



**Planning Committee**  
18 September 2013

**Report from the Strategic Director,  
Regeneration and Growth**

For Action

Wards affected:  
ALL

**Basement Development in Brent – Response to Consultation on  
draft guidance**

**1.0 Summary**

- 1.1 In response to concerns which have been raised regarding basement development in Brent, a new approach has been proposed and has recently been consulted on. The consultation process invited resident associations and industry representatives to respond to a short survey regarding basement development in Brent, as well as to review the draft guidance on the proposed changes.

**2.0 Recommendations**

- 2.1 That the Planning Committee endorses the draft guidance as part of the local validation requirements to be incorporated into the Local List of Validation Requirements at its next formal review. In the meantime, applicants will be advised of the benefit of submitting the information to support any planning application including a basement.

**3.0 Details**

**Background – Consultation**

- 3.1 The Planning Committee endorsed consultation on the proposed additional planning application validation requirements for basement development at the Planning Committee meeting on 22 May 2013. The consultation with local residents groups and industry representatives was carried out over a 6 week period. As part of the consultation, residents and industry representatives were asked to complete a short survey on basement development, as well as review the draft guidance on the proposed changes. While the consultation was aimed primarily at these two groups, the consultation was available to all interested parties and publicised on Brent's website.

- 3.2 A total of 30 people completed the survey. Of these, 12 respondents were resident associations, 13 were residents, 4 were industry representatives and 1 was a Brent Ward Councillor. Questions 2 - 6 asked respondents to provide their comments – these are summarised below.

#### **4.0 Summary of responses – issues raised**

- 4.1 Resident associations and building industry representatives were asked if their members raised any Brent or London wide concerns respectively. In response, 45% answered 'yes' and 55% answered 'no'. Specifically, 3 out of 4 industry representatives answered no to this question, and there was an even split between resident associations and residents who answered 'yes' or 'no' to this question. Below is a summary of the issues which were raised.

##### *Structure and stability*

- 4.2 Many of the respondents were concerned about the effect of basement construction on the structural integrity of neighbouring properties. Specific concerns included the formation of cracks, doors not being able to be opened as a result of movement and concerns that basement development could undermine the foundations of neighbouring properties.
- 4.3 Basements being built on clay was a concern and examples of structural problems were given. Resident Association members in particular, raised issues in relation to subsidence.

##### *Effect on neighbouring buildings*

- 4.4 Concern was raised about who would be liable for any damage that may be caused to neighbouring properties and whether builders or owners insurance was adequate to cover damage during construction or damage which occurred after the development was complete.

##### *Hydrological and geological concerns*

- 4.5 The impact of basements on ground water conditions and on the potential for flooding was raised, particularly in relation to basements which are dug into clay. In addition, the effect of flooding on existing foundations which may deteriorate if water tables changed locally was highlighted.
- 4.6 Thames Water provided specific comments in relation to the draft guidance requesting amendments to require applicants to demonstrate what protection measures will be put in place to prevent surcharge from the public sewer into basements.

### *Construction nuisance, amenity and safety*

- 4.7 The impact of noise, dirt, dust, increased traffic and congestion were all raised as concerns.
- 4.8 In addition, some residents and resident associations raised queries about the timeframe for basement construction. It was noted that the prolonged construction of basement development has particular effect on people who may work from home, as well as the elderly, who are more likely spend a considerable portion of their day at home.

### *Landscape and ecology*

- 4.9 Several residents raised concerns relating to the removal of mature trees and greenery to allow for the construction of a basement.
- 4.10 Some raised issues in relation to neighbouring properties where there may be a Tree Protection Order (TPO) and a basement development may cause damage to protected trees. It was mentioned that basement development should take existing trees into account during the design of a basement so that existing tree root systems and future growth will not affect the basement in the future.

### *Opposed to the policy*

- 4.11 An industry representative commented that reviews by individual London Boroughs, including Brent, of existing basement policies was only creating unnecessary and unwarranted concerns, and a lot of the issues that have occurred in relation to basement development have been in inner city locations and were for large multi storey developments.
- 4.12 In comparison, another industry representative felt that the additional information that Council is proposing would assist all parties in respect to successful basement developments in their planning, design and construction.

