



*building on success*

# Basements Policy Formulation Report

Partial Review of the Core Strategy



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

July 2013

Regulation 19, Town and Country Planning (Local Planning) (England) Regulations 2012



## Contents

1.	Introduction.....	2
2.	Planning Policy Context.....	2
3.	Evidence Base.....	7
4.	Sustainability Appraisal.....	10
5.	Options considered and rejected before consulting on the draft policy.....	12
6.	Consultation.....	15
7.	Equalities Impact Assessment.....	15

## **1. Introduction**

1.1 The Council started preparing a planning policy on basements in early 2012. The Council is now at the stage of consulting on the soundness of the ‘publication policy’ on basements. The Council has taken account of a range of parameters in formulating the publication policy. These include:

- Higher order policies set out in the National Planning Policy Framework (NPPF) March 2012 and in the London Plan.
- Consultation, which has been undertaken in accordance with the Council’s Statement of Community Involvement and the Town and Country Planning (Local Planning) (England) Regulations 2012 (the Regulations).
- Sustainability Appraisal of the policy undertaken throughout its preparation.
- Evidence – the policy is based on an appropriate and proportionate evidence base.
- An Equalities Impact Assessment undertaken throughout its preparation.

1.2 This document sets out a summary of each of the above parameters/ processes to set out how the Council formulated the publication policy on basements.

## **2. Planning Policy Context**

### **National Planning Policy Framework**

2.1 The Government introduced the National Planning Policy Framework (NPPF) in March 2012. The NPPF sets out the Government’s planning policies for England and how these are expected to be applied. The underlying tenet in the NPPF is that the planning system should contribute to the achievement of sustainable development (para 6, NPPF). Paragraph 7 of the NPPF sets out the three dimensions of sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.

2.2 Para 8 of the NPPF states that *“these roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions.”*

- 2.3 Para 9 of the NPPF states that *“Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life, including (but not limited to): replacing poor design with better design and improving the conditions in which people live, work, travel and take leisure.”* These positive improvements as set out in the NPPF are considered to be directly related to the basements publication policy. The policy is clearly about development of the ‘highest quality’ and one of the underlying objectives is to improve the living conditions of the Borough’s residents.
- 2.4 Plans and decisions need to take local circumstances into account (para 10, NPPF). The basements publication policy takes account of local circumstances and is a bespoke policy for the Royal Borough.
- 2.5 The Council developed sixteen Sustainability Appraisal objectives (SA Objectives) within its initial SEA/SA Scoping report for the Local Development Framework (LDF) in 2005. The sustainability appraisal objectives include objectives relating to the three strands of sustainable development: social, environmental and economic. The basement policy has been subject to a Sustainability Appraisal throughout its preparation with each strand of the policy appraised against the sustainability appraisal objectives. The details of the SA process are set out below in section 4. The various strands of the publication policy are compatible with the sustainability appraisal objectives.
- 2.6 At the heart of the NPPF is a **presumption in favour of sustainable development**. For plan-making this includes *“Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless ....specific policies in this Framework indicate development should be restricted”* (para 14, NPPF).
- 2.7 Para 53 of the NPPF is one such paragraph which indicates where development should be restricted. It states *“Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”*
- 2.8 Annex 2: Glossary of the NPPF sets out the definition of previously developed land. Private residential gardens are excluded from the definition of previously developed land. Therefore the publication policy limits the extent of basements into the garden. Evidence presented in section 3 below indicates that extensive development of gardens as a result of basements can harm the character of the Borough.
- 2.9 The basement publication policy requires that basement development should not cause harm to the significance of heritage assets. This is in-line with paras 126 of the NPPF. The Council also has duties under Planning (Listed Buildings and Conservation Areas) Act 1990. For listed buildings the local planning authority should have *“special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”*. For

conservation areas the local planning authority should give special attention to *“the desirability of preserving or enhancing the character or appearance of that area”* (our emphasis).

- 2.10 The plan-form of listed buildings and their foundations are considered to be part of their special architectural or historic interest. The publication policy therefore precludes basements underneath listed buildings. It also precludes basements in the gardens of listed buildings with the exception of large gardens where the basement can be constructed without causing extensive changes to the foundations of the listed building.
- 2.11 Para 109 of the NPPF states that *“the planning system should contribute to and enhance the natural and local environment by (including but not limited to): preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability;”*.
- 2.12 Para 120 of the NPPF states *“To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”*
- 2.13 The reference to the land instability issues stated in para 109 and 120 of the NPPF is relevant when considered together with the recommendations in the technical study on residential basements in the Borough undertaken by Alan Baxter and Associates (sections 9.3.6 and 9.3.7). The policy is taking a precautionary approach to reduce the risk to the high quality built environment of this Borough as basements that are deeper than a single storey have greater structural risks (including causing land instability).
- 2.14 However, as stated in the NPPF if a site is affected by land stability issues the responsibility lies with the developer/ owner not the Council.

