



Department for
Communities and
Local Government

Basement Developments and the Planning System

Call for Evidence



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Introduction

1. The construction of residential basements beneath existing buildings has become increasingly popular. This is primarily a localised issue of concern in inner London, as a consequence of land costs and constraints on sideways or upwards development. In some cases this has led to concerns being raised about the impacts of such developments on neighbouring properties and local amenity.
2. These concerns have been expressed within communities, in Parliamentary debates and through media coverage. The issues highlighted have included: the impact on neighbouring properties during the development; the length of time the development takes; disturbance caused where a number of developments take place simultaneously in a single road; and potential increased flood risks through development affecting drainage systems.
3. The Government has listened to the concerns raised in the past and worked with key stakeholders to provide clarity on what safeguards are required before carrying out basement development. Working with the Basement Information Centre we have produced updated guidance on the requirements and consents as well as the construction of basements. This guidance can be accessed at: (http://www.tbic.org.uk/publications_det.php?docId=34). The guidance on the operation of the Party Wall Act has been revised and is kept under review. It can be accessed at: <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>.
4. In response to further concerns raised during parliamentary consideration of the Housing and Planning Act 2016, the Government committed to a 'review of the planning law and regulations which relate to basement developments'. This Call for Evidence takes forward this commitment. It seeks evidence on the number of basement developments being taken forward: how these developments are currently dealt with through the planning system; and whether any adverse impacts of such developments could be further mitigated through the planning process. This review is not considering whether or not basement development should be permitted, but rather how the planning process manages the impacts of that development where it is permitted.

Setting the Scene

Legal Framework

5. In England all development requires planning permission. Under the Town and Country Planning Act 1990, building works, including the provision of additional space underground, are included in the definition of development. Planning permission can be granted through a planning application to the local authority: it can also be granted at a national level through permitted development rights. The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, sets

out national permitted development rights

http://www.legislation.gov.uk/uksi/2015/596/pdfs/uksi_20150596_en.pdf.

6. Permitted development rights allow specific types of development to proceed without having to make a planning application. The permitted development rights for householder development allow limited alterations or extensions to dwellinghouses. This provides certainty for householders wishing to carry out development, and helps to reduce the administrative burden on local authorities through a reduction in the number of planning applications coming forward. Where it is considered that a smaller basement development falls within the specific limitations set out in the Order an application for planning permission is not required.
7. There is a range of tools available to local planning authorities to address the issues that may arise from basement development. These can be specifically tailored to particular areas. For example, where basement development is not considered to be permitted development (see paragraph 6 above), local authorities can include specific policies in their local plan, or bring forward Supplementary Planning Documents related to basement developments, including, for example, limits on their size and location. Such policies can be used in determining planning applications for basement development.
8. Where smaller basement development is considered to be permitted development a local planning authority may consult the local community on the use of an Article 4 Direction to remove the right, if it is felt that it is necessary to protect local amenity or wellbeing of a specific area. A planning application would then be required for all such development in the area which would be determined in accordance with any policy which the authority has adopted on basement development.

Other regulations

9. Work on basements is required to be carried out in accordance with the Construction (Design and Management) Regulations 2015. To help mitigate the impacts of building works once they are underway, some local authorities also publish Codes of Conduct for Considerate Contractors to help ensure work is taken forward in the correct manner, with minimum disruption, and may agree a Construction Method Statement before works begin.
10. Basement developments must meet the relevant requirements of the Building Regulations 2010, as amended, which require the work to meet minimum performance standards, such as for structural safety.
11. Under the dangerous buildings provisions in the Buildings Act 1984, unsafe buildings, for example due to incomplete construction work, can be dealt with by local authorities.
12. Local authorities also have powers available to them through the Environmental Protection Act 1990 and Control of Pollution Act 1974 to address noise and other potential nuisance from construction sites.

13. Most basement developments would also fall within the requirements of the Party Wall etc. Act 1996 which provides a framework for resolving disputes with adjoining building owners.

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14. We are seeking evidence and examples of good practice in the effective use of the current planning framework in the context of managing basement developments. We are also asking whether there are any other means which would be appropriate for the planning process to use to mitigate potential adverse impacts of such developments.

15. We want to hear from those who have experience of, or been affected by, basement development, either directly or indirectly. Contributions are invited from all interested parties including: householders who have carried out works: those living alongside basement development: local planning authorities: professional bodies: and building companies. In particular, we are interested in:

- Experience of the planning process or use of permitted development rights; and
- Information on the number of basement developments, and areas where they take place.

16. We would welcome evidence of where the planning system is working well and where it might be improved. Where issues are identified by organisations, it would be helpful if respondents could indicate whether these are one-off cases or whether they are aware of widespread concerns.

17. Respondents are asked to complete a set of questions set out in Annex A.

Timescales and contact points

18. We request that evidence is submitted by Friday 16th December 2016. We may not consider evidence received after this date. The Government will consider the evidence provided and it may be used to inform any future action. Any action could be delivered through appropriate amendments to policy, guidance or legislation.

19. Wherever possible we ask that evidence is entered on Survey Monkey at <https://www.surveymonkey.co.uk/r/VBZV6NQ>

20. Alternatively, please submit your evidence by email to BasementsPlanningReview@communities.gsi.gov.uk or by post to: Paul Martin, Department for Communities and Local Government, 3/NE, Fry Building, 2 Marsham Street, London SW1P 4DF.

21. We would particularly welcome evidence from and engagement with:

Interested Members of the House of Lords and House of Commons
Local planning authorities (in particular those experiencing high levels of basement development)
Basement Information Centre
Health and Safety Executive
Residents and amenity groups
British Property Federation
Environment Agency
Federation of Master Builders
Federation of Small Businesses
Local Government Association
Local Councils
Planning Officers' Society
Royal Town Planning Institute
Royal Institute of Chartered Surveyors
Town and Country Planning Association