations and Orders) and statutory guidance and Codes of Practice.</p> <p>Impact of the construction is kept to a minimum through the Working hours are as permitted under Environmental Protection Act 1990.</p> <p>Noise limits are set out in accordance with BS5228-1 2009 'Code of Practice for noise and vibration on construction and open sites'.</p> <p>The draft proposals if adopted will deliberately stray into matters controlled by “<i>other legislation</i>” and would arguably be “<i>Ultra Vires</i>”.</p> <p>We object to the proposals for the reasons set out.</p>	<p>Basements SPD is providing guidance on this aspect of the policy and this is not considered <i>ultra vires</i>. The Revised Draft Basements SPD makes it clear that there are Environmental Health requirements under the Control of Pollution Act which also apply to development but these are distinct from planning requirements.</p>
Environment Agency (Wioleta Osior)	Thank you for your email dated 12 November 2015 consulting us on Section 6 of the revised	Noted.

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	<p>Draft Basement SPD.</p> <p>We have no specific comments to make to this section (Noise, Vibration and Dust).</p> <p>Please do not hesitate to contact me if you have any further queries.</p>	
Fiona Hodgsons	<p>This is a very long document and I am afraid that I do not have time to read it all in detail. However, I would like to make a couple of points.</p> <p>The problem is not just basements, it is building work in general, although basements do throw up particular problems.</p> <p>There is not enough consideration of the existing resident. There seems nothing to actually stop developers carrying out noisy work. Consulting people before, or explaining why there needs to be noise, does not actually help the situation. Why is not more consideration given to residents?</p> <p>There needs to be an impact assessment on how</p>	<p>The Revised Draft Basements SPD specifically deals with issues related to basement development. However the Council is also producing a Code of Construction Practice which relates to all types of developments in the Borough and not just basements. The points raised are covered in both the Revised Draft Basements SPD and the Code of Construction Practice.</p>

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	<p>developments and building works are going to adversely affect neighbours made before the work starts. This should be taken into consideration about whether planning permission is given.</p> <p>There should be details of how builders/developers are going to protect neighbours from suffering ill effects of building work.</p> <p>Where residents are suffering the consequences of such work, there needs to be some form of compensation.</p>	
<p>Greater London Authority Development (Stewart Murray)</p>	<p>Planning and Compulsory Purchase Act 2004; Greater London Authority Act 1999 Kensington &amp; Chelsea Council Supplementary Planning Document: Basements - Revised Draft - November 2015</p> <p>Thank you for your letter of 12 November 2015 consulting the Mayor of London on the Royal Borough of Kensington and Chelsea's revised draft Basements Supplementary Planning</p>	<p>Noted with thanks.</p>

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	<p>Document (SPD) (November 2015). The Mayor has afforded me delegated authority to make comments on his behalf.</p> <p>As out lined in his previous correspondence, the Mayor welcomes the introduction of this SPD and specifically its guidance to protect gardens, trees and the amenity of neighbours. He also welcomes the specific guidance for large sites and the guidance to address flooding.</p> <p>With regards to the recent amendments, the Mayor welcomes the continued protection for neighbours and the wider environment from noise, vibration and dust potentially generated from the excavation and construction of basements. In this regard, the Mayor is pleased to note the reference to his 'The Control of Dust and Emission during Construction and Demolition SPG'.</p>	
Health and Safety Executive (John Moran)	The HSE acknowledges that early consultation can be an effective way of alleviating problems due to incompatible development at the later	Noted. The contact details provided for future consultation are on the Council's Local Plan consultation database and the Council will

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	<p>stages of the planning process, and we may be able to provide advice on development compatibility as your plan progresses. Therefore, we would like to be consulted further on local plan documents where detailed land allocations and use class proposals are made, e.g. site specific allocations of land in development planning documents. Please send any future request for consultation to:</p> <p>The Administrator – Local Plans HID CEM HD5</p> <p>Health and Safety Executive</p> <p>2.2 Redgrave Court Merton Road Bootle</p> <p>Merseyside</p> <p>L20 7HS</p> <p>or by e-mail to: LOCAL.PLANS.CEMDH.5@hse.gsi.gov.uk</p>	<p>consult HSE on any future planning policy consultations including ones of detailed land allocations.</p>

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	<p data-bbox="613 280 1312 360">NOTE: INCORPORATING PADHI ADVICE INTO LOCAL PLANS</p> <p data-bbox="613 491 1323 667">The HSE recognises that there is a requirement for you to meet the following duties in your plan, and that consultation with the HSE may contribute to achieving compliance:</p> <p data-bbox="658 802 1308 1074">The National Planning Policy Framework (Para. 172) requires that planning policies should be based on up-to-date information on the location of major accident hazards and on the mitigation of the consequences of major accidents.</p> <p data-bbox="658 1129 1308 1353">Regulation 10(b) of the Town and Country Planning (Local Planning) (England) Regulations 2012 requires that in local plans and supplementary planning documents, regard be had for the objectives of preventing</p>	

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	<p>major accidents and limiting the consequences of such accidents by pursuing those objectives through the controls</p> <p>described in Article 12 of Council Directive 96/82/EC (Seveso II)2. Regulation 10(c)(i)</p> <p>requires that regard also be had to the need in the long term, to maintain appropriate distances between installations and residential areas, buildings and areas of public use, major transport routes as far as possible and recreational areas.</p> <p>To assist you in meeting these duties, information on the location and extent of the consultation zones associated with major hazard installations and MAHPs can be found on the HSE extranet system along with advice on HSE's land-use planning policy. Lists of all major hazard installations and MAHPs, consultation zone maps for installations, and consultation distances for MAHPs are included to aid planners. All planning</p>	

