



# Basements Publication Planning Policy Correcting Addition to Sustainability Appraisal/ Strategic Environmental Assessment

Partial Review of the Core Strategy

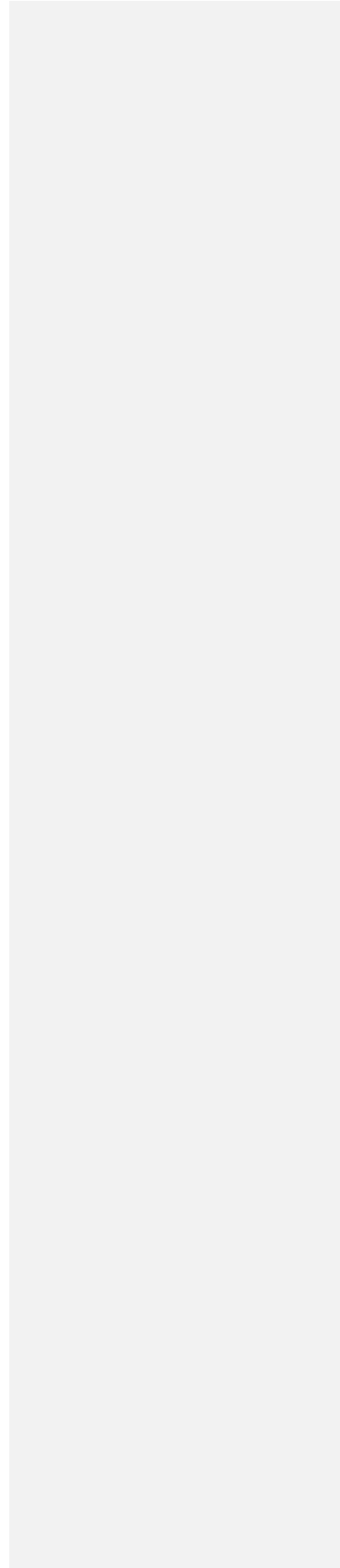
September 2014



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

|

BAS 21/01 [Rev A](#)



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## 1. Background

1.1 This correcting addition has been prepared in response to question 4 raised in the Inspector's Matters, Issues and Questions on the submitted basements policy. The question is reproduced below for ease of reference:

- 4. Does the final Sustainability Appraisal (SA) at BAS21 deal adequately with all the reasonable alternatives in assessing a policy for this type of development? Was there consideration of an impact assessment led policy approach alternative?**

**Note: paragraph 4.2 of the final SA (BAS21) says: “Alternative policy options were specifically considered in the December 2012 SA/SEA. As these were dismissed at that time, it is not considered appropriate to address them again in this document.”** However, legally the final SA must clearly set out the reasons for the selection of the Plan's proposals and the outline reasons why the other reasonable alternatives were not chosen during preparation. These choices may not have been made within the SA process (e.g. at a committee), but the final SA should set out those reasons. It should also state whether these reasons are still valid at submission. If this has not been done, I will consider asking the Council to prepare a correcting addition to the final SA. These legal principles have been set out in various court cases, e.g. see *Heard v Broadland District Council & Ors* [2012] EWHC 344 (Admin) (24 February 2012) at: <http://www.bailii.org/ew/cases/EWHC/Admin/2012/344.html>.

## 2. Consideration of alternatives in policy preparation

2.1 As recognised in the Inspector's question above alternatives were considered in the December 2012 SA/SEA. Such an approach is considered consistent with the flowchart in the PPG (ID: 11-013) (reproduced in Appendix 1).

2.2 In addition alternatives considered along with reasons for rejecting them were presented in Appendix B of the Basements Draft Policy document published and consulted upon in December 2012 (BAS 54) and in the Policy Formulation Report (BAS 18). These are presented below:

### **Basements Draft Policy document published and consulted upon in December 2012 (BAS 54)**

2.3 In coming to the draft policies set out in Draft Policy CF7, the Council considered, and rejected, a number of alternative policies. These were included in Appendix B of BAS 54 and are reproduced below.

**Not amend the existing policy**

2.4 *B.1 The Core Strategy was adopted in December 2010. Whilst the intervening period has seen the whole scale re-writing of government guidance through the National Planning Policy Guidance this does not render the existing policy out of date.*

2.5 *B.2 However, two further years of basement construction across the Borough have highlighted that the policies (and associated procedures) have not always have been as effective as intended. In addition research commissioned by the Council illustrates that some provisions of the existing policy should be updated. It is, therefore, now timely to review the policies used and the procedures associated with their effective implementation.*

**Resist the creation of basements within the curtilage of a listed building**

2.6 *B.3 The Council will resist the creation of a basement beneath a listed building as such proposals, in all but in the most exceptional cases, harm the historic integrity, scale and layout of the original building. The same cannot necessarily be said for the excavation within the garden of a listed building. If sensitively designed, it is possible that the integrity and character of the listed building will not be harmed.*

