

EXAMINATION OF THE ROCHFORD DEVELOPMENT MANAGEMENT SUBMISSION DOCUMENT

Please reply to the Programme Officer Kerry Freeman
Programme.Officer@Rochford.gov.uk

Mr S Hollingworth
Planning Policy Team leader
Rochford District Council

22 April 2014

Dear Mr Hollingworth

MODIFICATIONS TO THE ROCHFORD DEVELOPMENT MANAGEMENT SUBMISSION DOCUMENT (DMD)

1. Following the hearing on 26 March 2014 I confirm that I have received additional evidence from the Council regarding various matters raised and an updated proposed Schedule of Changes.
2. As indicated at the hearing and as confirmed by the subsequent Note¹ the purpose of this letter is to set out my interim views on the further modifications needed to the Plan in order to make it sound. However, it is ultimately a matter for the Council as to whether or how they wish to modify the Plan and to review the options that might be open to it.
3. I have given full consideration to all the representations made about the Plan including the oral contributions at the hearings. The detailed reasons for my conclusions will be given in the final report which will be produced following consultation on the proposed main modifications. Nevertheless, in order to assist in the understanding of the need for modifications in the light of the criteria for soundness, I shall provide brief reasons for my interim findings.
4. These may be altered in the light of further evidence through the consultation process and my preliminary views are given here without prejudice to the conclusions that will appear in the report. This will also cover other issues that arose during the examination but which are not dealt with in this letter.
5. I shall comment on the policies of the Plan one-by-one where necessary. In so doing I have had regard not only to the criteria for soundness at paragraph 182 of the National Planning Policy Framework (NPPF) but also the principles for Local Plans set out in

¹ EXD012

paragraph 157. Furthermore, the NPPF establishes that only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan. The DMD should therefore set out clear policies on what will or will not be permitted and these principles lie behind my comments even if not expressly stated. I also suggest some detailed changes that relate to the effectiveness of the policies on the attached track changes version of the Schedule.

Policy DM3 – Infilling and Residential Intensification

6. Paragraph 2.24 forms part of the interpretation of criterion (ii) which refers to the number and type of dwellings being appropriate to the existing character of the locality. However, the supporting text indicates that the 'starting point' should be that replacement dwellings should be on a like for like basis. This does not sit well with Policy H5 of the Core Strategy or with the aim in the NPPF of boosting significantly the supply of housing. Furthermore, the Council is to be consulted to determine whether the loss of an existing dwelling type is appropriate whereas in order to be effective this should be set out in the Plan.
7. Therefore the Council should look at this paragraph again to allow for greater flexibility whilst at the same time identifying areas where different dwelling types are unlikely to be acceptable such as areas of homogenous development. As I understand it the loss of existing dwelling types per se is not the concern but rather it is the introduction of different types and forms of development which would fail to respond to local character and history. Consequently it might be better to express the policy in this way.

Policy DM5 – Light Pollution

8. This requires that detailed lighting schemes accompany full planning applications subject to certain caveats. However, this provision does not fit with the purpose of policies contained in the NPPF. Therefore this reference should be removed and if necessary should be included in the Council's list of validation requirements as referred to in the Town and Country Planning (Development Management Procedure) (England) Order 20120 (as amended).
9. Furthermore, paragraph 125 of the NPPF establishes that the impact of light pollution from artificial light should be limited by encouraging good design. The policy is not consistent with the NPPF in that schemes must demonstrate that they will not have an adverse impact. This looks at the matter the other way round to national policy. Whilst I recognise that external lighting needs to be controlled a more positive approach, similar to that included in relation to leisure and recreational facilities, is required for other lighting installations to make the policy sound.

Policy DM8 – Demolition within Conservation Areas

10. The clause that demolition will only be granted consent in exceptional circumstances if criteria (i) and (ii) are not met is inconsistent with the NPPF. Whilst paragraph 132 indicates that any harm or loss requires clear and convincing justification the NPPF also establishes that harm should be balanced against public benefits. The policy should therefore more fully reflect the possibility of weighing harm against benefits.

Policy DM11 – Existing businesses in the Green Belt

11. Criterion (v) requires a demonstration that the proposal is necessary for the functioning of the business and not better situated elsewhere. However, the policy contains other restrictions on the size of extensions, replacement premises and seeks to ensure that the impact on openness is minimised in accordance with the NPPF. Furthermore, criterion (ii) contains reference to the availability of suitable vacant units close by. With this in mind, criterion (v) contains an additional hurdle that does not coincide with the more general support for economic growth in rural areas.
12. Furthermore, as the policy relates to existing businesses it would not encourage others to re-locate to the Green Belt whilst the other criteria would set limitations on the degree of expansion which may, in itself, cause a business to consider possible re-location. Therefore the specific requirement of criterion (v) is not sound and should be removed. In so doing, I am satisfied that an unnecessary burden would be removed from existing businesses without prejudicing the aims and purposes of Green Belts.

Policy DM13 – Conversion of Existing Agricultural and Rural Buildings in the Green Belt

13. Criterion (i) requires existing buildings to be reused or adapted to be of a form, bulk and general design that is in keeping with its surroundings. This wording previously appeared in Planning Policy Guidance Note (PPG) 2: *Green Belts* but is not included in the NPPF. Although the importance of character is recognised in paragraph 28 buildings of this description should not now be automatically excluded from beneficial re-use.
14. Furthermore, given that the policy relates to existing buildings there would be no impact on the openness of the Green Belt if they were to be converted. The final sentence of the policy also refers to avoiding harm to the character of the countryside by design so that visual implications could be taken into account. In short, criterion (i) is not consistent with national policy and should be removed.

