

EXAMINATION OF THE ROCHFORD DEVELOPMENT MANAGEMENT SUBMISSION DOCUMENT

INSPECTOR'S QUESTIONS TO THE COUNCIL

The following questions and comments have arisen from my initial examination of the Rochford Development Management Submission Document (DMD) and the supporting material, including the evidence base. In framing them I have had regard not only to the definition of soundness at paragraph 182 of the National Planning Policy Framework (NPPF) but also the principles for Local Plans set out in 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.

In the light of this my preliminary view is that the main issues regarding the soundness of the DMD are 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?

In this note I shall pose questions of the Council that potentially go to matters of soundness or which concern representations made. I also have a few preliminary comments to make. If the response to any question or comment can be given by directing me to section(s) of the supporting evidence, then it can be dealt with in that way. However, since there is no need for a separate hearing statement this is the Council's main opportunity to deal with the points I raise prior to the hearing. It would be therefore be helpful to receive a full response albeit that brevity is to be encouraged. It may not be necessary to answer each point one-by-one. The reply to my questions should be sent to the Programme Officer by **Friday 7 March 2014**.

A proposed schedule of changes to the Document has been produced which is found at Appendix 9 of the Consultation Statement (SUBDOC6). Many of these respond to representations made during the pre-submission consultation exercise. This table should be kept up-to-date throughout the examination process, including any alterations that arise from my questions, and posted on the Examination website at appropriate times. The latest version should be available just prior to the hearing.

In due course the schedule should distinguish between main and additional modifications having regard to the provisions of sections 20 and 23 of the Planning and Compulsory Purchase Act 2004. Additional modifications are those that do not affect the policies. Discussion about the proposed changes and how they are to be dealt with can also take place at the hearing.

INITIAL QUESTIONS AND COMMENTS

Issue 1

Does the Council wish to make any comments in response to this issue?

Issue 2

The questions below relate to the individual policies and supporting text:

Policy DM1

- (a) Paragraph 58 of the NPPF indicates that design policies should be robust and comprehensive. How does a policy that simply expects account to be taken of certain matters fulfil that expectation?
- (b) Development is expected to reflect the character of the locality. Does this take sufficient account of the NPPF which comments that innovation, originality and initiative should not be stifled?
- (c) Should the individual criteria (such as those relating to trees, car parking and density) be cross-referenced to other policies in the DMD in the interests of clarity?

Policy DM2

- (a) Paragraph 47 of the NPF indicates that local authorities should set out their own approach to density to reflect local circumstances. Does the Council wish to explain any further the rationale for a minimum density threshold of 30 dwellings per hectare?
- (b) In order that it is effective should reference to the minimum figure be included within the policy itself?

Policy DM3

- (a) The construction of the policy indicates that proposals "should consider" certain matters. Does this provide sufficient certainty to decision makers about what is expected?
- (b) Is criterion (ii) clear about what is "appropriate" and should it more fully reflect the supporting text in paragraph 2.24? Is it reasonable to expect that dwellings should be replaced on a like for like basis when the NPPF refers to significantly boosting the supply of housing and optimising the potential of sites to accommodate development?
- (c) Should criterion (vi) refer to either a community benefit or a visual focus?
- (d) Should criterion (vii) be qualified so that it does not prevent development where any loss of private amenity space would result?
- (e) The NPPF does not rule out either backland or tandem development. Whilst recognising the issues that can arise are the other criteria within the policy adequate to ensure the Council's planning objectives rather than seeking to avoid a tandem relationship in criterion (x)?

Policy DM4

- (a) Is it too prescriptive to state that development "must" adhere to the standards?
- (b) Is there any further justification that the Council wishes to put forward for this policy in principle having regard to representation 32685?

- (c) How would the suggested change regarding viability and deliverability address the objection made in practice?

Policy DM5

- (a) Paragraph 193 of the NPPF indicates that local planning authorities should only request supporting information that is relevant, necessary and material to the application in question. Whilst taking account of the changes proposed is the Council satisfied that the wording is clear or would it be more effective to start the policy by referring to development above a certain threshold likely to have a need for external lighting?
- (b) Paragraph 125 of the NPPF establishes that the impact of light pollution from artificial light should be limited by encouraging good design. In seeking to avoid an adverse impact is the policy consistent with national policy? If the thresholds in Table 4 are met would this demonstrate that the impact was acceptable?

Policy DM6

- (a) Paragraph 2.51 of the DMP indicates that siting should be avoided in sensitive parts of the District as far as practicable. Should this intention be included within the policy?
- (b) In criterion (ii) if proposals are expected to show that they would not have a negative impact on local landscape character are they not bound to fail?
- (c) Are criteria (a) – (d) of criterion (iii) sufficiently clear? For example, how would considering the relationship with other existing masts aid the decision maker?
- (d) Criterion (iv) repeats parts of criterion (ii).

