



The Planning Inspectorate

Report to Rother District Council

by **Laura Graham BSc MA MRTPI**

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

Date: 10th July 2014

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

**REPORT ON THE EXAMINATION INTO
THE ROTHER LOCAL PLAN CORE STRATEGY**

Document submitted for examination on 11 July 2012

Examination hearings held between 6 November and 21 November 2012 and between 21 January and 24 January 2014

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Abbreviations Used in this Report

AA	Appropriate Assessment
AHVA	Affordable Housing Viability Assessment
AONB	Area of Outstanding Natural Beauty
CS	Core Strategy
DSAP	Development and Site Allocations Plan
DtC	Duty to Co-operate
Framework	National Planning Policy Framework DCLG 2012
HMA	Housing Market Area
IDP	Infrastructure Delivery Plan
LDS	Local Development Scheme
LP	Local Plan
MM	Main Modification
OAN	Objectively assessed need
PPTS	Planning Policy for Traveller Sites DCLG 2012
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SEP	South East Plan
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SSSI	Site of Special Scientific Interest
TTWA	Travel to Work Area

Non-Technical Summary

This report concludes that the Rother Local Plan Core Strategy provides an appropriate basis for the planning of the District, providing a number of modifications are made to the plan. The 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 where necessary, and I have recommended their inclusion after considering the representations from other parties on these issues.

The Main Modifications can be summarised as follows:

- include an objective assessment of housing need;
- increase the number of new dwellings to be provided from 3,700 – 4,100 to at least 5,700;
- ensure that a review of sites in existing employment use is undertaken and that sites are released for other uses where appropriate;
- delete references to the provision of a new railway station at Glyne Gap.

Introduction

1. This report contains my assessment of the Rother Local Plan Core Strategy 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, 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 (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 planning authority has submitted what it considers to be a sound plan. The basis for my examination is the submitted draft plan (July 2012) which is the same as the document published for consultation in August 2011. The Council carried out consultation on Focussed Amendments to the CS for six weeks in June/July 2012. The Council asked me to recommend the Focussed Amendments as Main Modifications to the CS.
3. At the time the CS was submitted for examination the Regional Strategy (SEP) formed part of the Development plan and there was a legal requirement for the CS to be in general conformity with it. Following the first hearings in November 2012, I advised the Council of my initial conclusion¹ that the CS was not in general conformity with the SEP. This conclusion related, primarily, to the provision of new housing. In response to my concerns, the Council initially drew up modifications to the Plan to bring it in line with the requirements of the SEP and to include a commitment to an early review of the Plan to ensure full compliance with the Framework's requirement for an objective assessment of housing need.
4. However, the SEP was abolished in March 2013 and I advised² that the Council would need to undertake further work, to establish the objectively assessed need for market and affordable housing in the Hastings and Rother HMA, and the extent to which that could be met in accordance with paragraph 14 of the Framework. The Council carried out additional work between April and July 2013 including reviews of the SHMA and SHLAA, and prepared a schedule of Main Modifications to the submitted CS, which was the subject of sustainability appraisal and consultation for seven weeks between 9 August and 27 September 2013. I subsequently held further hearings on the Main Modifications in January 2014. I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of these amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report.

¹ Letter to the Council dated 13 December 2012

² Letter to the Council dated 8 March 2013

5. 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. Some of the MMs proposed by the Council are not needed for soundness and I have removed those from the Appendix. In some cases a MM to a policy or text includes a detail which, in isolation, is minor and not necessary for soundness, but for simplicity and clarity it is preferable to retain these within the MMs. Within the limits prescribed by the Regulations, the Council can make additional minor modifications to the Plan at adoption.