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	<p>authorities should have an authorised administrator who can access the HSE's <i>Planning Advice Web App to verify advice given</i>. The Web App is a software version of the methodology used in providing land use planning advice. It replaces PADHI+. Further information on the Web App is available on the HSE website:  <a href="http://www.hse.gov.uk/landuseplanning/padhi.htm">http://www.hse.gov.uk/landuseplanning/padhi.htm</a></p> <p>2 Article 12 provides that the objectives of preventing major accidents and limiting the consequences of such accidents are taken into account in land-use policies, and these objectives should be pursued through controls on the siting of new establishments, modifications to existing establishments, and new developments in the vicinity of existing establishments such as transport links, locations frequented by the public and residential areas where the siting or development is such as to increase the risk or consequences of a major accident.</p>	

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	<p>When sufficient information on the location and use class of sites becomes available at the pre-planning stages of your local plan, the use of the Web App could assist you in making informed planning decisions about development compatibility.</p> <p>The Web App cannot be used for developments around nuclear sites, explosives sites or quarries. In these cases you must consult the appropriate HSE directorate for advice. Guidance on consulting the HSE about developments that could encroach on specialised major hazard sites is also available on the website:  <a href="http://www.hse.gov.uk/landuseplanning/padhi/faqs.htm#hazardous-substances-consent">http://www.hse.gov.uk/landuseplanning/padhi/faqs.htm#hazardous-substances-consent</a></p> <p>Identifying Consultation Zones in Local Plans</p> <p>The HSE recommends that where there are major hazard installations and MAHPs within the area of your local plan, that you mark the associated</p>	

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	<p>consultation zones on a map. This is an effective way to identify the development proposals that could encroach on consultation zones, and the extent of any encroachment that could occur. The proposal maps in site allocation development planning documents may be suitable for presenting this information. We particularly recommend marking the zones associated with any MAHPs, and the HSE advises that you contact the pipeline operator for up-to-date information on pipeline location, as pipelines can be diverted by operators from notified routes. Most incidents involving damage to buried pipelines occur because third parties are not aware of their presence. Details of pipeline operators and their contact details are also found on the HSE extranet pages.</p> <p>Identifying Compatible Development in Local Plans</p> <p>The guidance in <i>HSE's Land Use Planning</i></p>	

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	<p><i>Methodology</i>, available at <a href="http://www.hse.gov.uk/landuseplanning/methodology.pdf">http://www.hse.gov.uk/landuseplanning/methodology.pdf</a> will allow you to identify compatible development within any consultation zone in the area of your local plan. The HSE recommends that you include in your plan an analysis of compatible development type within the consultation zones of major hazard installations and MAHPs based on the methodology. The sections on <i>Development Type Tables</i> and the <i>Decision Matrix</i> are particularly relevant, and contain sufficient information to provide a general assessment of compatible development by use class within the zones.</p> <p>If you have any questions about the content of this letter, please contact us at the address given.</p>	
Historic England (David English)	Thank you for the opportunity to provide comments on the proposed Revised Draft Basements Supplementary Planning Document.	<p>Noted.</p> <p><b>The Council will add reference to Policy CL4 (g) in the Basements SPD in section 3</b></p>

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	<p>Historic England is the Government's adviser on all matters relating to the historic environment and a statutory consultee on a broad range of applications affecting the historic environment. Accordingly, we have reviewed this consultation in the context of the National Planning Policy Framework (NPPF) and its core principle that heritage assets be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.</p> <p>To clarify part e. of policy CL7, Historic England considers that this SPD would benefit from making specific reference to the potential direct, secondary or indirect impacts on the Royal Borough's archaeological resource. While the text that accompanies the Basements Policy advises that archaeology could be a planning consideration, there is no guidance on where advice can be found, or which areas of the borough are likely to have archaeology that is</p>	<p><b>following on from the discussion on listed buildings as suggested by Historic England. Reference will be made to the Proposals Map as this shows the location of archaeological priority areas within the Borough. GLAAS will also be referred to in this section.</b></p>

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	<p>sensitive to this type of development.</p> <p>Therefore, we would encourage you to signpost the Royal Borough's policies on archaeology in the SPD, as well as advising applicants where they can find guidance on assessing archaeological potential. It would also be helpful to provide a link that illustrates the location of archaeological priority areas within the Borough and any background evidence that will help consultants provide appropriate information in advance of a planning application.</p> <p>This could be done in section 2, which provides advice on pre-application consultation; section 3, following on from the discussion about basements in the curtilage of listed buildings; and reference could be made in Appendix 1 to the Greater London Archaeology Advisory Service (GLAAS) who are your specialist advisers on archaeology. Gillian King, the Archaeological Adviser covering the Royal Borough for our GLAAS team can be contacted on 0207 973 3732 and</p>	

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	<p><a href="mailto:Glaas@HistoricEngland.org.uk">Glaas@HistoricEngland.org.uk</a>. This should be particularly helpful to residents and developers as and when the Archaeological Priority Areas for the Royal Borough are reviewed and updated.</p> <p>It must be noted that this advice is based on the information that has been provided to us and does not affect our obligation to advise on, and potentially object to any specific development proposal which may subsequently arise from this SPD, and which may have adverse effects on the environment.</p>	
<p>Holland Park Residents' Association (B John Cowdry )</p>	<p>The HPRA welcomes this additional consultation, as one of the Association's principal concerns is the extraordinarily negative impact that (particularly basement) development, during the construction phase, has on neighbouring and surrounding properties, and the area in general</p> <p>The prior consultations do seem to have gone a long way towards ameliorating some of the</p>	<p>Noted with thanks.</p>

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	<p>adverse effects occasioned by such building / developmen</p> <p>The Revised Draft Basements Supplementary Planning Document (RDBSPD) – including Appendix 5 thereto dealing with dust, noise and vibration - indeed looks comprehensive. However, with the best will in the world, no construction works are ever going to be stress-free for neighbours, nor – sadly - are the effects of dust, noise and vibration ever going to be completely neutralise</p> <p>As a first point, we would draw attention to the fact that in Section 6 (notably sections 6.19 – 6.24 dealing with dust, vibration and noise), amongst other sections, of the RDBSPD, use is still made of the word “should” rather than the word “must”. There are no doubt arguments (particularly in legal circles) to be made that “should” means “must”. However, in this case, it is suggested that no room should be left for interpretation. It is suggested that the</p>	<p>Use of the words “should” and “must” in the document is deliberate. The Revised Draft Basements SPD cannot introduce new mandatory requirements/planning policy as it would not meet the legal tests set out in planning legislation. The remit of SPDs is to provide further guidance on adopted planning policies, in this case Policy CL7 Basements. Applicants must meet the adopted policy criterion (I) i.e. “ensure that construction</p>

