

**Council's Response to - Proposed Planning Policy CL7, Comments by Cranbrook Basements (March 2014), RBKC, April 2014**

	<b>Basement Development Should:</b>	<b>RBKC Reasoned Justification</b>	<b>RBKC Evidence Base</b>	<b>Ref</b>	<b>Objection to Proposed Policy</b>	<b>Cranbrook Evidence Base</b>	<b>Council's Response</b>
CL7 A	Not exceed a maximum of 50% of each garden or open part of the site. The unaffected garden must be in a single area and where relevant should form a continuous area with other neighbouring gardens. Exceptions may be made on large sites;	To reduce the level of Construction Phase inconvenience		1.00	RBKC have confirmed in writing that they have no evidence available to support their contention that the restriction of garden zone excavation to a maximum of 50% will reduce the level of construction phase inconvenience. This attempt to implement an enormous reduction in garden basement size in the absence of any evidence of benefit is wholly unreasonable	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 11 - Item 1	The Council's policy is based on a number of issues as set out in the Policy Formulation Report, RBKC, Feb 2014 and not just on construction impact. However, the Council's supporting document - Case Studies of Basement Excavation, Alan Baxter and Associates, Jan 2014 shows that larger basements in general have a greater rate of excavation (m3 per week) than smaller ones (para 6.3). There is also a good correlation between the volume of excavation and the total number of lorry movements (para 6.4). Reducing the extent of development on each individual site will result in less construction.
				2.00	RBKC have stated in writing that inconvenience during the Construction Phase of a development are not a material factors that can be considered when in determining whether or not Planning Consent should be granted. This is the Publicly stated view of RBKC. It is therefore perverse to attempt to reduce the amount of garden Basement area that can be constructed on the basis of an issue that RBKC state is not a material planning consideration.	<b>Document 2</b> - RBKC - Non Material Planning Considerations - Page 2	The construction of basements can have a serious impact on the quality of life of residents in the area as stated in para 34.3.49 and 34.3.50 of the reasoned justification. Material considerations are not defined in planning law. The impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is not insignificant.  Cranbrook Basements' comments are related to specific planning applications. Even where planning applications are concerned depending on the scale and nature of development, decision makers will consider construction impacts. The weight given to this material consideration will vary in different cases.  When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.
				3.00	RBKC have confirmed in writing that they have not considered the potential reduction in construction period which can be achieved when using mechanised excavation equipment for Basement construction - Reductions of up to 75% in project duration are achievable when excavation is carried out mechanically - The lack of Policy Research by RBKC is extremely serious when	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 1	The Council's policy is partly based on the evidence of construction impacts as experienced by residents. This is expressed in the Surveys of neighbours and residents undertaken in August/ September 2012, responses to various consultations and daily correspondence received by the planning department. The Council supports using best practicable means for construction and mechanical excavation may not be possible for the constrained sites commonly found in the Borough.

					seeking to restrict the legitimate development rights of Householders and Developers		
				4.00	The Independent Report prepared by ARUP Associates states that in most cases the degree of inconvenience experienced during Basement Construction is " In general, at least of similar, and <b>sometimes</b> of greater, magnitude than equivalent categories of disturbance created by other types of residential building works (such as replacing a roof, converting a loft, or adding a conservatory). The draconian restriction proposed by RBKC is unreasonable in light of this statement.	<b>Document 3</b> - Arup Geotechnics - RBKC Town Planning Policy on Subterranean Development - Page 23 - Paragraph 5.4	The Arup report was published in 2008 and acknowledges that basement development is sometimes of greater magnitude than <b>equivalent categories of disturbance</b> .....It should be noted that a basement adding one of more floors below the footprint of an existing building and extending into a large majority of the garden is generally not equivalent to the other types of above ground development described here. The Council's supporting document Alan Baxter Associates Basements Report (Mar 2013) should also be referred to at para 12.2.2. In addition the Council's proposed policy is based on a range of supporting documents as described in the Policy Formulation Report, RBKC, Feb 2014.
				5.00	In the Judicial Review carried out by The Rt Honourable Lord Justice Underhill - RBKC supported the view that Construction Phase Inconvenience was not a reason to refuse the grant of Planning Consent - In conclusion Lord Justice Underhill states :- <i>"I do not underestimate the disruption which the carrying out of the development for which permission has been given is likely to cause to the claimant. Mr Brown made that point fully and clearly at the forefront of his submissions; and indeed, for what it is worth, the claimant has my sympathy. <b>But it is a fact of life that in an urban environment development in neighbouring properties will from time to time cause real disruption to neighbours. That is not a reason for refusing the grant of planning permission. There are many remedies, both legal and social, for a person in the claimant's position to mitigate (though I appreciate it will not remove) the amount of the disruption, but I cannot see that it was even arguably unlawful for the council to grant permission on the conditions that it did.</b></i>	<b>Document 5</b> - Royal Courts of Justice - Case CO/11629/2011 - Page 6 - Point 17	Clearly in this case the Council did not consider construction impacts to be of such magnitude that warranted refusing permission. The Council's position was upheld in the judicial review. This is not to say that the impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is insignificant. Cranbrook Basements' comments are related to a specific planning application. When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process. .
CL7 A	Not exceed a maximum of 50% of each garden or open	To reduce Construction Phase traffic		6.00	61% of Basements that received Planning Consent since 2007 where	<b>Document 34</b> - Cranbrook Basements - Planning	Large basement developments add significant new floorspace to existing dwellings compared

	<p>part of the site. The unaffected garden must be in a single area and where relevant should form a continuous area with other neighbouring gardens. Exceptions may be made on large sites;</p>				<p>schemes where the Basement was simply a component part of a larger development - It is essential to determine which part of the total development was responsible for any construction traffic generated.</p>	<p>Officer Report Analysis</p>	<p>to above ground refurbishments/ extensions and generally generate more construction traffic. A few random examples were selected to view detailed description from Cranbrook's Document 34 and they confirm that the above ground works were small compared to the basement. These are presented below -</p> <ul style="list-style-type: none"> <li>• PP/13/00572, 34 Sheffield Terrace - Alteration to roof mansard and creation of a basement with front lightwell.</li> <li>• PP/12/04622, 37 Clareville Grove - Formation of basement extension under existing property and rear garden including front and rear lightwells and ground floor extension to rear of property.</li> <li>• PP/10/00959, 32-34 Aubrey Walk - Subterranean works to create a basement level beneath the footprint of both properties, and alterations to existing rear ground floor conservatory extension at 32 Aubrey Walk, including enlargement of first floor terrace above.</li> <li>• PP/08/01664, 10 Tregunter Road - Erection of rear extensions at lower ground and ground floor levels, installation of dormer window to rear roof slope together with the construction of a new basement level to accommodate swimming pool and associated facilities.</li> </ul> <p>The trend for retrofitting basements is in part because of the special character of the Borough's built environment. Given the densely built up character along with high quality uniform townscape in conservation areas covering 70% of the Borough, works/ extensions above ground are generally limited in scale.</p>
				<p>7.00</p>	<p>RBKC have stated in a written answer <i>"The Council also notes that it is extremely rare for a basement to be dug in isolation, with the vast majority of such projects being associated with the refurbishment of the wider building"</i> - This statement is of critical importance because it totally undermines the RBKC contention that Basements are responsible for significantly increased levels of disruption for residents</p>	<p><b>Document 35</b> - RBKC Consultation Response to Draft Policy March 2013</p>	<p>This statement was made with reference to the Council's policy of requiring the linked above ground properties to be retrofitted to high standards of energy, water and waste. Large basement developments add significant new floorspace to existing dwellings regardless of the proportion of above ground refurbishments/ extensions.</p>

					BECAUSE RBKC have failed to identify which part of a wider project that includes a basement is responsible for the alleged inconvenience.		
				8.00	Please refer to the Independent Report Prepared by Highways Experts <b>Waterman Transport</b> who conclude that Basement Construction does not generate any greater quantity of Construction Traffic than other forms of Urban Residential Construction - RBKC have produced no creditable evidence to prove otherwise	<b>Document 6</b> - Waterman Transport & Development - RBKC Traffic & Highways Policy Review and <b>Document 65</b> - Waterman Transport - Fuel Consumption Data - RBKC Carbon Data	Please refer to section 6 of Response to Consultation Comments by Alan Baxter and Associates, April 2014.
				9.00	RBKC confirm in writing that they have not carried out any research to determine what number of vehicle movements may be apportioned to the Basement element of a larger construction project - This is an extremely important distinction to ensure that Basement Construction is not incorrectly blamed for vehicle movements which are attributable to other parts of a larger project - In the absence of proper research any conclusion is unreliable	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 1	Please refer to the Council's supporting document Case Studies of Basement Excavation, Alan Baxter and Associates, Jan 2014.
		To limit the duration of Construction Phase		10.00	RBKC have confirmed in writing that they have not considered the potential reduction in construction period which can be achieved when using mechanised excavation equipment for Basement construction - Reductions of up to 75% in project duration are achievable when excavation is carried out mechanically - The lack of Policy Research by RBKC is extremely serious when seeking to restrict the legitimate development rights of Householders and Developers	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 1	The Council's policy is partly based on the evidence of construction impacts as experienced by residents. This is expressed in the Surveys of neighbours and residents undertaken in August/September 2012, responses to various consultations and daily correspondence received by the planning department. The Council supports using best practicable means for construction and mechanical excavation may not be possible for the constrained sites commonly found in the Borough.
		To limit the extent of construction		11.00			
		To mitigate the alleged higher concentration of embedded carbon within Basements		12.00	<b>The Report by 8 Associates Dated 9th July 2010 which informs current Planning Policy</b> has been described as fundamentally flawed by three Independent Sustainability Experts. The information contained	<b>Document 11</b> -Waterman Energy, Environment & Design - Critical Report Review. <b>Document 9</b> - MES Energy Services - Technical Review of Eight	These are comments on the 2010 Report. The Council accepted that this report had some arithmetical errors, it was out of date and relied on a small number of case studies. As a result this report was superseded by Life Cycle Carbon Analysis, Eight Associates, Feb 2014

					within the Eight Associates Report is unreliable and cannot be relied upon by RBKC. It is the conclusion of the three independent experts that both the embedded carbon and operational carbon associated with Basement Construction and Operation is effectively the same as a traditionally constructed above ground building	Assoc Report. <b>Document 24</b> - BBS Energy Services - Review of RBKC Basement Publication Policy	report.
			Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&C, Eight Associates, 10th Feb 2014 AND Evidence Base for Basements and Policy CE1: Climate Change - Eight Associates - 03.07.13	12.00 A	In drafting the new Basements Planning Publication Policy RBKC rely heavily upon the Report prepared by Eight Associates - <i>Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&amp;C, Eight Associates 10th Feb 2014 - The Report makes a series of unsubstantiated conclusions which are not "Evidence Based" - Despite Repeated written requests RBKC have refused to provide copies of the calculations that have been used to reach the Report Conclusions - Thereby preventing independent verification of the findings - Peer review of research is essential to avoid error</i>	<b>Document 59</b> - Waterman Energy Environment and Design - Carbon Report - 03.14 and <b>Document 71</b> - RBKC - Refusal to Provide Carbon Calculations - Eight Associates	Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.
					Waterman Energy are a highly respected National Sustainability Consultant with 20 Offices who have carried out an independent review of 2 case studies used by Eight Associates and they have established significant errors in the Eight Associates results. The conclusion of Watermans clearly demonstrates that for the case studies selected - Basements have a lower total Carbon Content than an above ground extension		Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.
		To mitigate the alleged higher levels of operational carbon associated with Basements	Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&C, Eight Associates, 10th Feb 2014 AND Evidence Base for Basements and Policy CE1: Climate Change -	13.00	<b>The Report by 8 Associates Dated 9th July 2010 which informs current Planning Policy</b> has been described as fundamentally flawed by three Independent Sustainability Experts. The information contained within the Eight Associates Report is unreliable and cannot be relied upon by RBKC. It is the conclusion of the three independent experts that both the embedded carbon and operational carbon associated with Basement Construction and Operation is	<b>Document 11</b> -Waterman Energy, Environment & Design - Critical Report Review. <b>Document 9</b> - MES Energy Services - Technical Review of Eight Assoc Report. <b>Document 24</b> - BBS Energy Services - Review of RBKC Basement Publication Policy	These are comments on the 2010 Report. The Council accepted that this report had some arithmetical errors, it was out of date and relied on a small number of case studies. As a result this report was superseded by Life Cycle Carbon Analysis, Eight Associates, Feb 2014 report.