### **The London Plan**

- 2.15 The London Plan is part of the Borough’s development plan and policies in the Local Plan should comply with the London Plan.
- 2.16 London Plan Policy 3.5 states *“Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified”*.
- 2.17 Reasoned justification to Policy 3.5 states that *“back gardens play important roles in addressing many of these policy concerns, as well as being a much cherished part of the London townscape contributing to*

*communities' sense of place and quality of life.*" The London Plan Housing SPG, November 2012 (para 1.2.18) further amplifies the roles that gardens play including

- *"defining local context and character including local social, physical, cultural, historical, environmental and economic characteristics,*
- *Providing safe, secure and sustainable environments and play spaces,*
- *Supporting biodiversity, protecting London's trees, 'green corridors and networks', abating flood risk and mitigating the effects of climate change including the 'heat island' effect, and*
- *Enhancing the distinct character of suburban London."*

2.18 Para 1.2.22 of the London Plan Housing SPG (Nov 2012) further states *"Gardens can clearly be very much part of form, function and structure which warrants respect and protection."*

2.19 The Council's visual evidence on the impact of basements shows that basement development can alter the character of gardens and adversely impact on the roles defined in the London Plan Housing SPG. Therefore it is reasonable to expect a significant proportion of gardens to be kept free of any development to allow their natural character to be maintained.

2.20 Para 1.2.25 of the London Plan Housing SPG (Nov 2012) states *"Where subterranean extensions to existing dwellings pose planning policy (as opposed to enforcement/regulation) issues, boroughs are advised to consider the bearing of such development on London Plan policies addressing sustainable design and construction (5.3), retrofitting (5.4), overheating and cooling (5.9), flood risk (5.12), sustainable drainage (5.13), construction and demolition waste (5.18), water use and supplies (5.15), trees (7.12) and biodiversity (7.18/19).*

2.21 The policies referred to in the London Plan SPG are either covered by other policies in the Council's Core Strategy or the basement policy complies with them as follows:

- Policy 5.3: Sustainable Design and Construction – one of the issues the basement policy is seeking to address is the disproportionate construction impact of basements. The policy requires consideration of these issues at the design stage. The requirements for a Basement Impact Assessment which would be set out in the revised basements SPD will provide further details on this. The policy will also contribute to minimising the impact of development on climate change. This will be through limiting the extent of basements and requiring upgrades to the original building to the which the basement relates.

- Policy 5.4: Retrofitting – The BREEAM Domestic Refurbishment requirements to upgrade the building related to the basements relate to this policy.
- Policy 5.9: Overheating and Cooling – basements themselves are considered to be well insulated surrounded by ground on all sides and are unlikely to be exposed to extremes of temperature resulting in overheating or cooling. Restricting the scale of basements both in terms of extent under the garden and number of storeys would reduce the need and/or scale of cooling/ heating systems.
- Policy 5.12: Flood Risk – Policy CE2 of the Core Strategy deals specifically with flood risk.
- Policy 5.13: Sustainable Drainage – the draft policy has a specific requirement for sustainable urban drainage systems to reduce the volume and flow of surface water run-off.
- Policy 5.18: Construction and Demolition Waste – the BREEAM requirements set out in the publication policy require that 80% of the construction waste is recycled.
- Policy 5.15: Water use and supplies – the BREEAM requirements include considerations of water use.
- Policy 7.12: Trees – publication policy protects existing trees of amenity value. The Core Strategy includes policy CR6 specifically on trees.
- Policy 7.18/19 Biodiversity – is linked to designated sites. Core Strategy policy CE4 specifically deals with biodiversity.

- 2.22 In addition Policy 5.1: Climate Change Mitigation and 5.2: Minimising Carbon Dioxide Emissions of the London Plan are also considered relevant.
- 2.23 Policy 5.1: Climate Change mitigation states that boroughs should develop detailed policies that help reduce carbon dioxide reductions in London. Policy 5.2 requires development proposals to make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy: (1) Be lean – use less energy (2) Be clean – supply energy efficiently and (3) Be Green – use renewable energy.
- 2.24 Para 5.16 of the reasoned justification to Policy 5.2 states that the first step in the above hierarchy should be met through adopting sustainable design principles outlined in Policy 5.3: Sustainable Design and Construction. Para 5.25 in support of Policy 5.3 states that “...*where practicable those with a high embodied energy should be avoided.*” Basements are constructed using steel and concrete both of which have a very high carbon embodiment. The carbon emissions of basements are greater than those of above ground developments per



square metre over the building's life cycle<sup>1 2</sup>. The embodied carbon<sup>3</sup> in basements is almost three times the amount of embodied carbon in an above ground development per square metre. Limiting the size of basements will therefore limit carbon emissions and contribute to mitigating climate change.