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	<p>document should be manifestly peremptory (rather than merely - arguably - advisory). It is therefore recommended that suitable changes be made in this regard.</p> <p>In Appendix 5, contact details of responsible persons are required in questions 3 and (Similarly, in Appendix 4, so are the contact details of the person responsible for managing the CTMP required.)</p> <p>However, this does beg the question: what occurs if the person whose contact details are provided is not available when – reasonably - called upon (either by a representative of the RBKC, or by a neighbour, or by any other</p>	<p><i>impacts such as noise, vibration and dust are kept to acceptable levels for the duration of works.</i>” The SPD is providing guidance on how they can achieve this. It is expected that most applicants will follow the guidance provided in the SPD. Where applicants choose to submit information in a format that is different from the SPD, the Council will assess the submitted information and assess if it meets the policy requirement.</p> <p>These details are required by the Council so relevant notices can be served on those responsible if required. Submission of a planning application requires a Certificate of Ownership, so the Council does have these details.</p> <p>In relation to residents contacting those in-charge of the day-today running of the site, as noted in Appendix 2 (page 55) “<i>applicants</i></p>

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	<p>interested party)? It seems that there is a step / obligation missing from the RDBSPD, in that there appears to be no explicit obligation on the named person/s whose details are given, to keep themselves available at all relevant times (for example during times of “high impact” or “noisy” works). In the Compact for Residents (Appendix 2), too, the obligation is to “Display the site manager’s contact details and who to contact for any problems/ complaints, including a 24 hour telephone number for emergencies”, but there appears to be no obligation on that site manager and / or an alternate actually to be available.</p> <p>It is suggested that the RDBSPD, including particularly Appendix 5, should specifically and unequivocally require such person/s and / or alternate/s to be available at all relevant times.</p> <p>H Holland Park</p> <p>RA Residents' Association</p>	<p><i>should display the site manager’s contact details and who to contact for any problems/complaints, including a 24 hour telephone number for emergencies.”</i> The document places a lot of emphasis on consultation and liaison with neighbours before and during construction.</p>

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	<p data-bbox="613 284 779 316">Page 2 of 2</p> <p data-bbox="658 368 1323 834">The issue is clearly one of proper, positive and active enforcement: if there is a breach by a contractor / developer, unless there is someone immediately present to deal with complaints about contraventions, the affected resident/s would in practical terms have no useful remedy to alleviate their plight. A retrospective sanction would do nothing to assist a neighbour who has lost days or periods of work, or reasonable peace &amp; quiet.</p> <p data-bbox="658 887 1335 1358">The same is true also for RBKC enforcement officers. It may be helpful in this regard, if – and perhaps it doesn't - the Borough does not already have sufficient staff in order properly, positively, actively <u>and with immediacy</u> to enforce its conditions, to levy an additional charge on developers to cover increased staffing bills. That way, full-time enforcement officers could be made available at all times to ensure proper compliance. 'Proper' compliance</p>	<p data-bbox="1391 887 1966 1062">The Council has already taken steps to increase its enforcement team and takes robust enforcement action relating to breaches of planning requirements.</p> <p data-bbox="1391 1117 2033 1390">The Council is doing all it can to protect residential amenity in the Borough. It has adopted a new planning policy on Basements despite strong opposition and has successfully managed to fight a subsequent legal challenge to the policy. It should be</p>

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	<p>should be understood to mean, for example, if “high impact” works were to be undertaken other than within the RBKC’s prescribed hours, an <u>immediate</u> cease-works order could be obtained, and a suitable fine administered against the offending contractor and / or the developer / owner</p> <p>In closing, the Association would like to note that it is certainly not against development within its area. However, all development must be properly and carefully conditioned and actively monitored. It goes without saying that complete management of structural, safety and environmental issues and the like should be taken as <i>sine qua non</i> when any development is approved and undertaken. These are issues that could potentially have far-reaching and enduring consequences if they were not satisfactorily dealt with and policed.</p> <p>In addition to these long-term anxieties, however, are indeed the grave concerns about</p>	<p>noted that the Council’s new policy on basements is unique in introducing limits on the extent of basement development. A key reason for the restrictions in the policy was to reduce the volume of excavation and thereby construction impacts.</p> <p>The Council has been using legal planning notices including Temporary Stop Notices and Breach of Conditions Notices to immediately bring basement development sites operating in breach of planning control under control. Between June 2014 and June 2015 the Council served 23 Temporary Stop Notices all relating to basement development. This is more Temporary Stop Notices served than in any other local authority in the UK and represents nine percent of all Temporary Stop Notices served in the UK last year.</p>

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	<p>the disruption caused in the short term during the construction process. This consultation of course seeks to address these very concerns, and it is earnestly hoped that the consultation will ultimately result in a protocol that will not only appear good on paper, but one that will dynamically and effectively protect the interests of neighbouring and affected parties, while reasonably allowing sensible development within the Borough.</p> <p>We thank you in advance for your consideration of these submissions.</p>	
Kensington Society (Michael Bach)	<p>The Kensington Society welcomes the further revisions to the Draft Basements SPD.</p> <p>Our main concern is that the Council should enforce the hours of work through a planning condition, not just an informative. These hours are important in relation to the CTMP for hours of delivery and for seeking the removal of skips at weekends rather than skips remaining on-street 24 hours a day/7 days a week. We consider that if</p>	<p>Noted.</p> <p>The Council's Environmental Health department has already started serving s60 Notices where weekday working is restricted to 6pm (from 6:30pm) (also, in some cases Environmental Health department have served notices that have restricted the times even further). The complete prohibition on noisy Saturday working will be introduced (probably phased in over</p>