			Eight Associates - 03.07.13		effectively the same as a traditionally constructed above ground building		
				13.00 A	In drafting the new Basements Planning Publication Policy RBKC rely heavily upon the Report prepared by Eight Associates - <i>Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&amp;C, Eight Associates 10th Feb 2014 - The Report makes a series of unsubstantiated conclusions which are not "Evidence Based" - Despite Repeated written requests RBKC have refused to provide copies of the calculations that have been used to reach the Report Conclusions - Thereby preventing independant verification of the findings - Peer review of research is essential to avoid error</i>	<b>Document 59</b> - Waterman Energy Environment and Design - Carbon Report - 03.14 and <b>Document 71</b> - RBKC - Refusal to Provide Carbon Calculations - Eight Associates	Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.
					Waterman Energy are a highly respected National Sustainability Consultant with 20 Offices who have carried out an independent review of 2 case studies used by Eight Associates and they have established significant errors in the Eight Associates results. The conclusion of Watermans clearly demonstrates that for the case studies selected - Basements have a lower total Carbon Content than an above ground extension		Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.
		To mitigate climate change	Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&C, Eight Associates, 10th Feb 2014 AND Evidence Base for Basements and Policy CE1: Climate Change - Eight Associates - 03.07.13	14.00	<b>The Report by 8 Associates Dated 9th July 2010 which informs current Planning Policy</b> has been described as fundamentally flawed by three Independent Sustainability Experts. The information contained within the Eight Associates Report is unreliable and cannot be relied upon by RBKC. It is the conclusion of the three independent experts that both the embedded carbon and operational carbon associated with Basement Construction and Operation is effectively the same as a traditionally constructed above ground building	<b>Document 11</b> -Waterman Energy, Environment & Design - Critical Report Review. <b>Document 9</b> - MES Energy Services - Technical Review of Eight Assoc Report. <b>Document 24</b> - BBS Energy Services - Review of RBKC Basement Publication Policy	These are comments on the 2010 Report. The Council accepted that this report had some arithmetical errors, it was out of date and relied on a small number of case studies. As a result this report was superseded by Life Cycle Carbon Analysis, Eight Associates, Feb 2014 report.
					In drafting the new Basements Planning Publication Policy RBKC rely heavily upon the Report prepared by	<b>Document 59</b> - Waterman Energy Environment and Design - Carbon Report - 03.14 and	Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates,

				14.00 A	Eight Associates - <i>Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&amp;C, Eight Associates 10th Feb 2014 - The Report makes a series of unsubstantiated conclusions which are not "Evidence Based" - Despite Repeated written requests RBKC have refused to provide copies of the calculations that have been used to reach the Report Conclusions - Thereby preventing independent verification of the findings - Peer review of research is essential to avoid error</i>	<b>Document 71</b> - RBKC - Refusal to Provide Carbon Calculations - Eight Associates	April 2014.
					Waterman Energy are a highly respected National Sustainability Consultant with 20 Offices who have carried out an independent review of 2 case studies used by Eight Associates and they have established significant errors in the Eight Associates results. The conclusion of Watermans clearly demonstrates that for the case studies selected - Basements have a lower total Carbon Content than an above ground extension		Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.
CL7 A	Not exceed a maximum of 50% of each garden or open part of the site. The unaffected garden must be in a single area and where relevant should form a continuous area with other neighbouring gardens. Exceptions may be made on large sites;	To allow sufficient area for planting trees		15.00	RBKC have confirmed in writing that they have received no Professional Arboricultural or Horticultural advice to support their contention that <i>"Retaining at least half of each garden will enable natural landscape and character to be maintained, give flexibility in future planting including major trees"</i>	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 13 - Item 3 and <b>Document 55</b> - Barrell Tree Consultancy - Arboricultural Report - 03.14 and <b>Document 56</b> - Forbes Laird Arboricultural and <b>Document 72</b> - John Booth Chartered Arboriculturalist - Technical Report	The Council has in-house arboricultural officers whose advise has been sought throughout policy making. See Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force, RBKC, April 2014.
				16.00	Please refer to the Independent Report prepared by Mr Jeremy Barrell BSc FArborA DipArb Cbiol FICFor FRICS □ Barrell Tree Consultancy which states "there is no demonstrable need to leave any portion of a garden free of basement development in order to enable flexibility in planting tree's"	Document 11 □ Barrell Tree Consultancy □ Comments on RBKC Proposed Planning Policy Changes Relating to Basements □ Page 5	Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014
				17.00	Jeremy Barrell is acknowledged by RBKC within its Supplementary Planning Document - Trees and Development April 2010 as an Arboricultural Expert	<b>Document 13</b> - RBKC - Tree's and Development - Supplementary Planning Document - Page 16	Please refer to the Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014 to view comments made by

						Mr Barrell during the formulation of the SPD.	
		To allow sufficient area for growth of plants and shrubs		18.00	RBKC have confirmed in writing that they have received no Professional Arboricultural or Horticultural advice to support their contention that <i>"Basements....restricts the range of Planting"</i> - See <i>Policy 34.3.54</i>	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 2	The Council has in-house arboricultural officers whose advise has been sought throughout policy making.
				19.00	Please refer to the Independent Horticultural Report prepared by Mr David Gilchrist - who states <i>"1m of good quality, well drained topsoil above a basement structure will provide an excellent environment for the growth of plants and shrubs whilst strongly encouraging biodiversity – restrictions to the size of basements below gardens should not be made based upon concerns over planting or biodiversity "</i>	<b>Document 61</b> - David Gilchrist Horticulture - Report on Proposed Planning Policy Changes relating to Basements	Please refer to the Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014.
		To encourage biodiversity		20.00	RBKC have confirmed in writing that they have received no Professional Arboricultural or Horticultural advice to support their contention that Limiting Garden Basements to 50% of the original garden area will encourage a greater degree of Biodiversity	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 13 - Item 5	The Council has in-house arboricultural and ecology officers whose advise has been sought throughout policy making. Please see Council's supporting documents Trees and Basements, Feb 2014 and Impact of Basement Development on Biodiversity, Feb 2014.
			RBKC - Impact of Basement Development on Biodiversity - Feb 2014	20.00 A	Please refer to the Report by Richard Sands - Chartered Environmentalist who holds a First Class Degree and Masters from Oxford University who states that the report provided by RBKC is inaccurate and misinformed and further concludes that Basement Construction has multiple positive benefits for garden ecology - he states <i>"The Impact of Basement Development on Biodiversity" does not provide any evidence that basement developments have reduced biodiversity, nor does it provide evidence of any significant potential impacts that cannot be adequately mitigated for under present policy. The report also fails to identify that there are opportunities for biodiversity enhancement with</i>	<b>Document 57</b> - Adonis Ecology Consultancy - Biodiversity Impact Review - 03.14	Please refer to Response to consultation responses for "The potential impact of basement excavation on biodiversity: a paper for the RBKC Planning Department, April 2014.

					<i>basement developments that can be achieved under present policy. Thus there is no justification from biodiversity for further limiting the extent or depth of basement developments"</i>		
				20.00 B	Please refer to the Report by AMEC Ecology Consultancy who state <i>"It is concluded that the need for a new policy to restrict basement development to a maximum of 50% of back gardens and no more than a single storey cannot be justified on grounds relating to adverse effects on Biodiversity.....The current legislation and policy context is deemed sufficient to ensure the conservation of biodiversity interests within gardens in the Royal Borough of Kensington and Chelsea"</i>	<b>Document 58</b> - AMEC Ecology Consultancy - Technical Review - 14.03	Please refer to Response to consultation responses for "The potential impact of basement excavation on biodiversity: a paper for the RBKC Planning Department, April 2014.
		To maintain a green and leafy feel to Borough gardens		21.00	It is incorrect for RBKC to imply that gardens within the borough are "green and leafy" - This is not the case - Please see Document 12 Photo Schedule - In all of the examples the gardens are majority paved - following completion of the garden basement 1m of soil will be added which will allow significant planting and Biodiversity to flourish in uncontaminated topsoil	<b>Document 15</b> - Photographs of 33 Gardens in RBKC before Basement Planning Applications	Para 34.3.55 of the reasoned justification recognises that <i>"the townscape of the Borough is urban and tightly developed in character. However, rear gardens are often a contrast..."</i> Policy CL7 (j) also recognizes that the character in some localities can be small paved courtyards. However, a large majority of back gardens in the Borough do have a green and leafy character which can be permanently eroded by basement development as shown in the Council's supporting document Basements Visual Evidence, Feb 2014. It should also be noted that basement development causes a permanent change in ground conditions and the natural process it provides. Hard paving on the other hand is easily reversible and can adapt to changing circumstances such as desire for more planting or adaptation to respond to climate change. No photos have been submitted by Cranbrook Basements that demonstrate the positive effects of the 1m of soil as stated.
				22.00	Please refer to the Independent Horticultural Report prepared by David Gilchrist Horticulture - which states <i>that importing 1m of Fresh Uncontaminated Topsoil above a Garden Basement will provide significant benefits to Planting and Biodiversity"</i>	<b>Document 61</b> - David Gilchrist Horticulture - Report on Proposed Planning Policy Changes relating to Basements	Please see Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014
		To allow better natural groundwater drainage		23.00	RBKC have confirmed in writing that they have received no Professional	<b>Document 1</b> - RBKC Response to Freedom of	Please refer to Council's supporting document Alan Baxter Associates Basements Report (Mar

					advice from a Chartered Hydrologist or other formally qualified groundwater expert to confirm their statement that "retaining at least half of each garden will....allow water to drain through to the upper aquifer"	Information Request - Page 14 - Item 6	2013) (para 13.3.5) and Cranbrook's document 51 by Arup (section 5, para 4) "Generally the Publication Planning draft of the policy provides a reasonable policy to be implemented with respect to potential hydrological and hydrogeological impacts both locally and across the Borough" and para 4, seventh bullet "There may be some sites where the 50% rule is not conservative enough or where existing/adjacent developments could be impacted detrimentally...." Whilst the basement policy is based on the recommendations in the Alan Baxter and Associates report in relation to hydrology, it is also based on a number of other issues as outlined in the Policy Formulation Report, RBKC, Feb 2014.
				24.00	Alan Baxter Associates confirm in writing that they have carried out no scientific assessment of the amount of garden that should remain undeveloped - they have instead relied upon a "Rule of Thumb" assessment as follows <b>" The rule of thumb is only that! It is difficult to argue the limits on the size of a basement from a structural engineering import. Their key issues are: - Allow some garden area to drain any rainwater to the Upper Aquifer. - Allow space to grow major trees - Townscape, streetscape issues - Area/volume debate. - Construction impact on residential amenity. The 50% garden coverage figure is being used by other Boroughs, so this on its own will help to justify this as a figure which is generally acceptable"</b>	<b>Document 35</b> - RBKC Response to Draft Policy - March 2013	The Alan Baxter and Associates report recommends a rule of thumb. The Council's policy is based on this recommendation as well as a number of other considerations as outlined in the Policy Formulation Report, RBKC, Feb 2014.
				25.00	Please refer to the Independent Report prepared by three eminent Hydro Geological Experts - Environmental Protection Group, Mcloy Consulting and Card Geotechnical who state that <b>"There is no valid reason why basement construction should be limited to a blanket of 50% of a garden area on the basis of drainage or flood risk"</b>	<b>Document 64</b> - Environmental Protection Group, Card Geotechnical and Mcloy Consulting Group - Review of Drainage and Flooding Implications for Basements in RBKC	These reports have focused on a single issue, the Council's policy is based on a number of issues.
					Ove Arup Associates have conducted a review of RBKC Proposed Policy and within their Report dated 27th August 2013 make the following	<b>Document 51</b> - Report by Ove Arup Associates – Hydrologic Review of RBKC Basements Publication Planning Policy	It is clearly stated in this report that it is focused on a single issue. The Council's policy is based on a number of issues.

				<p>comments <b>"After reviewing the supporting documentation provided in the proposed policy and the ABA 2013 report, it is unclear what the technical basis for the 50% limitation is."</b>  <b>.....</b> <b>"Policy related to basements should be based on technically appropriate requirements (such as surface water storage and drainage requirements) and should require assessment to include neighbouring conditions in addition to site-specific conditions."</b> <b>"It is therefore likely that, in general, the effect of a new basement on groundwater levels will be relatively small."</b> <b>"There is a limit to the amount of garden which can be developed into a basement. To establish this limit, site specific assessment will be needed, a general rule cannot be applied."</b> <b>"A simple limitation of 50% may preclude innovative methods which improve overall drainage conditions within the Borough."</b> <b>"It is difficult to define a direct relationship between the 50% rule and the constraints posed from a hydrological perspective"</b> <b>From a planning perspective, we can understand the desire to apply a standard rule that takes a conservative approach which ensures that the soil infiltration capacity throughout the Borough is not reduced beyond a critical level. However, it needs to be soundly based and technically justifiable"</b>  <b>"A policy not grounded with sound scientific reasoning may be easily challenged. This would undermine the effect of putting such a policy into place"</b></p>		<p>The Arup report also states <i>"Generally the Publication Planning draft of the policy provides a reasonable policy to be implemented with respect to potential hydrological and hydrogeological impacts both locally and across the Borough"</i> and para 4, seventh bullet <i>"There may be some sites where the 50% rule is not conservative enough or where existing/adjacent developments could be impacted detrimentally...."</i></p>
				<p><b>"We recommend that the policy be revised such that applications which are demonstrably not worse than current conditions (regardless of project size) and satisfy all other planning constraints (including demonstration that current</b></p>	<p><b>Document 51</b> - Report by Ove Arup Associates – Hydrologic Review of RBKC Basements Publication Planning Policy</p>	<p>It is clearly stated in this report that it is focused on a single issue. The Council's policy is based on a number of issues.</p> <p>The Arup report also states <i>"Generally the Publication Planning draft of the policy provides a reasonable policy to be implemented with respect to potential hydrological and hydrogeological impacts both locally and across</i></p>

