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Review of RBKC Basement Publication Planning Policy July 2013 - The Party Wall Act

Executive Summary

- The proposed policy changes suggested by RBKC are intended to address a number of perceived issues concerned with potential damage to an adjoining owner's property, nuisance caused during the construction, safety risks involved in the construction of basements. There is already legislation in place that deals with these issues, Party Wall Act 1996.
- One of the recommendations put forward under paragraph 34.3.73 (RBKC Basement Publication Planning Policy) is that party wall negotiations should start in advance of submission of Planning Applications. This is wholly impractical and also would impose a significant, financial burden on both the building owner and the adjoining owner.
- The appointment of Party Wall Surveyors is a statutory one and they have a duty under statute to ensure that the Act is applied correctly and that the adjoining owners and building owners are equally safeguarded. Both surveyors have an equal statutory obligation of a duty of care to both parties, irrespective of which one has actually appointed them. The nature of the appointment also means that they cannot be unduly influenced by decisions that may be unfavourably arrived at through their professional expertise and they are, therefore, able to completely, independently arrive at the correct constructional solution to a given situation without influence from either owner.
- Party Wall Act 1996 more than adequately deals with any perceived risks or problems with basement construction.
- Therefore through RBKC's lack of understanding of The Party Wall Act **I find the reasoned justification and Policy CL7 of 'RBKC Basement Publication Planning Policy – July 2013' to be unsound.**