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	<p>hours of work are specified in a condition they will be easier to enforce.</p> <p>We do have some further comments:</p> <p><b>Pre-Application Consultation:</b></p> <p>As with consultation on draft CTMPs, it would be useful when providing evidence about the consultation with the planning application (see first bullet of the Applicant Checklist and paragraph 2.7) if this explicitly stated not only what the neighbours had said but also what changes if any were made in response.</p> <p><u>Proposal:</u> Add at the end of the first sentence on paragraph 2.7:</p> <p>“including details of what comments were received and what changes, if any, were made in response.”</p> <p><b>Design Guidance</b></p> <p>The Society still considers that there is a need for</p>	<p>several months) should this be approved by the Council when the Code of Construction Practice is adopted which is expected to happen in early 2016. The Council does not need to impose planning conditions for hours that already apply across the Borough. Such conditions will not be ‘necessary’ and will fail the tests for conditions set out in the <a href="#">NPPG</a>. The hours related to placement of skips and related to construction traffic are tailored depending on site circumstances through the CTMP. Any such hours set out in the CTMP are enforced by the Council.</p> <p><b>Pre-Application Consultation:</b></p> <p>Paragraph 2.7 already states “.....<i>helpful to state how such consultation has influenced the submitted proposals.</i>” No change is considered necessary.</p> <p><b>Design Guidance</b></p> <p>The Council has previously provided a response</p>

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	<p>an illustration that explains the meaning of “prevailing ground level”.</p> <p><b>Code of Construction Practice</b></p> <p>The Society is disappointed that a number of references to the Code of Construction Practice have disappeared from this draft, namely:</p> <ul style="list-style-type: none"> <li>in the Applicant Checklist for Section 5 and Figure 4 on page 22;</li> <li>in the Applicant Checklist for Section 6; and</li> <li>in the Consolidated Checklist in Section 10.</li> </ul> <p>although it is mentioned in paragraphs 6.22 and 6.24.</p> <p>Our concerns are that:</p> <ul style="list-style-type: none"> <li>it should be given more prominence as part of a “seamless service” to residents <u>and</u></li> </ul>	<p>that it cannot introduce new definitions through the Basements SPD given these issues were discussed in great detail at the examination of Policy CL7.</p> <p><b>Code of Construction Practice</b></p> <p>The Council has now included a new checklist in Appendix 5 with a number of references to the Code of Construction Practice. Previously information on noise, vibration and dust was to be provided in a discrete section of the CMS. This is no longer the case and therefore references in section 5 dealing with the CMS are no longer relevant.</p> <p>New references have been added in Section 6.</p> <p>The Council has given a lot of prominence to the Code of Construction Practice in the relevant sections (Section 6 and Appendix 5) dealing with this issue. Working hours are set out under the relevant question in Appendix 5 – see Question</p>

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	<p>applicants - it is useful to flag up the key requirements of the Code, especially working hours and limits to noise levels. These are already being used by Environmental Health, but the Informatives on Planning Consents still use old information.</p> <p>the Code is in the final stages to adoption – it will go the full Council meeting on 27 January – the references in paragraphs 6.22 and 6.24 need amending to reflect this. Will the SPD be going to the same meeting or will it be a Key Decision? We consider that these be adopted and publicised at the same time – ie end of January 2016.</p> <p><b>Proposal:</b> There should be references to the Code of Practice with live links to that documents and, in particular, there should be specific mention of it in the Compact for Residents.</p> <p><b>Making the entering into Section 61 agreements a requirement before work starts</b></p>	<p>10.</p> <p>The Council is aware that the final document should refer to the most up to date adopted guidance. The Council is also aware of the benefits of having both document in place at a similar time.</p> <p><b>Proposal: Reference to the Code of Construction Practice will be added to the Compact for Residents.</b></p> <p>The Council cannot make this a mandatory requirement as the Control of Pollution Act 1974 is drafted in a manner that gives Councils the</p>

Respondent Name	User's Response	Council's Response
	<p>The Society strongly welcomes this, but we are not sure what “submit a S61 “prior consent” notice for construction works to Environmental Health before starting construction” in the Applicant Checklist in Section 6 and the Consolidated Checklist in Section 10, means in practice. Is there any reason why this cannot be expressed as a condition to read:</p> <p>“The applicant will enter into a S61 agreement before starting construction.”</p> <p>This could have implications for Appendix 2: A Compact for Residents, second bullet of the “Before work begins” section needs to be changed to:</p> <p>“Enter into an agreement under S61 of the Control of Pollution Act to minimise disturbance from noise.”</p> <p>It needs to <u>secure an agreement</u>, not just merely “approach the Council’s Environmental Health</p>	<p>powers to serve a Section 60 notice covering the same issues. This is made clear in the document.</p> <p>As stated in the document applicants are expected to submit the checklist set out in Appendix 5 with the planning application. The applicant checklist at the beginning of Section 6 has been amended to include <i>“At the planning application stage, provide details of noise, vibration and dust using the guidance provided in this section and the checklist in Appendix 5.”</i> and <i>“Submit a S61 ‘Prior Consent’ notice for construction works to Environmental Health before starting construction.”</i></p>

Respondent Name	User's Response	Council's Response
	<p>team”</p> <p>Our strong preference would be for evidence on noise mitigation measures to be part of the validation process.</p> <p><b>Appendix 2: A Compact for Residents</b></p> <p>The Society welcomes this more structured and expanded list organised by stages in the process.</p> <p><b>Applicant's List</b></p> <p>It is not clear, however, whether the activities in these lists represent a sequence, an order of priority or just a random list. See also comments above about <b>securing</b> a S61 agreement before work starts.</p> <p>This list should also contain a reference to meeting the requirements of the Code of Construction Practice.</p> <p><b>Residents' Checklist</b></p>	<p>Appendix 2: Noted.</p> <p><b>Applicant's List</b></p> <p><i>The activities are not in order of priority as these are all important. Comments regarding S61 have been responded to above.</i></p> <p><b>Resident's Checklist</b></p> <p><b>Noted reference will be made to reporting</b></p>

