



The Planning Inspectorate

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# **Report to Rochford District Council**

**by Mike Fox**

**an Inspector appointed by the Secretary of State for Communities and  
Local Government**

**Date: 16<sup>th</sup> March 2015**

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)  
SECTION 20

## **REPORT ON THE EXAMINATION INTO ROCHFORD AREA ACTION PLAN LOCAL PLAN**

Document submitted for examination on 20 November 2013

Examination hearing held on 19 February 2014

File Ref: PINS/B1550/429/6

## Abbreviations Used in this Report

AA	Appropriate Assessment
AAP	Area Action Plan
AMR	Annual Monitoring Report
CIL	Community Infrastructure Levy
DTC	Duty to Co-operate
LDS	Local Development Scheme
MM	main modification
PPG	National Planning Practice Guidance
PSED	Public Sector Equality Duty
RS	Regional Strategy
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
<i>The Framework</i>	The National Planning Policy Framework (also known as the NPPF)

## **Non-Technical Summary**

This report concludes that the Rochford Area Action Plan (AAP) provides an appropriate basis for the planning of the Area, providing a number of modifications are made to the Plan. Rochford District Council has specifically requested me to recommend any modifications necessary to enable the Plan to be adopted.

All of the modifications to address this were proposed by the Council but where necessary I have amended detailed wording and/or added consequential modifications and I have recommended their inclusion after considering the representations from other parties on these issues.

The Main Modifications can be summarised as follows:

- Name of Plan
  - Change title of Plan to: Rochford Town Centre Area Action Plan.
- Mixed use development sites – include the following sites:
  - A Rail Station Car Park – Residential development;
  - B North Street – Mixed residential/commercial development;
  - C Spar Building – Mixed residential/commercial development; and
  - D Police Station – Mixed conversion of main building to residential and residential new build
- Retail provision
  - Provision for additional comparison goods retail floorspace.
- Town centre uses
  - Safeguarding the living conditions (amenities) of nearby residents.
- Market Square
  - Improvements to the public realm.
- Archaeology
  - All new development to incorporate a mitigation strategy.
- Implementation and monitoring
  - Clarifying the role of the Infrastructure Delivery Plan (IDP) and Annual Monitoring Report (AMR).

## Introduction

1. This report contains my assessment of the Rochford Area Action Plan (AAP) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the Duty to Co-operate (DTC), in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework, or *the Framework*<sup>1</sup> (paragraph 182) makes clear that to be sound, a Local Plan should be positively prepared; justified; effective; and consistent with national policy.
2. The starting point for the Examination is the assumption that the local authority has submitted what it considers to be a sound Plan. The basis for my Examination is the submitted Draft Plan (November 2013) which is the same as the document published for consultation in July 2013, and which went out for consultation from 3 July to 29 August 2013.
3. My report deals with the main modifications that are needed to make the Plan sound and legally compliant and they are identified in bold in the report **[MM]**. In accordance with section 20(7C) of the 2004 Act the Council requested that I should make any modifications needed to rectify matters that make the Plan unsound/not legally compliant and thus incapable of being adopted. These main modifications are set out in the Appendix.
4. The main modifications that are necessary for soundness all relate to matters that were discussed at the Examination Hearings. Following these discussions, the Council prepared a schedule of proposed main modifications and this schedule has been subject to public consultation for six weeks, from 23 October to 4 December 2014. I have taken account of all the consultation responses in coming to my conclusions in this report.
5. In addition to the Framework, I have had full regard to the Government's Planning for Growth, the Localism Act 2011 and the national Planning Practice Guidance (PPG).

