

Response Form

Partial Review of the Core Strategy for the Royal Borough of Kensington and Chelsea with a focus on North Kensington

Development Plan Document policies

All representations **must** express a view regarding the soundness or legal compliance of a planning policy. If the representation does not comment on soundness or legal compliance, or deal with how a policy can be altered to make it sound the representation will **not** be valid.

Name: Christopher Hunt

Company/Organisation: n/a

Representing: Self

Please complete the form and email it or send it to:

The Executive Director of Planning and Borough Development
f.a.o The Policy Team
The Royal Borough of Kensington and Chelsea
The Town Hall,
Hornton Street,
London W8 7NX

Email address: planningpolicy@rbkc.gov.uk

Publication Stage Representation Form

To be **“sound”** the contents of a local plan should be POSITIVELY PREPARED, JUSTIFIED, EFFECTIVE and consistent with NATIONAL POLICY.

“Positively prepared” means that the planning policy needs to:

- be prepared based on a strategy which seeks to objectively assess development and infrastructure requirements, including those of neighbouring authorities where it is reasonable to do so.
- It must also be consistent with achieving sustainable development.

“Justified” means that the planning policy must be:

- founded on a proportional evidence base
- the most appropriate strategy has been selected when considered against the reasonable alternatives.

“Effective” means that the planning policy must be:

- deliverable over its period
- based on effective joint working on cross – boundary strategic priorities.

“Consistent with National Policy” means that the planning policy should enable the delivery of sustainable development in accordance with the guidance contained within the National Planning Policy Framework (NPPF).

It must also be **legally compliant** which means that the planning policies have been prepared in accordance with legal and procedural requirements.

State planning policy or paragraph number to which you are referring

RBKC Basement Policy, Draft Made Available for Consultation July, 2013

Do you consider the planning policy to be sound?

Yes

No

Please tick box as appropriate

If you have selected YES and you wish to support the soundness of the planning policy, please give your reasons below. Please be as precise as possible. Please make it clear which paragraph number or Policy box number you are commenting on.

I support the introduction of additional controls and increased planning limitations on basements in RBKC. In particular, I support:

- Policy CL7b and CL7c – The limitation of basements to a single storey
- Policy CL7k and CL7l - Limitation on construction activities and
- Policy CL7m – Increasing protection of neighbouring structures.

This support is, of course, contingent on seeing the specific requirements to be contained in the Supplementary Planning materials and it is assumed public comment will be solicited and incorporated on those documents.

I support the policy with some hesitancy as I believe it should go further, particularly in terms of

- (i) requiring a systematic process for compiling problems resulting from basements to aid further policy development and to identify problems in

enforcement, planning, safety etc,

- (ii) filling obvious gaps and deficiencies in the Party Wall Act and building regulations/control and
- (iii) generally protecting the rights of surrounding parties.

In supporting the “soundness” of the policy, I have three general comments, all of which are primarily in response to recent statements by pro-basement activists.

1. The desire to limit basement developments in RBKC is a very widely held view and is not merely that of a “vocal minority”

Proponents of basement development are attempting to portray the opposition to basements as being that of a vocal minority who do not represent the views of the broader community. Nothing could be further from the truth.

To provide actual proportional evidence, when a massive basement was proposed on our street (Strathmore Gardens), I was one of the people that helped to solicit the input of as many of the residents in the area as possible. We ultimately collected the viewpoints of 65 residents in the nearby vicinity. 61 opposed the project and only 4 supported it. The signature of each of the opponents was submitted to the Council and can be provided to the Inspectorate if desired. Of the mere 4 residents who supported the project, one was the party applying for the basement (who was not living at the property). Another was a couple that was living in the area temporarily because they were digging their own basement elsewhere in RBKC and wanted to be far from that property during the construction carnage. This data suggests a 94% opposition rate, which is hardly what one would consider a “vocal minority”. I believe this percentage is generally representative of the broader council.

The multiple opponents had various reasons for objecting. The most prevalent objection was on the grounds that, at 10 metres deep, the proposed basement was too large, burdensome and dangerous for the constrained space in which it was being proposed. This particularly supports Policy CL7b and CL7c.

2. Basements are causing more damage than is widely reported and are more dangerous than we are led to believe.

One of my primary criticisms of the current planning team is that they have failed to collect and aggregate actual examples and data on the full extent of damage being caused by basement construction. I have seen comments by proponents of basement development suggesting that the ABA study overstates the extent of the problems and issues. Having actual data would refute these claims and provide further support for policy bullets CL7 b, c, k, l

and m.