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	<p>“During construction” should also advise on reporting noise from construction that exceeds agreed levels to Environmental Health.</p> <p><b>Access to the document</b></p> <p>Finally, the final version needs to a word-searchable pdf on the Planning website.</p>	<p><b>construction noise.</b></p> <p><b>Access to the document</b></p> <p>The document will be available as a pdf. Pdf documents are word searchable by pressing the ctrl+f buttons on PCs and command+f buttons on Apple macs.</p>
Ladbroke Association (Sophia Lambert)	<p>The Ladbroke Association welcomes the revised section 6 and our comments are largely about presentation. We do, however, have the following general points.</p> <p>We strongly urge the Council to make clear in the SPD that it will normally enforce the hours of work through a planning condition. We are aware that construction noise is specifically covered by the Control of Pollution Act 1974; and we are aware of the Council's view that</p>	<p>The Council has the powers to impose planning conditions where necessary on a case by case basis. These do not need to be set out in a planning policy document to be triggered where necessary. Planning conditions are used to make unacceptable development unacceptable. The Council requires information on noise, vibration and dust upfront. As stated in the response the Control of Pollution Act 1974 provides the mechanism to deal with these issues post planning permission. In relation to</p>

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	<p>conditions on noise cannot be imposed because of the rule that planning conditions cannot be used to enforce other legislation. However, hours of work are relevant not just to construction work, but also to traffic and dust and other nuisances. We note that there are other Councils that impose a planning condition on hours of work. We also note that in the debate on Lord Dubs' Planning (Subterranean Development) Bill on 20 November, the Minister specifically said that Councils could make conditions on hours of work. A planning condition on permitted hours of work would make these much easier to enforce, and seems to us a no-brainer.</p> <p>We welcome the requirement for basement planning applications to provide information (or a Section 61 agreement) on noise mitigation. We trust that this requirement will be added to the validation list so that there can be no room for doubt that it is required.</p>	<p>construction traffic, the Council requires a Draft CTMP with the planning application and a final CTMP through a planning condition. Hours of construction traffic and other details are set out in the approved CTMP which is enforceable. Therefore the Council does not agree that a standard condition covering these issues will meet the tests set out in the <a href="#">NPPG</a>. The level of information required at the planning application stage is greater in the Royal Borough compared to other areas which is why there is less of a need to include this type of condition than there may be elsewhere. The debate in the Parliament referred to the basement policy adopted by the Royal Borough in a very positive light. Baroness Williams of Trafford stated that <i>On comments made by my noble friend Lady Gardner of Parkes, they can condition individual planning consents to restrict hours of working and limit noise and disruption.</i>" The Royal Borough has taken a borough wide approach to this issue and is introducing limited hours for noisy work in the Code of Construction Practice. Therefore the</p>

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	<p>We remain concerned about a possible mismatch between the wording of the Compact for Residents and the new Construction Code being prepared by Environmental Health. It is muddling if there are two separate codes or guidance documents covering the same ground but using slightly different language. At the very least, a reference to the Construction Code should be inserted into the relevant part of the Compact for Residents.</p> <p>We hope that the Compact for Residents will be issued as a separate handy document, as well as being included in the SPD.</p> <p>As both the SPD and the Code are likely to be finalised at around the same time, we suggest that they be issued simultaneously so that there is no need in the SPD to refer to draft versions of the Code.</p> <p>Finally, please can we make our usual plea for the final version of this document to be put on</p>	<p>approach to have a condition restricting hours in each case is not necessary. Further Baroness Williams of Trafford also stated <i>“The Control of Pollution Act 1974 ensures that local authorities can enforce on matters such as equipment type—that has been brought up today—hours of working, and acceptable noise levels, in accordance with a code of conduct approved by the Secretary of State for the Environment, Food and Rural Affairs. Similarly, local authority environmental health departments are able to act, under the statutory nuisance regime set out in the Environmental Protection Act 1990, when there is excessive noise and other nuisance.”</i></p> <p>This Council has already taken steps to achieve what the Parliamentary Bill was seeking to achieve.</p> <p>Once the SPD has been adopted the Council will update the local list.</p> <p>As noted the two documents are “covering the same ground but using slightly different</p>

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	<p>the RBKC website both as a pdf (for those who want to print it out) and as webpages with appropriate index and other links for those who wish to consult it online. We are already getting complaints about the difficulty of navigating round the Ladbroke Conservation Area Appraisal (available only as a pdf), and that is a much less complex document.</p> <p>The following are some detailed presentational points.</p> <p><b>Paragraph 6.1:</b> put the reference to noise, vibration and dust before that to construction traffic, as the evidence is that these are what are of most concern to people.</p> <p><b>Paragraph 6.12:</b> this should make clear that where there are parking bays, the 3m width is the width between the parking bays – e.g. if there are parking bays on both sides, there should be a full</p>	<p>language”. <b>It is not considered necessary to use the exact wording but the Code of Construction Practice will be referred to in the compact.</b></p> <p>It is not intended to produce the Compact for Residents as a separate document as selected pages can be readily printed by users if required.</p> <p>The Council is aware and is aiming for a similar timing of adopting the two documents.</p> <p>The document will be made available on-line as a pdf document. Pdf documents are a standard format and are word searchable. The file size is around 1.8MB and therefore does not create any problems with downloading. The way the Council</p>

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	<p>three metres clear between them.</p> <p><b>Paragraph 6.13:</b> in the final sentence add “and length” after “number”.</p> <p><b>Paragraphs 6.19 to 6.24</b> are a dog’s breakfast, repetitious and badly stitched together. The “Planning” and “EH” versions need to be amalgamated into a single seamless one.</p>	<p>chooses to publish documents is a corporate issue and is not something that can be tailored just for this SPD.</p> <p><b>Presentational points</b></p> <p><b>Paragraph 6.1:</b> the paragraph relates to construction impacts and the list is not in any particular order.</p> <p><b>Paragraph 6.12:</b> This paragraph has been drafted to cover any potential on street layout. In some locations there is parking. In others there is none. Often the kerbside is used by servicing vehicles, as a bicycle hire docking station or for other purposes. No matter what the circumstances a minimum of 3m carriageway width should remain unobstructed at all times (wherever possible). The existing text is suitably</p>

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		<p>general and sufficiently clear.</p> <p><b>Paragraph 6.13: Change after the word “number” add “and duration”.</b></p> <p><b>Paragraphs 6.19 to 6.24</b> The paragraphs may be repetitious but this is of necessity. It is considered that the paragraphs convey clearly what is required in relation to the noise, vibration and dust issues. The Council has not received any other comments stating that the message is not clear or that these are badly written. The Council will review the paragraphs but it is not considered that they need to be fundamentally altered.</p>
Maeda Friederike	I have lived in RBKC for the past 26 years, and while there has always a certain amount of refurbishment and construction work been going on (after all London is a living and breathing city) the amount of construction has virtually exploded during the past decade , and not just through the	Noted. Ms Rai's comments have been considered in detail and a response has been provided.