## **5.0 Summary of responses – draft basement guidance**

- 5.1 Respondents were asked if they thought additional information required with basement applications would help planning officers assessing applications and residents living near a development. A total of 64% answered 'yes', 23% 'no' and 13% 'didn't know'. Specifically, 4 residents, 2 resident associations and 2 industry professionals answered 'no' to this question with the remainder answering 'yes' or that they 'didn't' know'.
- 5.2 Feedback given in relation to the draft guidance focused on specific issues. A number of respondents felt that basements should be limited to 1 storey and should only be allowed within the existing footprint of the dwellinghouse.
- 5.3 It was suggested by one responder that more information be required in relation to building operation, for example how many skips might be required for a particular

site. It was also suggested that the policy ensure that a structural survey was carried out for any neighbouring properties, and that all information, including plans, be sent to any adjoining property owners before an assessment is made.

- 5.4 Additional costs that may be associated with requiring additional information was raised as a concern and the possibility that planning officers may not have the knowledge or skills to assess structural matters as part of a basement application.
- 5.5 Respondents were asked whether there was anything disadvantageous about providing additional information. 27% answered 'yes', 52% 'no', and 21% 'didn't know'. Specifically a total of 3 residents, 4 resident associations and 2 industry groups answered 'no' to this question with the remainder answering 'yes' or that they 'didn't know'.
- 5.6 Respondents were also asked whether they thought the draft guidance was seeking more information than would usually be good practise. A common response both interest groups was that additional information would lead to additional costs for the home owners. In the current financial climate, home owners want to make the most of their existing homes and placing added pressure and costs will only prevent people from doing so.
- 5.7 Time concerns were also mentioned as some respondents felt that the planning process was already slow and that requiring the assessment of additional information by planners would only increase the assessment time.
- 5.8 Respondents, including 2 industry representatives, 2 resident associations and 2 residents felt that further guidance on basement development was simply a duplication of what was already covered by the building regulations and Party Wall Act. It was also noted that this would further increase delays and create 'red tape' for developers and home owners.

## **6.0 Response to representations**

- 6.1 The issues raised during consultation reflect the matters that were considered in preparing the draft guidance as well as previous discussions on basements.

### *Structure and stability*

- 6.2 Problems can clearly occur during or after construction but these generally result from inadequate preparation or failure to follow accepted building techniques. It is acknowledged that basement construction could potentially be more likely to create problems than conventional above ground construction. This is why it is strongly recommended that these works should be (and in most cases are) carried out by specialist contractors.
- 6.3 The national position to date is to rely on the building industry to operate to appropriate methods and standards and to expect the Building Control process via Building Regulations (whether operated by Local Authorities or private Approved Inspectors ), to ensure that proposals are adequately designed and constructed. Ultimately, in legal terms, it is the responsibility of owners and contractors not to

cause damage to neighbouring premises and for the quality of the work. The introduction of the Party Wall etc Act 1996 was a recognition of the problems that can arise when working on (or adjacent to) Party structures (walls and floors) and provides a process to mitigate problems arising including assessment and remediation of damage should it arise. However, it is accepted that this also puts responsibilities on neighbours who wish to safeguard their property interests although costs involved in appointing Party wall surveyors is borne by the person undertaking the work.

- 6.4 The position remains that it is not felt that there is a basis for a blanket ban on specific types of development or that it is possible to require some form of bond from owners in addition to their normal house insurance. Consequently, it is still proposed to seek additional information and clarity with each proposal in an attempt to encourage applicants and their agents to think through the implications of their proposals. This will not replace requirements of other forms of legislation such as the Party Wall etc Act 1996 but will ensure further work has been carried out at the planning stage to consider the wider implications of the proposal.
- 6.5 The proposal is to require a Build Methodology statement as part of the additional requirements which will mean that a schedule of the main steps of the works and a sequence of the operations will be considered in advance. This will assist in demonstrating that the applicant is fully aware of their responsibilities undertaking such a proposal and help identify any clear construction issues.