**Resist all basement development within a conservation area**

2.7 *B.4 The Council is of the view that basement development will not necessarily have a detrimental impact on the character and appearance of the conservation area in which it lies. Proposals must therefore be assessed on their merits, and a "blanket ban" would not be appropriate.*

**Resist demolition which is carried out to assist in the implementation of a basement development**

2.8 *B.5 The Courts have made it clear that it is only "substantial demolition" of a building in a conservation area that is not listed that requires consent. As such it is beyond a Local Planning Authority's remit to resist all demolition within a conservation area. The Council has the appropriate policies in place to assess applications for demolition when consent is required. Policy CL3 of the Core Strategy remains relevant, stating that the Council will resist substantial demolition unless it can be demonstrated that the part of the building makes no positive contribution to the character of the area, or if a scheme of redevelopment has been approved.*

2.9 *B.6 Planning permission is not required for any demolition outside of a conservation area, unless relating to a building that is listed.*

**Set a limit of, for example 50%, as to the extent of development beneath a garden which will be permitted, in terms of visual impact/ opportunity for tree planting in the future.**

- 2.10 *B.7 The limit of excavation beneath a garden proposed within the draft Core Strategy relates largely to the need for effective sustainable urban drainage. It also takes account of the provision of undeveloped space that may be suitable for mature trees in the future. As such this limit is not primarily concerned with the direct visual impact of the external parts of a basement, the Council choosing to control the undesirable “urbanising” effect of such features by requiring sensitive design and location near the rear of the building. Ultimately a qualitative assessment will be made by the Council as to what the impact of roof lights and the like will have upon the property, its garden and upon the wider area.*
- 2.11 *B.8 An alternative approach would be to introduce a figure with the inference that the visual impact any basement (be this direct or indirect) is likely to be acceptable as long as, for example, 50% of the garden remains undeveloped. This approach has the benefit of offering a degree of clarity for both those who want a basement and those living in the vicinity. There is however a danger that light wells and other such features may be permitted where the “rule” is met, but where the impact is harmful.*

#### **The Policy Formulation Report (BAS 18)**

- 2.12 The policy formulation report brings together all the consideration/reasons behind the proposed policy. These include consideration of national and London Plan policy and guidance, the extensive evidence, sustainability appraisal, consultation and equalities impact assessment.
- 2.13 In particular section 6 of the submitted Policy Formulation Report (BAS 18) which accompanied the publication of the basements policy is titled ‘Options considered and rejected before consulting on the draft policy’. This is presented below:
- 2.14 *Following the Issues consultation (April/May 2012) and targeted surveys (Aug/Sep 2012) of owners of properties with a basement permission, their neighbours and residents associations, a range of options were considered by the Council before progressing to the next stage of consultation on the ‘preferred’ draft policy. These options were presented in Appendix B of the Basements: Draft Policy for Public Consultation and Other Matters (Dec 2012) document. These were also subjected to a Sustainability Appraisal as presented in the SEA/SA document produced in December 2012. These are reproduced below:*

**Option 1: Not amend the existing policy**

2.15 *The Core Strategy was adopted in December 2010. Whilst the intervening period has seen the whole scale re-writing of government guidance through the National Planning Policy Guidance this does not render the existing policy out of date.*

2.16 *However, two further years of basement construction across the Borough have highlighted that the policies (and associated procedures) have not always have been as effective as intended. In addition research commissioned by the Council illustrates that some provisions of the existing policy should be updated. There has been a significant rise in the numbers of planning applications with 46 in 2001 and 307 in 2012. It was, therefore, considered timely to review the policies used and the procedures associated with their effective implementation.*

**Option 2: Resist the creation of basements within the curtilage of a listed building**

2.17 *The Council will resist the creation of a basement beneath a listed building as such proposals, in all but in the most exceptional cases, harm the historic integrity, scale and layout of the original building. The same cannot necessarily be said for the excavation within the garden of a listed building. If sensitively designed, it is possible that the integrity and character of the listed building will not be harmed.*

2.18 *This option was rejected during the first round of consultation but has been re-considered by the Council. It was originally concluded in light of the risks highlighted in the Alan Baxter and Associates report (see para 4.15 in BAS 18) to preclude basements from the gardens of listed building with exceptions for large gardens. The exception would only apply if the basement could be constructed without causing extensive change to the foundation of the listed building by being sited substantially away from the listed building.*

**Option 3: Resist all basement development within a conservation area**

2.19 *The Council is of the view that basement development will not necessarily have a detrimental impact on the character and/or appearance of the conservation area in which it lies. Proposals must therefore be assessed on their merits, and a “blanket” ban would not be appropriate.*

**Option 4: Resist demolition which is carried out to assist in the implementation of a basement development**

2.20 *The Courts have made it clear that it is only “substantial demolition” in a conservation area that requires consent. As such it is beyond a Local Planning Authority’s remit to resist all demolition within a conservation area. The Council has the appropriate policies in place to assess applications for demolition when consent is required. Policy CL3 of the adopted Core Strategy remains relevant, stating that the Council will*