## Assessment of Duty to Co-operate

6. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on them by section 33A of the 2004 Act in relation to the Plan's preparation. *The Framework* (paragraphs 178-181) sets out the requirement of the Duty to Cooperate (DTC). It refers to the need to demonstrate effective cooperation between neighbouring authorities on strategic matters, including evidence of effective collaboration, joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities, and a continuous process of engagement, which is more than consultation.
7. It is clear from the written evidence and also from the Council's comments at the Examination Hearing that the Council has successfully worked with neighbouring authorities during the preparation of the now defunct East of

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<sup>1</sup> DCLG: National Planning Policy Framework (*the Framework*); March 2012.

England Regional Strategy (RS), which has influenced the adopted *Core Strategy*<sup>2</sup>, which in turn has been reflected in the strategic principles of the Plan before me. Although there has been regular consultation at all stages of the emerging Plan, no cross-boundary issues were identified by any of the neighbouring authorities or other groups or organisations.

8. The main strategic partner in formulating the policies in the Plan has been Essex County Council (ECC), as highway authority, and it is clear that there has been continuous working cooperation between ECC and Rochford District Council in the preparation of the Plan. No criticisms of the Council's working arrangements under DTC were made by any party, and on the evidence before me, and given the limited scope within the Plan for policies with an impact outside the boundaries of the District, I consider that the DTC has been met.

## **Assessment of Soundness**

### **Overview**

9. Rochford is a small, historic town in south Essex. Its Market Square is an important heritage asset and is the focal point for both the Plan Area and the wider town. The Market Square is also the subject of the most high profile policy in the Plan, which aims to improve its public realm. The town centre is also the town's principal retail and employment location.
10. The name of the Plan, however, is misleading, as it refers to the entire town and not just the town centre, which is clearly the remit of the Plan before me. The change of the name of the Plan therefore, to the Rochford Town Centre Area Action Plan **[MM1]**, is justified.

### **Main Issues**

11. Taking account of all the representations, written evidence and the discussions that took place at the Examination Hearing, I have identified six main issues upon which the soundness of the Plan depends.

### **Issue 1 – Is the Plan strategy soundly based to meet the needs of Rochford town centre in relation to national policy, the *Core Strategy* and neighbouring plans and strategies? Is the Plan sustainable?**

12. The Plan aims to deliver change in Rochford town centre in accordance with *Core Strategy* policy RTC5, and in particular the following: A safe and high quality environment for residents; a Market Square that encourages visitors; an enhanced retail offer for Rochford; a range of evening leisure activities; improved accessibility to and within the town centre; and the promotion of youth and community facilities.
13. These aims are appropriate for the town centre and accord with the economic, social and environmental aims of *the Framework*, the *Planning for Growth* Agenda and the Localism Act. The Plan is consistent with the

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<sup>2</sup> Rochford District Council: *Core Strategy* Adopted Version; December 2011.

Sustainability Appraisal (SA)<sup>3</sup>, and picks up on its key sustainability issues, whilst no adverse effects are foreseen which cannot be addressed and mitigated. The SA emphasises the importance of Market Square and states that improvements to the Square could provide a number of positive benefits for the town.

14. Policy 1 sets out an Area Action Plan framework, supported by a movement framework plan, to achieve a sustainable town centre and in particular to (i) focus retail uses in and around Market Square; (ii) secure a more vibrant and attractive Market Square, including public realm improvements and additional restaurants and cafes; (iii) protect office-based activities in the Locks Hill area; (iv) identify opportunities for new mixed use development on key sites; (v) improve highway connections, especially between the town centre and the railway station; (vi) achieve environmental improvements throughout the area; and (vii) set a policy framework for the appropriate conservation of ground and below ground heritage assets. The Plan addresses all these strategic considerations at the appropriate level of detail for an AAP.

#### *Conclusion – Issue 1*

15. I therefore conclude that the strategy of the Plan is soundly based to meet the needs of Rochford town centre, and as such it is positively prepared, justified, and accords with both *the Framework* and the *Core Strategy*.

