



## Planning Committee

14<sup>th</sup> December 2016

### Head of Planning, Transport & Licensing

For Information

Wards affected:  
All except parts of those wards in Tokyngton, Stonebridge, Harlesden, Kensal Green that fall within the Old Oak and Park Royal Development Corporation boundary

## Draft Basement Supplementary Planning Document

### 1.0 Summary

- 1.1 This report sets out the rationale for consultation on a draft Brent Basement Supplementary Planning Document (SPD). It provides a high level summary of the content of the document. It provides clarity on what are planning matters and which matters are the remit of other legislation/statutory functions.

### 2.0 Recommendations

- 2.1 That Planning Committee recommend to Cabinet that the draft Basement SPD in Appendix 1 be agreed for public consultation.

### 3.0 Detail

#### Background

- 3.1 In response to residents' concerns about adverse impacts of basement developments councillors have requested up to date planning guidance on how the Council will deal with basements applications. It should be noted residential basement developments can be permitted development, however, where planning permission is needed this SPD will be a material consideration in determining planning applications.

#### The draft Supplementary Planning Document contents

- 3.2 The basic structure of the document is:

- a) Introduction and purpose of the document.
- b) The planning matters
- c) Checklist and list of validation requirements
- d) Other regimes and controls.

3.3 The SPD provides guidance on planning matters and focusses on these key planning policy requirements:

- a) Sustainability – Sustainable design standards are to be integral to the proposal, including its construction and operation. Basement development should optimise natural ventilation, cooling and lighting, and utilise energy efficient products and sustainable materials.
- b) Amenity –Basements are only acceptable as living accommodation as part of a single dwelling.
- c) Design & Heritage – Basement development should be subordinate in scale to the above ground portion of building (generally they should not be more than 1 storey, or extend further than 3 metres from the rear of the property), not unduly intensify the use of a site, or cause significant environmental harm. Structures forming part of a basement are to respond positively to the building and landscape character and not create visual clutter. Basement development impacting on heritage assets should conserve and enhance their significance.
- d) Trees & Gardens – Development is to contribute to local character and urban greening by preserving existing gardens, reinforcing soft landscaping and protecting trees, including those on site, on adjoining sites and within the street or other areas of public space.
- e) Flood Risk & Drainage – Basement developments are to be located to avoid areas of floodrisk, minimise the risk of flooding and not contribute to flooding elsewhere.
- f) Contamination – Basements which are extensions to existing housing are unlikely to be at risk from contamination, but where the potential for pollution is identified further investigation will be required which might include removal of the contamination to remove or reduce the identified risk.

3.4 As with many other types of developments there are a number of other permissions and consents that will need to be applied for in the development process, and these are summarised in the introduction and appendix of the SPD. Planning policies cannot replicate or cut across matters within the scope of other legislative requirements. The courts have been clear that planning must not stray into matters that are the remit of other legislation and to do so would put the Council at risk of legal challenge.

- 3.5 The full version of the draft document is attached in Appendix 1 to this report.

### **Engagement to Date**

- 3.6 Officers across a wide range of disciplines have met with Councillors of the wards most affected by residential basement activity. The most recent was on 15<sup>th</sup> November chaired by the Lead Member Regeneration, Growth, Employment and Skills, and attended by the Chair of the Planning Committee. This included a positive and wide ranging discussion and presentation of a draft version of the SPD. There was recognition of the complexity of the differing regimes and that many aspects are covered by mechanisms outside the remit of planning legislation. As such in terms of the draft SPD it was identified that the document would benefit from better sign-posting of related matters and the times at which they might become relevant. Brent's Operational Director of Environment Services also indicated that a more proactive approach to dealing with monitoring of construction is something that will be pursued. This will not solely be related to basements but other significant developments where environmental impacts such as damage to highways infrastructure are recognised as significant problems not currently being satisfactorily addressed. It is likely that this work will proceed in parallel with the consultation/adoption process associated with the Basement SPD.

### **Timescales**

- 3.7 Approval will be sought from Cabinet on 17<sup>th</sup> January 2017 to consult on the draft SPD. In accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) the SPD will be subject to a 6 weeks public consultation during January and February 2017.
- 3.8 Following the consultation period representations received will be reported to a future Cabinet, along with officer comments and any associated proposed modifications prior to its recommendation for Cabinet adoption. It is anticipated the SPD will be adopted in Spring 2017.

### **4.0 Financial Implications**

- 4.1 The cost of drafting, consulting on and adopting the SPD are small and will be met from existing planning policy budgets. The main cost incurred is from staff time; consultation costs will be negligible, with a small amount of printing costs covered from existing budgets.
- 4.2 The environmental monitoring work proposed by the Operational Director Environment will be subject to a separate paper to CMT/PCG with an associated business case.

### **5.0 Legal Implications**

- 5.1 Regulations provide for Local Planning Authorities to adopt SPDs. These documents are to provide more detailed guidance on how a development plan policy will be interpreted in the determination of planning applications.

Supplementary Planning Documents cannot introduce new policy or allocate sites for development.

## **6.0 Diversity Implications**

6.1 The Equality Act 2010 introduced a new public sector equality duty under section 149. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council must, in exercising its functions, have “due regard” to the need to:

1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
2. Advance equality of opportunity between people who share a protected characteristic and those who do not.
3. Foster good relations between people who share a protected characteristic and those who do not.

6.2 Statutory public consultation will be carried out in the process of preparing and adopting the Supplementary Planning Document. An Equalities Impact Assessment screening opinion has been undertaken which identified no positive or negative impacts in relation to those with protected characteristics as a result of the document.

## **7.0 Staffing/Accommodation Implications (if appropriate)**

7.1 None arising specifically from the draft Supplementary Planning Document.

### **Contact Officers**

Paul Lewin Planning Policy & Projects Manager [paul.lewin@brent.gov.uk](mailto:paul.lewin@brent.gov.uk)