



Planning Committee

22 May 2013

Report from the Director of Regeneration and Major Projects

For Action

Wards affected:
ALL

Basement Developments in Brent – Proposed additional planning application validation requirements

1.0 Summary

- 1.1 Basements are an established feature of many forms of commercial and larger developments in Brent and other areas. However, recent years have seen an increase in demand for basements to existing residential properties leading to concerns by some residents and groups about a range of issues. A number of applications have been reported to the Planning Committee where these issues, and particularly Conservation Area design concerns, have been considered. This report reviews this approach along with those of other authorities and proposes some measures should assist the assessment of applications as well responding to the concerns that are raised.

2.0 Recommendations

- 2.1 That the Planning Committee endorse the proposals in paras 3.14 and 3.16 for consultation with local residents groups and industry representatives with a view to reporting back prior to formal adoption.

3.0 Details

Background

- 3.1 Basements are a feature of many larger commercial and residential developments and regularly provide areas for parking, storage and plant. These have not usually raised significant objections, even where they are located close to boundaries. Neither has there been a history of concerns over their structural integrity or implications on other properties.

3.2 Parts of Brent, in common with some other areas of London, now experience demand for basements to various property types. This mostly affects properties in parts of the south of the Borough. Much of Brent's demand appears to be from owner-occupiers of houses, and to a lesser degree ground floor converted flats, who wish to extend their living accommodation rather than to create basement flats. Brent's property market does not seem to support some of the multiple level basements experienced elsewhere.

3.3 The issues that have caused most concern for Brent have generally been raised in Conservation Areas in the south of the Borough. The principal concerns and the responses to these to date are summarised below;

- a) Design/Landscape impact – including impact on front and rear gardens where basements are not a feature of the local area.

Response: Limiting size of basements to the footprint of the building on public frontages and restricting to rear to what would normally be acceptable as rear extensions. The size and design of light-wells are also restricted.

- b) Structural Damage – actual or feared, due to construction method and as a result of creating mass concrete structure while leaving adjoining, often attached, properties on their original shallow foundations.

Response: Dramatic failures can occur during construction but should be covered by Building Regulations and the owners/contractors responsibility to build safely. Differential movement can occur for a variety of reasons and the Party Wall Act 1996 was introduced to provide a process to assess damage in these circumstances.

- c) Hydrological or geological considerations – these are sometimes raised in conjunction with b) above and include fears of particular impacts on water courses, ground water levels or the safety of substrata.

Response: These fears are acknowledged but Brent does not generally have a high water table and areas with a history of flooding are usually related to local surface drainage issues. In terms of geology, the majority of the Borough sits on London clay which does not raise specific construction problems that cannot be routinely overcome. Neither the Environment Agency or Building Control have raised in principal objections on these issues.

- d) Construction nuisance and amenity – noise and mess during excavation, obstruction and inconvenience due to the number of skips required, inconvenience to neighbours – including occupiers of upper floors.

Response: these concerns are appreciated and the 'considerate contractor scheme' has been considered for larger developments. The Environment Protection Act 1986 should be a remedy for serious noise problems but varying the normally acceptable hours of working can

extend the construction period. Skips on the public highway need a licence but, in general operational terms, problems of excessive numbers in streets have not been identified.

Planning Considerations

- 3.4 A significant element in formulating a planning approach is a recognition that much basement excavation is considered as 'permitted development' (p.d.). This applies except where they extend forward of the original building (eg 'light-wells), they extend to the rear beyond current permitted development limits, they are of such a scale that they are considered as operational development in their own right or a more restrictive Article 4 Direction is in place.
- 3.6 Notwithstanding strong objections on a range of issues, it is clear that it is unlikely that a much more restrictive policy – or indeed one that prevents basements – could be introduced and supported on appeal when the 'harm' would not be significantly different to what could be built without the need for planning permission. This conclusion appears to echo that of other authorities who have also experienced an increased demand as well as strong concerns from residents.
- 3.7 Of the four London Boroughs most often cited as introducing a policy to prevent basements, the approach has been less prohibitive than may have been reported in the press at various times. The position with each authority is summarised in Appendix 1.
- 3.8 In essence, all authorities have a design led approach which allows appropriate schemes although one authority restricts multiple floors and all require assessment information to support an application with one requiring a fuller level of assessment and background information. None of these policies has been in place long enough for a formal review of the implications of their operation to be undertaken. However, it is understood that they are considered to be generally achieving the objective of requiring developers to be clearer about the implications of their proposals and hence providing some reassurance to concerned residents.