Policy DM14 – Green Tourism

15. Paragraph 28 of the NPPF indicates that local plans should support sustainable rural tourism. However, the expectation that the conversion of existing buildings to bed and breakfast/small-scale hotels/holiday lets should show clear evidence of a firm intention and ability to develop the enterprise and that it has been planned on a sound financial basis does not tally with the NPPF.
16. Although no evidence has been provided of this occurring in Rochford I understand the concern is that once permitted it may be difficult to resist proposals to convert to residential use. However, any such application would presumably be considered against Policy DM13 which allows for the conversion of existing rural buildings to residential uses in certain circumstances. Furthermore, if the Council wishes to ensure that tourism uses are retained then consideration could be given to introducing a policy to this effect although supporting justification would be required together with provisos to enable re-use if the tourist use were no longer viable.
17. However, criteria (a) and (b) are not sound and should be removed. It is also unclear to me which parts of Policies DM12 and DM13 proposals for bed and breakfast/small-scale hotels/holiday lets should have regard to. It would be more effective for all considerations relating to Green Tourism to be included within Policy DM14 notwithstanding the overlap between these policies.

Policy DM20 – Basements in the Green Belt

18. The Planning Practice Guidance (PPG) on *Use of Planning Conditions* confirms that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances². Whilst I note the Council's points about increased residential use and associated movements the removal of permitted development rights for extensions in every case as set out in the policy would fall short of amounting to "exceptional circumstances". This is particularly because the construction of a basement extension would be unlikely to change the consequences for openness which is an essential characteristic of Green Belts.
19. However, on an individual case, consideration could be given to the imposition of a condition provided that the 6 tests, including those relating to reasonableness and necessity, would be met. Nevertheless, as it stands this paragraph is not consistent with national guidance and should be removed.

² ID 21a-017-20140306

Policy DM21 – Replacement or Rebuild of Existing Dwellings in the Green Belt

20. Criterion (i) allows for a 25% increase in floorspace but criterion (iii) indicates that visual mass and bulk should be no greater than the existing dwelling whilst taking into account criterion (i). This is confusing and ineffective since accepting an increase in floor area is almost bound to result in a bigger dwelling. This sentence should therefore be deleted but consideration could be given to a revision along the lines that the visual mass and bulk of the new dwelling should not be significantly larger than the existing.

Policy DM23 – Conservation Areas and the Green Belt

21. Criterion (ii) indicates that redevelopment for the same use as the existing building or one that is more appropriate is acceptable. Paragraph 3.85 seeks to clarify what is meant by “more appropriate” but is not fully effective. Elsewhere the policy contains provisions about openness and the character of Conservation Areas which appears to be the rationale for this provision. Consequently it is superfluous and should be omitted especially as Policy DM10 would be likely to apply.

Policy 33 – Working From Home

22. The PPG indicates that planning permission should run with the land and that it is rarely appropriate to provide otherwise³. Furthermore conditions restricting the frequency and times of deliveries are likely to be matters over which any applicant has no control and therefore unenforceable. Conditions could be imposed in particular cases where justified but the statement of intent within this policy is not compatible with national guidance and should be removed.

Policy DM35 – Upper Floor Locations in Town Centres

23. Leisure and commercial uses are defined as main town centres uses in the Glossary to the NPPF (Annex 2). Paragraph 23 recognises the importance of the vitality of town centres. However, planning applications for change to residential use from commercial buildings should normally be approved according to paragraph 51. No strong economic reasons have been given as to why such development would be inappropriate. Furthermore, the Ministerial Statement on 6 February 2014 confirmed that the policy goal of changes to permitted development rights is to make it easier to convert redundant, empty and under-used office space into new homes⁴.
24. Therefore the second sentence is not consistent with national policy and should be taken out in order to achieve soundness.

³ ID 21a-015-20140306

⁴ [Change of use: new homes - Written statements to Parliament - GOV.UK](#)

Next steps

25. I am not inviting comments from the Council or anyone else on the interim views expressed in this letter. They are provided for the purpose of identifying the matters where I consider further modifications are required to achieve soundness. However, could the Council let me know as soon as possible if there are any points of fact or clarification that it wishes me to address.
26. I therefore now invite the Council to propose further Main Modifications to the Plan to deal with the matters of soundness referred to in this letter after carrying out any necessary Sustainability Appraisal and Habitats Regulations assessment. As a result of these it may be necessary for other, consequential changes to be made to the Plan that are not covered in this letter. The Council should ensure that the Plan reads coherently as a whole after these have been undertaken.
27. Once the Council has considered its position and produced a final consolidated set of Main Modifications in response to this letter it would be prudent for me to see this in order to avoid any obvious procedural or soundness issues. It would be helpful if the alterations undertaken since the immediate post hearing version were highlighted. The schedule should also contain a separate numbering system for the Main Modifications (**MM1, MM2**). I confirm that none of the Additional Modifications listed need to be included as Main Modifications.
28. On the conclusion of this process the Main Modifications should be the subject of a period of consultation of at least 6 weeks. In carrying out the further consultation the Council should make it clear that comments should solely address the proposed changes and the implications arising from them. I confirm that I will take the responses to that consultation into account in compiling my final report and recommendation but do not anticipate that a further hearing session will be necessary.
29. Could the Council please keep me informed of progress regarding the timing of the consultation process. At this juncture I estimate that my report should be completed about 6 weeks after its closure.

David Smith

INSPECTOR