#### *Effect on neighbouring buildings*

- 6.6 Notwithstanding the concern in this area, differential movement between buildings can occur for a number of reasons. However, any damage that can be specifically attributed to the construction of a basement would be covered by the existing Party Wall etc Act 1996.

#### *Hydrological and geological concerns*

- 6.7 The concerns raised during the consultation period are acknowledged. However, 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 necessarily raise specific construction problems that should not be able to be covered by conventional design and build techniques.
- 6.8 It is proposed that the Build Methodology will set out that the applicant must submit a Flood Risk Assessment (FRA) as required by the Environment Agency.

#### *Construction nuisance, amenity and safety*

- 6.9 A number of concerns were raised in relation to the impacts on amenity and essentially relate to how contractors operate. It is considered that the 'Considerate Contractor Scheme' can be useful for smaller domestic proposals including basements. However, while this can be actively promoted, there may be practical difficulties in planning terms in enforcing this as a condition. It would remain a

requirement for larger developments where there is more likely to be a legal agreement which can give the requirement additional backing. The Environment Protection Act 1986 also remains as a remedy for serious noise problems.

- 6.10 It is considered that the inclusion of details about how pedestrian and vehicular movement will be managed during the course of the development and details of where skips will be located should help to mitigate issues relating to safety. Consultation with Council's Transportation Team on the proposal will also be a requirement.

#### *Landscape and ecology*

- 6.11 Concerns were raised in relation to the loss of trees and greenery, particularly where TPO's are in place. The proposed site survey which will form part of the basement application should provide details of established landscaping, trees, canopies and root areas and any significant other plants as well as the location of existing hard and soft landscaping.
- 6.12 This detail will be required both for the host site as well as nearby adjoining properties and should therefore pick up any existing TPO's. Works to remove a TPO tree would be covered by separate legislation. It is however noted that the majority of trees in residential gardens are not afforded this protection.

#### *Additional Burden of Requirements*

- 6.13 Clearly, local authorities should not add unnecessary burdens in terms of cost or delay to proposed developments. The concerns which were raised by a small number in each group have been noted. However, the requirements have been specifically pitched at a level that it is expected competent organisations, such as specialist contractors, would routinely undertake before work in commenced. As such, it is not felt that it would require significant additional costs. It is accepted that some costs which may be required to support an application under Building Regulations may be brought forward as planning permission is normally sought first. However, this should not represent a duplication of costs.

### **7.0 Update on new approach for local requirements**

- 7.1 Recently, the government introduced changes aimed at streamlining procedures for validating and processing planning applications. These changes mean applicant's have the ability to challenge any information requests by local authorities if they think its unreasonable and Design and Access statements are no longer required for householder proposals.
- 7.2 Despite these changes, it is considered that requiring additional information for applications for basement development is reasonable as the information we plan to seek is considered to represent reasonable best practice. The proposed changes will assist planning officers in their assessment as well as support the consultation process with residents who may be affected by a basement development.

## **8.0 Changes following exhibition**

- 8.1 Following exhibition, a number of changes were made to the draft guidance based on some of the comments received during the exhibition period and following consultation with Council's Building Control department. The changes respond to concerns raised about the amount of information and level of detail required when an application is submitted.
- 8.2 Under the *2. Construction Statement* part (i) has been amended to state
- (i) a minimum of two cross section drawings showing the front and rear at a scale of 1:50. Structural details should be provided and are expected to be of a building regulation standard.
- 8.3 The requirement for a desk study has now been incorporated in *4. Build Methodology* in response to concerns raised by Building Control and that some of the requirements fell outside the remit of planning.
- 8.4 Under *4. Build Methodology* new sub-clauses (i) and (ii) have been added:
- (ii) Confirmation that a party wall agreement has been entered into prior to the commencement of works and a list of properties to be notified is provided;
  - (iii) sites within Flood Risk Zone 2 & 3 are required to be accompanied by a Flood Risk Assessment (FRA) in accordance with the Environment Agency Guidance (see Environment Agency flood map & guidance- [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk));
  - (iv) sites with previously contaminative uses must be accompanied by a plan for the investigation and remediation of the site.

