

## **Representation towards “Basements: Publication Planning Policy” July 2013**

- 1.1 We write on behalf of a number of clients including Echlin & Bailey and Morpheus to submit a representation towards the “Basements” consultation document, which incorporates proposed revisions to Core Strategy Policy CL7 ‘Basements’.
- 1.2 The above companies have progressed numerous major developments in Kensington and Chelsea, ranging from large apartment blocks to individual houses.
- 1.3 This representation follows our previous representation on the last stage of consultation. We note that the draft policy contained within this current round of consultation has not been substantially changed, as such the majority of the objections raised in our previous consultation still stand and included again with this submission.
- 1.4 Savills has extensive experience in preparing and progressing subterranean planning applications. Within the Royal Borough of Kensington and Chelsea, Savills has achieved planning permission for subterranean development at over 40 properties across the Borough. Additionally, we have extensive experience of subterranean development within other London Boroughs including the City of Westminster and the London Borough of Camden and as such we have worked within various planning policy contexts and restrictions.
- 1.5 The following letter sets out our key areas of representation to the current consultation document. We also wish to formally request to speak at Examination in Public (EiP) and will be supported in our comments by Geotechnical Consulting Group and Turley Associates.
- 1.6 Supporting statements are submitted with this representation from GCG and Turley Associates, confirming their support for this representation and their key concerns which will be expanded upon at EiP.
- 1.7 We have proposed an alternative wording to the policy which is set out within Appendix 1. Our proposed alternative wording more closely reflects the wording contained within the current Core Strategy policy and Subterranean SPD 2009, which we consider places suitable controls on basement development.

### **Basement Development**

- 1.8 Paragraph 34.3.47 of the consultation document recognises that basement development is a useful form of development:

*“Basements are a useful way to add extra accommodation to homes and commercial*



*buildings. Whilst roof extensions and rear extensions add visibly to the amount of built development, basements can be built with much less long term visual impact – provided appropriate rules are followed.”*

1.9 As noted in the consultation document, there is a growing demand for basement development, particularly within RBKC which is restricted from development in other ways due to the following reasons:

- Over 70% of the Borough is within a conservation area, which places limits on development
- The Borough contains over 4000 listed buildings
- The Borough has heavily built up and has a very limited amount of vacant land

1.10 Basement development helps meet the needs of the Borough within the context of the above restrictions, in particular it assists in:

- The provision of additional floorspace (such as leisure space and habitable space where possible), which may not have been achievable above ground
- The provision of much needed parking, within the context of a Borough which has issued more parking permits than there are on-street parking spaces
- The provision of space of plant machinery, as opposed to locating them outdoors where they have the potential to cause noise disturbance
- The ability to provide lateral spaces, particularly within listed buildings where it is difficult to provide these due to constraints on changes to plan form

### **National Planning Policy Framework Tests**

1.11 As a starting position, it is essential to consider the proposed revisions to Policy CL7 in the context of the National Planning Policy Framework. At the heart of the Framework is the ‘presumption in favour of sustainable development’.

1.12 Paragraph 182 of the NPPF states that when examining local plans, the Inspector will consider whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. The NPPF identifies four criteria for considering the tests of soundness, which includes demonstrating that the policy is:

1. Positively prepared
2. Justified

3. Effective
4. Consistent with national policy

1.13 We consider that the draft policy does not satisfy the first, second and fourth points above.

#### **Restriction on the size of basements**

1.14 The document seeks to restrict the size of basements to 50% of the garden area, and to one storey only (unless there is already a basement storey, in which case no further storeys will be permitted). Flexibility is only proposed where large comprehensively planned sites are proposed.

#### **Objections**

1.15 RBKC's reasoning behind these restrictions on basements size are:

- a) Nearby residents' quality of life and living conditions
- b) Structural stability of adjacent properties
- c) Character of rear gardens
- d) Heritage
- e) Sustainable drainage
- f) Carbon emissions

1.16 Our representation considers each of the above reasons for restrictions on the size of basement development in turn, with particular reference to the Council's supporting evidence including Alan Baxter's 'Residential Basement Study Report' March 2013, and RBKC's 'Visual Evidence'.