#### **Issue 2 – Is the Plan’s provision for the local economy sound in relation to the scale and location of retail, office and employment provision, its definition of the town centre boundary and control of retail frontages?**

##### *Scale and location of proposed retail provision*

16. At the time of the Examination Hearing (February 2014) the Council considered that the economic climate was significantly tougher for retail development than at the time of the Council’s latest Retail and Leisure Study<sup>4</sup>, dated August 2008. That study stated that significant proportions of available convenience and comparable expenditure leaked to out-of-district centres, and especially Southend, and that Rochford’s share of the total retail spending potential in the District was low. The study concluded, however, that both the convenience and comparison retail stores were overtrading, and that the provision of an additional capacity of 4,330 sq m comparison goods retail floorspace by 2026 was suggested as realistic for Rochford town centre, in order for it to maintain its market share<sup>5</sup>.
17. The Council’s suggested increased comparison retail floorspace is for a relatively modest amount, of 750 sq m, together with a potential opportunity site at the junction of North Street and Weir Pond Road **[MM2-3]**. Although this is lower than the recommendation of the Retail and

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<sup>3</sup> Report by Enfusion for Rochford District Council: *Sustainability Appraisal/Strategic Environmental Assessment of Submission AAP (SA): Non-Technical Summary*; November 2013 [Examination Document SUBDOC 3].

<sup>4</sup> LDF Evidence Base: Retail and Leisure Study; by White Young Green for Rochford District Council; August 2008 [Examination Document SUBDOC 13].

<sup>5</sup> Rochford Retail and Leisure Study, paragraph 8.63.

Leisure Study, it is justified on the grounds that there is limited scope for increased retail floorspace in the town centre for conservation reasons. However, some flexibility needs to be built into the policy with the introduction of the use of the word “around”, in case additional opportunities present themselves.

18. The Council’s view was that the capacity for convenience retail was largely taken up with recent developments in the District. I also consider that a large supermarket in the town centre would be inappropriate in terms of its visual and traffic impact, given the close-knit network of narrow streets and organic urban grain of most of the traditional buildings in the Conservation Area, which encompasses the town centre.
19. The town centre has a low retail vacancy rate (7% in October 2013)<sup>6</sup> with a fast turnaround. I note that a number of enquiries for town centre retail premises had recently been made at the time of the Examination Hearing, and that the Council was confident that the retail provision in the plan was appropriate and realistic. I share this view, although the Council may need to revise its retail provision elsewhere in the District, should the economy continue to improve and to prevent further leakage to retail centres outside the District.

#### *Town centre boundary*

20. The Plan identifies changes to the town centre boundary, based on the findings of the Retail and Leisure Study, and these are shown in Figure 1 in the submitted Plan. The Council’s reasoning is that rationalising the town centre boundary by deleting sections of East Street and Weir Pond Road will counter the effect of diluting town centre activities due to the proportion of residential and other non-retail uses. The inclusion of the railway station and Council offices within the town centre boundary is considered to be appropriate, bearing in mind that these are key facilities supporting the local economy.
21. No robust arguments were submitted to challenge the Council’s stance, and I see no reason to disagree with the Council’s logic; I therefore have no soundness concerns relating to the revised town centre boundary.

#### *Primary and secondary shopping frontages*

22. As illustrated in Figure 8, the primary shopping frontage has been revised to focus predominantly on the north side of Market Square, which the Council considers to be the core area where retail uses should be focused. Policy 2, in line with the *Core Strategy*, seeks a predominance (65%) of the frontage in retail uses within this area, whilst taking a more positive approach than in previous local plans towards A3 uses (restaurants and cafes), and A4 uses (drinking establishments). I have no reason to question the soundness of these revisions to the earlier Plan.

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<sup>6</sup> Rochford District Council: Rochford Area Action Plan Hearing Statement, section 3.3; January 2014.

