

Guidance Notes for Submission Stage Representations

1 Introduction

- 1.1 The development plan document (DPD) is published in order for representations to be made prior to submission. The representations will be considered alongside the submitted DPD, which will be examined by a Planning Inspector. The Planning Inspector will consider whether the DPD complies with the legal requirements, the duty to co-operate and is 'sound'.
- If you are seeking to make representations on the way in which Rochford District Council has prepared the published DPD it is likely that your comments or objections will relate to a matter of legal compliance.
 - If it is the actual content on which you wish to comment or object it is likely it will relate to whether the DPD is positively prepared, justified, effective or consistent with national policy, i.e. sound.
- 1.2 Please note that all respondents must complete their personal details as it is not possible for representations to be considered anonymously. The Council will publish the names of respondents to this consultation along with the representations they have made, but will not publish personal information such as telephone numbers, email addresses, or postal addresses. By submitting representations on the DPD you confirm that you agree to this.

2 Legal Compliance and Duty to Co-operate

- 2.1 The Inspector will first check that the DPD meets the legal requirements under section 20(5)(a) of the The Planning and Compulsory Purchase Act 2004¹ before moving on to test for soundness.
- 2.2 You should consider the following before making a representation on legal compliance:
- The DPD in question should be within the current Local Development Scheme (LDS) and the key stages should have been followed. The LDS is effectively a programme of work prepared by the Council, setting out the Local Development Documents (LDD) it proposes to produce over a 3 year period. It will set out the key stages in the production of any DPDs which the Council propose to bring forward for independent examination. If the DPD is not in the current LDS it should not have been published for representations. The LDS is available on the Council's website and available at the main Council offices in Rayleigh and Rochford.

¹ View at <http://www.legislation.gov.uk/ukpga/2004/5/contents>

- The process of community involvement for the DPD should be in general accordance with the Council's Statement of Community Involvement (SCI). The SCI is a document which sets out the Council's strategy for involving the community in the preparation and revision of LDDs and the consideration of planning applications.
- The DPD should comply with the Town and Country Planning (Local Planning) (England) Regulations 2012². On publication, the Council must publish the documents prescribed in the regulations, and make them available at their principal offices and their website. The Council must also notify the DPD bodies (as set out in the regulations) and any persons who have requested to be notified.
- The Council is required to provide a Sustainability Appraisal Report (SA) when they publish a DPD. This should identify the process by which the Sustainability Appraisal has been carried out, and the baseline information used to inform the process and the outcomes of that process. Sustainability Appraisal is a tool for appraising policies to ensure they reflect social, environmental, and economic factors.
- The DPD must have regard to any Sustainable Community Strategy (SCS) for its area (i.e. Rochford's Sustainable Community Strategy 2010-2015). The Localism Act and the National Planning Policy Framework (NPPF) place a duty on local planning authorities and other bodies to cooperate with each other to address strategic issues relevant to their areas. The duty requires ongoing constructive and active engagement on the preparation of DPDs and other activities relating to the sustainable development and use of land, in particular in connection with strategic infrastructure.

2.3 You should consider the following before making a representation on compliance with the duty to co-operate:

- The duty to co-operate came into force on 15 November 2011 and any plan submitted for examination on or after this date will be examined for compliance. The Council is expected to provide evidence of how they have complied with any requirements arising from the duty.
- The Planning and Compulsory Purchase Act establishes that non-compliance with the duty to co-operate cannot be rectified after the submission of the Plan. Therefore, the Inspector has no power to recommend changes in this regard. Where the duty has not been complied with, the Inspector has no choice but to recommend non-adoption of the DPD.

² View at <http://www.legislation.gov.uk/uk/uksi/2012/767/contents/made>

3 Soundness

3.1 Soundness is explained in paragraph 182 of the National Planning Policy Framework (NPPF). The Inspector has to be satisfied that the DPD is positively prepared, justified, effective and consistent with national policy.

- **Positively prepared**

The DPD should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

- **Justified**

This means that the DPD should be founded on a robust and credible evidence base involving:

- Evidence of participation of the local community and others having an interest in the area.
- Research/fact finding: the choices made in the plan are backed up by facts.

The DPD should also provide the most appropriate strategy when considered against reasonable alternatives. These alternatives should be realistic and subject to Sustainability Appraisal. The DPD should show how the policies and proposals help to ensure that the social, environmental, economic and resource use objectives of sustainability will be achieved.

- **Effective**

This means the DPD should be deliverable, embracing:

- Sound infrastructure delivery planning.
- Having no regulatory or national planning barriers to delivery.
- Delivery partners who are signed up to it.
- Coherence with the strategies of neighbouring authorities.

The DPD should also be flexible and able to be monitored.

The DPD should indicate who is to be responsible for making sure that the policies and proposals happen and when they will happen.

The plan should be flexible to deal with changing circumstances, which may involve minor changes to respond to the outcome of the monitoring process or more significant changes to respond to problems such as lack of funding for major infrastructure proposals. Although it is important that policies are flexible, the DPD should make clear that major changes may require a formal review including public consultation.

- **Consistent with national policy**

The DPD should enable the delivery of sustainable development in accordance with the policies in the NPPF.

Any measures which the Council has included to make sure that targets are met should be clearly linked to an Annual Monitoring Report. This report is produced each year by the Council and will show whether the DPD needs amendment.

3.2 If you think the content of a DPD is not sound because it does not include a policy where it should do, you should go through the following steps before making representations:

- Is the issue with which you are concerned already covered specifically by any national planning policy? If so it does not need to be included.
- Is what you are concerned with covered by any other policies in the DPD on which you are seeking to make representations or in any other DPD in the Council's Local Development Framework (LDF)? There is no need for repetition between documents in the LDF.
- If the policy is not covered elsewhere, in what way is the DPD unsound without the policy?
- If the DPD is unsound without the policy, what should the policy say?

4 General advice

4.1 If you wish to make a representation seeking a change to a DPD or part of a DPD you should make clear in what way the DPD or part of the DPD is not sound having regard to the legal compliance check and the tests set out above. You should try to support your representation by evidence showing why the DPD should be changed. It will be helpful if you also say precisely how you think the DPD should be changed.

Representations should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further submissions based on the original representation made at publication. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

4.2 Where there are groups who share a common view on how they wish to see a DPD changed, it would be very helpful for that group to send a single representation which represents the view, rather than for a large number of individuals to send in separate representations which repeat the same points. In such cases the group should indicate how many people it is representing and how the representation has been authorised.

4.3 Further detailed guidance on the preparation, publication and examination of DPDs is provided in the National Planning Policy framework³ and in The Plan Making Manual⁴.

³ View at <http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

⁴ View at <http://www.pas.gov.uk/pas/core/page.do?pagelId=109798>