### 3. Evidence Base

- 3.1 The following documents support the formulation of the policy
- 3.2 **Basements Development Data, RBKC, July 2013** – shows a significant increase in the number of applications with a basement element, with 46 cases in 2001 increasing to 307 in 2012. It includes maps showing a high concentration of planning permissions in residential areas. Basements are generally complicated and challenging engineering projects particularly when constructed under existing buildings. The residential densities in the Royal Borough are one of the highest in the country. This can result in construction impacts experienced by residents for prolonged periods of time affecting their living conditions. Therefore there is a need for a bespoke policy to manage the development of basements in the Borough.
- 3.3 **Basements Visual Evidence, RBKC, July 2013** – shows that gardens with basements underneath generally appear artificial with a sterile appearance compared to the informal leafy character that was present before. Gardens with basements below also seem to have reduced planting. The cumulative impact of a large number of basements can change the character of the gardens in the borough and have implications for biodiversity in the longer term. This will fundamentally change the character of the borough, especially in conservation areas where there is an obligation to preserve or enhance the character or appearance of the area.
- 3.4 **Residential Basement Study Report, Alan Baxter and Associates, March 2013** – considers a range of issues in relation to residential basements in the Royal Borough. These include the topography, geology, groundwater, structural and civil engineering considerations, the Party Wall Act, sustainability and construction issues. Section 13 of the report includes recommendations for basement design and construction. The report also sets out the work that should be done/ submitted with the planning application for proposals involving basements.

---

<sup>1</sup> Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&C, Eight Associates, August 2010

<sup>2</sup> Life Cycle Analysis (LCA) is a methodology for assessing the environmental performance of a product (i.e. building) over its life cycle. For the purposes of the technical report above, life cycle is considered from the extraction of raw materials to 30 years of building operation and includes the construction stage.

<sup>3</sup> Embodied carbon is the carbon emission in producing a material. Production includes the growing or mining and processing of the natural resources and the manufacturing, transport and delivery of the material (modified from the definition in London Plan, July 2011 glossary).

- 3.5 While the whole report is pertinent to basement development in the Borough the most relevant recommendations in relation to policy formulation are as follows.
- 3.6 Para 8.4 sets out the various functions performed by the subsoil below existing buildings and the need for planning policy to evolve to protect these functions. Para 8.6(h) – depth of the proposed new basements states that multiple basement levels are very much more challenging and complex.
- 3.7 Para 9.2.6.2 states that it would be beneficial for the adjoining buildings if basements that are only in the gardens are designed and built so that they are structurally independent of the structures of the adjoining houses. Para 9.2.7.3 recommends consideration of differential movement when a basement is constructed in the garden and partly under an existing building. These paragraphs are relevant to the Council's approach to basements in the gardens of listed buildings. The Council attaches great significance to the importance of preserving the listed buildings in the Borough. Indeed the Council has a duty to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990. Making extensive changes to part of the foundations of a listed building pose both structural risks and harm to the building's historic integrity (as foundations are part of the historic integrity of the building). The publication policy therefore restricts basements in the gardens of listed buildings unless they can be constructed without making extensive changes to the foundations of the listed building by being located substantially away from the listed building.
- 3.8 Section 9.3 is relevant in relation to the land instability issues mentioned in the NPPF (see paras 2.11-2.13 above).
- 3.9 Para 9.6.5 and 9.6.6 relate to the need to protect basements from sewer flooding and recommend using a pumped system.
- 3.10 Para 9.7.6 states that there should be a limit on how much of the garden can have a basement underneath to allow for flexibility in planting and surface water drainage. Paras 9.8.3 and 9.8.4 indicate that as a rule of thumb a minimum of 25% of the garden is sufficient to drain surface water when the sub soil is gravel and between 25% and 50% when the subsoil is clay. Para 9.8.6 states that another factor that needs to be considered when limiting the size is the ability to plant large trees.
- 3.11 Para 11.2 is relevant in relation to the carbon emissions of constructing basements. This paragraph states that basements are generally always built using concrete, which has a high embodied carbon. It also suggests that part of the concrete could be replaced with cement substitutes to reduce the carbon emissions. Aggregates can also be substituted but these can sometimes actually increase the carbon

emissions, due to extra transport required. At present extensive use of concrete and steel in constructing basements is likely to continue. A separate report commissioned by the Council titled Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&C, Eight Associates, August 2010 (summary presented in para 3.13 below) is the main evidence in relation to this issue. The size restrictions on basements being introduced by the publication policy will help reduce carbon emissions.

