

**Core Strategy Review
Basements: Issues Consultation Workshop**

The Small Hall, Hornton Street, 6:30 pm Thursday 24th May 2012

The evening's discussion concerning basement development was structured around three principal questions. Comments received have been outlined under the relevant question.

Question One

What are the main issues concerned with basement extension?

Proliferation of basements

Concern that ever increasing number of basements being built, many of which are large in size.

Reasonable that people want to extend their houses. Conventional extensions are often not possible given the planning regulation and the policies on, for example townscape, impact on gardens and amenity. Therefore, often the only realistic choice is to extend downwards.

Contrary view, that basements often built to increase property values, generated by greed.

Basement extensions generated by 'value' as it is now cheaper to dig a basement extension than to move. Cost of build is less (per sq m created) than value created. Often just 25%.

Planning process

Important that the target date for determining applications (8 weeks) met as many applications are taking too long to determine.

Requirements/information required upfront too onerous, planning should be there to enable development not to stifle it.

The Council is not considering applications adequately as does not have the necessary information to properly determine basement extensions, and their impact upon structural stability, flooding, amenity etc.

There is a lack of consistency in the way the Council deals with basement applications, and a lack of guidance both locally and nationally. The Council requires clear and unambiguous guidance as to what is likely to be acceptable. Vague requirements to "protect amenity" not provide the necessary clarity.

Concern that the Council too keen to process applications, sometimes seem as being on the side of the development industry.

Council needs to employ more staff to consider applications properly.

Communication

Need for better communication between different council departments, between the Council and residents, between the developers and neighbour and directly between neighbours themselves.

Council fail to satisfy statutory obligations with regard consultation with residents.

Residents to have access to documents submitted with planning applications.

Scale of basements

Some basement are too large – double size of house – this is just not, and never will be, acceptable. Basements beneath entire gardens and more than a storey in height excessive.

Some enlargement of a basement beyond the footprint may be acceptable if, also strengthens the foundations of the property and the adjoining properties.

There should be no set limit to the scale of the development, with each case being considered on its merits.

Impact of construction phase of basements

Considerable impact of noise, impossible to live in neighbouring house during construction.

Poor control of noise and disturbance (S61 of COPA).

There is a requirement to join considerate contractor's scheme.

Construction traffic a major issue, particularly in constrained sites, and when multiple/ continuous developments one after another.

Agreed hours of operation (and nature of quiet works) often ignored towards end of build – to avoid time penalties . Effective enforcement required.

Structural Stability

Structural integrity, long term structural stability of adjoining buildings is a major issue, but not an issue adequately considered by the Council.

Concern that the required Construction Method Statements are inadequate. CMSs should require a contractor's impact rather than the theoretic consideration by a structural surveyor .

Concern that CMS are not independently verified.

Concern about use of 'external' building control to consider the building regulations, not the Council's service.

CMS should include 'damage risk assessments', for a wider area beyond the application property and the immediate neighbours.

Particular problem in this Borough where many of the properties were built in the 1840s and have shallow foundations.

Flooding

What is cumulative impact of all these subterranean developments on the water table in the long term?

Environmental Agency and Thames Water should be statutory consultees for basement developments where there is a risk of flooding.

Council needs more rigorous flood risk investigation when considering basement extensions.

Council should refuse all basements in or near flood risk zones 1,2 or 3

Council should add a 'tax' to basements in the flood zones

Sustainability

Important to recognise the particular environmental costs of the construction of a basement extension. This consideration/ mitigation should focus more on the permanent/ long term fixtures / elements rather than some of the requirements of the current EcoHome assessments – e.g. rainwater harvesting measures that are integral to the design. Such measures cannot be easily changed once permission granted

Time to implement permissions

Some developments take years to implement. This is unacceptable in terms of the impact it has upon neighbours.

A need to specify the time of the construction phase

Need mechanism to minimise building companies going bankrupt and closing down the site. Compulsory bonds/insurance cover?

Design

Basements do have a visual impact, and these should be reflected in any future policy.