23. The secondary shopping frontage, where policy 3 operates, has been extended at the western end of West Street and along Roche Close to the north of Market Square. Policy 3 seeks to encourage an appropriate mix of town centre uses including food and drinking establishments, provided that they do not adversely impact on the viability and vitality of the primary retail frontage. Both policies 2 and 3 accord with the principles set out in *the Framework* (paragraphs 23-27) and in particular the need to define the extent, and clear definition of, primary and secondary shopping frontages, whilst keeping the focus on supporting the town centre's viability and vitality.
24. I also consider that these policies adequately address proposals for food and drinking establishments and cater for the evening economy. This is, however, subject to the modification to state that the impact on the living conditions (amenities) of nearby residents from uses such as night clubs will be an important consideration in determining planning applications **[MM 4]**. This change is supported on the grounds of the Plan's justification and effectiveness.

#### *Employment development at Locks Hill*

25. Policy 4 supports new employment development at Locks Hill and protects that area from uses which would undermine its role as an employment provider. This is based on the recommendations of the Employment Land Study<sup>7</sup> which states that: "*Given the increasing future requirements for office stock set out in our base case and two scenarios we recommend that Rochford District Council should allocate the land at Locks Hill as employment land to emphasise the importance of the site for employment use. This will help to safeguard future office supply in the town centre*"<sup>8</sup>.
26. The Employment Land Study's view is supported by advice from the property specialists, GL Hearn<sup>9</sup>. In my view, the study's advice also accords with paragraph 22 of *the Framework*. This paragraph draws a distinction between sites which have no reasonable prospect of being used for employment use, where long-term protection should be avoided, and sites such as Locks Hill, where the implication is the opposite. Paragraph 21[3] of *the Framework* states that local planning authorities should support existing business sectors.

#### *Conclusion – Issue 2*

27. I therefore consider that policies 2, 3 and 4, subject to the above modifications, are justified, effective and accord with *the Framework*.

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<sup>7</sup> Report by GVA Grimley for Rochford DC: *Employment Land Study*; September 2008 [Examination Document SUBDOC15].

<sup>8</sup> Employment Land Study, pages ii-iii.

<sup>9</sup> Rochford DC: Rochford Area Action Plan Hearing Statement: Response to Matter 3.6, page 11 [Examination Document SUBDOC 1]; January 2014.



### **Issue 3 – Are the proposals for the enhancement of Market Square justified, deliverable and in accordance with national policy?**

28. At the Examination Hearing, I raised a concern, which I had expressed in writing earlier<sup>10</sup>, that the Council was presenting two separate options in the same Plan for the future of Market Square, which, if unresolved, would give rise to continued uncertainty. One of these options involved significant pedestrianisation of the Square. The other option largely left the layout of the Square unchanged, albeit with a modest improvement scheme that would give greater priority to pedestrians with some pavement widening; it would also provide improvements to landscaping and street furniture, but would leave the car parking areas and taxi rank substantially intact.
29. Following the Hearing, at which the options were debated, the Council embarked upon a public consultation exercise on the future options for Market Square, which extended from 25 March to 8 May 2014. After considering the consultation responses at an Executive Meeting<sup>11</sup>, the Council identified its preferred option for the Square, which was for a modest improvement scheme (referred to in its Executive Report as Option 3) which would give greater priority to pedestrians without the pedestrianisation of a significant part of the Square. The Council then included its preferred option for the Square together with all its other suggested modifications to the Plan, and these went out for public consultation between 23 October and 4 December 2014.
30. The Council's preferred scheme for the future of the Square is relatively unambitious and was not the preferred solution of English Heritage. Whilst it would not achieve the same environmental benefits associated with significant pedestrianisation of the Square as identified in the SA, and the Conservation Area Appraisal, it would be less expensive and more likely to be delivered. It would therefore be a realistic (effective) option, which would remove the uncertainty over the future of the Square, and provide a sound policy basis for the public realm enhancements proposed in policy 6.
31. The suggested scheme would result in some environmental improvements, including extending the footway material from the Square across West Street and repaving the pedestrian areas and it is supported by a clear majority of those who responded, both to the Council's consultation exercise on the future of the Square and to the Council's suggested main modifications. The Plan also promotes improvements to the historic environment of Market Square, primarily through supporting the redevelopment of the eastern side of the Square, which currently is unprepossessing and detracts significantly from the character and appearance of the Square, which is the town's most significant heritage asset and the centrepiece of the Conservation Area. The Option 3 Scheme is also supported by ECC as the highway authority and most of the local business community.