- 3.12 Para 12.2 states that *“basement projects tend to go on for much longer than projects which involve works only to the above ground elements”*. Para 12.5 states that *“construction of basements underneath existing buildings is a slow process”*.
- 3.13 Para 13.2.4 recommends that *“Because basement construction projects are slow and generally more extensive in their scope than above-ground extension or alteration projects, it is reasonable to expect that there should be special measures put in place to mitigate the effects of the construction activities on the public and neighbouring residents. Noise and vibration limits should be set and checked during the works by monitoring. Vehicle movements in residential streets must be controlled and limited together with disruption to pedestrians, cyclists and drivers using the street and parking on it.”* The limits on scale being imposed by the publication policy will help reduce the construction impacts of large basement developments. In addition the Council is looking at additional measures that should be put in place through environmental health and highways and transport to mitigate the impacts of construction.
- 3.14 Section 13.3 of the document makes specific recommendations. These include (but are not limited to) 13.3.3 *“The depth of underpinning 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 if feasible.”* The planning system cannot set out the method of construction that must be used. The Royal Borough has a special historic character with over 4,000 listed buildings and 70% of its area designated as conservation areas. The policy therefore takes a precautionary approach (in addition to the reasons related to minimising construction impacts and carbon emissions) and restricts basements to a single storey in all but a few exceptional cases for large comprehensively planned sites.
- 3.15 **Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBKC, Eight Associates, July 2010** – concludes that the carbon emissions of basements are greater than those of above ground developments per square metre over the building’s life cycle<sup>4</sup><sup>5</sup>. The embodied carbon<sup>6</sup> in basements is almost three times the

---

<sup>4</sup> Life Cycle Carbon Analysis of Extensions and Subterranean Development in RBK&C, Eight Associates, August 2010

<sup>5</sup> Life Cycle Analysis (LCA) is a methodology for assessing the environmental performance

amount of embodied carbon in an above ground development per square metre. This is because of the extensive use of concrete and particularly steel both of which have high embodied carbon.

- 3.16 **Evidence Base for Basement Sustainability Policy, Eight Associates, July 2013** – recommends the appropriate BREEAM domestic refurbishment standards to upgrade residential buildings linked with basement development.

#### **4. Sustainability Appraisal**

- 4.1 Under the Planning and Compulsory Purchase Act 2004 (PCPA), Local Authorities must undertake a Sustainability Appraisal (SA) for each of their DPDs and SPDs – the constituent parts of the LDF. SA is therefore a statutory requirement for LDFs along with SEA.
- 4.2 The Government’s approach is to incorporate the requirements of the strategic environmental assessment (SEA) Directive into a wider SA process that considers economic and social as well as environmental effects.
- 4.3 The Council recognises that the 2010 Core Strategy (and, therefore, the associated SA/SEA) did include the consideration subterranean development. However, the original scoping took place in 2005 and, therefore, requires updating to ensure the current context and environmental baseline is taken into account for the subsequent SA/SEA.
- 4.4 **SA/SEA Scoping Report Addendum (April 2012)** – The purpose of the SA/SEA scoping report addendum was to ensure that this review of the policies relating to basement extensions comply with the requirements of the SEA Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004. The SA/SEA Scoping report was related to Stage A of the process and set out the context, baseline, sustainability issues, SA framework and consulted on the scope. The report included the 16 sustainability objectives developed as part of the initial SEA/SA for the Core Strategy, which would be used to assess the compatibility of the policy as it progresses. The consultation on the SA/SEA scoping report took place alongside the Basements Issues Consultation.
- 4.5 SA/SEA of the Draft Policy (Dec 2012) – In line with the requirements of the SEA Directive (2001/42/EC) and the Planning and Compulsory Purchase Act (2004) (as amended), the draft policy was subject to a SEA/SA. Statutory consultees were consulted on the Scoping Report

---

of a product (i.e. building) over its life cycle. For the purposes of the technical report above, life cycle is considered from the extraction of raw materials to 30 years of building operation and includes the construction stage.

