

**RBKC Basement Policy Review**  
**Austin Mackie Associates for Waltonwagner**  
**Representor Reference 183**  
**Matter 2**

<b>Matter 2</b>	<b>Issue 2.1 (10)</b>	<b>Definition of basement</b>
	<b>Issue 2.1 (11)</b>	<b>'Rules'</b>
	<b>Issue 2.1 (13)</b>	<b>Large Sites</b>

***Issue 2.1 (11) 'Rules'***

This phrase serves to highlight that CL7 is presented in a draconian manner, entirely inconsistent with the principles of NPPF and the presumption in favour of a positive approach towards sustainable development.

In our proposed alternative CL7 we suggest that development would be 'guided' by the criterion in policy.

Such an approach would be far more positive (subject to other significant amendments to CL7 criterion) and allow for flexibility in application.

The application of 'rules' is simply inconsistent with the principles of sound policy guidance.

***Is the term 'basement' adequately defined in the reasoned justification at 34.3.46? If not, how should it be defined?***

It is notable that BAS 04 records over 20 representations that seek clarification on the definition of a basement.

Despite this the Council rejects all requests with a simple, but unhelpful rebuttal.

The definition relied upon in the RJ is that a basement is something constructed below the 'prevailing ground level'. It is suggested at page 2 of BAS 04 that officers will make an assessment on-site as to what is a basement.

But against what criteria?

Such a position offers an applicant no understanding as to how a basement is defined.

The need for a definition relates not only to what is a proposed basement, but if the Council persists with both criterion (b) and (c), then it is important to understand what constitutes an existing basement.

For example, an existing lower ground floor level will contain a proportion of its volume below the prevailing ground level. Might this in the future be construed to be a basement, thus denying any further excavation?

Should the definition be expanded to indicate that a basement is a level of habitable accommodation whose volume is entirely below the prevailing ground level?

Maybe it is therefore necessary to define what defines prevailing ground level. Is it the front threshold to the street or the rear garden or rear boundary if there is, for example, a mews, access way or even second street frontage; which are all common occurrences across the Borough?

In addition, how does the definition relate to sites where there are variations in levels across a property where what may appear to be a basement on one frontage is clearly a lower ground floor on another.

We would recommend the following definition:

**A basement constitutes a level of existing or proposed habitable accommodation that has no part of its built volume above the ground level abutting any part of the property.**

We are also unclear as to how the Council would define excavations on new development sites and thus seek to apply its proposed controls to full redevelopment schemes.

For example, if an existing building with single basement is demolished, will the Council refuse permission for the redevelopment scheme to provide a deeper basement, despite the site conditions in such circumstances being appropriate to manage the net impacts of, for example, construction traffic.

This then links into the following matter.

***Is the term 'large site' adequately defined in the reasoned justification at 34.3.57? If not, how should it be defined?***

The definition leaves a great deal to interpretation.

If the inspector's accept that criterion (a) and (b) are not sound, then this issue falls away.

It is ironic that one of the Council's principal objections is the cumulative off-site impact of development; yet where a scheme is large and will inevitably have a

potentially significant impact within both the immediate vicinity and the wider area the policy may allow the already significant impact to be increased

Thus, in effect, the policy and its RJ are effectively stating that:

1. Where basement developments are small scale and any impact limited to a tightly defined area, the permissible scale of development will be artificially controlled, but
2. Where development is of a larger scale and arguably affects a significantly greater section of the community, the impacts can be further exacerbated.

As highlighted in our 'Overarching Statement' this highlights another weaknesses in the claimed justification, that it is arbitrary and simply ineffective.

As for appropriate definitions, to suggest that a large site would be an urban block with roads on all sides, would, exclude a significant number of large scale 'infill' schemes within the Borough, where temporary and permanent impact measures such as those highlighted in the second part of 34.3.57 could be delivered.

If there is a requirement for such a definition within any retained or modified version of CL7 then we would suggest that an additional criterion would need to follow (a) and (b)

“exceptions to the limits advised in (a) and (b) will be considered where the applicant is able to demonstrate that, due to the scale and character of any site or scheme any net additional impacts can be managed in an effective manner”