#### **(a) Nearby residents' quality of life and living conditions**

1.17 Paragraph 34.3.70 of the supporting text to the draft policy states that:

*"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."*

1.18 RBKC are therefore seeking to justify restricting the overall size of basements by claiming that this will help limit the extent and duration of construction, and hence the construction impact. However, proposing a blanket restriction on development due to possible construction impact RBKC are therefore seeking to justify restricting the overall size of basements by claiming that this will help limit the extent and duration of construction, and hence the construction impact. However, proposing a blanket restriction on development due to possible construction impact implications is not within the remit of the planning system. Construction impact can be

controlled and mitigated through the requirement to submit a Basement Impact Assessment and through the imposition of planning conditions. Where other controls are available they should be relied upon. Nor has RBKC explained why its approach to this matter is different from its stated position as appears on its web-site under their planning pages where it lists 'disruption and disturbance from building work' as a non material planning consideration.

- 1.19 To stop development occurring from the outset through such a blanket restriction is neither justified, nor in accordance with the National Planning Policy Framework's (NPPF) presumption in favour of sustainable development.
- 1.20 Irrespective of the above, RBKC have provided no evidence to justify their claim that the size of a basement is proportionate to the level of construction impact; indeed Alan Baxter's Basement Study Report makes no reference to this. Rather, it is the method used and site specific constraints which are the key factors which determine construction impact. As noted within our previous representations, the current policy requires that planning applications for all basement proposals are accompanied by a Construction Method Statement and Construction Traffic Management Plan which must be approved by the Council. As such, it is our view that RBKC have sufficient control over construction in order to ensure that adverse effects are mitigated. Further, appropriate conditions can be attached to planning permissions in order to ensure further control over development and construction work (i.e. control of working hours etc). We would also note that other regulatory controls are available.
- 1.21 A restriction on the size of basement development due to construction impact sets a very dangerous precedent as if such impact became a reason for refusing planning permission this could affect all forms of development above ground.
- 1.22 For these reasons we object to a restriction on the size of basement development due to construction impact. The policy is not sound as it is not **positively prepared** or **justified**.

**(b) Structural stability of adjacent properties**

- 1.23 Our previous representation objected to the 'precautionary measure' taken in the draft policy relating to the restriction on basements to one storey in order to 'minimise structural risks and complexities'. We note that this element has remained unchanged in the current draft policy, and RBKC's response to our previous objection to this element of the policy was to highlight paragraph 13.3.3 of Alan Baxter's Basement Study Report which states that:

*"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"*

- 1.24 Based on this quote, RBKC are seeking to place a ban on the majority of basements over one storey. However, the depth of 4m is referred to within the context of underpinning party walls, and the report suggests that other methods such as piled walls may be feasible. Further, the report does not suggest that a limit should be applied to basement stories either under detached buildings or under gardens in general. A ban on basements over one storey in depth is therefore not justified and indeed is not recommended within the Alan Baxter report.
- 1.25 The current Subterranean Development SPD (2009) requires that all applications for basement development must be supported by a Construction Method Statement, setting out the specific details of excavation, construction techniques, assessment of impacts on existing and neighbouring structures and geology and hydrology considerations. This report must be prepared by a Chartered Civil Engineer or Structural Engineer and should be submitted and approved by the Council. As such, RBKC already have suitable control over the construction method and qualifications of those carrying out the works, and there is therefore no justifiable reason to limit the number of basements to one level on these grounds.
- 1.26 New policies should be introduced where there is demonstrable harm being caused as a result of existing policies (or lack thereof). The Council have provided no evidence that existing basements extending more than one storey below ground level cause any issues in terms of structural stability, and as such there is no requirement for the proposed limitation of the number of basement levels. This element of the policy therefore does not meet the tests of soundness as it is not **justified**.

**(c) Character of rear gardens**

- 1.27 The supporting text to the draft policy states:

*“Whilst basements can preserve the remaining openness of the townscape compared with other development forms, it can also introduce a degree of artificiality into the garden area and restrict the range of planting. Retaining at least half of each garden will enable natural landscape and character to be maintained, give flexibility in future planting (including major trees), support biodiversity and allow water to drain through to the ‘Upper Aquifer’”*

- 1.28 In supporting their claim that basements introduce a degree of ‘artificiality’ into garden areas and restrict the range of planting, RBKC reference their report entitled ‘Basements Visual Evidence’. This compares gardens with basements over a number of years, leading to RBKC’s conclusion that gardens with basements underneath generally appear artificial with a sterile appearance and reduced planting.
- 1.29 We have reviewed RBKC’s visual evidence and conclude that it is misleading and does little to support RBKC’s arguments for the following reasons:

- 1.30 The majority of the examples within RBKC's visual evidence document were given approval prior to RBKC's Subterranean SPD was adopted in 2009, when tighter controls on planting was introduced within Chapter 9. If anything we would suggest that this evidence clearly shows that the introduction of the 2009 subterranean guidance resulted in developments having to maintain/provide a suitable level of landscaping, which is why the majority of the examples shown in RBKC's visual evidence document date from before 2009. This suggests that loss of landscaping is not an issue and as such the limitation of basements to 50% of the garden area due to this reason is not justified.
- 1.31 Of the limited number of examples within RBKC's visual evidence document given approval after the 2009 Subterranean SPD was adopted, all of these were subject to a condition requiring a landscaping scheme to be submitted to and approved by RBKC prior to development commencing. RBKC therefore had sufficient control over the proposed landscaping of the garden and would have had to approved the schemes before development could commence. We consider it unreasonable to suggest that these gardens do not contain enough landscaping as a result of basement development, when RBKC had control over this matter in the first instance. The need to restrict basements to 50% of the garden area for this reason is therefore unnecessary.
- 1.32 There are a number of errors contained within RBKC's visual evidence document which calls into question the validity of the entire evidence document. For instance, the photo shown of 7-10 Cottage Place is clearly a construction site and not the finished development, as such it is incorrect to suggest from this photo that there has been a 'loss of planting' as planting may well have been reinstated. Further, the planning permission referenced for this example (PP/10/00268) was in fact a withdrawn s73 application, this suggests a lack of adequate research into these examples.
- 1.33 Due to the reasons outlined above, we would suggest that RBKC's visual evidence document should be discounted as 'evidence' which can credibly be relied for supporting their argument for restricting basements to 50% of the garden area.
- 1.34 We would also add that the appearance of gardens as 'artificial' is very much a subjective argument, and to many people the appearance of landscaped garden areas introduced as a result of basements is considered to be an improvement to the property and the wider area.
- 1.35 We would dispute the fact that basements extending under gardens would restrict the range of planting. The proposed policy continues to require 1m of topsoil above basements within gardens, and as such we would suggest that in some cases, for example where existing gardens are mainly hardstanding, the level of planting can be substantially increased as part of a basement proposal.

- 1.36 We would highlight the example of Kensington Roof Gardens (shown in the photo below), which clearly boasts a substantial amount and variety of planting, in only 0.8m of topsoil. Clearly, it is possible for planting to easily grow in 1 metre of topsoil and we therefore consider that the proposed restriction on basement size to 50% of the garden based on planting is not justified.



Kensington Roof Gardens

- 1.37 In terms of more mature trees, we consider that very large trees are not appropriate within residential terraces as they cause overshadowing and structural problems. Notwithstanding this, Alan Baxter Associates (ABA)'s report states at paragraph 9.8.6 that in most cases, a 3m strip at the rear of the garden would be sufficient to allow trees to grow. As such, limiting basement development to only 50% of the garden based on flexibility for planting is not justified, because 50% of the garden area is likely to be more than the required 3m strip. Sustainable development should not be impeded by the unnecessary and unwarranted blanket application of 50% when such a figure is arbitrary and unjustified.
- 1.38 Due to the clear errors in RBKC's visual evidence, we conclude that the proposed policy has not been **positively prepared**, and we would also suggest that a restriction on basement development due to unsupported claims of the introduction of artificiality and loss of landscaping in gardens is not **justified**. As such, the policy is unsound.

#### (d) Heritage

- 1.39 The proposed revised policy seeks to resist basement development below not only listed buildings but also the gardens of listed buildings.
- 1.40 We consider it is critical that listed buildings are well maintained, part of which is ensuring that they continue to be in active use and meet the requirements of modern living. Basements under gardens of listed buildings are a very effective way of achieving this, and with sensitive links they do not cause any harm whatsoever to listed buildings. There is no evidence that

subterranean development below gardens causes harm to listed buildings, and indeed Alan Baxter's Report does not conclude that such extensions will necessarily lead to harm.

- 1.41 We have liaised with Turley Associates' Heritage Team who have produced a supporting statement submitted with this representation. Turley Associates have provided impartial advice on a number of planning applications for basement proposals in RBKC, including a number of proposals for basements under the gardens of listed buildings. In conclusion, they consider that the draft policy is unsound as far as it relates to heritage assets due to the fact that it is not supported by credible evidence and is not in conformity with the presumption in favour of sustainable development. As such it is neither **justified** or consistent with **national policy**.