					<b>conditions are satisfactory) be considered for approval"</b>		<i>the Borough" and para 4, seventh bullet "There may be some sites where the 50% rule is not conservative enough or where existing/adjacent developments could be impacted detrimentally...."</i>
CL7 A	Not exceed a maximum of 50% of each garden or open part of the site. The unaffected garden must be in a single area and where relevant should form a continuous area with other neighbouring gardens. Exceptions may be made on large sites;	To maintain character of garden		26.00	RBKC have provided no evidence to demonstrate that gardens within the borough have a particular "Character" - Please see Document 12 Photo Schedule - In all of the examples the gardens are majority paved - following completion of the garden basement 1m of soil will be added which will allow significant planting and Biodiversity to flourish in uncontaminated topsoil	<b>Document 15</b> - Photographs of 33 Gardens in RBKC before Basement Planning Applications	Para 34.3.55 of the reasoned justification recognises that <i>"the townscape of the Borough is urban and tightly developed in character. However, rear gardens are often a contrast..."</i> Policy CL7 (j) also recognizes that the character in some localities can be small paved courtyards. However, a large majority of back gardens in the Borough do have a green and leafy character which can be permanently eroded by basement development as shown in the Council's supporting document Basements Visual Evidence, Feb 2014. It should also be noted that basement development causes a permanent change in ground conditions and the natural process it provides. Hard paving on the other hand is easily reversible and can adapt to changing circumstances such as desire for more planting or adaptation to respond to climate change.  No photos have been submitted by Cranbrook Basements that demonstrate the positive effects of the 1m of soil as stated.  Many of the photos show hard paving with mature trees – in one instance 2 Abingdon Villas, the Council has taken enforcement action as Cranbrook Basements damaged the tree roots of the protected tree shown in the picture.
		To avoid restricting range of planting		27.00	RBKC have confirmed in writing that they have received no Professional Arboricultural or Horticultural advice to support their contention that the construction of a Basement within a garden will restrict the range of Planting	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 2	The Council has in-house arboricultural and ecology officers whose advice has been sought throughout policy making.
				28.00	Please refer to the Independent Horticultural Report prepared by Mr David Gilchrist - who states <b>"There is no requirement to limit the size of the basement to garden as 1m of structured topsoil will provide a suitable growing environment for all plant types"</b>	<b>Document 61</b> - David Gilchrist Horticulture - Report on Proposed Planning Policy Changes relating to Basements	See Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014.
		To allow water to drain			RBKC have confirmed in writing that	<b>Document 1</b> - RBKC Response	Please refer to Council's supporting document

		through to upper Aquifer		29.00	they have received no Professional advice from a Chartered Hydrologist or other formally qualified groundwater expert to confirm their statement that "retaining at least half of each garden will....allow water to drain through to the upper aquifer"	to Freedom of Information Request - Page 14 - Item 6	Alan Baxter Associates Basements Report (Mar 2013) (para 13.3.5) and Cranbrook's document 51 by Arup (section 5, para 4) " <i>Generally the Publication Planning draft of the policy provides a reasonable policy to be implemented with respect to potential hydrological and hydrogeological impacts both locally and across the Borough</i> " and para 4, seventh bullet " <i>There may be some sites where the 50% rule is not conservative enough or where existing/adjacent developments could be impacted detrimentally....</i> " Whilst the basement policy is based on the recommendations in the Alan Baxter and Associates report in relation to hydrology, it is also based on a number of other issues as outlined in the Policy Formulation Report, RBKC, Feb 2014.
				30.00	RBKC have confirmed in writing that they have received no Professional advice nor any evidence that demonstrates that the current requirement to retain 15% of Garden space undeveloped is insufficient to allow water to drain through to the upper Aquifer.	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 14 - Item 7	The hydrological impacts of the existing policy allowing basements to a maximum of 85% under the garden may not be evident for many years. Given the increase in trend of basement development and the evidence available to the Council it is prudent to revise the existing policy.
				31.00	The Report prepared by Alan Baxter Associates - Residential Basement Study - March 2013 for RBKC - States under the heading of Specific Recommendations - that " <i>In sites where the near surface conditions are gravel or sands, no more than 75% of the area of a garden should be built under with a basement</i> " and " <i>In sites where the subsoil is clay, no more than between 50% and 75% of the area of a garden should be built under with a basement.</i> " - RBKC have ignored the advice of their directly appointed advisors in stating that in all cases a maximum of 50% of Garden should be developed as Basement	<b>Document 16</b> - Alan Baxter Associates Report - Residential Basement Study 2013	The 50% restriction is not based purely on surface water drainage issues. All the issues considered are set out in the Policy Formulation Report, RBKC, Feb 2014.
				32.00	Please refer to the Independent Report prepared by three eminent Hydro Geological Experts - Environmental Protection Group, Mcloy Consulting and Card Geotechnical who state that " <i>The existing requirement to limit basements to 85% of the garden area is more than sufficient to allow</i>	<b>Document 64</b> - Environmental Protection Group, Card Geotechnical and Mcloy Consulting Group - Review of Drainage and Flooding Implications for Basements in RBKC - Conclusions - Section 6	Please refer to Response to Consultation Comments prepared by Alan Baxter and Associates for RBKC, Apr 2014.

					<i>reasonable SuDS provision and Aquifer recharge on most sites"</i>		
		To comply with requirements of London Plan Paragraph 3.5		33.00	Paragraph 3.5 of The London Plan is incorrectly quoted by RBKC as referring to Subterranean Construction - which it does not - Please refer to the written confirmation from Jennifer Peter's Senior Strategic Planner at Greater London Authority who confirms this point - Paragraph 3.5 of the London Plan States " <i>Housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment, taking account of strategic policies in this Plan to protect and enhance London's residential environment and attractiveness as a place to live. Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified.</i> "	<b>Document 17</b> - Letter from Cranbrook Basements to Greater London Authority - Document 15 - Letter from GLA and	This is factually incorrect, the Council has not quoted Policy 3.5 of the London Plan as referring to subterranean development. Para 34.3.55 of the reasoned justification of the Submission Basements Policy, April 2014 states " <i>This policy takes into account the London Plan (Policy 3.5) and the Mayor of London's Housing SPG both of which emphasise the important role of gardens.</i> " The GLA email does not confirm what is stated. The Council has received a letter of compliance from GLA. GLA's Draft Sustainable Design and Construction SPG, July 2013 (page 12, 27 and para 2.2.25) lists London Plan Policy 3.5 as relevant to basement development.
CL7 A	Not exceed a maximum of 50% of each garden or open part of the site. The unaffected garden must be in a single area and where relevant should form a continuous area with other neighbouring gardens. Exceptions may be made on large sites;	To protect health of residents		34.00	RBKC have confirmed in writing that they have no independent medical evidence to support the statement that Basement Construction can affect the Health of Residents	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12-Item 1	The Council is not claiming there has been a wide spread impact on health related to basement development.
			RBKC - Basement Developments - Neighbours Survey	35.00	1354 people responded to the RBKC Survey - Only 3 people stated that they had suffered unspecified illness during the Construction Phase of a Construction Project that contained a Basement element - That is equal to 0.002% - As stated in Paragraph 8.00 - RBKC did not differentiate between cases where a basement was a standalone project or part of a larger development (as was the case in 61% of Planning Approvals) - As a result it cannot be proven that the alleged illness related to the basement or some other part of the wider construction project - or if the occurrence was not entirely coincidental	<b>Document 22</b> - RBKC Basement Development Neighbours Survey	The Council is not claiming there has been a wide spread impact on health related to basement development.

		To comply with London Plan Supplementary Planning Guidance Paragraph 1.2.18 and 1.2.22 November 2012	<p><b>London Plan SPG - Paragraph 1.2.18 -</b>  <i>"Gardens can play a number of important Roles * Defining Local Context and Character including Local social , physical, cultural, historical, environmental and economic characteristics providing safe, secure and sustainable environments and play spaces Supporting Biodiversity, Protecting London's Tree's, Green corridors and networks, abating flood risk and mitigating the effects of Climate change including the 'heat Island' effect and enhancing the distinct character of Suburban London - All of these objectives are met within existing Basement Planning Policy"</i></p>	36.00	<p>The Independent Expert reports prepared by Barrell tree Consultancy, David Gilchrist Horticulture and Hydro Geological Experts - Environmental Protection Group, Mcloy Consulting and Card Geotechnical - confirms that irrespective of the size of Garden Basement - it is possible to create a garden space that meets all of the requirements of London Plan SPG - Paragraph 1.2.18. - Their Professional Expert Reports make clear that a garden stocked with any type of Plant, Shrub or Tree can be formed - in any style that suits the particular site circumstances - either informal or formal in layout - quite literally any garden style is achievable providing a well drained sustainable environment.</p>	<p><b>Document 55</b> - Barrell Tree Consultancy - Arboricultural Report - 03.14 and <b>Document 56</b> - Forbes Laird Arboricultural and <b>Document 72</b> - John Booth Chartered Arboriculturalist - Technical Report <b>Document 11</b> - Barrell Tree Consultancy - Comments on RBKC Proposed Planning Policy Changes Relating to Basements - Page 5.</p> <p><b>Document 25</b> - David Gilchrist Horticulture - Report on Proposed Planning Policy Changes relating to Basements. <b>Document 64</b> - Environmental Protection Group, Card Geotechnical and Mcloy Consulting Group - Review of Drainage and Flooding Implications for Basements in RBKC - Conclusions - Section 6 and <b>Document 57</b> - Adonis Ecology Consultancy - Biodiversity Impact Review - 03.14 and <b>Document 58</b> - AMEC Ecology Consultancy - Technical Review - 14.03</p>	<p>The Council's evidence shows the contrary.</p> <p>See Alan Baxter Associates Basements Report, Basements Visual Evidence, Feb 2014, Basements Visual Evidence - External Manifestations, Feb 2014, Trees and Basements, Feb 2014, Impact of Basement Development on Biodiversity, Feb 2014, London: Garden City?, 1998 - 2008, London Wildlife Trust, 2011</p> <p>Also see the response to these reports in -</p> <p>Response to Consultation Comments prepared by Alan Baxter and Associates for RBKC, Apr 2014, Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014</p> <p>Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force, RBKC, April 2014</p> <p>Response to consultation responses for "The potential impact of basement excavation on biodiversity: a paper for the RBKC Planning Department, 2014"</p>
			<p><b>London Plan SPG - Paragraph 1.2.22 -</b>  <i>"Policy 7.4 requires development to have regard to the form, function and structure of areas, places or</i></p>	37.00	<p>The Report by David Gilchrist Horticulture confirms that any Shrub or Plant can be successfully planted in 1m of topsoil irrespective of the size of basement relative to garden. The Report by Barrell Arboricultural Consultants states that "there is no demonstrable need to leave any portion of a garden free of basement</p>	<p><b>Document 11</b> - Barrell Tree Consultancy - Comments on RBKC Proposed Planning Policy Changes Relating to Basements - Page 5. <b>Document 25</b> - David Gilchrist Horticulture - Report on Proposed Planning Policy</p>	<p>See - Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014</p> <p>Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force, RBKC, April 2014</p>

			<i>streets. Gardens can clearly be very much part of the form, function and structure which warrants respect and protection."</i>		development in order to enable flexibility in planting tree's". The final layout, appearance and level of the garden can be determined by the designer in conjunction with Planning Authority - On this basis the requirements of London Plan SPG 1.2.22 are met in full	Changes relating to Basements	
				37.00 A	Ecology Reports from Adonis Consulting and Amec Consulting both confirm the benefits of garden basement construction to Planting and general ecological improvements - This accords with the London Plan aims	<b>Document 57</b> - Adonis Ecology Consultancy - Biodiversity Impact Review - 03.14 and <b>Document 58</b> - AMEC Ecology Consultancy - Technical Review - 14.03	See Response to consultation responses for "The potential impact of basement excavation on biodiversity: a paper for the RBKC Planning Department, 2014"
CL7 A	Not exceed a maximum of 50% of each garden or open part of the site. The unaffected garden must be in a single area and where relevant should form a continuous area with other neighbouring gardens. Exceptions may be made on large sites;	To comply with NPPF Paragraph 53	<b>NPPF Paragraph 53</b> - "Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area."	38.00	The Independent Expert reports prepared by Barrell tree Consultancy, David Gilchrist Horticulture and Hydro Geological Experts - Environmental Protection Group, Mcloy Consulting and Card Geotechnical - Confirm that once a basement has been constructed within a garden and Fresh Topsoil together with good SuDs Drainage has been installed - that the garden is in better condition that before the basement was constructed - This would include the ability to replant the garden, introduce permeable paving and provide significantly improved opportunities for biodiversity to flourish - In short, the construction of a basement within a garden of any size offers a real opportunity for the sustainable regeneration of the entire garden with benefits not only for the subject property but for the neighbourhood and local area in general - these improvements are clearly to the benefit of the Local Area	<b>Document 10</b> - Barrell Tree Consultancy - Comments on RBKC Proposed Planning Policy Changes Relating to Basements - Page 5. <b>Document 25</b> - David Gilchrist Horticulture - Report on Proposed Planning Policy Changes relating to Basements. <b>Document 16</b> - Environmental Protection Group, Card Geotechnical and Mcloy Consulting Group - Review of Drainage and Flooding Implications for Basements in RBKC - Conclusions - Section 6	See the response to these reports in -  Response to Consultation Comments prepared by Alan Baxter and Associates for RBKC, Apr 2014, Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014  Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force, RBKC, April 2014
CL7 B	Not comprise more than one storey. Exceptions may be made on large sites;	To reduce the level of Construction Phase inconvenience	11 Royal Borough of Kensington and Chelsea Residential Basement Study Report, Alan Baxter and	39.00	RBKC have confirmed in writing that they have no evidence available to support their contention that the restriction of garden zone excavation to a maximum of 50% will reduce the level of construction phase inconvenience. This attempt to implement an enormous reduction in garden	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 11 - Item 1	The size restriction will have an impact on the volume of excavation and also on the carbon footprint. See Life Cycle Carbon Analysis, Eight Associates, Feb 2014. In addition the policy is based on a range of other issues.