## **9.0 Current position**

- 9.1 The basement consultation process has confirmed that the issues addressed in the draft guidance reflect those which have been raised by resident associations and industry representatives and, where concerns were raised, that these have been taken into consideration.
- 9.2 It is acknowledged that the guidance will not be able to allay all concerns which have been raised. However, it will provide clearer guidance on what will be sought for basement applications and thus provide more clarity and certainty for both residents and developers.
- 9.3 There is a specific process to go through to formally amend the Local List of Validation Requirements. While this reflects the consultation undertaken on the above, the wider review should be linked to the current review of Development Management Policies and this is currently programmed for early 2014.

## **Background Papers**

Draft guidance on basement development in Brent 2013  
Consultation survey  
Queens Park and Barn Hill Draft Design Guides 2013

## **Appendix 1**

Revised draft guidance on basement development in Brent 2013

## **Appendix 2**

Basement consultation survey

## **Contact Officers**

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## Appendix 1

1. **Site Survey** - to record existing ground levels and landscaping on the site and on adjoining boundaries.
  - (i) levels - should include levels across site (front to back and side to side) as well as adjoining property levels;
  - (ii) established landscaping, trees, canopies and root areas and any significant other plants;
  - (iii) details of areas of existing hard and soft landscaping.
2. **Construction Statement** – detailed information about the proposed construction of the basement development;
  - (i) a minimum of two cross section drawings showing the front and rear at a scale of 1:50. Structural details should also be provided and we would expect work to meet at least a Building Regulations standard.
  - (ii) details of drainage and sewers (including invert levels);
  - (iii) proposals to deal with surface water;
  - (iv) details of proposed hard and soft landscaping.
3. **Build Methodology** - to explain how the works will be carried out in relation to the proposal. The Build Methodology will set out that the development can be built to meet other relevant statutory requirements which include:
  - (i) confirmation that a Party Wall agreement will be entered into prior to the works commencing and a list of properties to be notified either side of the site;
  - (ii) sites within Flood Risk Zone 2 & 3 are required to be accompanied by a Flood Risk Assessment (FRA) in accordance with the Environment Agency Guidance (see Environment Agency flood map & guidance- [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk));
  - (iii) sites with previously contaminative uses must be accompanied by a plan for the investigation and remediation of the site;
  - (iv) a schedule of the main steps of the works and a sequence of the operations and anticipated timescales;
  - (v) method of excavation, demolition and construction;
  - (vi) details of where equipment, materials or storage will take place on site;
  - (vii) details about how pedestrian and vehicular movement will be managed during the course of the development and details of where skips will be located. Consultation with Councils Transportation Team on the proposal must be carried prior to works commencing;
  - (viii) where approval for a basement application is granted, confirmation that an applicant will sign up to the Considerate Contractors Scheme.

Other notes:

- A multi storey basement will require more detailed studies as these developments can cause more complex issues and are less likely to be acceptable;
- For non residential development - the above provides a basis for information that would normally be required but more detailed advice may be sought;
- If work is likely or has disturbed vermin then the Council's Pest Control services should be contacted so that an appropriate course of action can take place. For more information go to <http://www.brent.gov.uk/services-for-residents/environment/pest-control/>.

## Appendix 2

### Validation Requirements for Basement Applications

1. Contact information

Name	
Organisation type	
Organisation position	

2. Have your residents or members raised any concerns (general or specific) regarding basement developments in Brent in the last few years? For representatives of the building industry, please advise of any London wide concerns.

- ☐ Yes  
☐ No

3. If yes, what specific concerns have been raised? *(please write in)*

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4. Do you think the additional information that Brent intends to seek when basement applications are received will help planners and adjoining residents to understand the proposal?

- ☐ Yes  
☐ No  
☐ Don't know

Are there any additional comments you wish to add? *(please write in)*

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5. Do you think there are any obvious disadvantages to providing the information sought? (see draft guidance note)

☐ Yes

☐ No

☐ Don't know

6. If yes, why do you think this represents more information than would usually be good practice? (*please write in*)

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