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	<p>large scale developments like Earl's Court and Warwick Road to name but two , but there now seems to be barely a street left in the borough , where not some sort of construction is in progress . All this while the neighbours have to go about their daily business .</p> <p>Residents are happy about the improvements contained in the recently adopted revised basement policy , and have high hopes for the draft SPD . Ms Rai's suggestions would certainly mean improvements for neighbours , who have to live through the upheaval of extensive construction work close by Please give her comments serious consideration .</p>	

<b>Respondent Name</b>	<b>User's Response</b>	<b>Council's Response</b>
<p>Marine Management Organisation (Susan Davidson)</p>	<p><b>Response to your consultation</b></p> <p>Thank you for including the MMO in your recent consultation submission. The MMO will review your document and respond to you directly should a bespoke response be required. If you do not receive a bespoke response from us within your deadline, please consider the following information as the MMO's formal response.</p> <p>Kind regards,</p> <p>The Marine Management Organisation</p> <p>The Marine Management Organisation (MMO) is a non-departmental public body responsible for the management of England's marine area on behalf of the UK government. The MMO's delivery functions are; marine planning, marine licensing, wildlife licensing and enforcement, marine protected area management, marine emergencies, fisheries management and issuing European grants.</p>	<p>Noted.</p>

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	<p><b>Marine Licensing</b></p> <p>Activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009. Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence. You can also apply to the MMO for consent under the Electricity Act 1989 (as amended) for offshore generating stations between 1 and 100 megawatts in England and parts of Wales. The MMO is also the authority responsible for processing and determining harbour orders in England, and for some ports in Wales, and for granting consent under various local Acts and orders regarding harbours. A wildlife licence is also required for activities that that would affect a UK or European protected marine species.</p> <p><b>Marine Planning</b></p>	

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	<p>As the marine planning authority for England the MMO is responsible for preparing marine plans for English inshore and offshore waters. At its landward extent, a marine plan will apply up to the mean high water springs mark, which includes the tidal extent of any rivers. As marine plan boundaries extend up to the level of the mean high water spring tides mark there will be an overlap with terrestrial plans which generally extend to the mean low water springs mark. Marine plans will inform and guide decision makers on development in marine and coastal areas. On 2 April 2014 the East Inshore and Offshore marine plans were published, becoming a material consideration for public authorities with decision making functions. The East Inshore and East Offshore Marine Plans cover the coast and seas from Flamborough Head to Felixstowe. The MMO is currently in the process of developing marine plans for the South Inshore and Offshore Plan Areas and has a requirement to develop plans for the remaining 7 marine plan areas by 2021.</p>	

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	<p>Planning documents for areas with a coastal influence may wish to make reference to the MMO's licensing requirements and any relevant marine plans to ensure that necessary regulations are adhered to. For marine and coastal areas where a marine plan is not currently in place, we advise local authorities to refer to the Marine Policy Statement for guidance on any planning activity that includes a section of coastline or tidal river. All public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area must do so in accordance with the Marine and Coastal Access Act and the UK Marine Policy Statement unless relevant considerations indicate otherwise.</p> <p>If you wish to contact the MMO regarding our response please email us at <a href="mailto:consultations@marinemanagement.org.uk">consultations@marinemanagement.org.uk</a> or telephone us on 0300 123 1032.</p>	
Member, Sydney St. & District R.A. (R. Alexander)	Can this new Section also be made to apply to those basements that are excavated as a	Permitted development cannot be subject to planning control. However, the Council has

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	<p>"permitted development right" according to the Town and Country Planning (General Permitted Development) Order 2015 --- i.e. those basements that can be excavated without requiring Planning Permission from the Council?</p>	<p>made a Borough wide Article 4 Direction removing permitted development rights related to basement development. This Article 4 Direction is expected to be confirmed in late April 2016. Once this has been confirmed all types of basement development will be subject to the same planning policies.</p>
<p>Natural England (Victoria Kirkham)</p>	<p>Thank you for your consultation on the above dated 12th November 2015 which was received by Natural England on the same date.</p> <p>Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p>We support the principle of meaningful and early engagement of the general community, community organisations and statutory bodies in local</p>	<p>Noted. In relation to Strategic Environmental Assessment/Habitats Regulations Assessment, the Council produced a Screening Report on the Basements Supplementary Planning Document (SPD) during the course of its preparation. The Screening Report was produced in December 2014 and English Heritage, Natural England and the Environment Agency<sup>1</sup> were consulted on the Screening Opinion, from 10 December 2014 to 21 January 2015.</p> <p>The Council received responses on the Screening Report, December 2014 from the Environment Agency and English Heritage. Both</p>

<sup>1</sup> R4(1), The Environmental Assessment of Plans and Programmes Regulations 2004; paragraph 014, NPPG SEA & SA