**(e) Sustainable drainage**

- 1.42 As noted above, the supporting text to the draft policy states that the limitation of basements to 50% of the garden area will also allow water to drain through to the 'upper aquifer'. However, ABA's report confirms that, in fact, 50% of the garden is not required for such drainage. Where the near surface subsoil is gravel, the report confirms that only 25% of the garden area will be required to allow drainage to the upper aquifer. Where the near surface sub-soil is clay, the report suggests that the proportion under which a garden shouldn't be built might be between 25% and 50%. The report states that each case should be judged on their merits, and as such applying a 'rule of thumb' to all basement developments by limiting basements to 50% of the total garden area unnecessarily stops development from occurring, particularly where building up to 75% of the garden may be perfectly acceptable.
- 1.43 In addition, we consider that the revised policy adequately deals with sustainable drainage through the requirement for basement development to include a sustainable urban drainage scheme (SUDs), including the provision of a minimum of one metre of permeable soil above the basement. We consider that this element of the draft policy is more than sufficient to allow sustainable drainage, and the proposed restriction of basement size to 50% of the garden area is therefore not **justified**. The proposed policy is therefore not sound.

**(f) Carbon emissions**

- 1.44 The draft policy requires that for residential development, BREEAM Domestic Refurbishment 'Very Good' rating is met including a minimum standard of 'Excellent' in the energy section and a minimum of 80% credits in the waste category. For non-residential development, the stand is BREEAM 'Very Good'.
- 1.45 We objected to this element within our previous representations based on it not being in accordance with national policy, however we note that our representations in this regard has



not been responded to within RBKC's 'Consultation Responses to Draft Basements Policy March 2013'. As such, our previous comments still stand, as follows:

- 1.46 As noted within the appeal decision ref. APP/K5600/D/12/2174477 at 1 Burnsall St, the Inspector came to the conclusion that "any deficiency in relation to the dwelling as a whole already exists and would not be a consequence of the current proposal". This appeal was granted in June 2012; and should be given significant weight. RBKC have not provided any evidence of other appeal decisions where the policy in relation to the BREEAM requirement has been accepted, as such we do not consider that this requirement is appropriate and it should therefore be removed.
- 1.47 The requirement for listed buildings to achieve a BREEAM 'very good' rating is very restrictive as it is often challenging to meet required standards in listed buildings without impacting unnecessarily on their heritage value. The policy needs to be realistic in terms of what can actually be achieved at listed buildings and the requirement for meeting BREEAM standards should be determined on a case by case basis. The policy should therefore incorporate some flexibility on this requirement.
- 1.48 In addition to our previous comments, we note that the supporting text to the draft policy states that:
- "Carbon emissions of basements are greater than those of above ground developments per square metre over the building's life cycle. The embodied carbon in basements is almost three times the amount of embodied carbon in an above ground development per square metre"*
- 1.49 The supporting text references Eight Associates' evidence document 'Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&C'. We have reviewed this document and can confirm that there is not evidence within this document to support the requirement for the whole building to meet BREEAM 'Very Good' ratings. As such, this requirement is not **justified** and should be removed from the draft policy.

### **Conclusions**

- 1.50 The NPPF seeks to promote sustainable development; however the application of this draft policy actively discourages beneficial development. As such, the draft policy is neither positively prepared, consistent with national policy or justified and therefore the policy fails to meet tests of soundness. The policy should therefore be revised in order to allow consideration of the context of the site.

## Appendix 1: Suggested Revised Wording for Policy CL7

### Basements

All basements must be designed, constructed and completed to the highest standard and quality.

Basement development should:

a. not exceed a maximum of 85~~50~~% of each garden. 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 comprehensively planned sites;

~~b. not comprise more than one storey. Exceptions may be made on large comprehensively planned sites;~~

~~c. not be built under an existing basement;~~

d. not cause loss, damage or long term threat to trees of townscape or amenity value;

e. not cause harm to the significance of heritage assets ~~unless it is necessary to deliver public benefits which would outweigh this harm;~~

f. not involve excavation underneath a listed building (including pavement vaults) ~~or any garden of a listed building, except for gardens on large sites where the basement would not involve extensive modification to the foundation of the listed building by being substantially separate from the listed building;~~

g. 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;

h. 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;

i. 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;

j. 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;

k. 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;~~

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

m. be designed to minimise damage to and safeguard the structural stability of the application building, nearby buildings and other infrastructure including London Underground tunnels and the highway;

n. be protected from sewer flooding through the installation of a suitable pumped device.