*resist substantial demolition unless it can be demonstrated that the part of the building which is the subject of demolition makes no positive contribution to the character or appearance of the area, and if a scheme of redevelopment has been approved.*

2.21 *Planning permission is not usually required for any demolition outside of a conservation area, unless relating to a listed building.*

***Option 5: Set a limit of, for example 50%, as to the extent of development beneath a garden which will be permitted, because of visual impact/ the lost opportunity for tree planting in the future.***

2.22 *The limit of excavation beneath a garden proposed within the draft policies relates largely to the need for effective sustainable urban drainage. It also takes account of the provision of undeveloped space that may be suitable for mature trees in the future. As such the limit is not concerned primarily, with the direct visual impact of the external parts of a basement such as light wells and staircases but the Council choosing to control the undesirable “urbanising” effect of such features by requiring sensitive design and a location near the rear of the building. Ultimately a qualitative assessment will be made by the Council as to what the impact of roof lights and the like will have upon the property, its garden and upon the wider area.*

2.23 *Following the issues consultation it was considered that an alternative approach would be to introduce a figure with the inference that the visual impact any basement (be this direct or indirect) is likely to be acceptable as long as, for example, 50% of the garden remains undeveloped. This approach has the benefit of offering a degree of clarity for both those who want a basement and those living in the vicinity. There was however a concern that light wells and other such features may be permitted where the “rule” is met, but where the impact is harmful.*

2.24 *In the first round of consultation the Council proposed setting the limit on the extent underneath the garden to a maximum of 75%. This was based on the ‘rule of thumb’ recommendation in the Alan Baxter and Associates (ABA) report. However, the ABA report also states that a further restriction should be considered to allow a sufficient area for planting.*

2.25 *The Council undertook further research on the visual impact of basements (see para 4.23 and 4.24 above of BAS 18). It was concluded that a substantial area of the garden should be kept free of basement development. This would help protect the character and function of gardens, allow flexibility in planting and natural surface water drainage. There would also be biodiversity benefits with this approach. Protecting private gardens from inappropriate development is supported in the NPPF and the London Plan.*



2.26

Therefore a second round of consultation with the following changes/ preferred options was undertaken for a 6 week period in March/May 2013:

- Reducing the maximum extent of basements into the garden from 75% to 50%.
- Depth of basements - More clarity was provided in the reasoned justification that an additional storey would not be allowed underneath an existing basement (lower ground floors are not regarded as basements). A general height of the single storey was provided as 3-4 m floor to ceiling height with small additional allowance for swimming pools where relevant.
- Exceptions to the extent and depth would apply for larger comprehensively planned sites.
- Basements in the gardens of listed buildings were precluded with the exception for large sites.
- Sewer Flooding – a new requirement to fit all basements with a positively pumped device to protect from sewer flooding was added.

### 3.

#### SA of Alternatives

3.1

This section presents an assessment of the various options against the 16 sustainability objectives as set out below. The assessment is undertaken using the marking scheme used throughout the SA/SEA process, which is also reproduced below for ease of reference. It is intended to summarise the SA/SEA carried out at the various stages of the policy formulation process. The only addition is an assessment as to whether the assessment remains relevant at the submission stage.

SA OBJECTIVE
1. To conserve and enhance the natural environment and biodiversity.
2. Reduce crime and anti-social behaviour and the fear of crime.
3. To support a diverse and vibrant local economy to foster sustainable economic growth.
4. Encourage social inclusion, equity, the promotion of equality and a respect for diversity.
5. Minimise effects on climate change through reduction in emissions, energy efficiency and use of renewables.
6. Reduce the risk of flooding to current and future residents.
7. Improve air quality in the Royal Borough.
8. Protect and enhance the Royal Borough's parks and open spaces.

9. Reduce pollution of air, water and land. 9a. Prioritize development on previously developed land.
10. To promote traffic reduction and encourage more sustainable alternative forms of transport to reduce energy consumption and emissions from vehicular traffic.
11. Reduce the amount of waste produced and maximise the amount of waste that is recycled.
12. Ensure that social and community uses and facilities which serve a local need are enhanced, protected, and to encourage the provision of new community facilities.
13. To aim that the housing needs of the Royal Borough's residents are met.
14. Encourage energy efficiency through building design to maximise the re-use of buildings and the recycling of building materials.
15. Ensure the provision of accessible health care for all Borough residents.
16. To reinforce local distinctiveness, local environmental quality and amenity through the conservation and enhancement of cultural heritage.

