

## Response Form

### Partial Review of the Core Strategy for the Royal Borough of Kensington and Chelsea with a focus on North Kensington

#### Development Plan Document policies

All representations **must** express a view regarding the soundness or legal compliance of a planning policy. If the representation does not comment on soundness or legal compliance, or deal with how a policy can be altered to make it sound the representation will **not** be valid.

**Name:** Clive Wilson/Libby Kinmonth

**Company/Organisation:**

**NORLAND CONSERVATION SOCIETY/**

**Representing: NORLAND NEIGHBOURHOOD FORUM**

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Please complete the form and email it or send it to:

The Executive Director of Planning and Borough Development  
f.a.o The Policy Team  
The Royal Borough of Kensington and Chelsea  
The Town Hall,  
Hornton Street,  
London W8 7NX

**Email address:** [planningpolicy@rbkc.gov.uk](mailto:planningpolicy@rbkc.gov.uk)

## Publication Stage Representation Form

To be “**sound**” the contents of a local plan should be POSITIVELY PREPARED, JUSTIFIED, EFFECTIVE and consistent with NATIONAL POLICY.

“**Positively prepared**” means that the planning policy needs to:

- be prepared based on a strategy which seeks to objectively assess development and infrastructure requirements, including those of neighbouring authorities where it is reasonable to do so.
- It must also be consistent with achieving sustainable development.

“**Justified**” means that the planning policy must be:

- founded on a proportional evidence base
- the most appropriate strategy has been selected when considered against the reasonable alternatives.

“**Effective**” means that the planning policy must be:

- deliverable over its period
- based on effective joint working on cross – boundary strategic priorities.

“**Consistent with National Policy**” means that the planning policy should enable the delivery of sustainable development in accordance with the guidance contained within the National Planning Policy Framework (NPPF).

It must also be **legally compliant** which means that the planning policies have been prepared in accordance with legal and procedural requirements.

## [State planning policy or paragraph number to which you are referring](#)

### **BASEMENTS: PUBLICATIONS PLANNING POLICY: JULY 2013**

#### **COMMENTS BY THE NORLAND CONSERVATION SOCIETY**

##### **Proposed Policy**

**The proposed policy is a considerable improvement** on the Subterranean Developments SPD and Core Strategy Policy CL2(g) which barely addressed the main issues now being attempted by the new Policy CL7.

The new policy is therefore to be welcomed - as far as it goes. But in our opinion, fails the "soundness test", in that it does not go far enough in addressing the problems - actually caused by subterranean developments/basements. It does not "meet objectively assessed development and infrastructure requirements", because some of the problems recorded by neighbours who have suffered, and potential problems raised by Conservation Groups, Thames Water and the Baxter Associates report are not adequately addressed. **The proposed policies may be justified, but they are inadequate.**

Our following detailed comments reflect this general criticism: in most cases, we have not included comments on policies or reasoned justifications with which we agree.

##### **Comments on the new policy**

ie Section 34.3, paras 34.3.46 - 73, and Policy CL7: Basements

The Society has comments on and is proposing changes to these two parts.

##### **Reasoned Justification**

34.3.46: "Basement' is any storey that is completely below the prevailing ground level of the back gardens within the immediate area".

**The need for a clear definition of basement is obvious. But we strongly disagree with this definition of an existing basement. In the Norland Conservation Area, this would enable a large number of basements to be built under mid-19C houses with minimal foundations, and thus, potentially cause widespread damage to neighbours. We agree with the Kensington Society's alternative definition that this needs a more restrictive definition: eg that an existing basement should be any storey that is 50% or more below the prevailing ground level of the back gardens within the immediate area. Where there is such an existing basement, no further (lower) basement should be allowed. This needs to be spelt out in Policy Statement CL7; it is not.**

34.3.48: The first sentence is a gross understatement of the impact on neighbours.

34.3.51: "The policy therefore restricts the extent of basement excavation under gardens to no more than half the garden and limits the depth of excavation to a single storey in most cases".