Respondent Name	User's Response	Council's Response
	<p>planning matters, both in terms of shaping policy and participating in the process of determining planning applications.</p> <p>Whilst we welcome this opportunity to give our views, the topic of the Supplementary Planning Document does not relate to our remit to any significant extent. We do not therefore wish to comment.</p> <p><b>Strategic Environmental Assessment/Habitats Regulations Assessment</b></p> <p>In principle SPDs should not be subject to the Strategic Environmental Assessment Directive or the Habitats Directive because they do not normally introduce new policies or proposals or modify planning documents which have already been subject to a Sustainability Appraisal or Habitats Regulations Assessment. However a SPD may occasionally be found likely to give rise to significant effects which have not been formally assessed in the context of a higher level planning document. This may happen, for example, where</p>	<p>of these responses conclude that the Basements SPD does not require a Strategic Environmental Assessment or Sustainability Appraisal.</p> <p>The Council's final Screening Opinion, after consulting the consultation bodies and taking into account the criteria specified in Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004, is that the Basements SPD does not require a SEA/SA for the reasons set out in the Screening Report, December 2014.</p> <p>The Screening Report and the responses received from the Environment Agency and English Heritage are available on-line as part of the Basements SPD consultation at <a href="https://planningconsult.rbkc.gov.uk/">https://planningconsult.rbkc.gov.uk/</a> .</p>

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	<p>the relevant high level planning document contains saved policies within a saved local plan which predates the need to carry out a SA or HRA and therefore no higher tier assessment has taken place. If there is any doubt on the need to carry out a SA or HRA a screening assessment should be carried out.</p> <p>We now ask that all planning consultations are sent electronically to the central hub for our planning and development advisory service at the following address:  <a href="mailto:consultations@naturalengland.org.uk">consultations@naturalengland.org.uk</a>. This system enables us to deliver the most efficient and effective service to our customers.</p> <p>We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.</p>	
Physic Triangle Residents Association (Margaret	I am pleased these extra requirements are included	Noted with thanks.

Respondent Name	User's Response	Council's Response
Thompson)		
MISARA	<p><i>Introduction</i></p> <p>As mentioned in our responses to the first and second consultations, we very much welcome the provision of more detailed guidance and advice on Local Plan Policy CL7:Basements in the form of the draft SPD and commend everyone involved in its production. It is well drafted and will be a helpful reference point for all those involved in, or adversely affected by, basement developments.</p> <p><i>General</i></p> <p>We are very pleased that the Council has decided to include more specific provisions relating to noise, vibration and dust in the draft SPD and we particularly welcome the addition of the new Appendix 5. The draft SPD now dovetails better with the draft Code of Construction Practice and, in our view, the changes will help to encourage a more holistic approach to basement development.</p> <p>We note, however, that the Council has, in the</p>	<p><i>Introduction</i></p> <p>Noted with thanks</p> <p><i>General</i></p> <p>Noted.</p> <p>Yes, it is confirmed that the use of 'should' and</p>

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	<p>main, again used the word “should” in this section of the draft SPD rather than “must”. Again we assume that this has been done advisedly – with the former indicating strongly preferred practice which is not mandatory and the latter indicating mandatory requirements.<u>[1]</u></p> <p>We appreciate that the Council cannot compel developers to apply for a Section 61 Prior Consent but would be grateful for an explanation as to why the Council cannot mandate, for example, the submission of the mitigation measures with the planning application (paras 6.20 and 6.24<u>[2]</u>) and/or notification to the Royal Borough’s Noise and Nuisance Team of the date of commencement, and projected duration, of works on site (para 6.24<u>[3]</u>) (which seems to be the envisaged trigger for service by the Council of a Section 60 Notice). This is particularly important given the Council’s stated intention to serve Section 60 Notices in respect of all major developments where the applicant does not apply</p>	<p>‘must’ throughout the document is deliberate as the SPD cannot introduce new requirements but can only provide guidance on the adopted Policy CL7. However, even where ‘should’ is used it indicates the best way of meeting the requirements of Policy CL7 and if the guidance is not followed it is possible that the development proposals are not compliant with Policy CL7.</p> <p>The Council does require information on how applicants meet Policy CL 7(l) as this is an adopted planning policy. Policy CL 7(l) states <i>“ensure that construction impacts such as noise, vibration and dust are kept to acceptable levels for the duration of the works.”</i> Paragraphs 6.20 to 6.24 set out guidance on what applicants should submit to meet the policy requirement. Appendix 5 provides a template for applicants to submit the relevant information. It should be noted that if the guidance is not followed by applicants it is possible that the development proposals will not be compliant with Policy CL7 resulting in an unfavourable outcome for the</p>

Respondent Name	User's Response	Council's Response
	<p>for a Section 61 Prior Consent.</p> <p>We also note the reasons given for the rejection of the request to include a condition rather than an informative relating to compliance with the Environmental Health requirements (para 6.24[4] but would ask the Council to reconsider this position if the current proposals do not have the required effect on compliance.</p> <p>As we have said on previous occasions, we consider it of the highest importance that residents are made aware of Section 60 notices (and Section 61 Prior Consents) when they have been issued. We are told that Section 60 notices have often been ignored by developers in the past. Notifying residents of their existence would help the Council with enforcement.</p> <p>We are told that the Council does, now, routinely upload Section 60 notices and Section 61 Prior Consents to relevant applications but there is often a time lag post grant of planning consent and there is not currently the facility on the website to notify</p>	<p>planning application.</p> <p>The Council has the powers to impose appropriate planning conditions. These do not need to be set out in any planning policy document. Planning conditions are used to make unacceptable development acceptable. This can be decided on a case by case basis as long as planning conditions meet the tests set out in the <a href="#">National Planning Practice Guidance</a>.</p> <p>The Council has powers under S60 of the Control of Pollution Act 1974 to publish notice of the requirements of the S60 Notice (but not S61 Prior Consents) in such a way as appears appropriate. Currently, S60 Notices do appear on the Council's planning website against the relevant development so those interested in the</p>

