

**RBKC Basement Policy Review**  
**Austin Mackie Associates for Waltonwagner**  
**Representor Reference 183**  
**Matter 5**

**Issue 5.1 One storey restriction**

Our comments on this issue focus upon construction impacts.

We have previously highlighted that:

- the Council currently considers multiple basement to represent sustainable development in accordance with the NPPF
- that it has no credible evidence to support the claim that in the future basements greater than a single level suddenly become unsustainable
- there is no credible 'scientific' or other evidence to support the additional restrictions imposed.

A policy that contains arbitrary limits is clearly on the face of it not sound, in that it is not positively prepared, is not consistent with national policy regarding, for example, making the best use of land. One would therefore expect any justification to be exceptional and to have been based upon an assessment of a robust and proportionate evidence base.

This obligation is further emphasised by the Council's own acceptance that two of its major justifications for the restrictions, construction traffic and construction site impacts; are actually covered by separate legislation.

We would suggest that the Council is fully capable of successfully applying its controls over these matters under the relevant Acts and it is neither necessary nor appropriate to seek to apply planning policy restrictions as an early 'filter'.

If the Council is to be justified in elevating the role of planning policy in order to protect other areas of its statutory responsibilities, it would need to be able to demonstrate that alternative legislation were inadequate and that planning policy were a necessary requirement. We do not consider that it is lawful for it to 'bridge' across different legislative regimes in this manner.

The Council's case would appear to be based upon the simplistic assumption that the greater the volume, the greater the construction programme, the greater the neighbour noise, the greater the traffic and that this is simply unacceptable and not sustainable.

However, in terms of construction traffic impacts there is no credible evidence put forward. For example, there is no assessment of the predicted proportion of basements that might exceed one storey and their potential traffic impacts, set

against either single basement construction traffic or even general development and refurbishment generated traffic.

On this basis, it is impossible for the Inspector to reach the conclusion based upon the evidence before the EIP that anything greater than a single level basement would not be acceptable either on its individual merits in terms of local impacts or in terms of its net cumulative impact over other Borough-wide construction traffic.

The Council's evidence base in terms of supporting construction traffic impacts is not credible and the policy is thus not justified and not so sound.

With regard to both off site traffic and on-site construction impacts, there is no more than the most brief and un-qualified assertion that basements below one level require techniques that are more invasive than a single basement.

Again there is no presentation of robust and well-considered evidence to demonstrate that these *different* techniques or development programmes would breach an otherwise undefined limit of acceptability or sustainable threshold.

BAS 29 (para 1.5) suggests that only 15% of the 877 noise related complaints were construction related, but does not identify how many related to basements as compared to other forms of construction work. This suggests that construction work (and more specifically basement construction) is not necessarily the Borough's greatest issue in terms of 'alleged noise nuisance'.

At para 6.1, BAS 29 suggests that 10% of basements resulted in complaints about noise and vibration, but does not go on to state how many resulted in formal action. In any respect, it is clear that the vast majority of basements do not actually result in a nuisance, yet there is no explanation as to why the Council chooses to ignore this key piece of evidence.

Paragraphs 6.4 and 6.5 of BAS 29 demonstrate the weakness of the Council's evidence base in relation to this key issue. Apart from being poorly drafted, the assessment of potential impacts does not represent any specific analysis of an actual scheme or a modelled impact assessment.

It makes generic assumptions, does not examine the processes that it attributes to basement works against (i) other forms of construction that might equally involve breaking concreted or (ii) by comparing single or double basement schemes.

As an example, in practice, both a single storey and double storey basement scheme would have to break through the same slab, but only once each.

The Council 'implies' (rather than demonstrates) that basement impacts are greater than other forms of construction, but again it offers no evidence of an assessment of whether a basement below level -1 would be uniquely unacceptable compared to other forms of construction works, some of which the Council cannot control under planning and some which it chooses not to, such as:

- complete demolition
- redevelopment, which might involve piled foundations
- above ground extensions adjacent to neighbouring habitable rooms
- significant internal refurbishment, again adjacent to neighbouring habitable rooms

Further, at no stage is the potential combined impacts of basement works and other building impacts assessed. It is therefore not possible to ascertain to what extent deeper basement works specifically, will materially worsen overall conditions.

The policy is also exposed by the fact that although it cites reductions in construction programme and volumes of material as justification, it is not in fact a true 'impact assessment' driven criterion.

It will not prohibit large footprint single basements, the impacts of which could be far greater than say a smaller two storey scheme.

It is neither appropriate nor sound to single out one form of development on the grounds of construction impacts, but leave all others uncontrolled (through planning policy at least).

This is an unacceptable use of planning policy, exacerbated by the lack of any credible evidence.

