

## **BASEMENTS POLICY: dated JANUARY 2014 COMMENTS BY THE KENSINGTON SOCIETY**

The Kensington Society **strongly supports** the need for a new policy on basements as the current policy is totally unfit for purpose, but considers that certain aspects of Local Plan Policy CL7: Basements are **unsound**, but with certain clarifications and improvements both to the policy and the reasoned justification we consider that the policy could be made sound.

These changes are:

- a clearer definition of what constitutes a “basement” (34.3.46)
- clarification of the likely impact on “nearby” buildings (34.3.50)
- clarification of the appropriate floor-to-ceiling height of a basement both generally, particularly where a swimming pool is proposed. (34.3.52)
- no basements under gardens of listed buildings (or if that is not accepted, greater clarity about the proximity of garden basements close to listed buildings (34.3.62); and
- a requirement that construction traffic management plans need to be an integral part of the application (34.3.69)

**The Kensington Society wishes to appear at the Examination-in-Public to speak to this submission.**

### **Policy CL7:**

Overall whilst the Society strongly supports the direction of travel of this policy, it nevertheless considers that the policy needs further improvement to achieve soundness. The current Core Strategy policies CL2(g) and CE1, have proved to be unfit for purpose. We strongly support the proposal to limit the scale of basements and to reduce their impact on amenity, neighbours and on sustainability.

The Society specifically **supports** the following sound policies:

- limit of garden basement to 50% of garden for non-listed properties (a);
- limit of one storey (b);
- protection for trees (d);
- protection of heritage assets (e), especially listed buildings and conservation areas;
- no excavation under listed buildings (f);
- the requirement for sustainable urban drainage schemes (j);
- the requirement to increase the sustainability of buildings where basements are developed (k); and
- the need for keeping nuisances – noise, vibration and dust - to acceptable levels (m).

However, there are certain clarifications and improvements both to the policy and the reasoned justification which are essential before the Society can agree that the policy is sound.

## Policy CL7:

- a. The Society considers this to be **unsound** as it applies to all properties, including those that are listed. We consider that listed buildings should not have basements in gardens, see (f) below. In addition, the Society does not consider that exceptions should be made for large sites.
- b. The Society considers that limit of one storey is **unsound**, but could be made sound if it did not make exceptions for large sites.
- c. The Society considers that there is a need for a clearer definition of what constitutes a basement (see above)
- d. The Society **strongly supports** and considers this aspect of the policy – to protect trees – to be **sound**.
- e. The Society considers this **sound**, but considers that the term “heritage assets” is unfamiliar to most readers – whether developers or residents. Para 34.3.60 and this policy needs to make this clearer by specifically giving as examples both listed buildings and conservation areas, rather than putting it in the latter part of footnote 14 - it is not very accessible. This should be upfront in the reasoned justification and in the policy. It should be noted that the Borough has more than 4,000 listed buildings and structures and about 75% of its area is covered by conservation areas.
- f. The Society **strongly supports** the policy of no excavation under listed buildings and, as far as it goes, the policy is **sound**. However, because of the risks to the main building, outbuildings (such as vaults in the front garden or under pavements which are attached to the building and to studios in the gardens) and to boundary walls which all form part of the listed structures within the curtilage, the Society considers that allowing basements under the garden could put these elements of the structure at risk. In addition, whilst the reference to pavement vaults is welcome, it should be clear that the policy also applies to vaults within the curtilage.
- g. The Society agrees with this provision, but that if our proposal for (f) above is successful it would be unnecessary. If not, the Society would support the soundness of this policy.
- h. The Society considers that this policy is **sound as far as it goes**, however, it should be extended to cover the rear of properties facing communal gardens. This has been an issue which is in part covered by the policy about garden squares (CR5(c)) but which needs to be covered specifically in this policy.
- i. The Society considers this policy to be **sound**.
- j. The Society **strongly supports** the need to provide sustainable urban drainage schemes, but consider that the effect should be to contain rainwater runoff within the site, not just attenuate run-off to the sewer system.
- k. The Society **strongly supports** the requirement to increase the sustainability of buildings where basements are excavated, constructed with large amounts of concrete and require major energy consumption for cooling

and ventilation. This approach is **sound** and is in accord with the London Plan, which is an integral part of the development plan for Kensington and Chelsea. The reasoned justification para 3.4.3.69 should refer to the relevant London Plan policies for sustainability and basements – it is far more than footnote 20 suggests.

- l.** The Society **strongly supports** the use of traffic congestion and parking criteria for assessing both basements and major construction projects generally. This is **sound**, but the reasoned justification should make specific reference to the need for construction traffic management plans which minimise the scale and duration of parking suspensions and work on the basis of a presumption of keeping skips, materials and equipment off the highway wherever possible. We consider that that there is need for a lead policy in the Plan to require construction traffic management plans – not just for basements.
- m.** The Society **strongly supports** the need for keeping nuisances – noise, vibration and dust to acceptable levels. This policy is **sound**.
- n.** The Society **strongly supports** this policy and considers it **sound**.
- o.** The Society considers this policy **sound**, although it should also cover the impact of basements on flooding of neighbouring premises.

#### **Detailed Comments:**

To improve the soundness of the basement policy CL7, the Society proposes the following changes to the reasoned justification – paragraphs 34.3.46 to 34.3.72 and to detailed wording of Policy CL7.

34.3.46: There is no definition of what ‘below prevailing ground level of a site’ means, whether it mean just the floor or the complete structure. If it is not defined as a previously-consented scheme, which is say almost completely underground but not completely, it might be argued not to be a basement and therefore a further level could be permitted.

34.3.50: Line 5 refers to ‘adjacent’ property. Paragraph 34.3.48 line 5 refers to ‘nearby’ buildings. It is not clear whether there is a difference. Adjacent is often defined as having a common boundary or being contiguous. Nearby is more appropriate since there have been problems with buildings which are near but not necessarily contiguous.

Line 8: refers to long-term harm. The definition of “long-term” in planning. We would suggest that it is at least many years and that the effects of even multiple excavations might not fall within that definition. We agree that it should not be limited to dealing with day-to-day issues but at least medium term should be included on the basis that something lasting a year or more is taken into account.

34.3.52: The possible additional allowance for a swimming pool should be directly related to the swimming pool and not a general allowance just because part of the basement has a pool. A floor-to-ceiling height of 3m should be sufficient with a further allowance of for a swimming pool rather a general allowance of 3-4m.

34.3.62: Line 6: The Council have been refusing garden basements which are too close to the historic asset on the basis that the new structure would adversely affect the listed building, including vaults. This line should be modified to include the historic asset as well as adjoining houses.

34.3.69: It needs to be clear that construction traffic management plans are required as part of the application, otherwise consents can be granted which can only be implemented by unacceptable traffic schemes.

34.3.70: The Party Wall Act only deals with the immediate adjoining properties. This should be made clear and as stated at the lecture last month only relates to the Party Wall and may not apply to other structures.

The importance of identifying buildings of importance in the new Conservation Area Appraisals is confirmed in footnote of the Basement policies as it refers to buildings formally identified by the LPA.

sent March 2014