Policy DM7

- (a) Is it worth stating in the text that buildings on the Local List carry the status of non-designated heritage assets?
- (b) Statements about what owners should consider do not fall within the expectations for Local Plan policies in the NPPF as set out earlier.

Policy DM8

- (a) Is it too punitive to state that the building to be demolished should be of “no” interest?
- (b) What is the rationale for insisting upon a planning obligation rather than the use of a condition having regard to paragraph 203 of the NPPF?

Policy DM9

The change to the second paragraph of the policy refers to the setting of conservation areas for proposals to alter the appearance of a building. Why, having regard to paragraph 132 of the NPPF, is a similar reference not included in the first paragraph relating to developments generally?

The Green Belt and Countryside

In general terms there is a degree of potential overlap between Policies DM11, DM12, DM13 and DM15. For example, a proposal for Green

Tourism to convert and extend an existing building would be assessed against 3 of these policies. Is the Council satisfied that all are required?

Is the intention that development which meets the relevant policies is not to be treated as inappropriate development in the Green Belt? If so, is this worth stating?

Many of these policies have a 'catch all' final sentence which, in some cases, repeats earlier provisions. In the interests of clarity is this always necessary?

Paragraph 3.12 – on what basis is it said that horticultural buildings are within the definition of previously-developed land when they are defined as agricultural buildings by section 336 of the 1990 Act? Having regard to the definition in the NPPF private residential gardens outside built-up areas would be previously-developed land. Has the Council taken account of this?

Policy DM10

- (a) The heading of the policy refers to "redevelopment" but the paragraphs referring to residential, retail and other development make no such reference. Is this deliberate?
- (b) Should "redevelopment" be defined?
- (c) In the second paragraph there is reference to sustainable development. Presumably this will be achieved if the various criteria are met. If so, should this be acknowledged?
- (d) What is meant by not undermining the purposes of the Green Belt in the penultimate paragraph?
- (e) Should the policy make reference to openness along the lines of paragraph 3.31 of the DMD?
- (f) What is the basis for the 800m walking distance in paragraph 3.29?

Policy DM11

- (a) Should this policy also refer to replacement buildings as allowed for at the 4th bullet point of paragraph 89 of the NPPF?
- (b) Should the meaning of criterion (ii) be clarified? Should reference be made to the suitability of adjoining vacant units for the existing business in the interests of supporting economic growth in rural area in line with paragraph 28 of the NPPF?
- (c) Is a proportionate increase equivalent to 25% as allowed for under Policy DM17? Should this be clarified?
- (d) Is it reasonable for the need for the proposal to be demonstrated in criterion (iv)?

Policy DM12

- (a) What is rural diversification? Should it be defined for the purposes of the policy?
- (b) Should criterion (iii) not refer to the actual impact of the development on the sensitivity of the landscape character area?

Paragraph 3.43 – where does the NPPF encourage the reuse of farm buildings in the interests of rural diversification?

Policy DM13

- (a) Criterion (i) is not within the NPPF. This requirement was previously part of Planning Policy Guidance Note (PPG) 2: Green Belts but was removed. On what basis is it included here?
- (b) Is the allowance for additions the same as for dwellings as set out in Policy DM17?
- (c) What does “due regard” mean in this context?
- (d) Why is criterion (vii) and the text in paragraph 3.45 included when these provisions do not apply to Policies DM11, DM12 and DM14?
- (e) Paragraph 55 of the NPPF indicates that the re-use of redundant or disused buildings in a manner that would enhance their immediate setting is a special circumstance that may justify isolated new homes in the countryside. Rather than a blanket prohibition of residential uses should this national guidance be reflected in the policy?

Policy DM14

- (a) The construction of the policy only requires the decision maker to have “regard” to certain matters. Does this provide an effective basis to determine what will and will not be permitted?
- (b) In the third paragraph what is the concern about an agglomeration of facilities at criterion (a)? How is this to be defined?
- (c) Why is it necessary to expect evidence of an intention and ability to develop the business and of sound financial planning in criteria (b) and (c) of the third paragraph and also in paragraph 3.40? This is not required of other uses referred to in Policy GB2 of the Core Strategy and relates to the conversion of existing buildings so the impact on the openness of the Green Belt is unlikely to be great.

Paragraph 3.49 – Unlike PPG2 the NPPF does not include within the list at paragraph 90 any reference to material changes of use as a form of development that is not inappropriate. It therefore cannot be inferred from national policy that the use of land for outdoor sport and recreation is appropriate. However, paragraph 81 indicates that authorities should plan positively to enhance the beneficial use of the Green Belt including providing opportunities for outdoor sport and recreation. The Council may therefore wish to consider clarifying its positioning this regard.

Paragraph 3.51 – Where are the intentions attributed to the NPPF in the penultimate sentence to be found?

