
MINOR AMENDMENTS TO THE ROCHFORD DISTRICT LOCAL DEVELOPMENT SCHEME

1 SUMMARY

- 1.1 Members agreed a revision to the Rochford District Local Development Scheme at an earlier meeting of this Committee (minute reference 14/06). The Environmental Services Committee subsequently required that any minor amendments made be referred back to this Committee (minute reference 38/06). This report and appendix provides Members with the amendments made as a requirement of GO-East to avoid their intervention and call-in.

2 INTRODUCTION

- 2.1 The Local Development Scheme (LDS) sets out the Council's production schedule for the components of the Local Development Framework. Under the Planning and Compulsory Purchase Act 2004 the Secretary of State has the power to call in a LDS should he consider it to require amendment. In practice this power is exercised by the relevant Government Office.
- 2.2 The Council's LDS was submitted to Members and agreed on 18 January 2006. It was formally submitted to GO-East on 20 February 2006. This submission included a letter stating the Council's rationale behind the revised LDS (see Appendix 1).
- 2.3 Following this submission, an e-mail stating what needed to be done to avoid intervention was issued by GO-East on 2 March 2006 (see Appendix 2).

3 NOTIFICATION OF CHANGES

- 3.1 The following changes have been made:-
- The 3 reasons (as laid out in Appendix 1, paragraphs 2 to 5) have been inserted after paragraph 1.3 in the LDS.
 - An extra paragraph has been added after paragraph 3.4 stating the input of Essex County Council into the Strategic Environmental Assessment / Sustainability Appraisal.
 - The Allocations Development Plan Document (DPD) preferred options stage has been put back to April / May 2007 and all references in the text now reflect this.
 - The Development Control policies DPD preferred options stage has been put back to June / July 2007 and all references in the text now reflect this.

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- The GANTT chart has been altered to cover the period from March 2006 through to April 2009 and the final line in the chart has been amended with the removal of the date boxes and their replacement with “Deliberately left blank – as Essex County Council will determine the timings for this document”.

4 RISK IMPLICATIONS

4.1 Regulatory Risk

Failure to maintain an up to date Local Development Scheme may lead to action being taken against the Council by the ODPM or Regional Government Office.

5 RESOURCE IMPLICATIONS

- 5.1 Additional resources may be required to ensure that the various development plan documents and supplementary plan documents listed in the LDS can be successfully completed and thereafter be implemented effectively. Planning Delivery Grant is not expected to be available after 2007/08.

6 LEGAL IMPLICATIONS

- 6.1 The legal implications are specified in the Act, but there are various penalties possible for failing to comply. Also, the failure to implement the new planning regime may have consequences for other areas of planning.

7 RECOMMENDATION

- 7.1 It is proposed that the Committee **RECOMMENDS TO COUNCIL**

That the changes made to the Rochford District Local Development Scheme be agreed and that the document be published and distributed in due course.

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Background Papers:

None.

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APPENDIX 1 *TEXT OF COVERING LETTER SUBMITTED WITH THE LDS TO GO-EAST*

"I am pleased to submit our revised Local Development Scheme, which supersedes the original adopted version. Rochford District Council has adopted the version enclosed. Further to our e-mails earlier in the year, I am explaining the reasoning behind our revised submission. As you surmised in your most recent e-mail, there are three main reasons for the slippage.

REASONS FOR SLIPPAGE

The main reason for the delays incurred is that there has been significant slippage within the RSS preparation process. The milestones that have been prepared are in line with the advice received from GO-East, which stated that we should not prepare key documents until the panel report into the Examination In Public. There are representations being made through the EIP process that could significantly affect the Council's housing allocation requirement and which would affect the green belt, leisure and infrastructure allocations for the district.

Whilst work is continuing with DPDs, it is not considered a risk worth taking to progress too far with them, given that there is still significant uncertainty in the process. It is the Council's view that a delay in the RSS's production has to automatically result in a consequential delay in the adoption of LDDs, but that in Rochford District Council's case there is a need for the delay to be factored in. The Council has undertaken a full and proper consideration of the impact of the RSS's delay for the production of their LDF, and the delivery of key planning objectives in their areas and have proposed delays only where it is absolutely necessary.

Secondly, the Council has considered it is important to prioritise resources accrued because of the unexpected and extra workload caused by the local plan's timetable slippage. The Council believes, that given the SEA Regulations, it is appropriate and reasonable to concentrate on getting the local plan adopted as soon as possible. Work on the Core Strategy has commenced and a lot of the evidence gathering work is underway.

Finally, there has been slippage in preparing the SEA. This has been caused by capacity problems with the contractors employed by the Council to prepare the SEA. There remains limited capacity within the consultants, who are doing work for a number of Essex authorities. Whilst the Council will commission work to enable the process to move forward as swiftly as possible, it is not desirable to have to change the LDS again because of challenges that were foreseen. In this respect the timescale presents a worst case scenario and it is the Council's intention to enable work, wherever possible, to be completed in advance of the milestones.