<sup>6</sup> Embodied carbon is the carbon emission in producing a material. Production includes the growing or mining and processing of the natural resources and the manufacturing, transport and delivery of the material (modified from the definition in London Plan, July 2011 glossary).

Addendum and their feedback was taken into consideration in the preparation of this report.

- 4.6 The SA/SEA examined the compatibility of the proposed policy options with the SA Objectives. The report also appraised the aims of a number of alternative options against the SA Objectives. This included specific consideration of the “business as usual” scenario. The preferred policy and the various options are likely to have a positive relationship with the majority of the SA objectives. The Council considered that the potential negative impact on SA Objectives 3 (To support a diverse and vibrant local economy to foster sustainable economic growth), 9A (Prioritise development on previously developed land) and 13 (To aim that the housing needs of the Royal Borough’s residents are met) are unlikely to be significant and to be outweighed by the considerable benefits of the other SA objectives associated with the successful implementation of the policy.
- 4.7 **SA/SEA of the Second Draft Policy (March 2013)** – The Council consulted on a second draft of the policy as significant changes were proposed following the first consultation. The SA/SEA was an update of the initial SEA/SA, to take account to the proposed amendments to the draft policy. The Council recognised that one of the effects of the proposed policy may be to reduce the scale of basement development which is carried out within the borough. A reduction in construction could, in theory at least, have a negative relationship with SA objectives 3 (Fostering economic growth), 9a (Previously developed land), and 13 (Housing needs).
- 4.8 It is, however, the Council’s view that the proposed policy is not curtailing basement development altogether. It is more likely that the result will be to reduce the scale of basements or to otherwise mitigate its impact. Furthermore, the Council also considers that other ambitions, such as ensuring the amenity of local people, or protecting the character of an area, should outweigh any marginal negative implications associated with a reduction in the scale of basements permitted. The policy was considered largely compatible with the SA Objectives
- 4.9 **SA/SEA of the Publication Policy (July 2013)** – This was the final SA/SEA of the policy. The policy had not changed in substance from the previous round of consultation. However, a number of changes were made to improve the clarity of the policy and the text.
- 4.10 The final SA/SEA concluded that there is unlikely to be any negative impact on the economy as a result of the policy. This is because although the policy reduces the scale of development, it does not stop development altogether. Much of the success of the Borough relates to its attractive built form. Unsuitable extensions ‘sterilising’ entire gardens or posing risks to the structure of buildings could harm this built form and in turn have a negative impact on the economy. Furthermore, the Council also considers that other ambitions, such as ensuring the

amenity of local people, or protecting the character of an area, should outweigh any marginal negative implications associated with a reduction in the scale of basements permitted. It was also considered that a well designed basement extension will increase the value of a property with related gains to the economy. Any impact linked with the construction stage is temporary while increase in property values is a permanent impact. Such an approach of balancing economic, environmental and social issues is supported in the NPPF (see para 2.2 above)

- 4.11 The policy was considered to have a potential negative impact on SA Objective 9a (prioritise development on previously developed land). However, the impact (if any) would be marginal. While gardens are not considered previously developed land in the NPPF, extensions within a certain limit are permitted in gardens by the General Permitted Development Order (as amended). Basements when designed appropriately can be less visually intrusive than above ground developments and provide benefits associated with enlarging and improving accommodation.
- 4.12 The policy will have a positive/ no significant impact on all the other SA objectives.

## **5. Options considered and rejected before consulting on the draft policy**

- 5.1 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**

- 5.2 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.
- 5.3 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**

- 5.4 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.
- 5.5 This option was rejected during the first round of consultation but was re-considered by the Council. It was concluded in light of the risks highlighted in the Alan Baxter and Associates report (see para 3.6 above) 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**

- 5.6 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**

- 5.7 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, or if a scheme of redevelopment has been approved.
- 5.8 Planning permission is not 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.**

- 5.9 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.

- 5.10 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.
- 5.11 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.
- 5.12 The Council undertook further research on the visual impact of basements (see para 3.3 above). 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.
- 5.13 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.

## **6. Consultation**

6.1 A separate report titled Basements Summary of Consultation, July 2013 has been produced. This report sets out details of all the consultation that has been undertaken in formulating the policy in chronological order. It includes a section under each consultation stage that explains how people's comments were taken into account. Further reports on consultations setting out all the comments made during each formal consultation and the Council's response to the comments have also been produced.

## **7. Equalities Impact Assessment**

The Council has undertaken an Equalities Impact Assessment (EqIA) of the publication policy. EqIA was undertaken at every stage of policy development and the report published on the Council's website. The EqIA shows that the publication policy is likely to have a neutral or positive impact on the range of equality issues.