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	<p>interested third parties when this has happened. By way of example, construction work is under way at 9 sites in the MISARA area following the grant of planning consent, of which in 6 cases an informative encouraged the applicant to submit a Section 61 Prior Consent. In none of these cases has a Section 60 notice or Section 61 Prior Consent been added to the website so we have no idea whether or not a notice has been issued, or (where they have been) when the notice will be put on the website, or (where they have not been) whether and when they will. We wrote to the Director of Planning about this on 24 November and await his reply. In the absence of notices on the website, how can residents find out whether or not they have been issued and what they stipulate, and help draw the attention of the enforcement team to breaches of the requirements?</p> <p>We are very much looking forward to the website upgrade which, we understand, will enable residents to “follow” an application, after which they will be alerted under the Council’s electronic</p>	<p>planning application can view the information online. All S60 Notices and S61 Prior Consents will contain requirements to liaise with residents, and consideration will be given to the inclusion of conditions within both that require the Notice/Consent to be circulated to neighbouring residents</p> <p>The improvements being made to the Council’s website and MyRBKC will include the ability to search for and be notified of Enforcement Notices being served.</p>

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	<p>notification (Enotify) system if additional documents are added to that application, thus enabling one to find out when a Section 60 notice or Section 61 Prior Consent has been served.</p> <p>In our view, either this draft SPD or the draft Code of Construction Practice should be expanded to give detailed guidance on the timing of issue of a Section 60 Notice. This is all the more important if our recommendation on the inclusion of a planning condition (see below) is not accepted. Is it, in effect, simply when the Council discovers that work has started? If so, could residents help by notifying the Council of sites where we observe that work has started? What is the normal interval of time between discovery of the fact and issue of the notice? What do you expect will be the normal interval of time between issue of a notice and its being placed on the website? Are there any targets for what these maximum time intervals should be?</p> <p>In order to assess how well the new system works,</p>	<p>S60 notices are served both reactively, on receipt of a complaint or enquiry from residents, and proactively by officers surveying the borough for active sites. Notices are usually served within a few days of a site being discovered, once the contractors details and owners details have been confirmed. Residents could assist by notifying the Council where work has started (or is about to), even if they have not been disturbed or inconvenienced. Generally notices are placed on-line by the Environmental Health team when the notice is sent/served.</p> <p>The issue of monitoring section 60/61 notices with particular reference to basement development is not within the remit of the Basements SPD. The purpose of the Basements SPD is to provide guidance on compliance with Policy CL7 Basements. The monitoring of such notices is for Environmental Health and can be undertaken without specifying it in the SPD.</p>

<b>Respondent Name</b>	<b>User's Response</b>	<b>Council's Response</b>
	<p>it is important that the Council publishes regular statistical information on, for example, the number of planning applications granted, the number of Section 61 Prior Consents applied for by applicants, the number of Section 61 Prior Consents agreed to by the Council, the number of Section 60 notices issued, the number of noise and nuisance complaints registered at the applicable sites and the number of enforcement actions taken for breach of these notices/consents (distinguishing between those notices/consents issued following the grant of planning consent and those which have not). We cannot find this information on the website. We, therefore, ask the Council to explain in its response what information will be published, and how often, and where on the website it can be found.</p> <p>Please could you make sure that the comments in this document are properly attributed to MISARA, rather than MISARA (Richard Grantley) as was the case with our comments on the revised draft SPD.</p>	

Respondent Name	User's Response	Council's Response
	<p>[1] Our use of the word “should” in our comments should not be interpreted in the same way...</p> <p>[2] (second bullet point)</p> <p>[3] (sixth bullet point)</p> <p>[4] (third bullet point)</p>	
<p>Sonia Rai (on behalf of herself , SMERA , and in association with Cllr Prof Sir AnthonyCoates , Karl Sternberg , Geoffrey Dove MBE)</p>	<p>A planning department should be proactive to seek expert help and ensure that there is no significant loss of amenity, and comply with the NPPF and guidance</p> <p>Without a planning condition to ensure that the CMS complied with, the planning department of RBKC is failing to be proactive and failing to comply with CE6, CL7, par 123 of the NPPF and its guidance</p>	<p>Noted. The Council has in-house technical expertise to deal with the issues of noise, vibration and dust, therefore it is not clear why external experts should be sought.</p> <p>Use of planning conditions is a reactive measure. Planning conditions are used to make unacceptable development acceptable. The Council's view is that development should be acceptable in relation to noise, vibration and dust issues at the planning application stage. The Control of Pollution Act 1974 provides the mechanism to deal with these issues post</p>

Respondent Name	User's Response	Council's Response
		<p>planning permissions and the Council does not agree that the use of a standard planning condition in each case is the appropriate way of dealing with this issue.</p>
<p>St Quintin and Woodlands Neighbourhood Forum (HENRY PETERSON)</p>	<p>I support the Council's efforts to bring the noise generated by basement projects under control.</p>	<p>Noted.</p>
<p>TfL (Tristan Gielen)</p>	<p>To whom it may concern</p> <p>Thank you for your email dated 12 November 2015 notifying Transport for London (TfL) of further revisions to Chapter 6 (noise, vibration and dust)and Appendix 5.</p> <p>As you are aware, TfL responded to the consultation on the Revised Draft Basements Supplementary Planning Document in its entirety. TfL does not have any specific comments to make relating to Chapter 6. TfL is comfortable that it will be consulted on any application that has the potential to adversely impact upon the Transport for London Road Network, Strategic Road Network</p>	<p>Noted.</p> <p>The Council will amend text as requested by TfL - <b>TfL requests that paragraph 2 on page 82 should be amended to read:</b></p> <p><b>You should be aware that developments that are on or adjacent to the Transport for London Road Network (red route), or in close proximity to London Underground infrastructure, will require separate approval from Transport for London (TfL) and some licences (such as scaffold licences) will be issued through TfL.</b></p>

Respondent Name	User's Response	Council's Response
	<p>or London Underground infrastructure.</p> <p>TfL requests that paragraph 2 on page 82 should be amended to read:</p> <p>You should be aware that developments that are on or adjacent to the Transport for London Road Network (red route), or in close proximity to London Underground infrastructure, will require separate approval from Transport for London (TfL) and some licences (such as scaffold licences) will be issued through TfL.</p> <p>The alterations proposed above are only minor but would provide greater clarity to potential applicants.</p> <p>Please contact me should you have any queries.</p>	
The Markham Square Association (David Cox)	No.	Noted.
Tony Holt	see above	Noted.