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<sup>10</sup> Letter from the Inspector to the Council, via the programme Officer; dated 12 December 2013.

<sup>11</sup> Executive Meeting of Rochford District Council: Proposed Schedule of Modifications to the Rochford Area Action Plan Submission Document; 6 October 2014.

32. The modifications to policy 6 and Table 1 of the Plan **[MM5-6]** also seek to ensure accessibility to the town centre. This is particularly true for disabled users<sup>12</sup>, and for cyclists, through the development of cycle facilities, whilst the scheme also allows for bus penetration. The modifications therefore meet the test of soundness, particularly in relation to the Plan's effectiveness, and give a clear sense of direction and certainty, which was previously lacking in the Plan; it is also a low cost option and it is easily implementable, whilst the opportunities remain for further environmental enhancements at a later date.
33. Several representations of a detailed nature were made on the future of the Square, including comments relating to direction of traffic flow, location of box junctions and arrangements for the parking of vehicles, including taxis. These aspects go beyond the appropriate level of detail and scope of the Plan, and it is not therefore appropriate for me to comment on these aspects in this report. The representation in favour of increasing the pavement width on the south side of West Street would be a positive move in terms of highway and pedestrian safety as well as on environmental grounds, and would accord with policy 6 as modified.

#### *Conclusion – Issue 3*

34. I therefore conclude that policy 6, for a more vibrant and attractive Market Square, subject to the above modifications, accords with the *Core Strategy* and is supported on the grounds of ensuring that the Plan would be justified and effective.

#### **Issue 4 – Is the character-led approach in the Plan appropriate and realistic for the town centre and does it provide a clear strategic focus for the location of new development?**

35. The Plan recognises the high quality of the historic environment in much of the town centre and the need to conserve it. This is for several reasons, including its heritage value as well as for its amenity value to the residents and those who visit and work in the area, but also for valid economic reasons, as an attractive place to do business and to attract visitors to the town.
36. The character – led approach in the Plan as set out in policy 5 seems to me to be an effective way of focusing attention on the built environment. This shows itself in a number of ways; firstly, it identifies those areas which should be protected because of their distinctiveness, including the quality of any heritage assets; secondly, it identifies areas where enhancement is highly desirable; and thirdly, in some cases, to highlight development or redevelopment opportunities for specific opportunity sites. Finally, the policy would set a sustainable framework for the treatment of any windfall opportunities which may arise during the plan period.
37. The Plan has been modified so as to augment the provisions of policies 5-9 by identifying four opportunity sites both within policy 1.4 and on the Proposals Map for development **[MM7]**. These four sites, which are already

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<sup>12</sup> *The Framework*, paragraphs 35[5] and 40.

identified on Figure 6 in the submitted Plan, ensure that the Plan provides the 'what' and 'where' of development, as required by *the Framework* (paragraph 157[5]). This also accords with the PPG<sup>13</sup>, which states that the Local Plan should make clear what is intended to happen in the area over the life of the Plan, where and when this will occur and how it will be delivered.