			Associates, March 2013		basement size in the absence of any evidence of benefit is wholly unreasonable		
				40.00	RBKC have stated in writing that inconvenience during the Construction Phase of a development are not a material factors that can be considered when in determining whether or not Planning Consent should be granted. This is the Publicly stated view of RBKC. It is therefore perverse to attempt to reduce the amount of garden Basement area that can be constructed on the basis of an issue that RBKC state is not a material planning consideration.	<b>Document 2</b> - RBKC - Non Material Planning Considerations - Page 2	<p>The construction of basements can have a serious impact on the quality of life of residents in the area as stated in para 34.3.49 and 34.3.50 of the reasoned justification.</p> <p>Material considerations are not defined in planning law. The impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is not insignificant.</p> <p>Cranbrook Basements' comments are related to specific planning applications. Even where planning applications are concerned depending on the scale and nature of development, decision makers will consider construction impacts. The weight given to this material consideration will vary in different cases.</p> <p>When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.</p>
				41.00	RBKC have confirmed in writing that they have not considered the potential reduction in construction period which can be achieved when using mechanised excavation equipment for Basement construction - Reductions of up to 75% in project duration are achievable when excavation is carried out mechanically - The lack of Policy Research by RBKC is extremely serious when seeking to restrict the legitimate development rights of Householders and Developers	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 1	The Council's policy is partly based on the evidence of construction impacts as experienced by residents. This is expressed in the Surveys of neighbours and residents undertaken in August/September 2012, responses to various consultations and daily correspondence received by the planning department. The Council supports using best practicable means for construction and mechanical excavation may not be possible for the constrained sites commonly found in the Borough.
		To reduce Construction Phase traffic		42.00	The Independent Report prepared by ARUP Associates states that in most cases the degree of inconvenience experienced during Basement Construction is " In general, at least of similar, and <b>sometimes</b> of greater, magnitude than equivalent categories of disturbance created by other types of residential building works (such as replacing a roof, converting a loft, or adding a conservatory). The draconian restriction proposed by	<b>Document 3</b> - Arup Geotechnics - RBKC Town Planning Policy on Subterranean Development - Page 23 - Paragraph 5.4	<p>The Arup report was published in 2008 and acknowledges that basement development is sometimes of greater magnitude than <b>equivalent categories of disturbance</b>.....It should be noted that a basement adding one of more floors below the footprint of an existing building and extending into a large majority of the garden is generally not equivalent to the other types of above ground development described here.</p> <p>The Council's supporting document Alan Baxter Associates Basements Report (Mar 2013) should also be referred to at para 12.2.2. In addition the Council's proposed policy is based</p>

					RBKC is unreasonable in light of this statement.		on a range of supporting documents as described in the Policy Formulation Report, RBKC, Feb 2014.
CL7 B	Not comprise more than one storey. Exceptions may be made on large sites;			43.00	In the Judicial Review carried out by The Rt Honourable Lord Justice Underhill - RBKC supported the view that Construction Phase Inconvenience was not a reason to refuse the grant of Planning Consent - In conclusion Lord Justice Underhill states :- <i>"I do not underestimate the disruption which the carrying out of the development for which permission has been given is likely to cause to the claimant. Mr Brown made that point fully and clearly at the forefront of his submissions; and indeed, for what it is worth, the claimant has my sympathy. But it is a fact of life that in an urban environment development in neighbouring properties will from time to time cause real disruption to neighbours. That is not a reason for refusing the grant of planning permission. There are many remedies, both legal and social, for a person in the claimant's position to mitigate (though I appreciate it will not remove) the amount of the disruption, but I cannot see that it was even arguably unlawful for the council to grant permission on the conditions that it did.</i>	<b>Document 5</b> - Royal Courts of Justice - Case CO/11629/2011 - Page 6 - Point 17	Clearly in this case the Council did not consider construction impacts to be of such magnitude that warranted refusing permission. The Council's position was upheld in the judicial review. This is not to say that the impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is insignificant. Cranbrook Basements' comments are related to a specific planning application. When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.
		To Reduce Noise and Vibration		43.00 A	Expert Reports produced by ADC Acoustics and 24 Acoustics both confirm that the level of Noise and Vibration associated with residential basement construction can be managed within statutory levels	<b>Document 53</b> - ADC Acoustics - Noise & Vibration Report and <b>Document 54</b> - 24 Acoustics - Noise and Vibration Report	See Council's response to Noise and Nuisance Issues raised in Cranbrook Basements (Documents 53 and 54) Representation, RBKC, April 2014.
				44.00	RBKC confirm in writing that they have not carried out any research to determine what number of vehicle movements may be apportioned to the Basement element of a larger construction project - This is an extremely important distinction to ensure that Basement Construction is not incorrectly blamed for vehicle movements which are attributable to other parts of a larger project - In the absence of proper research any	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 1	The Council has drawn comparisons of vehicle movement for different sizes of basements in Case Studies of Basement Excavation, Alan Baxter and Associates, Jan 2014 which shows a good correlation between the volume of excavation and the total number of lorry movements (para 6.4). Policy CL2 (d) (i) of the Core Strategy requires (amongst other criteria) above ground extensions "to be visually subordinate to the original building;" The Royal Borough also has a very special historic character with 70% within designated conservation areas and 4,000 listed

					conclusion is unreliable		buildings. As a result above ground extensions are proportionally small compared to the host building. Basement development on the other hand can introduce large increases in floorspace by adding a whole new floor under the footprint and into the large majority of the garden in accordance with the existing policy. Therefore construction traffic from basements will have a much higher volume compared to above ground extensions. Also see para 12.2 of Alan Baxter Associates Basements Report (Mar 2013).
		To limit the duration of Construction Phase		45.00	RBKC have confirmed in writing that they have not considered the potential reduction in construction period which can be achieved when using mechanised excavation equipment for Basement construction - Reductions of up to 75% in project duration are achievable when excavation is carried out mechanically - The lack of Policy Research by RBKC is extremely serious when seeking to restrict the legitimate development rights of Householders and Developers	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 1	The Council's policy is partly based on the evidence of construction impacts as experienced by residents. This is expressed in the Surveys of neighbours and residents undertaken in August/ September 2012, responses to various consultations and daily correspondence received by the planning department. The Council supports using best practicable means for construction and mechanical excavation may not be possible for the constrained sites commonly found in the Borough.
		To mitigate the alleged higher concentration of embedded carbon within Basements	Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&C, Eight Associates, 10th Feb 2014 AND Evidence Base for Basements and Policy CE1: Climate Change - Eight Associates - 03.07.13	46.00	In drafting the new Basements Planning Publication Policy RBKC rely heavily upon the Report prepared by Eight Associates - <i>Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&amp;C, Eight Associates 10th Feb 2014 - The Report makes a series of unsubstantiated conclusions which are not "Evidence Based" - Despite Repeated written requests RBKC have refused to provide copies of the calculations that have been used to reach the Report Conclusions - Thereby preventing independent verification of the findings - Peer review of research is essential to avoid error</i>	<b>Document 59</b> - Waterman Energy Environment and Design - Carbon Report - 03.14 and <b>Document 65</b> - Waterman Transport - Fuel Consumption Data - RBKC Carbon Data	Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.
		To mitigate the alleged higher levels of operational carbon associated with Basements	Life Cycle Carbon Analysis of Extensions and Subterranean	47.00	The Report by 8 Associates has been described as fundamentally flawed by three Independent Sustainability Experts. The information contained within the Eight Associates Report is unreliable and cannot be relied upon	<b>Document 59</b> - Waterman Energy Environment and Design - Carbon Report - 03.14 and <b>Document 65</b> - Waterman Transport - Fuel Consumption	Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.

			Development in RBK&C, Eight Associates, 10th Feb 2014 AND Evidence Base for Basements and Policy CE1: Climate Change - Eight Associates - 03.07.13		by RBKC. It is the conclusion of the three independent experts that both the embedded carbon and operational carbon associated with Basement Construction and Operation is effectively the same as a traditionally constructed above ground building	Data - RBKC Carbon Data	
		To mitigate climate change	Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&C, Eight Associates, 10th Feb 2014 AND Evidence Base for Basements and Policy CE1: Climate Change - Eight Associates - 03.07.13	48.00	The Report by 8 Associates has been described as fundamentally flawed by three Independent Sustainability Experts. The information contained within the Eight Associates Report is unreliable and cannot be relied upon by RBKC. It is the conclusion of the three independent experts that both the embedded carbon and operational carbon associated with Basement Construction and Operation is effectively the same as a traditionally constructed above ground building	<b>Document 59</b> - Waterman Energy Environment and Design - Carbon Report - 03.14 and <b>Document 65</b> - Waterman Transport - Fuel Consumption Data - RBKC Carbon Data	Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.
CL7 B	Not comprise more than one storey. Exceptions may be made on large sites;	To reduce construction related risk of structural damage		49.00	The Independent Expert Report prepared by Mr Stephen Masters B.Sc. (Hons), C.Eng., M.I.Struct.E., M.B.Eng of MMP Structural Design, Consulting Structural and Civil Engineers states that " <i>The construction techniques associated with retrofit basements are well established and have been refined based upon almost twenty years of construction experience amongst the leading contractors and designers. The detailed technical modelling together with soil reports, foundation trial pits and laboratory analysis enable highly accurate designs that are compliant with British Standard codes of</i>	<b>Document 23</b> - MMP Structural Design - Consulting Civil and Structural Engineers - Comments on Basement Publication Planning Policy	The Council is not introducing the policy based on structural issues. However, the policy recognises that basements if not executed with due care can cause problems to structural stability. This can impact on the character of the built environment in the Borough and therefore policy criteria (n) applies.

					<i>practices and Building Regulations etc. To comply with the requirements of Health and Safety at Work Act it is a legal requirement that basements are safely propped with a scheme of temporary works designed by suitably qualified individual, ideally a Chartered Structural or Civil Engineer. If all of these factors are considered and embraced by suitably qualified and experienced professional team, the construction of a retro-fit basement should pose no structural threat to the stability of the host property, nor any adjoining or adjacent buildings</i>	
		As a precautionary measure against potential damage to the subject property or adjacent building		50.00	RBKC have stated in writing that they have not carried out any survey nor do they have any specific evidence that damage has been caused to properties within RBKC as a consequence of constructing basements to a depth greater than a single storey - RBKC are seeking to impose an enormous restriction on lawful basement development without any evidence	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 4 - Paragraph 8 and Page 16 Paragraph 1  The limit is not based on structural issues although para 13.3.3 of Alan Baxter Associates Basements Report (Mar 2013) states <i>"The depth of underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible."</i>  Limiting basements to a single level will reduce construction impacts and limit carbon emissions.  Further information on carbon footprint of multi-storey basements is presented in the Life Cycle Carbon Analysis, Eight Associates, Feb 2014 (pg 26 and 27)
				51.00	The Independent Expert Report prepared by Mr Stephen Masters B.Sc. (Hons), C.Eng., M.I.Struct.E., M.B.Eng of MMP Structural Design, Consulting Structural and Civil Engineers states that <i>"It is entirely unnecessary for RBKC to adopt a precautionary approach in effectively banning basements of more than one storey based upon unfounded structural concerns. As stated in the Alan Baxter report there are a number of structural solutions available for basements which would facilitate construction to a greater depth than a single storey and each project should be individually assessed and designed to suit unique site circumstances. It is a fact that constructing a second storey beneath a single storey basement scheme is normally more straightforward than</i>	<b>Document 23</b> - MMP Structural Design - Consulting Civil and Structural Engineers - Comments on Basement Publication Planning Policy  The limit is not based on structural issues although para 13.3.3 of Alan Baxter Associates Basements Report (Mar 2013) states <i>"The depth of underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible."</i>  Limiting basements to a single level will reduce construction impacts and limit carbon emissions.  Further information on carbon footprint of multi-storey basements is presented in the Life Cycle Carbon Analysis, Eight Associates, Feb 2014 (pg 26 and 27)

					constructing the initial single level because all of the temporary works will be in place along with the structural floor slab to basement level one. Our own experience has proved that deeper level basement construction is relatively straightforward once the initial reinforced concrete box and temporary works have been established (subject to soil conditions)"		
				52.00	It is entirely unjustified for RBKC to restrict Basement Construction on a Precautionary Basis. The Report by Arup Associates for RBKC states that "subterranean developments have been successfully achieved in London and elsewhere over many years. In general these successful projects have been undertaken by experienced, competent teams who recognised the potential hazards and mitigated against them.	<b>Document 3</b> - Arup Geotechnics - RBKC Town Planning Policy on Subterranean Development - Page 30 - Paragraph 4	The limit is not based on structural issues although para 13.3.3 of Alan Baxter Associates Basements Report (Mar 2013) states "The depth of underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible."  Limiting basements to a single level will reduce construction impacts and limit carbon emissions.  Further information on carbon footprint of multi-storey basements is presented in the Life Cycle Carbon Analysis, Eight Associates, Feb 2014 (pg 26 and 27)
				53.00	The Report by Alan Baxter Associates states that "many challenging subterranean developments have been successfully completed, generally undertaken by experienced competent teams" (2.1.3) and that Basements Deeper than 1 Storey can be formed successfully subject to the selected foundation design - <i>Specific Recommendations 13.3.3</i>	<b>Document 16</b> - Alan Baxter Associates Report - Residential Basement Study 2013	The limit is not based on structural issues although para 13.3.3 of Alan Baxter Associates Basements Report (Mar 2013) states "The depth of underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible."  Limiting basements to a single level will reduce construction impacts and limit carbon emissions.  Further information on carbon footprint of multi-storey basements is presented in the Life Cycle Carbon Analysis, Eight Associates, Feb 2014 (pg 26 and 27)
CL7 B	Not comprise more than one storey. Exceptions may be made on large sites;	To protect health of residents		54.00	RBKC have confirmed in writing that they have no independent medical evidence to support the statement that Basement Construction can affect the Health of Residents	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12-Item 1	The Council is not claiming there has been a wide spread impact on health related to basement development.
				54.00 A	Expert Reports produced by ADC Acoustics and 24 Acoustics both confirm that the level of Noise and Vibration associated with residential	<b>Document 53</b> - ADC Acoustics - Noise & Vibration Report and <b>Document 54</b> - 24 Acoustics - Noise and Vibration Report	See Council's response to Noise and Nuisance Issues raised in Cranbrook Basements (Documents 53 and 54) Representation, RBKC, April 2014

