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# Basements

## Statement of Consultation

(Reg 17, Proposed Submission Documents (d))

Partial Review of the Core Strategy



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

February 2014

Regulation 19, Town and Country Planning (Local Planning) (England) Regulations 2012



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## 1. **Statement of Consultation**

- 1.1 This statement meets the requirements of Regulation 17 (“proposed submission documents” (d)) of the Town and Country Planning (Local Planning) (England) Regulations 2012.

## 2. **Basement Draft Policy Consultation – Dec 2012/ Jan 2013 (Regulation 18 Consultation)**

### (i) **Which bodies and persons were invited to make representations under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012**

- 2.1 The Local Planning Authority invited 1,352 bodies and persons to make representations (762 by email and 590 by letter) which were all the bodies included in the Local Plan database which has been compiled since 2005. This includes both general consultation bodies and specific consultation bodies. The specific consultation bodies consulted included the Environment Agency; English Nature, English Heritage and the Mayor of London (GLA).

### (ii) **How those bodies and persons were invited to make such representations**

- 2.2 The consultees were invited to make representations on-line through a specific consultation portal, in writing to the Executive Director, Planning and Borough Development or by email, either as an email in its own right or a document attached to an email. Two consultation workshops and a briefing session were also held and the results of these workshops were recorded and taken into account as part of policy development.
- 2.3 In addition to the targeted mailing to the organisations and individuals on the Council’s Local Plan database the Council sends weekly Planning Bulletins which publicises forthcoming consultations and public events to about 1,170 subscribers. The Planning Bulletin subscribers include those on the Local Plan and TRA database, elected members, residents and internal staff. It is continually updated to include people wishing to subscribe.
- 2.4 The consultation documents were available on the Council’s website and in hard copy in all the libraries in the Borough and at Council Offices. The policy review also received publicity in the press and radio.
- 2.5 As part of the consultation the Council organised a briefing session for residents on the evening of 12<sup>th</sup> December 2012. This was followed by the first public consultation event on the draft policy itself on the evening of 9<sup>th</sup> January 2013. This event was attended by about 60 people. Due to popular demand a

second public consultation event was organised on the evening of 21<sup>st</sup> January 2013. This event was also attended by over 50 people. These events were attended by residents, councillors, representatives from residents associations, developers, contractors and other professionals involved in basement development. The minutes of these events were made available on the Council's website.

(iii) **A summary of the main issues raised by the representations**

2.6 A total of 86 representations were received of which 82 were received by letter or email and 4 were on-line. A summary of the main issues raised is presented below:

**Size**

2.7 Residents associations generally supported greater restrictions on the size of basements and the general consensus was to further restrict the size of basements. A figure of 50% instead of the maximum of 75% of the garden area proposed was often quoted. The restriction to a single storey was also generally supported but there were comments to further define the single storey in terms of actual depth. The draft policy allowed more than a single storey on larger sites. Comments were received requesting clarity on what would be considered a large site.

2.8 Many contractors/developers on the other hand considered the proposed limits on size to be unreasonable and not justified in planning terms.

**Construction Impact**

2.9 Whilst residents supported the requirements for the various technical documents to be submitted along with the planning application many had the impression that these would not be consulted upon as they had been 'approved' prior to submission.

2.10 The cumulative impact of several basements being constructed at the same time is an issue that some residents clearly feel very strongly about.

2.11 Many residents would like the planning department to have stricter controls on issues relating to protecting the structural integrity of neighbouring properties. Several suggestions have been made regarding this being included and having conditions relating to third party insurance and the Council employing its own engineers to check these reports.

2.12 Contractors/ developers expressed the view that these issues are dealt with by other legislations and the requirements are too onerous on applicants.

## Mitigation

- 2.13 Issues regarding the impact of basements on ground water conditions were raised. Some comments were made about the adequacy of the 1m of top soil required and if only 25% of the garden is enough to mitigate the impact if 75% of the area underneath the garden can be developed. It was also mentioned that the carbon impact of basements needed to be taken more fully into account.

## Impact on Character

- 2.14 Some respondents stated that having a basement covering the maximum limit of 75% of the garden would have an impact on the character of the garden. Although there is a requirement to provide 1m of top soil, it may still result in the garden appearing artificially flat. It may also not be flexible enough to allow for mature tree planting.
- 2.15 Some developers suggested that the gardens with 1m of top soil can have an informal design, not appear artificially flat and can accommodate mature planting. Some comments were also received that if the garden character in an area is hard paved, requiring 1m of topsoil would detract from this character.
- 2.16 The residents generally support the proposals to minimise the visual impact of the external, visible elements of basements such as light wells.

