

## Hearing Statement - 4/representor number

### Savills Client Consortium

#### Matter 4: Restriction on the use of garden/open area

##### *Issue 4.1: Whether CL7(a) is justified by evidence, consistent with national policy, and effective*

##### **Response by Savills Planning**

*Question 17: What are key reasons for criterion CL7 a. not to exceed a maximum of 50% of each garden or open part of the site? Is it paragraphs 6.11 and 6.12 in BAS18?*

No comment.

*Question 18: Are each of the reasons for the criterion justified by the evidence? Please be brief and refer to previously submitted evidence without repeating it in full.*

CL7 (a) is not satisfactorily justified by evidence. Our reasoning for this conclusion is summarised below:

- RBKC rely heavily on their 'visual evidence' documents to support the limitation of basements to 50% of the garden, claiming basements introduce artificiality and restrict planting range. As per paragraph 1.29-1.33 of our representation submitted in September 2013, we consider that the Council's visual evidence is misleading and out-dated. RBKC have acknowledged in their response to our representation that many of the photographic evidence examples 'predate existing basement policy'. As such, the photographic evidence shows that the existing policy is sufficient in ensuring that basement development maintains an adequate level and quality of landscaping in rear gardens.
- Hard surfacing within rear gardens is permitted development, as set out within paragraph 1.12 of our representation submitted March 2014. We do not consider that the Council can justify restricting development within the Borough based on changes to landscaping which in any case can usually be carried out under permitted development.
- Further to the above point, the Council have not fully appreciated the changing fashions in gardens, which at the moment tend to be minimalistic with extensive areas of hard paving and clipped formal vegetation. The notion of a garden featuring more wild and extensive vegetation in a more picturesque and traditional form is not a matter which should inform a restriction on basement development.
- RBKC have, in our experience, often applied a condition to planning permissions, requiring a landscaping scheme. RBKC therefore have control over the amount of landscaping which results from development, and further preventative blanket control through policy such as the proposed 50% basement limit is therefore unjustified.

- We do not dispute the requirement for 1m of topsoil and we consider that this is sufficient to allow the growth of an extensive variety of planting (please refer to the case study of Kensington Roof Gardens, as set out within paragraph 1.36 of our representation submitted September 2013).
- Limiting basements under gardens to 50% in order to allow water to drain to the upper aquifer is not supported by ABA's report, as set out within paragraphs 1.42-1.43 of our representation submitted in September 2013. ABA's report recommended that each case should be judged on its merits and, as such, a 'rule of thumb' should not be applied.
- We reiterate that RBKC have misinterpreted paragraph 53 of the NPPF. The purpose of this paragraph is to ensure that residential gardens are not built upon (i.e. 'backland development'). Basement development is not the development 'of a residential garden', but rather development 'under a residential garden'. It is not the object of the NPPF to control planting or surfacing, and as such cannot be used as a justification for restricting the size of basements to 50% of the garden area.

Further to the above points, we would highlight that there are numerous examples of extensive basements where picturesque gardens and landscaping have developed above ground. As such, restricting the size of basements based on landscaping concerns is not justified by evidence and the policy should therefore be amended as proposed in our answer to Question 65.

*Question 19: I note that one of Council's reasons for limiting the size of basement extensions is to reduce carbon footprint/emissions. Council: is this a (or even the) reason and justification for the restrictive CL7 policy? If it were found to be unreliable and not robust would the policy be inadequately justified and thus unsound? If not, why not?*

Criterion CL7 (a) relates to the restriction in size of the basement area to 50% of the garden, not to the restriction in size of basements to one level. We would emphasise that paragraph 34.3.4 states that *"In particular, multi-storey basements are more carbon intensive when compared to above ground extensions or single storey extensions"*. As such, we consider that the Council only seek to justify restricting the number of storeys due to this reason, not the extent to which basements extend underneath rear gardens.

Regardless of the above, restricting development based on carbon emissions is not in accordance with the thrust of the NPPF, which seeks a presumption in favour of sustainable development. Clearly, the NPPF seeks to encourage development, which is adequately mitigated in terms of carbon emissions, rather than restricting the extent of development altogether. We consider that the carbon footprint/emissions resulting from basement development can be adequately controlled by ensuring that planning applications are supported by suitable sustainability assessments (i.e. BREEAM assessments), relating to the proposed new floorspace, but not to the existing floorspace (refer to our response to Matter 9).

As set out under Question 18, we do not consider that the Council have adequately justified criterion CL7 (a) and it is therefore unsound.

*Question 20: Could the aims/reasons be achieved or satisfied in another way? If so, please suggest an alternative wording.*

We consider that the aims of CL7 (a) are already achieved through Core Strategy policy CL2g (iii) and (iv), and through the existing guidance in the Subterranean SPD which suggests a restriction of 85%.

*Question 21: Why is CL2 g. iii. in the adopted Core Strategy not adequate to deal with the issues proposed to be addressed by CL7 a.?*

We consider that Core Strategy policy CL2g (iii) is sufficient to ensure that trees of townscape value are protected, and CL7(a) simply adds further unnecessary and unjustified restrictions to development.

*Question 22: Should the criterion contain an exception clause to cater for differing circumstances? (I am aware of the representations about small and/or paved over garden/open areas).*

Even with an exception clause, we consider that the restriction on basement size to 50% of the garden area is too limiting. For reasons set out above, we consider that criterion CL7 (a) is not justified and is therefore unsound.

As such, the criterion should be amended to 85% of the garden, as per the existing situation. Please refer to our answer to Question 65 for our full proposed wording of the policy.