					basement construction can be managed within statutory levels		
				55.00	1354 people responded to the RBKC Survey - Only 3 people stated that they had suffered unspecified illness during the Construction Phase of a Construction Project that contained a Basement element - That is equal to 0.002% - As stated in Paragraph 8.00 - RBKC did not differentiate between cases where a basement was a standalone project or part of a larger development (as was the case in 61% of Planning Approvals) - As a result it cannot be proven that the alleged illness related to the basement or some other part of the wider construction project - or if the occurrence was not entirely coincidental	<b>Document 22</b> - RBKC Basement Development Neighbours Survey	The Council is not claiming there has been a wide spread impact on health related to basement development.
CL7 C	Not add further basement floors where there is an extant or implemented planning permission for a basement or one built through the exercise of permitted development rights;	To reduce construction related risk of structural damage		56.00	The Independent Expert Report prepared by Mr Stephen Masters B.Sc. (Hons), C.Eng., M.I.Struct.E., M.B.Eng of MMP Structural Design, Consulting Structural and Civil Engineers states that <i>"It is a fact that constructing a second storey beneath a single storey basement scheme is normally more straightforward than constructing the initial single level because all of the temporary works will be in place along with the structural floor slab to basement level one. Our own experience has proved that deeper level basement construction is relatively straightforward once the initial reinforced concrete box and temporary works have been established (subject to soil conditions).</i>	<b>Document 23</b> - MMP Structural Design - Consulting Civil and Structural Engineers - Comments on Basement Publication Planning Policy	The limit is not based on structural issues although para 13.3.3 of Alan Baxter Associates Basements Report (Mar 2013) states <i>"The depth of underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible."</i>  Limiting basements to a single level will reduce construction impacts and limit carbon emissions.  Further information on carbon footprint of multi-storey basements is presented in the Life Cycle Carbon Analysis, Eight Associates, Feb 2014 (pg 26 and 27)
		As a precautionary measure against potential damage to the subject property or adjacent building		57.00	It is entirely unjustified for RBKC to restrict Basement Construction on a Precautionary Basis. The Report by Arup Associates for RBKC states that <i>"subterranean developments have been successfully achieved in London and elsewhere over many years. In general these successful projects have been undertaken by experienced, competent teams who recognised the potential hazards and mitigated against</i>	<b>Document 3</b> - Arup Geotechnics - RBKC Town Planning Policy on Subterranean Development - Page 30 - Paragraph 4	The limit is not based on structural issues although para 13.3.3 of Alan Baxter Associates Basements Report (Mar 2013) states <i>"The depth of underpinning to party walls of semi-detached or terraced houses should generally be limited to 4m below the underside of the foundations of the party walls. Deeper basements should be avoided or else formed using piled walls if feasible."</i>  Limiting basements to a single level will reduce construction impacts and limit carbon emissions.

					<i>them.</i>		Further information on carbon footprint of multi-storey basements is presented in the Life Cycle Carbon Analysis, Eight Associates, Feb 2014 (pg 26 and 27)
CL7 D	Not cause loss, damage or long term threat to trees of townscape or amenity value;	To maintain a green and leafy feel to Borough gardens		58.00	It is incorrect for RBKC to imply that gardens within the borough are "green and leafy" - This is not the case - Please see Document 12 Photo Schedule - In all of the examples the gardens are majority paved - following completion of the garden basement 1m of soil will be added which will allow significant planting and Biodiversity to flourish in uncontaminated topsoil	<b>Document 14</b> - Photographs of 33 Gardens in RBKC before Basement Planning Applications	Para 34.3.55 of the reasoned justification recognises that " <i>the townscape of the Borough is urban and tightly developed in character. However, rear gardens are often a contrast...</i> " Policy CL7 (j) also recognizes that the character in some localities can be small paved courtyards. However, a large majority of back gardens in the Borough do have a green and leafy character which can be permanently eroded by basement development as shown in the Council's supporting document Basements Visual Evidence, Feb 2014. It should also be noted that basement development causes a permanent change in ground conditions and the natural process it provides. Hard paving on the other hand is easily reversible and can adapt to changing circumstances such as desire for more planting or adaptation to respond to climate change. No photos have been submitted by Cranbrook Basements that demonstrate the positive effects of the 1m of soil as stated.
				59.00	Please refer to the Independent Horticultural Report prepared by David Gilchrist Horticulture - which states <i>that importing 1m of Fresh Uncontaminated Topsoil above a Garden Basement will provide significant benefits to Planting and Biodiversity</i> "	<b>Document 30</b> - David Gilchrist Horticulture - Report on Proposed Planning Policy Changes relating to Basements	Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014.
		To maintain character of garden		60.00	Please refer to the Independent Horticultural Report prepared by Mr David Gilchrist - who states <i>"1m of good quality, well drained topsoil above a basement structure will provide an excellent environment for the growth of plants and shrubs whilst strongly encouraging biodiversity – restrictions to the size of basements below gardens should not be made "based upon concerns over planting or biodiversity"</i>	<b>Document 30</b> - David Gilchrist Horticulture - Report on Proposed Planning Policy Changes relating to Basements	Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force in the July/September 2013 Publication Consultation, RBKC, April 2014.
		To avoid excavation below root protection area of any tree		61.00	RBKC have confirmed in writing that they have not received professional Arboricultural advice that enables them to contradict British Standard 5837 2012 in relation to excavation below the Root Protection area of a	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 4-Item 9	The Council has in-house arboricultural officers who have been involved in the policy formulation. Also see Council's supporting document Trees and Basements, Feb 2014.

					tree.		
				61.00 A	Please refer to the Arboricultural Report prepared by Stephen Laird <b>who is a technical Editor of British Standard 5837 2012</b> who states that excavation adjacent to trees must be assessed on a case specific basis	<b>Document 56</b> - Forbes Laird Arboricultural Consultancy - Tree Report - 03.14	Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force, RBKC, April 2014.
CL7 D	Not cause loss, damage or long term threat to trees of townscape or amenity value;			62.00	British Standard 5837 2012 specifically considers the possibility of Subterranean Construction below the Root Protection Area of Tree's and recommends that each case should be considered on its merits and subject to individual circumstance - This policy is recommended by the British Standards Institute following years of research and evaluation by leading industry professionals - RBKC intend to adopt the opposite view whilst acknowledging that they have no evidence base or professional expertise to support their position. The British Standard states "7.6.1 Where it is proposed to form subterranean structures, e.g. basement extensions, within the RPA, it is essential to avoid excavating down through rootable soil if trees are to be retained. <i>In some cases, it might be technically possible to form the excavation by undermining the soil beneath the RPA</i> "	<b>Document 31</b> - BS 5837 2012 - Tree's in Relation to Construction - Page 27 - Paragraph 7.6 - Subterranean Construction within the RPA and <b>Document 55</b> - Barrell Tree Consultancy - Arboricultural Report - 03.14 and <b>Document 56</b> - Forbes Laird Arboricultural	Council's Response to Arboricultural Issues raised by Cranbrook Basements and Basement Force, RBKC, April 2014.
				63.00	RBKC Chief Arboricultural Officer has previously supported the excavation below the Root Protection Area of Tree's	<b>Document 38</b> - Angus Morrison - Notes Agreeing to Tree Tunnelling - 10 Kensington Palace Gardens - PP.08.1323	This scheme has not been implemented and therefore excavation below the root protection area remains untested. The Council's approach has also changed since the time of the note in July 2008.
				64.00	RBKC have confirmed in writing that they have no evidence of any damage caused to any tree within the borough as a consequence of tunnelling under the Root Protection Area whilst constructing a Basement - despite the fact that this process has been previously permitted within RBKC	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 3 - Item 7	The Council is not aware of any instance of implementation of tunneling underneath root protection area and therefore there is no scientific evidence available of the impact this may have on trees in the Borough.
CL 7 E	Not cause harm to the significance of heritage assets;			65.00			

CL 7 F	Not involve excavation underneath a listed building (including pavement vaults);	To avoid any alterations to plan form of Listed Building		66.00	RBKC wish to impose a blanket ban on any type of subterranean extension below a Listed Building based upon a range of non structural Planning Issues including, Plan Form, Architectural Hierarchy, Levels, Alterations to the Fabric etc. - These considerations also apply to highly visible above ground extensions of Listed Buildings but no similar outright restriction is imposed - It is a fact that an above ground extension of a Listed Building will have a visible and immediate affect upon the Character and Setting of a Listed Building - although this will not always be negative. Since 2011 RBKC has granted Planning Consent for 38 above ground extensions of Listed Buildings - This is a significant number and demonstrates that substantial modification of a Listed Building which is highly visible can be successfully achieved. Based upon these facts the decision by RBKC to refuse to even contemplate a Basement Extension is highly unreasonable and arguably perverse	<b>Document 42</b> - Listed Building Planning Approval Analysis  See Council's Response to Cranbrook Basements comments related to Listed Buildings, RBKC, April 2014.
				66.00 A	Please refer to the expert opinion prepared by Historic Buildings Consultants Jeffrey George Associates who state that Document 60 Paragraph 5 " <i>We note a lack of consistency with National Framework Policy in regard to basements and listed buildings. No other authority in London or nationally has sought to limit basements in this way. Effectively there is already a virtual ban in excavating beneath the footprint of listed buildings in RBKC and it seems to us that this goes against National Policy and English Heritage guidance of each case being judged on its own merit</i> " and further Paragraph 6 " <i>We find it illogical that above ground rear extensions to listed buildings are deemed to be acceptable in principle but not subterranean development</i> " - Jeffrey George is an acknowledged expert and former Senior Member of English Heritage	<b>Document 60</b> - Jeffrey George Associates - Historic Buildings Consultancy - Listed Buildings Opinion  See Council's Response to Cranbrook Basements Document 60 by Jeffery W George and Associates, RBKC, April 2014.

				67.00	The English Heritage document "Planning for the Historic Environment PRACTICE GUIDE" remains a valid and Government endorsed document pending the results of a review of guidance supporting national planning policy. (Previously referred to in PPS5) - The English Heritage Practice Guide deals specifically with the possibility of underground extension where it states "Proposals to remove or modify internal arrangements, including the insertion of new openings or extension underground , will be subject to the same considerations of impact on significance (particularly architectural interest) as for externally visible alterations" English Heritage state that due consideration should be given to underground extension of a Listed Building and that each case should be assessed on its merits - It is wholly unreasonable for RBKC to refuse to even consider the possibility of a Basement below a Listed Building	<b>Document 32</b> - English Heritage Practice Guide - See Paragraph 182 - Page 48	See Council's Response to Cranbrook Basements comments related to Listed Buildings, RBKC, April 2014.
CL7 F	Not involve excavation underneath a listed building (including pavement vaults);			68.00	The English Heritage Practice Guide also considers the possibility of creating additional floors and states that in certain cases this may be possible " The introduction of new floors into a building or removal of historic floors and ceilings may have a considerable impact on an asset's significance. Certain asset types, such as large industrial buildings, are generally more capable of accepting such changes without unacceptable loss of significance"	<b>Document 32</b> - English Heritage Practice Guide - See Paragraph 184 - Page 49	See Council's Response to Cranbrook Basements comments related to Listed Buildings, RBKC, April 2014.
		To avoid risk of structural damage to any Listed Building		69.00	The Report by Alan Baxter Associates specifically addresses the issue of potential damage to a Listed Building as a consequence of Basement Construction and concludes:- "From a structural engineering viewpoint there is little difference in risk between a listed and unlisted building" - Baxter goes on to state "The objection to basements under listed buildings primarily relates to how a building is used rather than any particular structural risk" - RBKC have been	<b>Document 16</b> - Alan Baxter Associates Report - Residential Basement Study 2013 - Page 85 - Question 10	Please refer to para 34.3.61 of the reasoned justification in the Submission Basements Policy, RBKC, April 2014. Also refer to Council's supporting document Basements in Gardens of Listed Buildings, Alan Baxter and Associates, Feb 2014.

					advised by their appointed Structural Engineers that basements below Listed Building pose no additional or special Risks and having accepted that they have no evidence that any foundation has been extensively modified - it is wholly unreasonable for RBKC to impose a blanket ban on Basement construction either below a Listed Building or in the Garden of a Listed Building		
		To avoid extensive modifications to the foundation of a Listed Building		70.00	RBKC have confirmed in writing that they have no evidence to support their statement that the foundations of Listed Buildings have been extensively modified as a result of basement construction	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 19 - Item 1	Foundations of listed buildings are modified to accommodate basement construction. Evidence can be found in the relevant Construction Method Statements accompanying listed building consent/ planning applications.
		To avoid any change to historic floor levels of Listed Building		71.00	The English Heritage Practice Guide specifically considers the possibility of altering floor levels within a Listed Building <i>"The introduction of new floors into a building or removal of historic floors and ceilings may have a considerable impact on an asset's significance. Certain asset types, such as large industrial buildings, are generally more capable of accepting such changes without unacceptable loss of significance"</i>	<b>Document 32</b> - English Heritage Practice Guide - See Paragraph 184 - Page 49	The Practice Guide refers to heritage assets not specifically listed buildings. The Council is aware of the guidance and uses it when appropriate.
		To avoid any alteration to fabric of Listed Building		72.00	Any alteration to the fabric of a Listed Building should be assessed on a case by case basis and be judged upon the unique circumstances of the proposal - A blanket ban is unreasonable and unjustifiable - Particularly when considering that RBKC have granted Planning Approval for 38 substantial above ground extensions to Listed Buildings since 2011	<b>Document 42</b> - Listed Building Approval Analysis	The policy is the starting point but each application is assessed on its own merit.
		To avoid any change to hierarchy of rooms within Listed Building		73.00	Any alteration to the Hierarchical arrangement of a Listed Building should be assessed on a case by case basis and be judged upon the unique circumstances of the proposal - A blanket ban is unreasonable and unjustifiable - Particularly when considering that RBKC have granted Planning Approval for 38 substantial above ground extensions to Listed Buildings since 2011	<b>Document 242</b> - Listed Building Approval Analysis	The policy is starting point but each application is assessed on its own merit.