A specific policy requirement for basements is also contained in Policy CE2, Flooding.

## Appendix 2: Previous representation

Dear Sir/Madam,

### Representation towards “Basements: Second Draft Policy for Public Consultation”

We write on behalf of a number of clients to submit a representation towards the “Basements” consultation document, which incorporates proposed revisions to Core Strategy Policy CL7 ‘Basements’.

Savills The London Planning Practice has extensive experience in preparing and progressing subterranean planning applications. Within the Royal Borough of Kensington and Chelsea, Savills LPP have achieved planning permission for subterranean development at over 40 properties across the Borough. Additionally, we have extensive experience of subterranean development within other London Boroughs including the City of Westminster and the London Borough of Camden and as such we have worked within various planning policy contexts and restrictions.

We would firstly highlight that the reasoning behind the second draft consultation document, as set out on page 4 of the consultation document, is flawed. Paragraph 1.12 states that:

*“London Plan Policy 3.5A supports policies in LDFs to “introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified”. The desirability to maintain ‘green and leafy’ gardens, flexibility to plant major trees together with the recommendations in the ABA report regarding drainage indicate substantial proportion of the garden should remain free of any development”*

The Council have misinterpreted the purpose of London Plan Policy 3.5A. The supporting text of the London Plan Policy highlights that the main reasoning behind the introduction of the Policy relates to significant local concern which can be caused by the **loss** of gardens. The supporting text goes on to state that the London Plan supports development plan-led presumptions against development **on** back-gardens. The introduction of basements, by their very nature, do not result in the loss of a garden and clearly do not represent development on back gardens, as such the use of this London Plan Policy to justify the restrictions introduced through RBKC’s revised basement policy is fundamentally flawed.

The remainder of this representation sets out our concerns in relation to specific aspects of the proposed revised policy, under the following headings:

- Restricting the size of basements
- Proposed limitation of basements to 50% of garden area
  - Garden character
  - Water drainage

- Proposed limitation of basements to one additional level
- Heritage/listed buildings
- Sustainability

### **Restricting the size of basements**

The consultation document seeks to justify restricting the overall size of basements by claiming that this will help to limit the extent and duration of construction, and hence the construction impact. We would firstly disagree that the size of a proposed basement is proportionate to the level of construction impact, but would suggest that the method used is the key factor which determines construction impact. Construction methods are controlled through requiring the submission and approval of a Basement Impact Assessment. RBKC have not provided any evidence that the size of a basement is directly proportional to construction impact, and as such limiting the size of basements for this reason is not justified or necessary.

Further, proposing a blanket restriction on development due to possible construction impact implications is not within the remit of the planning system. Construction impact can be controlled and mitigated through the requirement to submit a Basement Impact Assessment and through the imposition of planning conditions. To stop development occurring from the outset through such a blanket restriction is neither justified, nor in accordance with the National Planning Policy Framework's (NPPF) presumption in favour of sustainable development.

The following considers in more detail the specific restrictions proposed on the size of basement development in RBKC.

### **Proposed limitation of basements to 50% of garden area**

#### *Garden Character*

Paragraph 34.3.59 of the proposed supporting text to the basement policy states that basements that extend under gardens can result in the garden above being artificially level, and can restrict the range of planting.

Alan Baxter Associates (ABA)'s report states at paragraph 9.8.6 that in most cases, a 3m strip at the rear of the garden would be sufficient to allow trees to grow. As such, limiting basement development to only 50% of the garden based on flexibility for planting is not justified, because 50% of the garden area is likely to be more than the required 3m strip.

Further, we would dispute the fact that basements extending under gardens would restrict the range of planting. The proposed policy continues to require 1m of topsoil above basements within gardens, and as such we would suggest that in some cases, for example where existing gardens are mainly hardstanding, the level of planting can be substantially increased.

The consultation document has not explained why a garden being artificially level is a negative outcome, and in any case, over time the level of a garden will change naturally and no longer be 'artificial'. As such, the limitation of basements to 50% of the garden area based on the character of the garden is not a sound or justified reason for the imposition of this restriction.