**Table 1: Marking Scheme**

+	Objectives are compatible
-	Objectives are conflicting
?	Objective correlation is unknown
X	No Objective correlation (i.e. unlikely to have a significant effect)

**Alternative Option: Resist the creation of basements within the curtilage of a listed building**

- 3.2 Resisting the creation of basements within the curtilage of listed buildings was considered at early stages of the process and was later included as an option in the July 2013 Publication Policy (BAS 41). This option was appraised in the SA/SEA accompanying the July 2013 Publication Policy (BAS 45).
- 3.3 As basement development which relates to listed buildings would be a relatively small proportion of all applications in the Borough the correlation to sustainability objectives is hard to define. However, the SA/SEA noted that the principal potential positive effect of this approach would be on the SA Objective 16, cultural heritage. Precluding any basement development from within the curtilage of a listed building would reduce the risk of any harm to that building. The option was considered to have the potential to conflict with SA Objective 9a, as could have the potential to reduced development upon previously developed land. The impact would be less likely to relate to the development beneath the garden its self (as garden land is not

considered previously developed land), but through a possible indirect effect of encouraging property owners to seek new housing where a basement extension is not considered to be appropriate. This 'new' housing may be sought on land that has not been previously developed.

- 3.4 Despite the positive impact that this option could have upon SA Objective 16, the Council did not consider it appropriate to take it forward. The reasoning has been set out within the Council's Basements Policy Formulation Report. (BAS18). The Council was satisfied that the risk associated with the construction of a basement within the garden of a listed building could be kept to an acceptable level. It concluded that "if sensitively designed, it is possible that the integrity and the character of the listed building will not be harmed."
- 3.5 This conclusion remains valid at submission, it being further endorsed by the further evidence **Basements in Gardens of Listed Buildings, Alan Baxter and Associates, February 2014 (BAS 32)** commissioned by the Council. This demonstrated that it was possible for basements to be built in the gardens of listed buildings without harming the building. It sets out issues that should be considered when basements are sited within the gardens of listed buildings. It states that minimising disturbance and loss of fabric to the listed building can be achieved by positioning the basement away from the adjacent wall(s) of the listed building. Therefore on this basis the preferred option (criterion g.) was to "demonstrate there is no harm to the special architectural and historic interest of the listed building where proposed in the garden)".

**Alternative Option: Resist all basement development within a conservation area**

- 3.6 An alternative option considered was to resist all basement development within a conservation area. The SEA noted that such an approach would be likely to have a positive impact on SA Objectives 10, and 11, traffic reduction and waste. Given that more than 70% of the Borough lies within conservation areas this would translate to a significant reduction of construction across the Borough. In addition the SEA noted that such an approach could have a positive impact upon SA Objective 16, conservation of cultural heritage. In essence, if no basement development is permitted within a conservation area, the conservation area cannot be affected by it.
- 3.7 A potentially negative approach to SA 9A, previously developed land, was also identified. This is for the same reason as that outlined above. A break on development within a conservation area could, indirectly, increase pressure to develop elsewhere, possibly in areas where space is at less of a premium. These could include previously undeveloped areas.
- 3.8 Despite the positive impact that this option could have upon some SA Objectives the Council did not consider it appropriate to take it forward. The reasoning has been set out within the Council's Basements Policy

Formulation Report. (BAS18). This concluded that, “The Council is of the view that basement development will not necessarily have a detrimental impact on the character and/or appearance of the conservation area in which it lies. Proposals must therefore be assessed on their merits, and a “blanket” ban would not be appropriate.” Banning all basement development within conservation area would run counter to the principles underpinned by the NPPF

3.9 This conclusion remains valid at submission.

**Alternative Option: Resist demolition which is carried out to assist in the implementation of a basement development**

3.10 An alternative option considered was to resist all demolition that would be carried out to assist in the implementation of a basement development. The SEA indicated that the principal impact would be upon SA Objective 16, conservation of cultural heritage. This reflects the concern that demolition carried out to ease the construction process can harm the character of a building.

3.11 The SEA also notes that reducing demolition could reduce the creation of waste, compatible with SA Objective 11.

3.12 The Council took the view, that despite some benefits, it would be unreasonable to take such an approach. Under the Planning Acts, permission for demolition is only required when substantial in nature and as such is not possible to unilaterally resist all demolition. This was set out within the Council’s Basements Policy Formulation Report. (BAS18).

3.13 This conclusion remains valid.

**Alternative Option: Set a limit of, for example 50%, as to the extent of development beneath a garden which will be permitted, because of visual impact/ the lost opportunity for tree planting in the future. As long as the basement does not exceed the specified size no further assessment of flooding, biodiversity or visual impact is required.**

3.14 The SA/SEA stated that the this option would have a positive impact upon SA Objective 16, cultural heritage and may support sustainable urban drainage. (SA Objective 6). It was considered to have the benefit of offering a degree of clarity for both those who want a basement and those living in the vicinity. There was however a concern that light wells and other such features may be permitted where the “rule” is met, but where the impact is harmful. The preferred approach proposes a restriction of a maximum of 50% under each garden. However, the preferred approach does not rule out consideration of other issues in each case such as drainage, trees and visual impacts of external manifestations of basements. The SA/SEA did note these problems and there was a danger that such an approach may encourage

applicants to “plan to a figure” rather than take a quantitative assessment on impact. As such it was not appropriate to take this option forward. This conclusion remains valid.