38. Concerns were expressed that housing development on part of the railway station car park would have a detrimental effect on the character and appearance of the area and reduce the amount of station car parking. The existing surface area car parking at this opportunity area, however, is of poor environmental quality, whilst the Council would still have control over the design and massing of any proposed development to ensure that it did not harm the surroundings and the Conservation Area, including Freight House. Moreover, the loss of car parking spaces as a result of this scheme would be slight.
39. Concerns were also raised over the police station site for housing, but policy 8.3 clearly states that the Plan is proposing at least part of the building for conversion. The other two proposals for opportunity sites – at North Street for a mixed housing/commercial development, and at the Spar site in Market Square, for mixed residential/commercial – were largely supported. I am satisfied from the evidence before me that all the four schemes are justified and deliverable.
40. The Council has also suggested a change to policy 1 and the supporting text to require any new proposals to ensure appropriate consideration of above ground heritage assets and below ground archaeological deposits **[MM8-9]**. These changes are endorsed in the interests of the justification of the Plan and to accord with national policy.

#### *Conclusion – Issue 4*

41. I conclude in relation to Issue 4 that the Plan, subject to the above modifications, is justified and effective in relation to its character-led approach.

#### **Issue 5 – Are the transport provisions in the Plan justified and deliverable within the plan period?**

42. The transport provision in the Plan links in closely with policies 1 and 5-9 and does not require a separate policy. The Plan has been prepared in partnership, and agreement with, ECC (the highway authority). The main transport provisions of the Plan are illustrated in Figure 7, which identifies a series of key junctions, whilst Table 1 provides a summary of the costs involved and likely existing and potential funding streams.
43. Pedestrian priority has not been maximised in Market Square. However, the modest pedestrian improvements and improved access for disabled users and cyclists identified in policy 6, together with appropriate traffic management, will bring some environmental and traffic safety

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<sup>13</sup> PPG Ref. ID: 12-002-20140306 – What should a Local Plan contain?

improvements. The omission of a significant pedestrianisation scheme for the Square, which would further improve pedestrian safety and the character and appearance of the Square would not be sufficient, in itself, to undermine the soundness of the Plan.

#### *Conclusion – Issue 5*

44. I conclude in relation to Issue 5 that the transport provision in the Plan is justified and deliverable.

#### **Issue 6 – Infrastructure Delivery and Monitoring**

45. The Plan has been prepared in consultation with key stakeholders and service providers and no elements which were capable of suspending the implementation of the Plan (sometimes referred to as showstoppers) were identified. The Council's intention to prepare a Community Infrastructure Levy (CIL) and an Annual Monitoring Report (AMR) will add clarification to the effectiveness of the Plan, and changes to commit the Council to their preparation [MM10-15] are therefore supported.

#### *Conclusion – Issue 6*

46. I conclude in relation to Issue 6 that, subject to the above modifications, the Plan is effective.

#### **Other matters**

47. In addition to the six issues above, other parts and policies of the Plan were the subject of representations, some of which the Council has responded to in its minor modifications, which I do not address in this report. None of these representations, however, go to soundness of the Plan.

48. The Council also suggested changes to the illustrative diagram to show option 3. Whilst this is in my view helpful, it does not have the status of a main modification, and for this reason is not included in the Appendix below.

## Assessment of Legal Compliance

49. My Examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The AAP is identified within the approved LDS (November 2013) which sets out an expected adoption date of March 2014. Although the timetable has clearly slipped, this has been due to in the main to additional consultation on the future of Market Square. The content is compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI Addendum was adopted in March 2013 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modification' changes (MMs)
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Appropriate Assessment (AA)	The Habitats Regulations AA Screening Report (November 2013) sets out why AA is not necessary.
National Policy	The AAP complies with national policy except where indicated and modifications are recommended.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
Public Sector Equality Duty (PSED)	The AAP complies with the Duty.
2004 Act (as amended) and 2012 Regulations.	The AAP complies with the Act and the Regulations.

## Overall Conclusion and Recommendation

50. The Plan has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

51. The Council has requested that I recommend main modifications to make the Plan sound and/or legally compliant and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix, the Rochford Area Action Plan (amended to Rochford Town Centre Area Action Plan) satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in *the Framework*.

*Mike Fox*

INSPECTOR

**This report is accompanied by the Appendix containing the Main Modifications**