### *Water Drainage*

Paragraph 34.3.59 goes on to state that the limitation of basements to 50% of the garden area will also allow water to drain through to the 'upper aquifer'. However, ABA's report confirms that, in fact, 50% of the garden is not required for such drainage. Where the near surface subsoil is gravel, the report confirms that only 25% of the garden area will be required to allow drainage to the upper aquifer. Where the near surface sub-soil is clay, the report suggests that the proportion under which a garden shouldn't be built **might** be between 25% and 50%. The report states that each case should be judged on their merits, and as such applying a 'rule of thumb' to all basement developments by limiting basements to 50% of the total garden area unnecessarily stops development from occurring, particularly where building up to 75% of the garden may be perfectly acceptable. The NPPF seeks to promote sustainable development; however the application of this policy actively discourages development. The policy should therefore be revised in order to allow consideration of the context of the site.

### **Proposed limitation of basements to one additional level**

The revised policy also seeks to limit basements to one additional storey or, where there is already a basement, not allow any further basement stories. This approach is described as being 'precautionary' in order to minimise structural risks and complexities.

There is no reason to propose a precautionary approach. As noted within GCG's supporting letter, ABA's report does not provide any reasoned justification for the limitation of one level from a structural engineering point of view, and does not in fact recommend that RBKC impose a limit on basement levels at all. The report simply states that the deeper the basement, the greater the care required in terms of design and construction.

The current Subterranean Development SPD (2009) requires that all applications for basement development must be supported by a Construction Method Statement, setting out the specific details of excavation, construction techniques, assessment of impacts on existing and neighbouring structures and geology and hydrology considerations. This report must be prepared by a Chartered Civil Engineer or Structural Engineer and should be submitted and approved by the Council. As such, RBKC already have suitable control over the construction method and qualifications of those carrying out the works, and there is therefore no justifiable reason to limit the number of basements to one level on these grounds.

New policies should be introduced where there is demonstrable harm being caused as a result of existing policies (or lack thereof). The Council have provided no evidence that existing basements extending more than one storey below ground level cause any issues in terms of structural stability, and as such there is no requirement for the proposed limitation of the number of basement levels.

### **Heritage/listed buildings**

The proposed revised policy requires that no excavation is proposed both beneath listed buildings and beneath the gardens of listed buildings. The consultation document claims that the addition of a floor below the lowest floor level of a listed building will in the majority of cases affect the hierarchy of the historic floor levels, and hence the original building's historic integrity.

We consider that the reasoning behind this revised policy stance is a generalisation which by no means applies to every listed building. Many listed buildings have been substantially altered, with their main value being their facade. The addition of a basement to listed buildings which have been altered in the past could therefore have a neutral impact on the subject building. Further, the excavation of a basement below a listed building could in fact have a positive impact on a listed building, where it is associated with wider listed building enhancements under the same planning application.

We do not consider that it is necessary to introduce such a protective policy because Core Strategy CL4 already provides the necessary protection for listed buildings which ensures that development cannot take place which would adversely affect a listed building. Policy CL4 seeks to resist the removal or modification of features of architectural importance, and requires the preservation of the special architectural or historic interest of listed buildings, making specific reference to the plan form. As such, there is no requirement to introduce a policy which resists basements under gardens of listed buildings as there is already sufficient policy in place which safeguards against inappropriate impacts on listed buildings.

Listed buildings need to evolve and adapt to suit the needs of modern day living and basements are a good way of doing this. Basements often have much less of an impact on the listed building heritage asset than above ground extensions due to their limited visual impact.

### **Sustainability**

The proposed supporting text to the revised policy continues to require BREEAM standards to be met across the entire existing building. As noted within the appeal decision ref. APP/K5600/D/12/2174477, the Inspector came to the conclusion that "any deficiency in relation to the dwelling as a whole already exists and would not be a consequence of the current proposal". This appeal was granted in June 2012; as such this constitutes very recent case law and should be given significant weight. RBKC have not provided any evidence of other appeal decisions where the policy in relation to the BREEAM requirement has been accepted, as such we do not consider that this requirement is legally compliant and it should therefore be removed.

The requirement for listed buildings to achieve a BREEAM 'very good' rating is very restrictive as it is often challenging to meet required standards in listed buildings without impacting unnecessarily on their heritage value. The policy needs to be realistic in terms of what can actually be achieved at listed buildings and the requirement for meeting BREEAM standards should be determined on a case by case basis. The policy should therefore incorporate some flexibility on this requirement.

I trust the above comments will be taken into consideration. I would also like to take this opportunity to confirm that we would wish to speak at Examination in Public.

Yours sincerely,

Nick de Lotbiniere