

RBKC Basement Policy Review
Austin Mackie Associates for Waltonwagner
Representor Reference 183
Matter 1

Matter 1 Issue 1.2 (6) Whether there is a “need” for the Policy
Issue 1.4 (8) (9) Role of SPD local plan

Issue 1.2 (6) Whether there is a “need” for the Policy

Within our overarching statement we address this point in some detail. In our view an amended version of Policy CL7 is justified, in that it is a form of development over which appropriate *guidance* could have a beneficial impact.

However, the policy in its present form is motivated by impacts that are and should continue to principally be addressed by other legislation. This approach proposed by the Council has led to a draft policy that cannot be justified in its present form and by its nature is seriously flawed and thus unsound.

We have recommended an alternative version of CL7 that we consider is a more acceptable response to the principles of soundness, follows the sustainable development principles of the NPPF and would thus assist in positively facilitating a sustainable pattern of development.

Issue 1.4: Legally, can a supplementary planning document (SPD) be used for the purposes proposed by the Council, and is its use and purposes clearly and effectively set out in the Plan?

SPD’s can be useful tools in offering guidance as to how to interpret a policy.

However, this alone raises the question as to whether a policy (and the RJ) is sufficiently robust if it requires further clarification.

An SPD can offer guidance on the form and content of supporting material, such as a CTMP, a heritage assessment or a structural report. However, our principle concern lies with the fact where an SPD ‘dodges’ the EIP process, it denies the assessor and objector the opportunity to fully understand how the policy and its RJ is to be interpreted and applied once adopted.

Our concern is that, particularly with the (claimed) community (more likely ‘political’) pressure behind CL7; an SPD that is formulated after the policy is adopted, but which is not subject to the same level of scrutiny, could seek to introduce

inappropriate or onerous obligations upon an applicant, by interpreting policy criterion in a manner not envisaged at the EIP.

Notwithstanding the weight attached to properly adopted policy versus an SPD and the fact that this could be rehearsed at appeal; it is inevitable that officers and members of the Council would consider an SPD to be the policy's 'bible' and there would be significant risk of pressures leading to the SPD detracting from policy as drafted.

It would have been far more appropriate for the proposed SPD to be formally submitted as part of the evidence base to the EIP, or even included in a summary form within the policy's RJ; which would have allowed greater control over the form and content of any post EIP SPD.