CL 7 G	Demonstrate there is no harm to the special architectural and historic interest of the listed building when proposed in the garden;	To avoid light pollution		74.00	RBKC have confirmed in writing that they have no evidence to suggest or confirm that Light Pollution from Basement Lightwells has caused disturbance to neighbours. RBKC have also confirmed that they have no evidence to suggest that a greater level of light pollution is experienced from Lightwells than from far larger above ground glazed extensions - It is entirely unreasonable for RBKC to seek to restrict Lightwells based upon an unsubstantiated suggestion of possible light pollution - this point is amplified by the fact that a similar restriction is not applied to above ground forms of glazing which are far more visible	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 20 - Item 2 and <b>Document 60</b> - Jeffrey George Associates - Historic Buildings Consultancy - Listed Buildings Opinion	Lightwells and rooflights can introduce a source of light where there was none before such as in the middle of gardens. Para 125 of the NPPF states <i>"By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation."</i>
CL7 G	Demonstrate there is no harm to the special architectural and historic interest of the listed building when proposed in the garden;	To avoid harming the character or appearance of an area		75.00	RBKC are seeking to impose a blanket ban on lightwells if they are not already an established feature of the street. This policy assumes that it is impossible for any type of lightwell to ever be acceptable unless others exist - irrespective of whether or not the subject property is located within a conservation area. This policy is entirely unreasonable because it refuses to judge each case based upon its merits and is a direct discrimination against what is a small floor level metal grill located unobtrusively adjacent to a building. The consequence of this policy is to allow RBKC to refuse to consider any modification to any property simply based upon the fact that there may not be existing examples of similar extensions or alterations within a particular street - this proposed policy undermines the very essence of Subjective Planning decision making on a case by case basis	<b>Document 60</b> - Jeffrey George Associates - Historic Buildings Consultancy - Listed Buildings Opinion	Planning policies are written for most cases rather than the exception. In most cases in this Borough introduction of a light wells and railings where they are not already an established and positive feature of the local streetscape will cause harm to the character or appearance of the area. The policy is the starting point but each case is considered on its merit.  This part of the policy does not apply purely to listed buildings, the relevance of the listed buildings opinion is unclear.
CL 7 H	Not introduce light wells and railings to the front or side of the property unless they are already an established and positive feature of the local streetscape;			75.00 A	RBKC are seeking to impose a blanket ban on lightwells if they are not already an established feature of the street. This policy assumes that it is impossible for any type of lightwell to ever be acceptable unless others exist - irrespective of whether or not the subject property is located within a conservation area. This policy is entirely unreasonable because it	<b>Document 60</b> - Jeffrey George Associates - Historic Buildings Consultancy - Listed Buildings Opinion	The policy is written for most cases rather than the exception. In most cases in this Borough introduction of a light wells and railings where they are not already an established and positive feature of the local streetscape will cause harm to the character or appearance of the area. The policy is the starting point but each case is considered on its merit.  This part of the policy does not apply purely to

					refuses to judge each case based upon its merits and is a direct discrimination against what is a small floor level metal grill located unobtrusively adjacent to a building. The consequence of this policy is to allow RBKC to refuse to consider any modification to any property simply based upon the fact that there may not be existing examples of similar extensions or alterations within a particular street - this proposed policy undermines the very essence of Subjective Planning decision making on a case by case basis		listed buildings, the relevance of the listed buildings opinion is unclear.
CL 7 I	Maintain and take opportunities to improve the character or appearance of the building, garden or wider area, with external elements such as light wells, roof lights, plant and means of escape being sensitively designed and discreetly sited;	To avoid harming the character or appearance of an area		76.00		<b>Document 60</b> - Jeffrey George Associates - Historic Buildings Consultancy - Listed Buildings Opinion	This part of the policy does not apply purely to listed buildings, the relevance of the listed buildings opinion is unclear.
CL 7 J	Include a sustainable urban drainage scheme (SUDs), including a minimum of one metre of permeable soil above any part of the basement beneath a garden. Where the character of the gardens within an urban block is small paved courtyards SUDs may be provided in other ways;	To allow sufficient area for planting trees		77.00	The provision of a Sustainable Urban Drainage System (SUDS) - is a routine and straightforward construction design matter that can simply be incorporated into Basement Design	<b>Document 64</b> - Environmental Protection Grp - Review of Drainage & Flooding	No comment required on this part of the policy.
		To allow sufficient area for growth of plants and shrubs		78.00			
		To encourage biodiversity		79.00			
		To maintain a green and leafy feel to Borough gardens		80.00			
		To allow better natural groundwater drainage		81.00			
		To maintain character of garden		82.00			
		To avoid restricting range of planting		83.00			

		To allow water to drain through to upper Aquifer		84.00			
		To comply with London Plan Supplementary Planning Guidance Paragraph 1.2.18 and 1.2.22 November 2012		85.00			
		To comply with NPPF Paragraph 53		86.00			
CL 7 K	Ensure that any new building which includes a basement, and any existing dwelling or commercial property related to a new basement, is adapted to a high level of performance in respect of energy, waste and water to be verified at pre-assessment stage and after construction has been completed;	To mitigate the alleged higher concentration of embedded carbon within Basements		87.00	<b>The Report by 8 Associates Dated 9th July 2010 which informs current Planning Policy</b> has been described as fundamentally flawed by three Independent Sustainability Experts. The information contained within the Eight Associates Report is unreliable and cannot be relied upon by RBKC. It is the conclusion of the three independent experts that both the embedded carbon and operational carbon associated with Basement Construction and Operation is effectively the same as a traditionally constructed above ground building	<b>Document 11</b> -Waterman Energy, Environment & Design - Critical Report Review. <b>Document 9</b> - MES Energy Services - Technical Review of Eight Assoc Report. <b>Document 24</b> - BBS Energy Services - Review of RBKC Basement Publication Policy	These are comments on the 2010 Report. The Council accepted that this report had some arithmetical errors, it was out of date and relied on a small number of case studies. As a result this report was superseded by Life Cycle Carbon Analysis, Eight Associates, Feb 2014 report.
CL 7 K	Ensure that any new building which includes a basement, and any existing dwelling or commercial property related to a new basement, is adapted to a high level of performance in respect of energy, waste and water to be verified at pre-assessment stage and after construction has been completed;	To mitigate the alleged higher levels of operational carbon associated with Basements		88.00	In drafting the new Basements Planning Publication Policy RBKC rely heavily upon the Report prepared by Eight Associates - <i>Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&amp;C, Eight Associates 10th Feb 2014 - The Report makes a series of unsubstantiated conclusions which are not "Evidence Based" - Despite Repeated written requests RBKC have refused to provide copies of the calculations that have been used to reach the Report Conclusions - Thereby preventing independent verification of the findings - Peer review of research is essential to avoid error</i>	<b>Document 59</b> - Waterman Energy Environment and Design - Carbon Report - 03.14 and <b>Document 71</b> - RBKC - Refusal to Provide Carbon Calculations - Eight Associates	Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.
		To mitigate climate change		89.00	Waterman Energy are a highly respected National Sustainability Consultant with 20		Please refer to Technical Review, RBKC - Basements Policy Public Consultation Response Waterman Energy Report, Eight Associates, April 2014.

					Offices who have carried out an independent review of 2 case studies used by Eight Associates and they have established significant errors in the Eight Associates results. The conclusion of Watermans clearly demonstrates that for the case studies selected - Basements have a lower total Carbon Content than an above ground extension		
CL 7 L	Ensure that traffic and construction activity does not harm pedestrian, cycle, vehicular and road safety, affect bus or other transport operations (e.g. cycle hire), significantly increase traffic congestion, nor place unreasonable inconvenience on the day to day life of those living, working and visiting nearby;			90.00	<p>Clause CL 7 K is a presumption against development and is contrary to the specific aims of NPPF - This policy requires applicants to meet an indeterminable target for a whole range of issues that are governed by alternative Legislation. RBKC's own written guidance states that this approach is Ultra Vires. RBKC state in writing "A 'traditional' description of where controls under the Town and Country Planning Act 1990 sit amongst the wider raft of other legislation would read as follows: the Town and Country Planning Act controls the appearance of buildings and land and the uses to which they are put; the Building Regulations ensure buildings are safe and fit for purpose; the Party Wall Act safeguards the interests of adjoining owners; the Environmental Protection Act and Control of Pollution Act protect the wider public and the environment from a range of harms, and the Highways Act ensures the efficient and safe use of roads and highways. This is an oversimplified context as there are other important pieces of legislation too, but it serves to illustrate the complement of legislation and the separate roles that each piece of primary legislation has. <i>The courts have made it very clear that authorities implementing controls under one piece of legislation should not attempt to emulate, influence, or over-write, controls laid down under other legislation; attempting to expand control beyond the proper remit of a particular Act would be 'ultra-vires'.</i></p> <p>There is an understandable perception amongst many members</p>	<p><b>Document 28- RBKC</b> -Planning Consent in the Context of Alternative Legislation</p>	<p>The construction of basements can have a serious impact on the quality of life of residents in the area as stated in para 34.3.49 and 34.3.50 of the reasoned justification.</p> <p>Material considerations are not defined in planning law. The impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is not insignificant.</p> <p>Cranbrook Basements' comments are related to specific planning applications. Even where planning applications are concerned depending on the scale and nature of development, decision makers will consider construction impacts. The weight given to this material consideration will vary in different cases.</p> <p>When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.</p> <p>See National Planning Practice Guidance 'Land Stability' which sets out how planning can work alongside other regimes.</p>

					of the public and other observers that many issues almost appear to fall into gaps between legislation, or are not dealt with adequately by one or another piece of legislation. It may seem attractive to both observers or decision makers to attempt to bring matters under the planning 'umbrella' that should not properly be under there at all, but the courts will not tolerate this"		
				91.00	RBKC are seeking to impose conditions that relate to matters controlled by alternative legislation - this is unreasonable as stated by Lord Denning in Pyx Granite v MHLG - Lord Denning held: <i>"Although the planning authorities are given very wide powers to impose "such conditions as they think fit," nevertheless the law says that those conditions, to be valid, must fairly and reasonably relate to the permitted development. The planning authority are not at liberty to use their powers for an ulterior object , however desirable that object may seem to them to be in the public interest"</i>	<b>Document 33</b> - Lord Denning	Planning conditions are related to the development. It is unclear which conditions are being referred to here.
		To reduce the level of Construction Phase inconvenience		92.00	RBKC have confirmed in writing that they have no evidence available to support their contention that the restriction of garden zone excavation to a maximum of 50% will reduce the level of construction phase inconvenience. This attempt to implement an enormous reduction in garden basement size in the absence of any evidence of benefit is wholly unreasonable	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 11 - Item 1	The size restriction will have an impact on the volume of excavation and also on the carbon footprint. See Life Cycle Carbon Analysis, Eight Associates, Feb 2014.
				92.00 A	Please refer to the Expert Report produced by Waterman Transport Engineers who state that <i>"In terms of construction traffic residential basement developments are no different from other types of residential development. Indeed it is very difficult to isolate those trips specifically related to basement construction from those associated with upper level development"</i> - Document 6 - Para 1.2	<b>Document 6</b> - Waterman Transport - RBKC Basement Policy Review	Please refer to Response to Consultation Comments prepared by Alan Baxter and Associates for RBKC, Apr 2014.  Large basement developments add significant new floorspace to existing dwellings compared to above ground refurbishments/ extensions and generally generate more construction traffic.  The trend for retrofitting basements is in part because of the special character of the Borough's built environment. Given the densely built up character along with