Brent's Current Approach

- 3.9 In assessing applications to date, considerable weight has been given to design considerations including, in particular, when properties are in Conservation Areas. This has produced the general criteria set out in 3.3 a) above and which can be referred to in Conservation Area Design Guides as they are updated. To date, this has not been tested on appeal as applications have been approved if they follow this approach. If the criteria were to change then they would need to be based on planning considerations that could be sustained on appeal – and take into account what can be done as 'p.d.'.
- 3.10 The above does not mean that residents' concerns are irrelevant or ignored. Clearly, there can be some basis for all of the issues raised in 3.3 and it is

certainly understood that such developments can cause real nuisance as well as have potential structural impacts.

- 3.11 Having reviewed the current 'design' approach and on the basis that this should continue, this report focuses on what additional measures Brent could adopt that reflect issues 'b, c and d' in 3.3 above and which are proportionate, reasonable and have a relevance to planning considerations. The approach below is not considered to place unreasonable costs or delays on owners or the development industry and, in many ways, should be good practice.

Proposed Future Approach

Structural Concerns

- 3.12 Much of the information provided with applications does not assist planning officers to readily understand the specifics of any proposal. By definition, this may also add to residents concerns and does not support constructive local consultation. Examples of this are clarity about what is proposed outside indicative lines show on plans, elevations and cross sections. There is also a the need for drawings to indicate how proposals relate to adjoining properties, to provides detailed constructional cross sections and to reference existing landscaping on site or adjoining boundaries etc.
- 3.13 Few applications are supported with a construction and build methodology statement which indicates an awareness of local conditions. This can be relevant in assessing the design proposal in a number of ways including understanding any potential external design implications (such as structural interventions or new ventilation requirements, appreciating whether local ground conditions may require additional drainage or pumping facilities and potential amenity issues this could generate, or understanding the construction process and programme in terms of adjoining properties). Such information may clearly also help adjoining residents to understand proposals as well as providing a basis for Party Wall discussions.
- 3.14 It is therefore proposed that Brent alters its planning application validation requirements to require additional information when applications involving basements are submitted to both inform the planning assessment and to support local statutory planning consultation. This requirement may be varied when any basement development is outside the notification area for the Party Wall Act. At this stage, it is envisaged that this will entail more detailed plans and the submission of a report by a qualified structural engineering company which details the proposed construction and build methodology and how this relates specifically to the site. It is anticipated that this will involve a detailed site survey of buildings, levels and landscaping. It would also require a desk study of any site specific geological or hydrological considerations with appropriate site investigations if this is then indicated.

Nuisance and Amenity Issues

- 3.15 These can clearly arise in their own right or be linked to other concerns such as those outlined in 'd' in para. 3.3 above. Again, these can relate to poor site

management or particular phases of construction and be aggravated by a lack of knowledge of what is being proposed and over what period.

- 3.16 It is therefore proposed that applicants are required to indicate that they will employ a contractor who is part of the considerate contractor scheme as well as providing an indicative construction programme. In terms of the potential issues related to skips, it is proposed to refer this to Safer Streets with any formal response to this consultation in order to assist them in deciding on the need for any review of current practices.

4.0 Financial Implications

- 4.1 It is not proposed that Brent should need to take on any additional costs with these changes as it is hoped that the submitted information should not generally need to be reviewed.

5.0 Legal Implications

- 5.1 Subject to considering any consultation responses, the changes proposed would require formal agreement in order to be put into effect as a 'local list' requirement for planning validation.

6.0 Diversity Implications

- 6.1 Extensions to homes can meet individual needs or demands for specific accommodation and extensions to commercial properties can similarly meet various business needs. However, it is not considered that the approach suggested above should affect any particular group adversely or disproportionately.

7.0 Staffing/Accommodation Implications

- 7.1 This change proposed may add to validation times although the clarity of the requirements should help to minimise this. Any additional time involved at this stage of the application process should be offset by savings later in the assessment of the application.

Background Papers

Queens Park and Barnhill Draft Design Guides 2013

Contact Officers

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Current/Proposed Policy: Draft– to form part of the Core Strategy in 2013.

The draft policy aims to restrict basements in the Borough to one basement storey and not to exceed 50% of each garden of the property. It refers to basements not disrupting local traffic, causing noise, vibration and dust to surrounding neighbours and also safeguarding the structural stability of the application building and nearby buildings.