**We strongly support limiting basements to one additional level, but do not agree that basement excavation of up to half of the garden is acceptable. We strongly urge the adoption of a policy of limiting basements to the footprint of the building (listed buildings excepted). This has already been agreed in our neighbouring borough of Hammersmith and Fulham.**

34.3.54: **This paragraph takes no account of the size of gardens. The smaller the garden the less the scope for a basement. If the restriction to being under the footprint is not accepted, a minimum size should be specified for a garden to be retained without any basement underneath, sufficient to secure drainage, retain trees and provide space for planting.**

**The rationale behind both these comments is the need to preserve open space and natural soakaway potential.**

34.3.57: **The Society strongly supports limiting the basement development to a single storey**, but consider that a floor-to-ceiling height of 4m is excessive – in many smaller properties even 3m would be exceptional. We fear that 4m may become seen as a minimum entitlement.

34.3.61: **What defines Heritage Assets?** – this para should specifically mention listed buildings and conservation areas. There are many fine buildings in Kensington which are not listed. Equally, there are many that may not be listed but are just as old, and just as vulnerable to effects of tunnelling underneath: eg Elgin Crescent, Princedale Road, Queensdale Road. **Need to include these in the general prohibition.**

34.3.62 and 63: **We strongly support the reasoning for and policy to resist basements under listed buildings and their gardens.**

However, this does not go far enough. In the Norland Conservation Area, (see comment above), there are many Victorian terraces which are not listed, but where the impact demolition and excavation can affect more than just the immediate neighbours. This needs to be recognised, **and a similar prohibition of new basements under such buildings applied.** There is a need for "local listing" to protect such buildings from subterranean developments.

34.3.66: **Seems to hint at the need for such protection, but is not specific, and does not go far enough.**

34.3.68: **NCS supports the Kensington Society suggestion that the Council's policy should change from attenuating the run-off from the garden to the sewers, and instead seeking to direct the run-off to the SUDS, to benefit trees, as well as "shrub and other garden planting".**

34.3.70: **We support the Kensington Society's suggestion.**

### **Policy CL7: Basements**

The Society is concerned that this policy should take a precautionary approach and avoid giving the impression that it is defining "minimum entitlements" rather specifying the constraints.

CL7(a) We welcome a significant reduction in the amount of the garden that can be built over, but consider that allowing up to 50% of the garden to have below ground development is still far too much and **strongly supports limiting basements to the footprint of the building**, as has recently been adopted in the London Borough of Hammersmith and Fulham.

CL7(b): **The Society strongly supports the proposed limit of one storey, subject to comments above about the height of a storey.**

However, see comments on 34.3.46 above: "Basement' is any storey that is completely below the prevailing ground level of the back gardens within the immediate area". The need for a clear definition of basement is obvious. **But we strongly disagree with this definition of an existing basement.** In the Norland Conservation Area, this would enable a large number of basements to be built under mid-19C houses with minimal foundations, and thus, potentially cause widespread damage to neighbours. **We agree with the Kensington Society that this needs a more restrictive definition: eg that an existing basement should be any storey that is 50% or more below the prevailing ground level of the back gardens within the immediate area. Where there is such an existing basement, no further - lower - basement should be allowed. This needs to be spelt out in Policy Statement CL7; it is not.**

CL7(e): **"Heritage assets": listed buildings and conservation areas should be specifically mentioned in this policy.**

CL7(f) **We strongly support the Council's policy for no basements under or in the garden of listed buildings.**

CL7(g): We strongly support this policy.

CL7(h) We support this policy.

CL7(i) **WE strongly support the requirement for SUDs.**

If basements are to be built below gardens, (which we would resist), there is a need to secure sustainable urban drainage systems (SUDS) which will enable rainwater to be directed toward a soakaway rather than to the sewer system. To secure sufficient permeability existing impermeable surfaces will need to be removed and, if replaced, permeable surfaces be created.

A policy is needed to specify that gardens must be permeable – there should be no “right” to replace or retain impermeable surfaces.

CL7(j) **We strongly support the Council’s requirement for any building with a basement to be adapted to reduce energy and water consumption and waste production.**

We support Policies (k) to (n).

**Yes**

**No**

**Do you consider the planning policy to be sound?**

In parts

In parts

**Please tick box as appropriate**

**If you have selected YES and you wish to support the soundness of the planning policy, please give your reasons below. Please be as precise as possible. Please make it clear which paragraph number or Policy box number you are commenting on.**

To be **“sound”** the contents of a local plan should be POSITIVELY PREPARED, JUSTIFIED, EFFECTIVE and consistent with NATIONAL POLICY.