							high quality uniform townscape in conservation areas covering 70% of the Borough, works/ extensions above ground are generally limited in scale.
CL 7 L	Ensure that traffic and construction activity does not harm pedestrian, cycle, vehicular and road safety, affect bus or other transport operations (e.g. cycle hire), significantly increase traffic congestion, nor place unreasonable inconvenience on the day to day life of those living, working and visiting nearby;			93.00	RBKC have stated in writing that inconvenience during the Construction Phase of a development are not a material factors that can be considered when in determining whether or not Planning Consent should be granted. This is the Publicly stated view of RBKC. It is therefore perverse to attempt to reduce the amount of garden Basement area that can be constructed on the basis of an issue that RBKC state is not a material planning consideration.	<b>Document 2</b> - RBKC - Non Material Planning Considerations - Page 2	<p>The construction of basements can have a serious impact on the quality of life of residents in the area as stated in para 34.3.49 and 34.3.50 of the reasoned justification.</p> <p>Material considerations are not defined in planning law. The impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is not insignificant.</p> <p>Cranbrook Basements' comments are related to specific planning applications. Even where planning applications are concerned depending on the scale and nature of development, decision makers will consider construction impacts. The weight given to this material consideration will vary in different cases.</p> <p>When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.</p>
				94.00	RBKC have confirmed in writing that they have not considered the potential reduction in construction period which can be achieved when using mechanised excavation equipment for Basement construction - Reductions of up to 75% in project duration are achievable when excavation is carried out mechanically - The lack of Policy Research by RBKC is extremely serious when seeking to restrict the legitimate development rights of Householders and Developers	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 1	The Council's policy is partly based on the evidence of construction impacts as experienced by residents. This is expressed in the Surveys of neighbours and residents undertaken in August/ September 2012, responses to various consultations and daily correspondence received by the planning department. The Council supports using best practicable means for construction and mechanical excavation may not be possible for the constrained sites commonly found in the Borough.
				95.00	The Independent Report prepared by ARUP Associates states that in most cases the degree of inconvenience experienced during Basement Construction is " In general, at least of similar, and <b>sometimes</b> of greater, magnitude than equivalent categories of disturbance created by other types of residential building works (such as replacing a	<b>Document 3</b> - Arup Geotechnics - RBKC Town Planning Policy on Subterranean Development - Page 23 - Paragraph 5.4	The Arup report was published in 2008 and acknowledges that basement development is sometimes of greater magnitude than <b>equivalent categories of disturbance</b> .....It should be noted that a basement adding one of more floors below the footprint of an existing building and extending into a large majority of the garden is generally not equivalent to the other types of above ground development described here. The Council's supporting document Alan Baxter

					roof, converting a loft, or adding a conservatory). The draconian restriction proposed by RBKC is unreasonable in light of this statement.		Associates Basements Report (Mar 2013) should also be referred to at para 12.2.2. In addition the Council's proposed policy is based on a range of supporting documents as described in the Policy Formulation Report, RBKC, Feb 2014.
				96.00	In the Judicial Review carried out by The Rt Honourable Lord Justice Underhill - RBKC supported the view that Construction Phase Inconvenience was not a reason to refuse the grant of Planning Consent - In conclusion Lord Justice Underhill states :- <i>"I do not underestimate the disruption which the carrying out of the development for which permission has been given is likely to cause to the claimant. Mr Brown made that point fully and clearly at the forefront of his submissions; and indeed, for what it is worth, the claimant has my sympathy. But it is a fact of life that in an urban environment development in neighbouring properties will from time to time cause real disruption to neighbours. That is not a reason for refusing the grant of planning permission. There are many remedies, both legal and social, for a person in the claimant's position to mitigate (though I appreciate it will not remove) the amount of the disruption, but I cannot see that it was even arguably unlawful for the council to grant permission on the conditions that it did.</i>	<b>Document 5</b> - Royal Courts of Justice - Case CO/11629/2011 - Page 6 - Point 17	Clearly in this case the Council did not consider construction impacts to be of such magnitude that warranted refusing permission. The Council's position was upheld in the judicial review. This is not to say that the impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is insignificant. Cranbrook Basements' comments are related to a specific planning application. When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.
		To reduce Construction Phase traffic		97.00	61% of Basements that received Planning Consent since 2007 where schemes where the Basement was simply a component part of a larger development - It is essential to determine which part of the total development was responsible for any construction traffic generated	<b>Document 34</b> - Cranbrook Basements - Planning Officer Report Analysis	Large basement developments add significant new floorspace to existing dwellings compared to above ground refurbishments/ extensions and generally generate more construction traffic. A few random examples were selected to view detailed description from Cranbrook's Document 34 and they confirm that the above ground works were small compared to the basement. These are presented below - <ul style="list-style-type: none"> <li>• PP/13/00572, 34 Sheffield Terrace - Alteration to roof mansard and creation of a basement with front lightwell.</li> <li>• PP/12/04622, 37 Clareville Grove - Formation of basement extension under existing property and rear</li> </ul>

						<p>garden including front and rear lightwells and ground floor extension to rear of property.</p> <ul style="list-style-type: none"> <li>• PP/10/00959, 32-34 Aubrey Walk - Subterranean works to create a basement level beneath the footprint of both properties, and alterations to existing rear ground floor conservatory extension at 32 Aubrey Walk, including enlargement of first floor terrace above.</li> <li>• PP/08/01664, 10 Tregunter Road - Erection of rear extensions at lower ground and ground floor levels, installation of dormer window to rear roof slope together with the construction of a new basement level to accommodate swimming pool and associated facilities.</li> </ul> <p>The trend for retrofitting basements is in part because of the special character of the Borough's built environment. Given the densely built up character along with high quality uniform townscape in conservation areas covering 70% of the Borough, works/ extensions above ground are generally limited in scale.</p>	
				97.00 A	<p>Please refer to the Expert Report produced by Waterman Transport Engineers who state that <i>"Traffic generated by construction is a temporary situation and has a negligible effect on the local highway network compared to the existing background traffic. Basement construction traffic is no different from other kinds of construction which is difficult to isolate since basement construction traffic often includes upper level construction"</i> Document 6 Para 9.2 - and <i>"In terms of construction traffic residential basement developments are no different from other types of residential development. Indeed it is very difficult to isolate those trips specifically related to basement construction from those associated with upper level development"</i> - Document 6 - Para 1.2</p>	<p><b>Document 6</b> - Waterman Transport - RBKC Basement Policy Review</p>	<p>Please refer to Response to Consultation Comments prepared by Alan Baxter and Associates for RBKC, Apr 2014.</p> <p>Large basement developments add significant new floorspace to existing dwellings compared to above ground refurbishments/ extensions and generally generate more construction traffic.</p> <p>The trend for retrofitting basements is in part because of the special character of the Borough's built environment. Given the densely built up character along with high quality uniform townscape in conservation areas covering 70% of the Borough, works/ extensions above ground are generally limited in scale.</p>
					<p>Please refer to the Independent Report Prepared by Highways</p>	<p><b>Document 6</b> - Waterman Transport &amp; Development -</p>	<p>Please refer to Response to Consultation Comments prepared by Alan Baxter and</p>

				98.00	Experts <b>Waterman Transport</b> who conclude that Basement Construction does not generate any greater quantity of Construction Traffic than other forms of Urban Residential Construction - RBKC have produced no creditable evidence to prove otherwise	RBKC Traffic & Highways Policy Review	Associates for RBKC, Apr 2014.
CL 7 L	Ensure that traffic and construction activity does not harm pedestrian, cycle, vehicular and road safety, affect bus or other transport operations (e.g. cycle hire), significantly increase traffic congestion, nor place unreasonable inconvenience on the day to day life of those living, working and visiting nearby;			99.00	RBKC confirm in writing that they have not carried out any research to determine what number of vehicle movements may be apportioned to the Basement element of a larger construction project - This is an extremely important distinction to ensure that Basement Construction is not incorrectly blamed for vehicle movements which are attributable to other parts of a larger project - In the absence of proper research any conclusion is unreliable	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 1	Please refer to Response to Consultation Comments prepared by Alan Baxter and Associates for RBKC, Apr 2014.  Large basement developments add significant new floorspace to existing dwellings compared to above ground refurbishments/ extensions and generally generate more construction traffic.  The trend for retrofitting basements is in part because of the special character of the Borough's built environment. Given the densely built up character along with high quality uniform townscape in conservation areas covering 70% of the Borough, works/ extensions above ground are generally limited in scale.
		To avoid a skip being placed on highway		100.00	Please refer to the Independent Report prepared by Highways Experts Waterman Transport which confirms that it is a highly routine feature of Construction in an Urban Environment for a Builders Skip to be placed upon the Public Highway - Waterman state <i>"In terms of construction traffic residential basement developments are no different from other types of residential development. Indeed it is very difficult to isolate those trips specifically related to basement construction from those associated with upper level development. There is currently extensive planning policy and guidance already in place which seeks to reduce the noise pollution and disruption associated with construction in general. RBKC already has policies in place that have to be met prior to the commencement of any construction through the implementation of a 'Construction Traffic Management Plan'. This gives RBKC the opportunity to manage</i>	<b>Document 6</b> - Waterman Transport & Development - RBKC Traffic & Highways Policy Review - Executive Summary	The submission policy does not preclude a skip being placed on the highway.

					construction throughout the borough. <i>The draft policy is considered to unfairly prejudice residential basement developments.</i>		
		To avoid suspension of parking bays		101.00	Please refer to the Independent Report prepared by Highways Experts Waterman Transport which confirms that <i>"During any major residential construction it may be necessary to suspend parking. A suspension can be gained by the developer/contractor, or even a private individual, through RBKC who have the powers to suspend parking places so that necessary work can be carried out by the public utilities (gas, water and electricity companies). Also, so that private companies and individuals may carry out the following works and services, such as: Large Deliveries, Crane Operations, Access to Sites, Police Security, Removals, Tree Surgery, Special Events, Road Works, Storage of Plant and Materials, Film Production, Temporary Structures, Cleaning, Mobile Workshops"</i>	<b>Document 6</b> - Waterman Transport & Development - RBKC Traffic & Highways Policy Review - Page 17 - Paragraph 7 - Point 11	The submission policy does not preclude suspension of parking bays.
		To ensure that construction management plans are discussed with RBKC at Pre Application Stage		102.00	The Town and Country Planning Act does not require applicants to engage with a Local Authority in a Pre Application process - This will lead to inevitable delays whilst different departments are consulted on matters that are the subject of alternative legislation. If required Construction Management plans should be considered as part of the usual planning application process - they should not require what will effectively amount to approval in advance of application submission		The submission policy and its reasoned justification at para 34.3.72 is promoting best practice in this respect and there is no definite requirement in this respect.
CL 7 L	Ensure that traffic and construction activity does not harm pedestrian, cycle, vehicular and road safety, affect bus or other transport operations (e.g. cycle hire), significantly increase traffic congestion, nor place unreasonable inconvenience on the day to day life of those living, working and visiting nearby;	To ensure that construction phase related impact meet the requirements of alternative Acts and Legislation		103.00	It is not the role of RBKC Planners to attempt to ensure that other Legislative Controls are properly implemented by other Departments during the construction process. RBKC state in writing <i>"A 'traditional' description of where controls under the Town and Country Planning Act 1990 sit amongst the wider raft of other legislation would read as follows: the Town and Country Planning Act controls the appearance of buildings"</i>	<b>Document 28 - RBKC</b> -Planning Consent in the Context of Alternative Legislation	The construction of basements can have a serious impact on the quality of life of residents in the area as stated in para 34.3.49 and 34.3.50 of the reasoned justification. Material considerations are not defined in planning law. The impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is not insignificant.  Cranbrook Basements' comments are related to specific planning applications. Even where

					<p>and land and the uses to which they are put; the Building Regulations ensure buildings are safe and fit for purpose; the Party Wall Act safeguards the interests of adjoining owners; the Environmental Protection Act and Control of Pollution Act protect the wider public and the environment from a range of harms, and the Highways Act ensures the efficient and safe use of roads and highways. This is an oversimplified context as there are other important pieces of legislation too, but it serves to illustrate the complement of legislation and the separate roles that each piece of primary legislation has. <i>The courts have made it very clear that authorities implementing controls under one piece of legislation should not attempt to emulate, influence, or over-write, controls laid down under other legislation; attempting to expand control beyond the proper remit of a particular Act would be 'ultra-vires'. There is an understandable perception amongst many members of the public and other observers that many issues almost appear to fall into gaps between legislation, or are not dealt with adequately by one or another piece of legislation. It may seem attractive to both observers or decision makers to attempt to bring matters under the planning 'umbrella' that should not properly be under there at all, but the courts will not tolerate this"</i></p>		<p>planning applications are concerned depending on the scale and nature of development, decision makers will consider construction impacts. The weight given to this material consideration will vary in different cases.</p> <p>When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.</p> <p>See National Planning Practice Guidance 'Land Stability' which sets out how planning can work alongside other regimes.</p>
CL 7 M	Ensure that construction impacts such as noise, vibration and dust are kept to acceptable levels for the duration of the works;	To reduce the level of Construction Phase inconvenience		104.00	<p>RBKC have confirmed in writing that they have no evidence available to support their contention that the restriction of garden zone excavation to a maximum of 50% will reduce the level of construction phase inconvenience. This attempt to implement an enormous reduction in garden basement size in the absence of any evidence of benefit is wholly unreasonable</p>	<p><b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 11 - Item 1</p>	<p>The size restriction will have an impact on the volume of excavation and also on the carbon footprint. See Life Cycle Carbon Analysis, Eight Associates, Feb 2014.</p>
				105.00	<p>RBKC have stated in writing that inconvenience during the Construction Phase of a development are not a material factors that can be</p>	<p><b>Document 2</b> - RBKC - Non Material Planning Considerations - Page 2</p>	<p>The construction of basements can have a serious impact on the quality of life of residents in the area as stated in para 34.3.49 and 34.3.50 of the reasoned justification.</p>