Permitted development

Brings uncertainty, and therefore the Council need to make use of Article 4s to bring all basement development under council control.

Need for effective use of Part Wall Act

Need to raise awareness of the Party Wall Act and what, if used well, it can achieve. PWA perhaps the best mechanism to control the nature of many basements – although flawed (only considers adjoining properties)

All planning permissions should include a condition which requires that a party wall agreement is in place before development can commence. PWA should include a requirement of a bond to ensure that the basement is completed in case of bankruptcy.

Foundations. Most excavations call for ‘special’ foundations which need a ‘foot’ under the adjoining land. Large premiums can be extracted from developers for the necessary permissions under the PWA.

Adjoining houses, garden walls etc sometimes crack a year or two after the excavation, and the house has been sold. It is difficult to require damage rectified even after the signing of a Party Wall Agreement.

Need for party wall surveyor to be robust.

Problems with enforcement, penalties for breaches are almost impossible to enforce, unless the neighbour goes through expensive litigation.

Community Infrastructure Levy

Need a higher rate of CIL for basements to reflect the impact of basement development on the community

<p>Question 1a What is Council getting right?</p>

- The Council recognise that there is a problem.
- Applications are well supported by technical reports.

- The Council has a degree of control of the process.
- At least some consultation is done.
- The Council adheres to legal requirements as set out by central government.
- The commissioning of the Arup report to consider structural stability etc is useful.
- Approachable planning officers.
- Increasing requirements and conditions.
- Requiring the retrofitting of the entire building to high environmental standards when allowing a basement extension.

<p>Question 1b What is Council getting wrong?</p>
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- Allowing basements to be built under permitted development
- Over reliance on conditions. Information within conditions should be required upfront at validation stage so considered (and consulted upon) as part of the application.
- Insufficient information made available at planning application committee.
- Council allowing the building of basement extensions which are too big.
- No justification for allowing 85% of the garden to be built under. 85% too generous. 85% too draconian – as engineering solutions may render it unnecessary.
- The Construction Management Statement should be independently verified.
- The Council is not consistent with its approach towards basement extensions
- The Council does not take account of precedent.
- The Council always denies that basement construction will affect neighbouring properties in any way – though this not considered to be accurate.
- The Council misinterprets its own, and national existing policy/guidance

- Construction Traffic Management Plans need to be part of the validation process, and considered 'up front'.
- Poor treatment of flooding issues.
- Poor treatment of issues relating to wider sustainability.
- The Council's attitude is wrong - the Council should not be facilitating basement developments - it should carefully examine the effects of the basements and determine applications accordingly.
- There is a need to define (and impose) clear limits on the nature of basements.
- The Council does not carry out adequate notification of development to neighbours. Needs to be explicit if a basement is being proposed.
- Council not giving enough credit to legitimate concerns of neighbours.
- Enforcement and penalties is inadequate if develops not implemented as granted.

Question 2

The Council currently requires the submission of a number of documents alongside a planning application which includes a basement extension. These include:

**A Construction Method Statement
Code for Sustainable Homes Assessment
Food Risk Assessment**

The Council will only start to determine an application once these documents have been submitted.

**Are these requirements appropriate or too onerous?
What additional information should be provided upfront?**

General comments on scale of requirements

Majority considered that the current requirements are not thought to be too onerous, and that further information should be required at validation stage before the Council should/ new procedures set up.

The assessment required work quite well.

Validation requirements should be relative to the scale of the development

Validation requirements should depend on scale of the basement

A range of views and ideas were discussed and concerns outlined. These are grouped under a number of categories:

Flooding/flood risk

The Environment Agency and Thames Water should be statutory consultees for all applications for basements within 10 metres from the Thames. This is necessary to recognise the danger of drowning by the flooding of basements.

All basements to be refused when next to the Thames.

There is mismatch between where flooding occurs and the flood risk maps published by the Environment Agency. The scale is inadequate, and the maps do not reflect the presence of underground streams.

Need to have register to record where (surface water) flooding has occurred.

Party Wall Act does not offer enough protection with regard flooding/ water ingress.