**Alternative Option: Extent of basements beneath gardens limited to 75%**

- 3.15 The sequence of draft policy consultation is set out in the Summary of Consultation (BAS 03). The SA/SEA process was followed at each of these consultations and the preferred options were appraised at each of these stages. Limiting basements beneath gardens to a maximum of 75% was the preferred option in the draft policy that was consulted in December/January 2012. An SA/SEA accompanied this policy.
- 3.16 This SA/SEA concluded that a restriction as to the extent of a basement, over and above that currently required will have benefits to a number of the SA Objectives, principally those concerning biodiversity, flooding, air quality, pollution, traffic reduction, waste, and conservation of cultural heritage. The SA/SEA noted that maintaining an element of un-developed garden space allows for effectively planting with the associated benefits to biodiversity. It will also allowing the draining of the site. A reduction in the extent of the development may also reduce the need for excavation of spoil with the associated reduction in construction traffic. This in itself may have a further impact in reducing pollution. It may also have a positive impact upon air quality and upon the cultural heritage. Retaining mature landscaping and the potential for mature planting in the future can have considerable benefits to the character and appearance of the garden and of the wider area.
- 3.17 The SA/SEA noted that the restriction on the extent of a basement could have a negative impact upon meeting housing need, were it to reduce the provision of new residential unit. It did, however, also recognise that this impact was likely to be extremely limited, given that most basements are to extend existing properties rather than create new units in their own right. It also questioned whether a limit on the scale of basements could conflict with the SA Objective to promote development on previously developed land, for the reasons set out in the other rejected alternative options.
- 3.18 Following the December/January 2012 consultation it was clear that the general view of residents was that this option was not too dissimilar to the existing policy in terms of garden extent. The existing policy was not considered to be as effective as it could. The Council considered the evidence in the Alan Baxter and Associates report (BAS 30) which recommended a tighter ‘rule of thumb’ of 50% where the soil type is clay to enable surface water drainage. In addition the Council considered the benefits of retaining a significant portion of the garden for planting large trees.

3.19 Further as set out in the Policy Formulation Report (BAS 18) also replicated above the Council undertook further research on the visual impact of basements (see para 4.23 and 4.24 above of BAS 18). It was concluded that a substantial area of the garden should be kept free of basement development. This would help protect the character and function of gardens, allow flexibility in planting and natural surface water drainage. There would also be biodiversity benefits with this approach. Protecting private gardens from inappropriate development is supported in the NPPF and the London Plan.

3.20 In essence, whilst the SEA identified many benefits associated with 75% restriction, the Council concluded that these benefits would be greater still with a tighter restriction. As such this alternative was rejected in favour of the preferred option of restricting basement development to a maximum of 50% under each garden. This conclusion remains valid.

#### **Alternative Option: Business as usual scenario**

3.21 The Council also considered the preferred option as of the December/January 2012 iteration of the basement policy document against the “business as usual scenario”. This was presented in the December 2012 SA/SEA (BAS 55). This assessment has been reproduced in table 2, below. The assessment of the impact of the existing policy is against the scenario where the Council would have no policies on this matter. It is not an assessment against the proposed policy.

3.22 The principal change between the 2012 SA/SEA and the submission document relates to the extent of the of the basement development which will be permitted beneath a garden. It has fallen from 75% to 50%. This has not changed any of the conclusions reached with regard SEA. Rather it will strengthen the existing relationship. So for example, whilst a restriction as to the extent of the basement may be considered to have a positive relationship with SA Objective 16 (cultural heritage), a further restriction is likely to make this relationship still stronger.

3.23 A further policy change involves a requirement for the requirement for the installation of a suitable pumped device for a new basement. The intention is to protect from sewer flooding, and as such is considered to have a positive relationship with SA Objective 6, flooding. This option was assessed as part of the SA/SEA in March 2013.

#### **4. Rejected “unrealistic” “unreasonable” options**

3.244.1 When formulating policy a Council is ~~only~~ required to carry out a SA/SEA ~~to assess those~~ “reasonable alternatives” ([Environmental Assessment of Plan and Programme Regulations 2004 \(Reg 12 \(2\) \(b\)\) and planning practice guidance \(ID 11-018\)](#)). As such the Council has chosen not carry out SA/SEA for two “unreasonable” options which

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have been suggested as part of the consultation process. [This document](#) [The following paragraphs](#) outlines why the Council considers these alternatives not to be “reasonable.”