**“Positively prepared”** means that the planning policy needs to:

- be prepared based on a strategy which seeks to objectively assess development and infrastructure requirements, including those of neighbouring authorities where it is reasonable to do so.
- It must also be consistent with achieving sustainable development.

**Norland Conservation Society view:**

**The policies in CL7 go considerably further than the existing Core Strategy CL2(g), and the SPD on Subterranean Developments. To this extent, they are**

**"positively prepared". But they do not go far enough in restricting subterranean developments under, and in the gardens of, "Heritage" buildings in Conservation Areas (such as Norland), where there are many buildings, which are not listed, but of great importance to the character of the Conservation Area (CA), and of similar age to buildings in the area, and therefore jeopardised in a similar way, and to a similar extent, as Listed Buildings.**

**Specifically, it fails in the following respects:**

**1. Definition of existing "basement":** whether or not a new basement is to be allowed is determined by whether or not any existing "basement" or "lower ground floor" is, or is not, completely below the prevailing ground level of the back gardens within the immediate area. **This needs a more restrictive definition:** eg that **an existing basement should be any storey that is 50% or more below the prevailing ground level** of the back gardens within the immediate area. Where there is such an existing basement, no new - lower - basement should be allowed. **This needs to be spelt out in Policy Statement CL7. The policies spelt out in CL 7 do not specifically include reference to any restriction at all; they should do so.**

**2. Restricting the extent of basement excavation** under gardens to no more than half the garden is just as arbitrary a "rule of thumb" as the 85% specified in the current SPD. Why any more than the footprint of the existing building?

**The need to preserve open space and natural soakaway potential indicate the need for greater restriction. if restriction to existing footprint is considered too tight, why any more than the 3m "permitted development"? And tighter restriction for smaller gardens. The proposed policy of 50% is not sound, because not justified.**

**3. The Policy Statement does not define Heritage Assets?** This para should specifically mention listed buildings and conservation areas. There are many fine buildings in Kensington which are not listed, which are just as vulnerable to effects of tunnelling underneath: eg Elgin Crescent, Princedale Road, Queensdale Road. **Need to include these in the general prohibition.** There is a need for "local listing" to protect such buildings from subterranean developments.

**The Policy is not sound because it fails to specify the need to protect such buildings.**

**"Justified"** means that the planning policy must be:

- founded on a proportional evidence base
- the most appropriate strategy has been selected when considered against the reasonable alternatives.

**Norland Conservation Society view:**

**The policies in CL7 go considerably further than the existing Core Strategy**

**CL2(g), and the SPD on Subterranean Developments. To this extent, they are "founded on a proportional evidence base". But the "evidence base" is not wide enough, as indicated above, and they do not go far enough in restricting subterranean developments**

**"Effective"** means that the planning policy must be:

- deliverable over its period
- based on effective joint working on cross – boundary strategic priorities.

**Norland Conservation Society view:**

So far as they go, **the planning policies in CL7 should be deliverable, but should go further**

**"Consistent with National Policy"** means that the planning policy should enable the delivery of sustainable development in accordance with the guidance contained within the National Planning Policy Framework (NPPF).

**Norland Conservation Society view:**

Not qualified to comment

**"Legally compliant"** which means that the planning policies have been prepared in accordance with legal and procedural requirements.

**Norland Conservation Society view:**

As far as we are aware, they have been.



please attach additional pages as required

If you have selected NO to the planning policy being sound do you consider the planning policy to be unsound because it is not:

Positively prepared

Justified

Effective

Consistent with national policy

Please give details of why you consider the planning policy to be unsound and / or suggest changes as to how it could be made sound. Please make it clear which paragraph number or Policy box number you are commenting on.

See opening comments.

Many parts of the policy are a major improvement. But in other respects it does not take adequate account of problems experienced, and needing to be addressed.

Please attach additional pages as required

Yes

No

Do you consider the Planning Policy Document to be legally compliant?

Please give the reasons for your choice below and be as precise as possible. Please make it clear which paragraph number or Policy box number you are commenting on.

please attach additional pages as required

Yes

No

**Do you wish to appear at the Examination on any of these matters?**

**Please specify on what matter**

Kensington Society will adequately represent our views