

EXAMINATION OF THE DEVELOPMENT MANAGEMENT SUBMISSION DOCUMENT (DMD)

GUIDANCE NOTE FROM THE INSPECTOR

Purpose

1. This Note is intended to assist those who have made representations as part of the pre-submission consultation process and those who wish to appear in person. It concerns procedural and other aspects of the examination process.

Examination Hearing

2. The examination hearing for the DMD will take place at 10.00am on **Wednesday 26 March 2014** at the Civic Suite, Rayleigh and will form part of my examination of this Plan. It will proceed on the basis of an agenda that I will prepare which will be available in advance and which will follow the relevant issues that I have identified. These are set out in my initial questions to the Council as follows:

Issue 1: Are the policies consistent with, and do they positively promote, the vision and objectives for Rochford in the Core Strategy?

Issue 2: Are the individual policies clear, justified and consistent with national policy?

Inspector's role

3. My task is to consider the soundness and legal compliance of the Plan, on the basis of the relevant legislation and the guidance in the National Planning Policy Framework (NPPF). Considering soundness involves examining the Plan to determine whether it is:
 - (a) **positively prepared** – based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;
 - (b) **justified** – the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;
 - (c) **effective** – deliverable over its period and based on effective joint working; and
 - (d) **consistent with national policy** – able to achieve sustainable development in accordance with the NPPF's policies.
4. Further details of the examination process are set out in the Planning Inspectorate's publication *Examining Local Plans: Procedural Practice*. See **Annex A** for details of how to access this document.
5. The starting point for the examination is that the Council has submitted what it considers to be a sound plan. Those seeking changes must demonstrate why it is unsound by reference to one or more of the tests of soundness.
6. Unresolved issues concerning soundness or legal compliance may be addressed through discussion at the examination hearing and through consideration of the original written representations. It should be emphasised that my role is not to improve the Plan or to make it "more" sound but to determine whether or not it

meets the soundness tests as it stands. For example, if an alternative version of a policy is put forward I cannot recommend it as an improvement if the Plan is already sound.

7. As part of this process I sent the Council some initial questions on 7 February 2014 which can be seen on the Examination website. I have requested a response to these by **Friday 7 March 2014**.
8. After the hearing has closed, I will prepare a report for the Council with my conclusions and recommendations. I will announce its expected arrival date at the hearing session. If I find the submitted Plan to be legally compliant and sound in all respects, my reports will recommend its adoption. If I find the Plan non-compliant or unsound in any respect, I can recommend modifications to make it compliant and sound. My report will deal with the main issues concerning the soundness of the Plan, taking into account the representations received. However, it will not deal with each one individually.
9. If modifications are recommended, adequate consultation will need to take place on them where necessary, so that the rights of interested parties are not prejudiced. Where appropriate, modifications may also need to be covered by a revised Sustainability Assessment. The Council may then, if it so wishes, formally adopt the Plan, incorporating the recommended modifications.

Programme Officer

10. Kerry Freeman is the Programme Officer (PO). Although she is employed by the Council in another capacity she is acting as an impartial officer of the Examination under my direction. She can be contacted on 01702 318073 or by email at: programme.officer@rochford.gov.uk.
11. The main tasks of the PO are to liaise with all parties to ensure the smooth running of the examinations, to organise the hearing, to ensure that all documents are recorded and distributed as necessary. Details of the website where examination documents are available is given in **Annex A**. These include the Submission Documents and Evidence Base for the Plan. The PO can make available electronic or paper copies on request.
12. Any other procedural questions or other matters that you wish to raise with me prior to the hearing should be directed through the PO.

Progressing representations

13. Respondents have already indicated whether their views should be dealt with in written form or whether they need to come and put them across at a hearing. Both methods will carry the same weight and I shall have equal regard to views put at a hearing or in writing. Attendance at a hearing session will only be useful and helpful to me if you need to participate in a discussion of one or more issues concerning the Plans' soundness or legal compliance. Those who wish to proceed by written means can rely on what they have already submitted.
14. The right to participate in a hearing extends only to those who propose changes to the Plan in order to make it sound and legally-compliant. Although anyone can attend the ability to speak is not available to all but is limited to either those with a legal right or those specifically invited. There is no need for those supporting the Plan or only making comments to take part in the hearing.

15. Evidence on any new matter which has arisen since the original representations were submitted may be sent to me via the PO – for example, where a new document which forms an addition to the evidence base has been produced.
16. If any person or organisation wishes to change from a written representation to an appearance at the hearing or vice-versa they should inform the PO by **Friday 14 March 2014**. In the interests of fairness to other participants, no additional requests to appear at the hearing will be accepted after this date, unless there are special circumstances justifying it.

Hearing

17. The oral examination will take the form of a hearing based on the issues and questions that I have identified. A hearing programme with details of participants has been produced and is available on the Examination website. The hearing will deal with the policies and any issues in turn and will consider them by way of a structured discussion which I will lead. The hearing will not normally involve cross-examination. Those attending may, if they wish, bring professional experts with them. Barristers and solicitors, if present, will be treated as part of the respective team.
18. The purpose of the hearing is to concentrate on the matters that I need to hear about. It is not an opportunity simply to repeat a case already set out in written representations. The discussion will focus on the issues and questions I have identified, structured around an agenda which will be issued in its final form shortly before the hearing session. The emphasis will be on testing for soundness. I shall make a few brief comments on the matters I want covered, then invite individuals to make their contribution in response to the points I have raised. All participants will have an equal chance to contribute.
19. I will draw those present into the discussion in such a way as to enable me to gain the information necessary to come to a firm conclusion on the matters and issues before me. There will be no formal presentation of evidence, as I will have read all the relevant representations and statements beforehand, and I will expect all the other participants to have done so as well. No more evidence can be submitted once the hearing session has closed, except with my agreement.
20. The hearing will be inquisitorial, rather than adversarial. I shall endeavour to progress it in an effective and efficient manner, keeping a tight rein on the discussion and the time taken. In this way I aim to conduct a short, focussed, hearing to produce a short, focussed report.

Closing the examination

21. The examination will remain open until my report is submitted to the Council. However, no further representations or evidence will be accepted after the hearing has closed, unless I specifically request it. Any late unsolicited material will be returned.

David Smith

INSPECTOR

7 February 2014

ANNEX A

Sources of relevant documents and advice

A. The Council's website

All documents and information for the Plan examination is available on the Council's website at:

http://www.rochford.gov.uk/planning/policy/local_development_framework/development_management_devel-1/development-management-0

If you do not have access to the internet, documents and other information can be obtained from the Programme Officer whose details appear on page 2 of this Note.

B. Relevant legislation

These documents can be searched for and found at: <http://www.opsi.gov.uk>:

Planning and Compulsory Purchase Act 2004

Planning Act 2008

Local Democracy, Economic Development and Construction Act 2009

Localism Act 2011

The Town and Country Planning (Local Development) (England) Regulations 2012

C. Guidance from The Planning Inspectorate

See: [Planning Portal - Local Plans](#) which provides a link to the following:

Examining Local Plans: Procedural Practice (December 2013 3rd edition v.1)

Examining Development Plan Documents: Learning from Experience (September 2009)