***The Council should introduce a policy which allows each development to be assessed on a case by case approach, on its own merits. No maximum limits for development should be specified***

- [4.2](#) [This option was considered “unreasonable” by the Council for the following reasons:](#)
- [4.3](#) [The Council’s existing policy framework regarding basement applications includes Policy CL2 q of the adopted Core Strategy 2010. In addition the Council has a Subterranean Development SPD \(BAS 93\) adopted in May 2009 which provides guidance and is a material planning consideration in determining planning applications for basements. As set out in section 9.2.1 of the SPD the Council has applied a maximum limit of 85% on the extent of basements underneath gardens since its adoption in 2009.](#)
- [4.4](#) [The Council’s evidence has demonstrated that the existing approach has not been as effective as it should be in managing the impacts on residents’ living conditions, character and appearance of gardens with concerns about drainage and trees. It would be unreasonable for the Council to draw back from this policy framework and take a ‘case by case’ approach.](#)
- [4.5](#) [Given that one of the prime objectives of the policy is to bear down on the volume of excavation in order to curtail the individual and cumulative effect of basements on living conditions. A ‘case by case’ approach with no maximum limits would fail against these objectives.](#)
- [4.6](#) [A ‘case-by case’ approach as proposed would fail to give clarity on decision-making to everyone concerned including applicants, planning officers, residents and Councillors.](#)
- [4.7](#) [Such an approach would lead to an inconsistency in decision making which would not be as transparent it should be. There would be long negotiations in every case with potentially conflicting consultant reports submitted to the Council and unsatisfactory outcomes for all. This would potentially lead to a greater number of appeals.](#)
- [4.8](#) [The case by case approach would fail to comply with the NPPF with regard to local planning policy formulation. In particular –](#)
- [Para 15 of the NPPF which states \*“Policies in Local Plans should follow the approach of the presumption in favour of sustainable development so that it is clear that development which is sustainable can be approved without delay. All plans should be based upon and reflect the presumption in favour of sustainable\*](#)

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development, with clear policies that will guide how the presumption should be applied locally.”; and,

- Para 154 of the NPPF which states “Local Plans should be aspirational but realistic. They should address the spatial implications of economic, social and environmental change. Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where. Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”

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3.254.9 The Council responded to this suggestion of a ‘case by case’ approach in BAS 06/02 (Council’s response to para 5.), Council’s Response to Basement Force. In this document the Council stated that,

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*“The criteria stated above would leave all aspects of the policy open to interpretation offering no certainty to applicants or the planning officers. Para 154 of the NPPF refers “Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan”.*

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*The criteria above seeks to promote ‘acceptable’ development in most cases. Objective CO5 of the Core Strategy states “Our strategic objective to renew the legacy is not simply to ensure no diminution in the excellence we have inherited, but to pass to the next generation a Borough that is better than today, of the highest quality and inclusive for all. This will be achieved by taking great care to maintain, conserve and enhance the glorious built heritage we have inherited and to ensure that where new development takes place it enhances the Borough.” Clearly as proposed the policy is neither compliant with the NPPF nor the relevant Core Strategy objective.”*

3.26 ~~The introduction of such a policy would represent a significant drawing back from the Council’s guidance as articulated by the Council’s Subterranean Development SPG. This would have the opposite to the desired effect of mitigating the impact of basement development.~~

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3.27 ~~The range of evidence provided by the Council to support the proposed policy illustrates why it is essential to set limits on the nature of new basement development which considered to be appropriate.~~

4.1 ~~In addition such an approach would run counter to the Mayor of London’s recently published Sustainable Design and Construction SPG, which suggests “designing a basement so that a natural or highly permeable draining route us left around the basement”. (para 2.2.14.)~~

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4.10 Clearly for all the above reasons the ‘case by case’ option with no limits would be wholly unreasonable not least because it would be taking a significant step back from the existing local policy framework. It would have the opposite to the desired aims of formulating the policy i.e. mitigating the harmful impacts of basements.

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***That the Council should resist any basement which does not lie entirely beneath the footprint of the property.***

4.11 The evidence presented by the Council shows that a carefully designed basement, following considered parameters, will not necessarily cause harm. As such a policy ~~with any such ambition~~ restricting basements to the footprint of properties would run counter to the intention of the NPPF and as such would be inappropriate.

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4.12 The suggestion to restrict basements to the footprint of the properties was made during various consultations. The Council provided a response to these representations such as in BAS 04 (page 10). "Noted. The letter from Thames Water was considered by the Council. It was not accompanied by any evidence to support that basements should be restricted to the footprint of properties. Based on the letter the Council did add the requirement for positive pumped devices (CL7 (o)) to protect basements from sewer flooding".

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4.13 The Council itself did not have any evidence to support such a restriction nor was any evidence submitted to the Council in support of the representations.

4.14 Some representations pointed out that the London Borough of Hammersmith and Fulham had adopted such a policy. However, the policy adopted by Hammersmith and Fulham has not proven effective in practice. The policy states (amongst other things) "New basement accommodation in existing dwellings will be permitted where: it does not extend beyond the footprint of the dwelling and any approved extension (whether built or not);<sup>1</sup>" Therefore the policy in reality does not specify that basements will not be permitted under gardens. There was also no further evidence available to justify such a restriction.