CATCHING UP LATER IN THE PROCESS

As you noticed, there are additional delays built into the process. These have arisen from experience of the local plan and LDF preparation process. The Council has two

tiers of policy committee to be passed before a document can be adopted, not including the full Council. The timings of these committees means that extra time needs to be allowed to ensure that reports can meet deadlines.

The work programme has also been altered to take account of holiday periods, for staff and for the times when the Council is in recess. Timings also reflect staff commitments to study, which were not appreciated fully at the time of preparation of the first LDS.

RISK AND CONTINGENCY

The Council has considered what and which contingency measures could be implemented. However the nature of the issues facing the district has meant that the contingency measure employed is to amend the LDS. The Planning and Compulsory Purchase Act 2004, makes it clear in S.15(8)(a), that the local planning authority can revise the LDS when it sees fit.

As two of the three reasons for the need to amend the timetable are outwith the control of the Council, it was not possible to effectively plan for them. Given that the Act intends the system to be flexible, perhaps not enough thought was given to the impact of these matters at an early enough stage. The revision has taken into account such factors and should not need revision before its planned revision date.”

APPENDIX 2 *TEXT OF E-MAIL RESPONSE FROM GO-EAST*

“I’ve looked at your formally submitted LDS first revision and the reasons for the revision set out in the covering letter.

I have carefully considered the reasons for the timetable slippage, as set out in the covering letter and can say that in light of these factors and as a matter of principle, it appears reasonable for the Council to seek to amend certain LDS milestones. I have provided some comments on the detail of those changes below:

Detailed comments

I do have a slight concern about a certain aspect underpinning the changes, specifically, when you suggest the milestone changes represent a ‘worst case scenario’, and that your hope is to complete work in advance of the milestones. I take this to mean that you think that you may achieve certain key milestones earlier than as set out in the LDS first revision. Please correct me if I have not interpreted this properly.

My concern arises because the LDS is intended to represent the Council’s realistic (to the best of its knowledge) public programme of LDD preparation. It is expected that the community and other stakeholders will use the LDS, to keep informed of when the Council is likely to reach key stages in LDD preparation and when they will be expected to engage in document production. It is therefore important that the document is fit for purpose and represents a full and realistic picture of what is likely to happen and when.

If your LDS revisions do not necessarily represent the reality, and the milestones are not a true reflection of the expectations, I would suggest the approach may be unhelpful to say the least, and potentially confusing. Especially when certain organisations will be considering their own capacity to engage in LDD production processes based on LDS (including LDS revision) milestones. I would therefore urge you to amend the LDS on the basis that it is the Council’s realistic and expected production programme for LDDs and not necessarily a worst case scenario production programme.

In summary, if the Council already firmly considers that milestones, particularly those involving public consultation, engagement, submission and examination, will be achieved earlier than currently set out, then the LDS revision should be further amended to reflect the Council’s current production expectations, rather than a ‘worst case scenario’.

However, I appreciate that you are operating within a new system and there is still a degree of uncertainty in timescales for LDD preparation. I can therefore understand the Council’s trepidation in setting itself what may turn out to be over ambitious timetables, based on the theory of LDD production rather than the reality. If this is the case, and there is still a degree of uncertainty about the exact timing of future milestones and it is not certain that milestones will be achieved sooner, then I will accept the Council’s approach as currently set out, but would expect the Council to

seek to alert the public and stakeholders at the earliest opportunity if it becomes clear that certain milestones will be reached earlier than expected. Where the milestones changes are significantly different this may best be achieved through a further LDS revision.

Please let me know whether you: 1) intend to reconsider the approach for setting the timetables, or 2) stick with the approach and timetable as it is, but on the basis that if it appears that milestones are to be achieved significantly sooner, you will seek to alert the public and stakeholders as soon as you become aware, possibly through a further LDS revision.. It would be useful to include a line suggesting this in the LDS.

I would also suggest that you include upfront in the LDS, the reasons why you are amending the milestones. It will be useful context for those reading the LDS.