Party Wall Act

A Party Wall Agreement should be required pre-application – with evidence show that it has entered into. A condition is necessary to require the signing of a PWA before implementation of the permission.

Recognition that this may be difficult to achieve before final details of implementation of the permission have been established.

The PWA is inadequate as only concerned with immediately adjoining properties

Sustainability

EcoHomes assessment a waste of time, as not really relevant.

Any basement application should include a 'site waste management plan' to explain how spoil arising from the basement development will be disposed of in a sustainable manner.

Construction Method Statement

These are not properly assessed by the Council. CMS often seem unworkable – residents should have the opportunity to comment. They need to be made available early in the process.

The CMS must be altered to take account of any changes to the build, and then resubmitted. Too much scope for developers to change their minds as to how the development will be implemented – leaving the CMS worthless.

Officers don't have the expertise to assess CMSs, so they need to be independently assessed.

A CMS should include a 'damage risk assessment', geotechnical assessment and hydrological report.

The CMS should consider a wider area than just the application and adjoining property.

Dust control Plan

A dust control plan should be submitted at validation stage.

Noise assessment

A noise assessment plan should be submitted at validation stage.

Construction Traffic Management Plan

Need for an upfront and thorough CTMP, to be submitted upfront with the application, to allow the Council to take a view if the proposal could be implemented successfully. If necessary the proposal should be reduced in scale.

Danger that if the CTMP is required too early in the process (before contractors appointed) will contain insufficient information and therefore be largely worthless. A CTMP must take account of the specific circumstances of the build as and when it is implemented.

Need submission of financial analysis

Need evidence that finance is in place to see the project through to completion
Require bond to ensure completion.

Pre application consultation

Developers should consult neighbours before the application – set out what they have done, and their responses at validation stage

General principle of consultation

Residents should have opportunity to comment on all documents submitted alongside and application to ensure they aren't biased.

Scope of information provided

The documents submitted should be extended to apply to other properties, not just those which are the subject of the application.

Question 3

There is belief that all other things being equal it is likely that the larger the basement the greater the impact that it may have upon neighbours.

Would it be appropriate to develop criteria whereby only smaller scale basements would be permitted in restricted sites?

Does this approach have any merit?

What do you consider to be a “smaller scale” proposal which may be acceptable in more constrained sites?

How would you define a ‘restricted site’?

General points

The impact of a basement relates more to how well the construction site is managed rather than the scale of the development.

Larger developments could be subject to s106 to pay for cost of relevant professional advisors for affected neighbours.

Need clear rules, whatever decided – but these need to be reasonable – limit delays in determining applications unacceptable.

Different information required/different approaches should be taken for different areas in RBKC (geological differences)

‘The 85% rule’ (85% of the garden can be excavated built under)

The 85% rule not being calculated correctly.

The retention of just 15% of a garden is ineffective as is inadequate for successful urban drainage, protection of trees and future planting. 50% would be more appropriate.

Concern that any figure, be this 85% or 50% is arbitrary, and that any development should be permitted as long as can be shown to allow the creation of an effective SUD.

All basement should only be beneath existing footprint

Acceptable limit 40% volume of rest of the property?

Soil dept should be enough for a tree to thrive. 1 metre inadequate. 3 m more suitable. But this will significantly increase the nature of the dig.

Depth

Double height extensions should never be acceptable as the impact on surroundings, structural stability is so severe.

The preference is for no extensions, but at the most just single storey extensions.

There should be no absolute limit, any extension may be appropriate if backed up by an appropriate engineering solution.

Basement extensions should be measured by depth (and perhaps) volume rather than being describe as single story. The latter can be misleading.

Extension must go to boundary of the property to ensure the development falls under the remit of the Party Wall Act.

Ned to ensure that the future building of underground lines safeguarded.

Time

Basements should be restricted spatially in time. For example a policy should ensure that a basement cannot be built within x months of another basement being built within x distance.

Criteria for restricted sites

A narrow Road

A small footprint

A building land locked sites – where will excavate to?