Policy DM15

- (a) What is the rationale behind resisting a “proliferation” of similar businesses? How is this to be determined?
- (b) How would the encouragement to utilise existing buildings operate in practice? Would it be effective?

Policy DM16

- (a) Although further qualified in response to Sport England, why is it necessary to expect that new pitches be provided in areas with a defined deficit in the first place?
- (b) What is the justification for restricting the siting of containers or portable buildings?

Policy DM17

- (a) What is the basis for the 25% increase in floor area as opposed to any other figure?
- (b) Is floor area the most effective measure?
- (c) What is the rationale behind the provision that there should be no material increase in overall height?
- (d) Is the wording in criterion (ii) that the proposal should "avoid impact" sufficiently precise?
- (e) Has consideration been given to extensions to dwellings permitted under Policy DFM18 or replacement dwellings permitted under Policy DM21 which would be covered by the wording of the policy?

Policy DM20

What are the exceptional circumstances that warrant removing permitted development rights following the grant of permission for a basement extension?

Policy DM21

- (a) It is accepted that a replacement dwelling can be larger than the existing so is it reasonable to expect the visual mass to be no greater as per criterion (iii)?
- (b) Why should the overall height remain the same?
- (c) Why should bungalows remain as such?
- (d) Is the Council satisfied that its preference to low pitched roofs in paragraph 3.75 is justified?

Policy DM22

- (a) Is the first sentence sufficiently clear? Does the policy relate to extensions to domestic gardens onto land within the Green Belt?
- (b) Is the meaning of "residential fringe" clear?
- (c) What is meant by "appropriate"? Should criterion (ii) reflect paragraph 3.80?
- (d) As any proposal is likely to impact on openness and undeveloped character to a degree should the wording in criterion (iii) be clarified?

Policy DM23

- (a) Given the other policies relating to the Green Belt is there a need for a further policy regarding Conservation Areas?
- (b) Should there be a link to Policy DM10 or is this policy not concerned with previously-developed land?
- (c) What is meant by criterion (ii)?

Policy DM25

- (a) Why is the test for protecting other important landscape features in Policy DM26 more stringent than in this policy? Should reference be made to the unavoidable loss?
- (b) Should reference be made to the Characterisation Project mentioned in Policy DM26?

Policy DM26

Are the features referred to in this policy those outside of Core Strategy Policy ENV1 and Policy DM25? If so, should this be clarified?

Policy DM27

Should the first and third paragraphs be reconciled as both refer to instances when development will be permitted in different ways?

Policy DM29

Is there a definition of "major developments"?

Policy DM30

Why are other areas with good links to public transport excluded from the relaxation of the minimum standards for residential development?

Policy DM32

The purpose and wording of the first sentence of the second paragraph is unclear.

Policy DM33

- (a) Why is it necessary to maintain a link to a residential use if the activity meets the other criteria?
- (b) Are conditions relating to the size and frequency of delivery vehicles and a personal permission in accordance with Circular 11/95 The Use of Conditions in Planning Permissions?

Policy DM34

- (a) Given that similar policies are to be included in the Area Action Plans why is this policy necessary at all?
- (b) Notwithstanding the above, consideration should be given to ensuring consistency with Policy 7 of the Hockley Area Action Plan. In particular, the explanation regarding a "cluster" of uses in paragraph 7.8 is unclear.

Policy DM35

Paragraph 51 of the NPPF indicates that applications to change to residential use from commercial buildings should normally be approved. However, the policy seeks to avoid a net loss of leisure or commercial uses. Is the policy consistent with the NPPF?

Policy DM36

In the light of paragraph 51 of the NPPF referred to above why is the conversion of retail uses to residential not supported and why is the change of non-retail units to residential not to be favourably considered in the Green Belt?

Representations

Are there any further comments beyond those in the Consultation Statement which the Council wishes to make in response to the representations from the South East Essex Organic Growers (32678)?

Updating

The Council should ensure that where the DMD refers to other plans, legislation, guidance or advice these are still in force and up-to-date. For example, Objective 1 on page 14 refers to the now revoked East of England Plan and the Order referred to at footnote 1 on page 16 has been replaced by the Development Management Procedure Order of 2010.

Supplementary Planning Documents

These and other standards (such as parking) are referred to in the policies and should be provided as part of the evidence base by **Friday 28 February 2014**.

Other Matters

In a few places and in some policies (such as Policies DM35 and DM36) the DMD refers to "we". It would read more coherently if these were removed. There is a missing word in the last line of paragraph 3.67.

Finally I apologise for the length of this note but thought it better to be comprehensive at this stage in order to assist the progress of the examination. If anything is not clear or further explanation is required of what I am asking then please contact me via the Programme Officer.

David Smith

INSPECTOR

7 February 2014