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3.284.15 For the above reasons restricting basements to the footprints of properties was considered 'unreasonable' and contrary to the NPPF supporting sustainable development by the Council.

## 5. Conclusion

5.1 As set out in this document the Council has considered a number of options in great detail on an ongoing basis. The Council has undertaken additional consultation on any significant changes to options through the preparation of the policy. The preferred option submitted for examination is based on a number of reasons and no significant issues linked to the preferred options were raised in the

<sup>1</sup> Policy DM – A8, Development Management Local Plan, July 2013, London Borough of Hammersmith and Fulham

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SA/SEA process. The preferred option performs better in its compatibility with most SA objectives compared to the existing policy.

**Table 1: Option Assessment**

No.	SA Objective	Extent of basement beneath gardens (a)	Depth of Basement (b)	Not beneath existing basements (c)	Trees and planting (d)	Heritage Assets (e)	Listed Buildings (f)	Listed buildings-Gardens (g)	External Elements (h)&(i)	SuDS (j)	Environmental Standards (k)	Construction Traffic (l)	Noise, vibration and dust (m)	Structural Stability (n)	Sewer Flooding (o)	Resist Basements in the curtilage of listed buildings	Resist all basement developments within Conservation Areas	Resist basement associated demolition	Set a blanket limit (e.g. 50%) with no consideration of visual impacts	Extent of basements beneath gardens limited to 75%
1	Biodiversity	+	X	X	+	X	?	+	X	+/ x	X	X	X	X	X	X	X	X	X	+
2	Crime	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
3	Economic growth	?	?	?	X	X	?	?-	X	X	?+	X	X	X	X	X	?-	X	X	?-
4	Social inclusion	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
5	Climate change	+	+	+	+	X	+	X	X	+	+	+	X	X	X	X	X	X	X	X
6	Flooding	+	X	X	+	X	X	X	X	+	X	X	X	X	+	X	X	X	X	+
7	Air Quality	+	+	+	+	X	X	X	X	X	+	+	+	X	X	X	X	X	X	+
8	Parks and open spaces	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
9	Pollution	+	+	+	?+	X	X	X	X	X	+	+	+	X	+	X	X	X	X	+
9A	Previously developed land	?-	X	X	X	X	+	?-	X	X	X	X	X	X	X	-	?-	X	X	-
10.	Traffic reduction	+	+	+	X	?+	?+	-	X	X	X	+	X	X	X	?+	+	X	X	?+
11	Waste	?+	+	+	X	?+	?+	X	X	X	+	X	X	X	X	x	+	X	X	?+
12	Social and community facilities	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
13	Housing need	?+	X	X	X	X	X	X	X	X	X	X	X	X	X	-	?-	X	X	?-
14	Energy efficiency	X	X	X	X	X	X	X	X	X	+	X	X	X	X	X	X	X	X	X
15	Health care	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
16	Conservation of cultural heritage	+	+	+	+	+	+	?-	+	+	+	X	X	+	+	+	+	+	+	+

**Table 2: Assessment of the preferred option (2012) and business as usual scenario**

SA OBJECTIVE		Preferred option		Current policy approach (2012)
1. To conserve and enhance the natural environment and biodiversity.	+	By ensuring that trees are protected, adequate soil depth included and gardens retained, the biodiversity potential of the borough is protected	+	By ensuring that trees are protected, adequate soil depth included and gardens retained, the biodiversity potential of the borough is protected.
2. Reduce crime and anti-social behaviour and the fear of crime.	X	No direct impact	X	No direct impact
3. To support a diverse and vibrant local economy to foster sustainable economic growth.	?-	Reducing the scale of basement development further could reduce the amount of building work occurring in the Borough, with a detrimental impact on the economy. This impact is likely to be small, if to occur at all.	X	No direct impact
4. Encourage social inclusion, equity, the promotion of equality and a respect for diversity.	X	No direct impact	X	No direct impact
5. Minimise effects on climate change through reduction in emissions, energy efficiency and use of renewables.	+	Requiring the retrofitting of the entire building to a suitable carbon standard where a basement is proposed will mitigate the impact of the proposed basement on this objective.	+	Requiring the retrofitting of the entire building to a suitable carbon standard where a basement is proposed will mitigate the impact of the proposed basement on this objective.
6. Reduce the risk of flooding to current and future residents.	+	The proposed policy refers to the existing policies within the Core Strategy which concern the risk of flooding. These mitigate the risk.  The new requirements concerning SUDS further reduce this risk.	+	The Core Strategy contains policies which mitigate the risk and impact of basements flooding. These are based upon sequential assessment and the provision of a Flood Risk assessment alongside applications for new basements.  The Core Strategy requires effective SUD for all new development.
7. Improve air quality in the Royal Borough.	+	Indirect positive effect due to the requirement of a CTMP to ensure that construction traffic is kept to a minimum.	+	Indirect positive effect due to the requirement of a CTMP to ensure that construction traffic is kept to a minimum.