In terms of the reasons themselves, my views are:

1. I can accept that the Local Plan has taken longer than previously expected and agree that it is appropriate for you to concentrate resources on the completing the Local Plan's remaining production stages, with a view to ensuring the plan is adopted before the July 06 SEA deadline. This plan will provide an up-to-date framework for the consideration of planning proposals in your area.
2. Given that you consider there to be some uncertainty in the RSS as it will apply to Rochford (due to a number of representations), and you consider that there is a possibility that RSS changes that could significantly affect the Council's spatial response, I can accept your decision to seek to delay the Core Strategy's production (and the resultant knock on effect for other LDDs). I acknowledge, that this will provide the Council with the opportunity to take account of the RSS as it reaches its final stages. It appears appropriate for you to delay the Core Strategy's submission until April 2007. At this time the Secretary of States proposed changes will have been consulted upon and the final RSS published or very close to publication. There is likely to sufficient certainty at this time, for you to finalise the Core Strategy and submit it for examination. The SoS RSS proposed changes will give you an idea of the likely direction of travel.
3. I acknowledge the difficulty you have had in engaging specialists to undertake the necessary sustainability appraisal process. Given the importance of integrating SA into LDD production, I agree that it is essential that the SA is progressed enough to properly underpin and inform LDD production. I can understand the reasons why you want to ensure the SA processes are properly carried out, and that a delay will help this.
4. I accept that you will have to take account of Council committee cycles, holiday periods and committee recesses in getting agreement to issue

consultation documents, submit documents and to adopt final documents in-line with the Inspector's recommendations in binding reports.

Core Strategy

In light of the reasons you have set out, and given that you will soon have an up-to-date local plan in place, I can accept the amended Core Strategy's production milestones.

Allocations and DC policies DPD

I can also accept the need to amend the Allocations and DC policies DPDs, so that they are staggered behind the Core Strategy's revised timetable. However, looking at the revisions in more detail, I wonder whether there may be an alternative approach for Allocations DPD Preferred Option stage:

You are currently proposing to go out to consultation on site allocation preferred options in early 2007. This is before you finalise and submit the Core Strategy and could be before the final RSS is published (expected to be Spring 2007). I suggest that it may make more sense for you to consult on the site allocation preferred options after you have finalised and submitted the Core Strategy (or possibly in parallel with it – although this would require careful management and handling). This way you should be able to concentrate on preparing the final Core Strategy, in the lead up to its submission. It would also be clear to stakeholders and the community, that the Council is seeking views on preferred options for sites in the context of a submitted (and as far as the Council are concerned, finalised) Core Strategy. You would also have the added cover of consulting on sites in the context of a finalised RSS.

This would not necessarily have an impact upon the latter stages of the allocations DPD production (which I can accept), since the work to get from preferred options to submission may not be too time consuming, for instance, you will have already indicated, tested and identified your preferred development sites, (but you would be required to consider any further sites) and you will probably have a good idea of the site specific policies needed, to support the delivery of those sites. The main area of work would likely to be considering any alternative sites not already discounted, defining detailed site boundaries and finalising site specific policies. You would still have up to 5 months to finalise the site allocations DPD and submit it by November 2007. The extra time to get to preferred options may give you the opportunity to provide more detail for this stage, and therefore potentially less to do afterwards.

This approach would mean the DC policies DPD preferred options consultation would be running parallel or very close to the site allocations DPD. Which might make sense, but you will need to be certain that you could do both. Alternatively, you could slightly slip the DC policies DPD, and seek to extend the Local Plan's development control policies saved period by 2 months.

My suggestion is that: the Allocations DPD preferred options milestone is shown as April May 2007 (rather than Feb – Mar 2007). Let me know what you think of this suggestion.

SCI

I assume the SCI changes are more of a statement of fact and that you will be submitting this SCI this month.

PINs view

I have contacted PINS for a view on the LDS revisions. They are generally interested in the post submission milestones, and often seek to ensure there is sufficient time between the submission and examination milestones, and between the examination and inspector's report milestones. You appear to have left sufficient time between milestones, but I will formally let you know what they say, when I hear from them.

SPDs

You are intending to undertake the preparation of a number of SPDs this year. Looking at the timetables, you should already have commenced work on all of them, so presumably you will be certain that the other milestones are deliverable. As we have said previously, where there are resources issues, we would expect that resources are concentrated on DPDs, rather than SPDs.

Gantt Chart

It would be useful if you showed the rest of the timetable for the allocations and dc policies DPDs on the Gantt chart.

In summary can you let me know:

1. Whether the revised timetables are the expected and realistic timetables (rather than worst case scenario timetables) or whether further changes are necessary to reflect the expected timetables;
2. That you will include the reasons for the LDS revision, upfront in the LDS, possibly in the introduction.
3. Whether you will change the allocations DPD preferred options to Apr-May 2007, rather than Feb-March 2007 and keep the rest of the timetable the same;
4. Whether you will keep the DC policies preferred options in Apr-May 2007, or whether you will slip the milestone slightly;
5. Whether you will amend the Gantt chart to show the whole of the Allocations DPD and DC policies DPD timetable.

Next Steps

Once I have a view from PINS (if they make any suggestions, I will need to discuss them with you) and after you have given me a view on the suggested changes above (an email response will do), I should be in a position to put together a 'non-intervention' letter. If all this is done promptly, I shouldn't need to issue a 'holding' direction. Once you receive the letter, it will allow your LDS revision to come into effect on the date specified by your Members."