A Basement Impact Assessment (BIA) is required covering elements such as design, demolition and construction, traffic management, environmental standards, flood risk, sustainable urban drainage, arboriculture report and a site waste management plan.

Summary of community involvement

- Mixed response; land owners affected by basement development requesting tighter controls; Basement developers feel that the controls are already tight enough and further restrictions on basement developments could result in financial implications for businesses.
- Concerns were raised with RBKC during the consultation period of the draft Basement policy regarding additional costs arising from Basement Impact Assessment, particularly by developers. RBKC however, considers the additional costs small in comparison to the overall cost of building a basement and the subsequent increase in housing value.
- RBKC is of the view that BIA should happen before an application is submitted so should not cause any delays in determination or validation. Some agents/contractors do not like these additional requirements but RBKC consider them necessary as basements are more complicated than equivalent above ground developments.

Similarities/differences with Brent

- The types of basement development in RBKC are of a different scale that the majority of those seen in Brent. Many of the basement proposals are extensive and include room for a study, gymnasium, staff quarters, pool etc.

Consultation with Industry

Industry Representatives:

- Kevin O'Conner –Cranbrook Basements
- Simon Haslam – Basement Force

Experts:

- Julian Williams – Abba Energy
- Earl of Lytton – RICS Boundaries and Party Walls Professional Panel

London Borough of Camden

Current/Proposed Policy Camden Planning Guidance – Basements and Light Wells

The policy accepts basements which not extend beyond the footprint of the original building and are not be deeper than one full storey below ground level. For larger schemes, with more than one or two storeys below ground, an applicant is expected to provide evidence that the development does not harm the built and natural environment or local amenity'

There are a number of conditions relating to lightwells and railings, which are limited on sites with shallow gardens or where a proposed lightwell is considered excessive by Council. Camden requires a BIA that considers in detail groundwater flow, land stability, surface flow and flooding, impacts on neighbours from demolition and construction, sustainable construction, planning and design considerations, size of development, conservation areas and listed buildings, basement walls windows and doors, trees, landscape and biodiversity, lightwells, railings and grills.

In addition to this, Council also requires a construction management plan, Considerate Contractors Scheme and detailed drainage plan.

Summary of community involvement

- Residents have been supportive of BIA which helps to mitigate disruption and nuisance caused by basement development.
- Camden Council is of the view that although additional application requirements may cause delays, it is time well spent given the enormous disruption/nuisance that some basements cause, and Camden residents have been appreciative.

Similarities/differences with Brent

- Types of basement development in Camden would be similar to those in Brent. While some applications are for commercial and retail, basement applications for houses fulfil a need for extra space. Camden has been concerned about the location of lightwells and railings, particularly in front gardens, which is a similar concern in Queens Park.

Consultation with Industry

Camden did not specifically consult with any developers or builders on basement development in the borough. During formal consultation on the SPD Camden used the standard database of contacts in borough including government agencies and community groups. However, during the process of developing the guidance Camden did speak with applicants / agents / engineers in an ad hoc manner to gather more information about specific cases that Camden was interested in.

London Borough of Westminster

Current Proposed Policy Draft state – will form part of the Local Plan.

Westminster does not currently have a specific planning policy in relation to basement excavation. In recent years, the borough has seen an increasingly large number of planning applications for basement extensions to residential properties and as such, is currently working to develop a basements policy as part of the emerging Local Plan.

Summary of community involvement:

Unknown.

Similarities/differences with Brent

Similar basement design and scale to those found in RBKC. Much of the applications are for large scale residential basements involving gymnasiums, pools, staff quarters etc.

London Borough of Hammersmith and Fulham

Current/Proposed Policy - Forms part of the Local Plan.

The policy aims to restrict basements where the proposal would result in increased flooding to neighbouring properties. A flood risk assessment is requirement and any new development must be designed to be flood resilient. The policy also provides specific requirements for lightwells and where they can be located (in addition to Council's SPD on lightwells from 2002) and on sunlight access available to a basement. In addition applicants must also provide to Council a structural survey (by a qualified structural engineer) and this survey must also be provided to all neighbouring dwellings.

Summary of community involvement

Unknown.

Similarities/differences with Brent

Basement developments in H+F are similar to those in Brent where the housing stock is terraced and in conservation areas. H+F is concerned with preserving and enhancing front gardens in conservation areas and this has often determined the location and size of lightwells.

It should be noted that flooding is an important issue in H+F and meeting requirements related to flooding can dictate whether or not an application is approved – an issue which may or may not be as significant in Brent.