### (iv) **How those main issues have been addressed in the DPD**

- 2.17 All representations were taken into account at this stage. The Council's report titled 'Basements Review: Consultation Responses to Draft Basements Policy (March 2013)' shows how each comment was taken into account and whether it would influence the formulation of the policy. Based on the consultation responses and further research by the Council into the visual impact of basements on the character of gardens and planting it was recognised that allowing basements in up to 75% of the gardens may be excessive. As a result it was proposed to change the draft policy to restrict basement to a maximum of 50% of the garden.
- 2.18 Further clarity was provided throughout the reasoned justification in response to the comments such as on the definition of a single storey. Draft policy was also changed to preclude basements from the gardens of listed buildings with the exception of large gardens where basements could be built without causing extensive changes to the foundation of the listed buildings. As a result of the consultation it was also recognised that the policy clause in relation to heritage assets should be seeking to prevent 'harm' not 'substantial harm' to

heritage assets. The consultation further highlighted that a specific reference to protect basements from sewer flooding should be added as all basements are vulnerable to this type of flooding.

- 2.19 The requirement for 1m of soil on top of basement was not changed. This was in view of the fact that the 1m of soil performed a dual role in providing SUDs as well as an area for planting.
- 2.20 Imposing further requirements to mitigate construction impacts were not considered reasonable. The Council was of the view that introducing greater restrictions on the size and requiring consideration of a range of issues at the beginning of the process were sufficient requirements.
- 2.21 A number of other changes to improve the clarity of the text were made throughout the reasoned justification of the draft policy as a result of the consultation.

### **3. Basement Second Draft Policy Consultation (Regulation 18 Consultation)**

- 3.1 The Council considered the range of views expressed during the first draft policy consultation. Consultation indicated that some parts of the draft policy needed better clarity such as the definition of an existing basement and a single additional storey. These changes for clarity were made.
- 3.2 The Council considered the comments relating to the extent of basements underneath gardens. There were differing views suggesting greater or lesser restrictions on extent. The desirability to maintain 'green and leafy' gardens, flexibility to plant major trees together with the recommendations in the ABA report regarding drainage indicate substantial proportion of the garden should remain free of any development.
- 3.3 In addition to the consideration of issues raised in the first round of consultation the Council undertook its own research on the visual impact of basements. This report setting out this research titled 'Basements Visual Evidence, July 2013' is available on the Council's website. The Council also reconsidered the recommendations in the technical report by Alan Baxters and Associates (ABA) and the policy direction in the London Plan, July 2011.
- 3.4 Risks associated with basement development were also reconsidered particularly in relation to listed buildings.
- 3.5 This led to significant revisions to the policy and therefore a second round of consultation was undertaken by the Council to allow further consideration of views.

**(i) Which bodies and persons were invited to make representations under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012**

3.6 The Local Planning Authority invited 1,406 bodies and persons to make representations (824 by email and 582 by letter) which were all the bodies included in the Local Plan database which has been compiled since 2005. This includes both general consultation bodies and specific consultation bodies. The specific consultation bodies consulted included the Environment Agency; English Nature, English Heritage and the Mayor of London (GLA).

**(ii) How those bodies and persons were invited to make such representations**

3.7 The consultees were invited to make representations on-line through a specific consultation portal, in writing to the Executive Director, Planning and Borough Development or by e mail, either as an e mail in its own right or a document attached to an email. A consultation workshop was also held and the minutes of this workshop were recorded and taken into account as part of policy development.

3.8 In addition to the targeted mailing to the organisations and individuals on the Council's Local Plan database the Council sends weekly Planning Bulletins which publicise forthcoming consultations and public events to about 1,170 subscribers. The Planning Bulletin subscribers include those on the Local Plan and TRA database, elected members, residents and internal staff. It is continually updated to include people wishing to subscribe.

3.9 The consultation documents were available on the Council's website and in hard copy in all the libraries in the Borough and at Council Offices. The policy review also received publicity in the press and radio.