SA OBJECTIVE		Preferred option		Current policy approach (2012)
		<p>Explicit recognition that the dust created during the construction phase needs to be addressed should improve local air quality.</p> <p>Requiring the retrofitting of the entire building to a suitable carbon standard where a basement is proposed may have a positive indirect impact on air quality, reducing energy use.</p>		<p>Requiring the retrofitting of the entire building to a suitable carbon standard where a basement is proposed may have a positive indirect impact on air quality, reducing energy use.</p>
8. Protect and enhance the Royal Borough's parks and open spaces.	+	<p>The existing Core Strategy precludes the digging of basements beneath garden squares. This aspect has not been reviewed, and remains unaltered.</p>	+	<p>The existing Core Strategy precludes the digging of basements beneath garden squares. This aspect has not been reviewed, and remains unaltered.</p>
9. Reduce pollution of air, water and land.	+	<p>Indirect positive effect due to the requirement of a CTMP to ensure construction traffic is kept to a minimum.</p> <p>Explicit recognition that the dust and noise created during the construction phase needs to be addressed should improve local air quality and noise pollution.</p> <p>Requiring the retrofitting of the entire building to a suitable carbon standard where a basement is proposed may have a positive indirect impact on pollution associated with energy generation.</p>	+	<p>Indirect positive effect due to the requirement of a CTMP to ensure construction traffic is kept to a minimum.</p> <p>Requiring the retrofitting of the entire building to a suitable carbon standard where a basement is proposed may have a positive indirect impact on pollution associated with energy generation.</p>
9a. Prioritize development on previously developed land.	-	<p>Any initiatives which reduce the opportunities of basement development across the Borough have the potential to conflict with this objective. The more restrictive the policy the greater the possible conflict. The draft policy seeks to limit the extent of basement development further, both in terms of depth and size in relation to the garden.</p>	-	<p>Any initiatives which reduce the opportunities of basement development across the Borough have the potential to conflict with this objective. The more restrictive the policy the greater the possible conflict.</p>

SA OBJECTIVE		Preferred option		Current policy approach (2012)
10. To promote traffic reduction and encourage more sustainable alternative forms of transport to reduce energy consumption and emissions from vehicular traffic.	+	Some indirect positive effect due to the requirement for a CTMP. This may reduce the amount of vehicle movements required.	+	Some indirect positive effect due to the requirement for a CTMP. This may reduce the amount of vehicle movements required.
11. Reduce the amount of waste produced and maximise the amount of waste that is recycled.	+	A waste management plan is required by existing policies within the Core Strategy for larger developments. The threshold is unlikely to be triggered by the majority of basement extensions.	+	A waste management plan is required by existing policies within the Core Strategy for larger developments. The threshold is unlikely to be triggered by the majority of basement extensions.
12. Ensure that social and community uses and facilities which serve a local need are enhanced, protected, and to encourage the provision of new community facilities.	X	No direct impact	X	No direct impact
13. To aim that the housing needs of the Royal Borough's residents are met.	-	The preferred approach, could have a negative impact were it to reduce the quantum of basement development permitted. This impact is likely to be extremely limited, given that most basements are to extend existing properties rather than creating new units in their own right. The Council has other policies in place to ensure that resident's housing needs are met.	-	The preferred approach, could have a negative impact were it to reduce the quantum of basement development permitted. This impact is likely to be extremely limited, given that most basements are to extend existing properties rather than creating new units in their own right. The Council has other policies in place to ensure that resident's housing needs are met.
14. Encourage energy efficiency through building design to maximise the re-use of buildings and the recycling of building materials.	+	Requiring the retrofitting of the entire building to a suitable carbon standard where a basement is proposed may have a positive indirect impact on energy efficiency.	+	Requiring the retrofitting of the entire building to a suitable carbon standard where a basement is proposed may have a positive indirect impact on energy efficiency.

SA OBJECTIVE		Preferred option		Current policy approach (2012)
15. Ensure the provision of accessible health care for all Borough residents.	X	No direct impact	X	No direct impact
16. To reinforce local distinctiveness, local environmental quality and amenity through the conservation and enhancement of cultural heritage.	+	<p>Implementation of the draft policy, by which the Council chooses to control the undesirable 'urbanising' effect of roof lights and such features by requiring sensitive design and location near the rear of the building, is likely to have a positive impact on the objective. It is likely to control the ill designed physical manifestations of basement developments which have the potential to harm local environmental quality and the cultural heritage</p> <p>The requirement for retrofitting of the property to a high carbon standard may encourage alterations that harm a heritage asset.</p>	+	<p>The suite of policies within the existing Core Strategy allow the LPA to resist proposals which will have a detrimental impact on the appearance of a property, or where listed, on its special character.</p> <p>The requirement for retrofitting of the property to a high carbon standard may encourage alterations that harm a heritage asset.</p>

# Appendices





**Appendix 1: Flowchart in the PPG (ID: 11-013)**