To provide some specific proportional evidence, in order to prepare for our upcoming Party Wall negotiations we conducted a survey of all basements completed on a few select streets near our home where there has been a lot of basement activity. Out of the 19 basement projects we found, 6 had serious failures that resulted in significant property damage and could have had potentially had fatal consequences. That represents a serious complication rate of nearly 30%. Importantly, most of these basements were single storey and not anywhere near as large, complex and dangerous as the multi-storey proposals being proposed today.

The circumstances of each of these cases can easily be confirmed with specific addresses and details and I am happy to provide the data directly to the Inspectorate. The basic summary are:

- Case #1 (W8 postcode) – Basement excavation at a project site led to a major structural failure and total abandonment of the neighbouring home. Following a protracted legal case, the neighbouring home is now being entirely rebuilt.
- Case #2 (W8) – Basement excavation caused vibrations and a catastrophic collapse of the side wall of the neighbouring property, resulting in massive repair costs and the relocation of the family for an extended period. Had the family been next to the collapsing wall, serious injuries or fatalities could have occurred.
- Case #3 (W8) – Basement excavation caused the homes on either side of the house to buckle inward. Emergency crews were called in to remove the roof and to shore up the homes on either side. Had the problem not been detected, serious damage and fatalities could have occurred. Remedial works are on-going.
- Case #4 (W8) – A home undergoing a basement excavation caught fire and extensive damage occurred. The cause is not yet clear or reported. Both homes on either side incurred substantial damage. It is still unclear how this mess will be resolved.
- Case #5 (W8) – Basement excavation resulted in extensive flooding and property damage that is currently the subject of a major lawsuit.
- Case #6 (W8) – A major lawsuit will reportedly be launched very soon regarding damage at another property in the study area but the owner has requested that this information be kept confidential for the time being.

Collectively, these cases have caused millions of pounds of property damage and tremendous impacts for surrounding residents. More important, the

residents in each of these cases were lucky – much more serious consequences could have resulted. These should serve as serious red flags for what could happen in the future. Indeed, the Health and Safety Executive released a report in 2011 indicating that more than half of the basement sites in RBKC were unsafe and received prohibition or other notices. The current performance of the industry is untenable, unsafe and unacceptable.

Recent figures by the National House Building Council (NHBC) support the data suggesting that problems are far worse than believed. Data indicate that nearly 10% of basement projects have already resulted in claims, but it is noted that most basements are still early in their 10-year warranty period and that figure would be expected to go up over time. Alarming, this figure is primarily for smaller basements done earlier on. With the increased size and complexity, damage claims will no doubt increase substantially.

In NO other industry would we allow performance as poor as what we are seeing from the basement industry. We would not allow cars on the road if 1-out-of-10 (or 1-out-of-3) failed. Nor would we let people take medications if there was such a high potential for serious problems. The basement industry and regulatory process has proven over the past several years that it cannot be entrusted to operate without further restrictions and process. Quite simply, the industry has failed the public trust. Further controls and restrictions are required to protect public safety and the rights of residents.

3. The Council has done a comprehensive consultation

I am generally quite critical of the RBKC Planning Department and how they have handled basements over the past several years. I have had to file multiple Judicial Reviews and formal complaints regarding the development next to my home.

Despite this critical view, I must acknowledge that the Department has gone through extraordinary lengths to consult with the public on the formation of this policy and that I, and everyone else in the Borough, has had more than enough opportunities to comment.

I am sure that many are, like me, somewhat frustrated by aspects of the policy. Many of us hoped more of our comments would be incorporated. But the Council will never be able to satisfy everyone. A fair and comprehensive consultation process was done and we should adopt it and move forward. The pro-basement lobby is simply trying to attack the process so that they can get more time to wreak havoc on the Borough with a few more projects. It is time to put in place a more suitable and fit-for-purpose policy, even if it still has flaws.

If you have selected NO to the planning policy being sound do you consider the

planning policy to be unsound because it is not:

Positively prepared

Justified

Effective

Consistent with national policy

Please give details of why you consider the planning policy to be unsound and / or suggest changes as to how it could be made sound. Please make it clear which paragraph number or Policy box number you are commenting on.

Please attach additional pages as required

Yes

No

Do you consider the Planning Policy Document to be legally compliant?

x

Please give the reasons for your choice below and be as precise as possible. Please make it clear which paragraph number or Policy box number you are commenting on.

please attach additional pages as required

Yes

No

Do you wish to appear at the Examination on any of these matters?

x

Please specify on what matter

Impacts of construction. Data on basement failures. Justification for the limitation of basements to no more than one storey.