3.10 As part of the consultation a public meeting was held on 8<sup>th</sup> April 2013 in the Small Hall at Kensington Town Hall. The meeting was structured as a question and answer session. It was attended by about 40 people with representatives from residents associations, residents, representatives from the basement construction industry, planning consultants and other professionals such as architects and members. The minutes of this meeting were made available on the Council's website shortly after the event.

**(iii) A summary of the main issues raised by the representations**

3.11 A total of 105 representations were received of which 90 were received by letter or email and 15 were on-line.

3.12 There was a clear division in the views expressed to the second draft consultation. These are summarised below:

### **Opposed to policy**

3.13 About 47 individual responses were received which were opposed to greater planning restrictions on basements. These were mainly from residents and those involved in constructing basement projects. They were opposed to the limits being introduced. These responses broadly highlight that introducing the limits proposed would have an economic impact by curtailing jobs in the construction industry and that this is not in-line with the current Government policy. They also questioned the remit of planning to limit development on the basis of construction impact and whether construction impacts can be legitimately considered at the planning application stage. Similarly the remit of the planning system is questioned in restricting development on a precautionary basis with regard to structural risks. This group was generally opposed to all parts of the policy including the limits on introducing light wells if they are not already an established and acceptable feature of the streetscape. A number of comments have been made objecting to the restrictions regarding listed buildings and their gardens.

3.14 Whilst strong objections have been made, given the dense residential environment in the Royal Borough it is considered appropriate to limit construction impacts proactively because of the planning consequences. This is exacerbated by the number of applications now being received. Issues such as residential amenity, health and well-being and the living conditions of residents are material planning considerations which need to be addressed. There are a number of other reasons for the limits including a need to retain natural gardens and limiting greater carbon emissions. As the policy is not banning basements but curtailing the extent, there will only be a limited impact on the construction industry and related economy. The policy needs to find the right balance between economic, social and environmental issues as the NPPF outlines at paragraph 7. The planning system therefore has to perform a number of roles. The SA/SEA of the policy demonstrates that the policy is compatible with the SA objectives. The policy changes were considered reasonable and no further changes to the substance of the policy were proposed. However, changes were made to improve the clarity of definitions (also raised in the comments) such as; 'an existing basement' and 'large comprehensively planned sites'.

## Support the general direction of policy

- 3.15 There were 38 supportive responses from residents and residents associations, some commending the progress made in developing the policy. However, some of these were of the view that the policy is not restrictive enough and basements should be limited to the footprint of existing properties. Comments were made that the restrictions in relation to listed buildings should apply to all buildings within conservation areas. Some comments highlighted that not enough emphasis had been placed on the degree of construction impacts experienced by residents. Some respondents commented on the structural damage to their properties as a result of basement construction. They asked for limits being put to the number of sites that can be constructed in a street at the same time, a mechanism for compensation to the neighbours and a range of other measures.
- 3.16 The Council considered that it would be unreasonable to impose any further restrictions. The criteria introduced in the draft policy would mitigate any harmful impacts of basements and imposing further restrictions would not be in-line with national policy supporting sustainable development. The representations maintained concerns raised previously that basements can cumulatively increase ground water levels which can then enter the sewer system. Thames Water stated that this should be monitored. Thames Water welcomed the requirement for basements to be fitted with positively pumped devices and acknowledged that the policy may reduce the existing volume and flow of surface water run-off. As a result no further changes to the substance of the policy were proposed. However, changes to improve the clarity of definitions (also raised in the comments) were made.
- 3.17 A letter supporting introduction of the policy was also received from the Greater London Authority (GLA). There were additional comments from Transport for London (TfL) regarding considerations of highway safety and London Underground network. These changes were accepted and accordingly addressed in the draft policy document.
- (iv) How those main issues have been addressed in the DPD**
- 3.18 All representations were taken into account but did not result in substantial changes to the policy. This was because given the evidence the Council concluded that the right balance had been struck to ensure sustainable development. However, it was considered that the policy should be amended to ensure private gardens were safeguarded in terms of their character and function. This was undertaken by expressing the policy in terms of retaining at least 50% of each garden rather than

setting limits on the extent of basements in the gardens. Changes to clarify definitions and application of the policy were made throughout the text.

- 3.19 The Council's report titled 'Basements Review: Consultation Responses to Second Draft Basements Policy (July 2013)' shows how each comment was taken into account and whether it would influence the formulation of the policy.