					considered when in determining whether or not Planning Consent should be granted. This is the Publicly stated view of RBKC. It is therefore perverse to attempt to reduce the amount of garden Basement area that can be constructed on the basis of an issue that RBKC state is not a material planning consideration.		Material considerations are not defined in planning law. The impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is not insignificant.  Cranbrook Basements' comments are related to specific planning applications. Even where planning applications are concerned depending on the scale and nature of development, decision makers will consider construction impacts. The weight given to this material consideration will vary in different cases.  When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.
				106.00	RBKC have confirmed in writing that they have not considered the potential reduction in construction period which can be achieved when using mechanised excavation equipment for Basement construction - Reductions of up to 75% in project duration are achievable when excavation is carried out mechanically - The lack of Policy Research by RBKC is extremely serious when seeking to restrict the legitimate development rights of Householders and Developers	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12 - Item 1	The Council's policy is partly based on the evidence of construction impacts as experienced by residents. This is expressed in the Surveys of neighbours and residents undertaken in August/ September 2012, responses to various consultations and daily correspondence received by the planning department. The Council supports using best practicable means for construction and mechanical excavation may not be possible for the constrained sites commonly found in the Borough.
				107.00	The Independent Report prepared by ARUP Associates states that in most cases the degree of inconvenience experienced during Basement Construction is " In general, at least of similar, and <b>sometimes</b> of greater, magnitude than equivalent categories of disturbance created by other types of residential building works (such as replacing a roof, converting a loft, or adding a conservatory). The draconian restriction proposed by RBKC is unreasonable in light of this statement.	<b>Document 3</b> - Arup Geotechnics - RBKC Town Planning Policy on Subterranean Development - Page 23 - Paragraph 5.4	The Arup report was published in 2008 and acknowledges that basement development is sometimes of greater magnitude than <b>equivalent categories of disturbance</b> .....It should be noted that a basement adding one of more floors below the footprint of an existing building and extending into a large majority of the garden is generally not equivalent to the other types of above ground development described here.
CL 7 M	Ensure that construction impacts such as noise, vibration and dust are kept to acceptable levels for the				In the Judicial Review carried out by The Rt Honourable Lord Justice Underhill - RBKC supported the view that Construction Phase	<b>Document 5</b> - Royal Courts of Justice - Case CO/11629/2011 - Page 6 - Point 17	Clearly in this case the Council did not consider construction impacts to be of such magnitude that warranted refusing permission. The Council's position was upheld in the judicial

	duration of the works;			108.00	Inconvenience was not a reason to refuse the grant of Planning Consent - In conclusion Lord Justice Underhill states :- <i>"I do not underestimate the disruption which the carrying out of the development for which permission has been given is likely to cause to the claimant. Mr Brown made that point fully and clearly at the forefront of his submissions; and indeed, for what it is worth, the claimant has my sympathy. But it is a fact of life that in an urban environment development in neighbouring properties will from time to time cause real disruption to neighbours. That is not a reason for refusing the grant of planning permission. There are many remedies, both legal and social, for a person in the claimant's position to mitigate (though I appreciate it will not remove) the amount of the disruption, but I cannot see that it was even arguably unlawful for the council to grant permission on the conditions that it did.</i>		review. This is not to say that the impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is insignificant. Cranbrook Basements' comments are related to a specific planning application. When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.
				108 A	Expert Reports produced by ADC Acoustics and 24 Acoustics both confirm that the level of Noise and Vibration associated with residential basement construction can be managed within statutory levels	<b>Document 53</b> - ADC Acoustics - Noise & Vibration Report and <b>Document 54</b> - 24 Acoustics - Noise and Vibration Report	See Council's response to Noise and Nuisance Issues raised in Cranbrook Basements (Documents 53 and 54) Representation, RBKC, April 2014.
		To protect health of residents		109.00	RBKC have confirmed in writing that they have no independent medical evidence to support the statement that Basement Construction can affect the Health of Residents	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 12-Item 1	The Council is not claiming there has been a wide spread impact on health related to basement development.
				110.00	1354 people responded to the RBKC Survey - Only 3 people stated that they had suffered unspecified illness during the Construction Phase of a Construction Project that contained a Basement element - That is equal to 0.002% - As stated in Paragraph 8.00 - RBKC did not differentiate between cases where a basement was a standalone project or part of a larger development (as was the case in 61% of Planning Approvals) - As a result it cannot be proven that the alleged illness related to the basement or some	<b>Document 22</b> - RBKC Basement Development Neighbours Survey	The Council is not claiming there has been a wide spread impact on health related to basement development.

					other part of the wider construction project - or if the occurrence was not entirely coincidental		
		To ensure that construction phase related impact meet the requirements of alternative Acts and Legislation		111.00	It is not the role of RBKC Planners to attempt to ensure that other Legislative Controls are properly implemented by other Departments during the construction process. RBKC state in writing "A 'traditional' description of where controls under the Town and Country Planning Act 1990 sit amongst the wider raft of other legislation would read as follows: the Town and Country Planning Act controls the appearance of buildings and land and the uses to which they are put; the Building Regulations ensure buildings are safe and fit for purpose; the Party Wall Act safeguards the interests of adjoining owners; the Environmental Protection Act and Control of Pollution Act protect the wider public and the environment from a range of harms, and the Highways Act ensures the efficient and safe use of roads and highways. This is an oversimplified context as there are other important pieces of legislation too, but it serves to illustrate the complement of legislation and the separate roles that each piece of primary legislation has. <i>The courts have made it very clear that authorities implementing controls under one piece of legislation should not attempt to emulate, influence, or over-write, controls laid down under other legislation; attempting to expand control beyond the proper remit of a particular Act would be 'ultra-vires'. There is an understandable perception amongst many members of the public and other observers that many issues almost appear to fall into gaps between</i>	<b>Document 28 - RBKC</b> -Planning Consent in the Context of Alternative Legislation	The construction of basements can have a serious impact on the quality of life of residents in the area as stated in para 34.3.49 and 34.3.50 of the reasoned justification.  Material considerations are not defined in planning law. The impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is not insignificant.  Cranbrook Basements' comments are related to specific planning applications. Even where planning applications are concerned depending on the scale and nature of development, decision makers will consider construction impacts. The weight given to this material consideration will vary in different cases.  When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.  See National Planning Practice Guidance 'Land Stability' which sets out how planning can work alongside other regimes.
CL 7 N	Be designed to safeguard the structural stability of the application building, nearby buildings and other infrastructure including London Underground tunnels and the highway;	To limit any damage to adjoining building to damage Category 1 of Table 2.5 of CIRIA Report C580		112.00	It should not be the responsibility of the Planning Department to determine the specifically the classification to which a Basement should be designed. Different Chartered Structural Engineers will adopt various techniques to achieve the same end result - all of which is routinely achieved without any damage to the	<b>Document 23 - MMP</b> Structural Engineers RBKC Planning Report for Cranbrook	No standards regarding structural design are being introduced. The policy requires basements are designed to safeguard structural stability as this can impact on the character or appearance. The Council relies on the professional integrity of the applicant's structural engineer rather than on planning officers to make this assessment.

					host or adjacent buildings. The issue of Structural design is already subject to very significant control under alternative legislation including, The Building Regulations, The Party Wall Act, The Construction and Design Management Act, The Health and Safety at Work Act. RBKC should not seek powers to control matters that are the subject of Alternative Legislation.		
				113.00	<p>Planning Officers do not have the necessary Engineering Expertise to determine Engineering Design Criteria - There is the potential for significant disagreement where RBKC Planners impose standards that they do not fully understand. RBKC have ignored the specific advice of Alan Baxter Associates which states that <i>"The design and construction methodology should aim to limit damage to the existing building on the site and to all adjoining buildings to Category 2 as set out in CIRIA report 580 (see Para 10.8) and the Engineering Design and Construction Statement should clearly explain how this is to be achieved"</i> - Baxter goes further stating at 13.2.2 <i>"Each basement proposal is unique. Generic basement designs are not appropriate and should not be permitted for consideration at planning. Each application must demonstrate a recognition and understanding of the special and unique factors that apply in each case"</i> For these reasons the final technical structural engineering design solution should be determined on a case by case basis and reviewed under the auspices of the relevant legislation including - Party Wall Act, Building Regulations, Construction and Design Management, Health and Safety at Work Act.</p>	<b>Document 16</b> - Alan Baxter Associates Report - Residential Basement Study 2013	No standards regarding structural design are being introduced. The policy requires basements are designed to safeguard structural stability as this can impact on the character or appearance. The Council relies on the professional integrity of the applicant's structural engineer rather than on planning officers to make this assessment.
				114.00	<p>It is standard practice to design a basement to CIRIA C580 Damage Category 1. This is confirmed within the Independent Expert Report prepared by Mr Stephen Masters B.Sc. (Hons), C.Eng., M.I.Struct.E., M.B.Eng of MMP Structural Design, Consulting</p>	<b>Document 23</b> - MMP Structural Design - Consulting Civil and Structural Engineers - Comments on Basement Publication Planning Policy	No standards regarding structural design are being introduced. The policy requires basements are designed to safeguard structural stability as this can impact on the character or appearance. The Council relies on the professional integrity of the applicant's structural engineer rather than on planning officers to make this assessment.

					Structural and Civil Engineers states that "basement construction is subject to strict control under The Party Wall Act and schemes are comprehensively reviewed by an independent Chartered Engineer acting on behalf of an adjoining owner. Party Wall agreements are not be signed until such time as both sets of Engineers have reached an agreement thereby minimising yet further the potential for any structural design related issues. <i>It is normal to design basements to CIRIA C580 Damage Category 1 (fine cracks than can easily be treated during normal decoration) and that in layman's terms this is the similar to the type of damage that can occur regularly as a result of seasonal ground movements . These fine cracks may have some structural significance but are not deemed serious"</i>		
		To ensure compliance with requirements of Party Wall Act		115.00	RBKC have confirmed in writing that they have not received any Professional Party Wall advice in recommending that Party Wall Negotiations are commenced in advance of submitting a Planning Application - This recommendation is entirely unreasonable and exposes Applicants and Adjoining Owners to costs that they may not recover. It is entirely reasonable for an applicant to obtain planning consent for a basement that they may not intend to construct for several years if at all. Party Wall Agreements have a limited lifespan of 12 months and as such could prove abortive if the works are not started within that time frame	<b>Document 1</b> - RBKC Response to Freedom of Information Request - Page 23 - Item 1	This is an advisory note rather than a requirement.
CL 7 N	Be designed to safeguard the structural stability of the application building, nearby buildings and other infrastructure including London Underground tunnels and the highway;			116.00	Please refer to the Independent Expert Report produced by Mr Mark Williams BSc., FRICS who states " <i>One of the recommendations put forward under paragraph 34.3.73 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. Whilst it is normal</i>	<b>Document 29</b> - Taylor Williams Daly - Party Wall Act - Page 12 - Conclusion	This is an advisory note rather than a requirement.

					for the adjoining owner's, surveyor's fees to be paid for by the building owner, the immediate responsibility of the adjoining owner lies with that owner. It may well be that the adjoining owner would become responsible for his surveyors fees in the event of the work not proceeding. This could result in fees of many thousands of pounds for abortive work. Furthermore, the validity of a Party Wall Notice and also the Award has a 12 month life span. Quite often negotiations in respect of Party Wall work and the necessary in-depth analysis by engineer, architect and surveyor in the scheme and the relevant, other professional bodies employed to check the scheme is such that this 12 month validity period will be eroded.		
CL 7 O	Be protected from sewer flooding through the installation of a suitable pumped device.			117.00	Please refer to the Independent Report prepared by three eminent Hydro Geological Experts - Environmental Protection Group, Mcloy Consulting and Card Geotechnical who state that the Installation of a Pumped Device is a matter of Routine Construction Practice	<b>Document 64</b> - Environmental Protection Group, Card Geotechnical and Mcloy Consulting Group - Review of Drainage and Flooding Implications for Basements in RBKC	Noted. This requirement was introduced as a result of Thames Water's comments during consultation.
	General Observations			118.00	<b>Circular 11-95 is explicit on the limit of Local Planning Authority Powers</b> where it states " <i>Other matters are subject to control under separate legislation, yet also of concern to the planning system. A condition which duplicates the effect of other controls will normally be unnecessary, and one whose requirements conflict with those of other controls will be ultra vires because it is unreasonable.....</i> " "A condition cannot be justified on the grounds that the local planning authority is not the body responsible for exercising a concurrent control, and therefore cannot ensure that it will be exercised properly".....It is unreasonable to impose a condition worded in a positive form which developers would be unable to comply with consent or authorisation of a third party themselves, or which they could	<b>Document 31</b> - Circular 11-95	The policy does not require loading/ unloading to take place on the highway outside the application premises.

					<p>comply with only with the consent or authorization of a third party"..... <i>it would be ultra vires</i> , however, to require works which the developer has no power to carry out, or which would need the consent or authorisation of a third party..... An example of an unreasonable Planning Condition would be " To require that loading and unloading, and the parking of vehicles, shall not take place on the highway at the front of the premises. This condition purports to exercise control in respect of a public highway, which is not under the control of the applicant" <i>The proposals by RBKC totally ignore the guidance provided in this important Planning Policy Guidance document and seek to place unreasonable obstacles in place that will frustrate the legitimate development aspirations of Householders</i></p>		
				119.00	<p>RBKC State within Official Planning Department Guidance - <b>"Commenting on A Planning Application - "</b> <i>It is important that third parties express their views on an application but unfortunately, some of your concerns may not be issues we can consider when determining an application as they are not "material planning considerations". Issues we can and cannot take into consideration are: " Disruption and Disturbance from Building Works"</i></p>	<p><b>Document 2</b> - RBKC - Non Material Planning Issues - Issues Not Affecting Grant of Planning Permission</p>	<p>The construction of basements can have a serious impact on the quality of life of residents in the area as stated in para 34.3.49 and 34.3.50 of the reasoned justification. Material considerations are not defined in planning law. The impact of large basement developments in the narrow constrained streets of the Royal Borough also given the increasing trend of basement development is not insignificant.</p> <p>Cranbrook Basements' comments are related to specific planning applications. Even where planning applications are concerned depending on the scale and nature of development, decision makers will consider construction impacts. The weight given to this material consideration will vary in different cases.</p> <p>When developing planning policy we have to take a more strategic approach for the Borough and it is perfectly reasonable for the cumulative impact of basement developments to be taken into account as part of this process.</p>