

The Executive Director of Planning and Borough Development
f.a.o The Policy Team
The Royal Borough of Kensington and Chelsea
The Town Hall,
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Response to the consultation on the proposed revision to the partial review of the Kensington and Chelsea Core Strategy

Basements- Publication Planning Policy (February 2014)

We make this response to the consultation because we and our neighbours have had to endure an unacceptable impact on from noise, vibration and other disturbance as a result of basement extension works which are currently being carried out number 5 and 13 Addison Crescent. The aim of this response is to prevent this level of impact being imposed on the neighbours of proposed development. The planning process has failed to provide a reasonable level of protection to us and our neighbours and so we are being forced to pursue other remedies to overcome the situation we are currently suffering.

We welcome the general direction of the revised policy CL7, relating to basements. In particular, it is evident that the scale of the construction impacts will be reduced if the overall scale of development is constrained. However, we believe that the proposed wording of CL7 does not go far enough and will not provide the level of protection envisaged by the policy.

The current wording in relation to construction noise and vibration contained in the consultation document is as follows:

“ensure that construction impacts such as noise, vibration and dust are kept to acceptable levels for the duration of the works”.

Further detail about how it is envisaged that this part of the policy will be applied is then provided at 34.3.69 of the document which states:

“Basement construction can cause nuisance and disturbance for neighbours and others in the vicinity, through construction traffic, parking suspensions and the noise, dust and vibration of construction itself. The applicant must demonstrate that these impacts are kept to acceptable levels under the relevant acts and guidance²¹, taking the cumulative impacts of other development proposals into account. Every effort must be made to locate the building compound and the skip on site or in exceptional circumstances in the highway immediately outside the application site.”

The relevant act referred to is the Control of Pollution Act 1974. However, Section 72 of the Control of Pollution Act only provides for the use of Best Practicable Means to control the noise assuming that the works will proceed. If the works are permitted allowed to proceed, the provisions of the Control of Pollution Act only allow for the noise to be controlled in so far as any control measures are practical and do not impose unreasonable costs. There is no provision in the Control of Pollution

Act to establish whether or not it is possible to control noise and vibration to within acceptable levels. This is the role of the planning process. In this context, it is worth noting that the Noise Policy Statement for England requires significant adverse effects to be avoided and for adverse effects to be minimised. Another problem associated with the provisions of the Control of Pollution Act is that they tend to be reactive and do not require noise and vibration impacts to be proactively managed.

Consequently, we would strongly recommend that the above wording be replaced with the following:

“The development will be unacceptable development unless it can be demonstrated that the construction impacts such as noise, vibration and dust will be controlled so as to avoid significant adverse effects and that adverse effects will be minimised as far as practical.”

We would further recommend that development should not be permitted until a noise assessment has been submitted and considered and until such time as the Council can be satisfied that the above policy will be achieved. In addition, we would recommend that the development should not be allowed to proceed unless it can be demonstrated that the proposed control measures will be secured either by way of a condition or a legal agreement.

We have the support of many of our neighbours in this view, and can supply a list if required.

Brian May, CBE

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