Assessment of Duty to Co-operate

6. Section s20(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.
7. The Council's statement on 'Compliance with the Duty to Co-operate in relation to Planning of Sustainable Development'³ outlines engagement with other local planning authorities and public bodies during the preparation of the Plan. There have been particularly close working arrangements with Hastings Borough Council which, together with Rother, forms a Housing Market Area, and with East Sussex County Council. This collaborative approach continued during the examination particularly in relation to the objective assessment of housing needs, following the abolition of the South East Plan. The further actions taken are set out in the 'Further Statement of Compliance with the Duty to Co-operate'.⁴ As this document identifies, requests have been made to authorities beyond the Hastings/Rother HMA and the County boundary to ascertain whether any of the housings needs arising within the HMA could be accommodated. This did not result in any firm offers of help, but the Duty to Co-operate is not a requirement to agree.
8. At the time the Plan was prepared, Hastings Borough Council was the only authority to have asked Rother for help in meeting unmet needs, and in the light of the environmental constraints within Rother, which I refer to in more detail later in this report, I do not consider Rother's negative response to be unreasonable. Furthermore, there is nothing in the Framework which requires local planning authorities to provide for unmet needs elsewhere (for example Wealden District), if not requested to do so.
9. In all the circumstances, I consider that Rother District Council has demonstrated that it has complied with the duty imposed by section 33A of the 2004 Act.

³ LA22

⁴ LA37

Assessment of Soundness

10. In coming to my conclusion on the soundness of this Plan, I have given great weight to the guidance on soundness in the NPPF, but I note that paragraph 13 of the NPPF confirms that this is guidance, not statute, that paragraph 10 says local circumstances should be taken into account and that paragraph 12 says it is highly desirable that local planning authorities should have an up-to-date plan in place. I am satisfied that the shortcomings in the submitted document are not of such significance to justify a finding that the document as a whole is unsound. Adoption of the CS will facilitate the preparation of the DSAP and Neighbourhood Plans which will, in turn, encourage development to meet objectively assessed needs. This course of action is more likely to meet the aims of the Framework than finding the CS unsound.

Main Issues

11. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified 5 main issues upon which the soundness of the Plan depends.

Issue 1 – Overall spatial vision

Is the Spatial Strategy soundly based and does it address the key issues for Rother? Has it been positively prepared and will it deliver sustainable development in accordance with national policy?

12. The early chapters of the Plan identify the key characteristics of Rother District and the main issues facing the District. Having regard to the evidence base, I am satisfied that this is a comprehensive analysis of the key issues which need to be addressed. The overall strategy seeks to focus development at Bexhill which is the largest settlement in the District and lies outside the AONB. As the Plan was initially prepared in the context of the South East Plan, **MM2** is necessary to ensure that the revocation of the Plan is reflected in the CS
13. The CS seeks to meet development needs, so far as is compatible with conserving the important environmental assets in the District. I deal with specific aspects of this in this report, but read as a whole I am satisfied that the Plan, as proposed to be modified, will deliver sustainable development in accordance with the Framework. **MM1** reflects the Framework's presumption in favour of sustainable development and is necessary to ensure consistency with national policy. The Council has also proposed **MM3** to ensure integration with the marine planning regime and consistency with paragraph 105 of the Framework.
14. Chapter 13 of the CS: Sustainable Resource Management contains a suite of policies which aim to mitigate or adapt to the impact of climate change. The policies generally encourage good practice, rather than requiring specific standards to be met and are flexible enough to enable other considerations, such as viability, to be taken into account. The Council has proposed **MMs 59 – 64** to reflect the recommendations of the Council's Low Carbon and

Renewable Energy Potential Study⁵ and the aims of the Framework, especially paragraphs 93 – 99.

Does the strategy strike the right balance between the focus of development in Bexhill and the role of the market towns and villages?

15. Bexhill is the largest settlement in Rother District. It lies outside the AONB and is relatively unconstrained by other environmental designations, although the Pevensey Levels Ramsar site comes close to the western edge of the town, and the Come Haven SSSI lies to the east. Given the range of facilities and services available in Bexhill, development in or near the town is likely to be the most sustainable option within Rother District. The Plan takes a 'service centre' based approach to distribution of development, prioritising higher order centres, such as the market towns of Battle and Rye, with a better range of services. I consider that this approach accords with the principles of sustainable development set out in the Framework.

Is it clear what other strategic options were considered and why were they were dismissed?

16. During the course of preparation of the Plan, the Council considered various options for both the quantum and distribution of development. At the early stages, the generation of alternatives was largely driven by the requirements of the SEP, and it was concluded that the District could meet the housing requirements of the SEP without any unacceptable effects. I do not consider that the decision to reduce levels of growth below the SEP target in the submission Plan was robustly justified for the reasons given in my letter to the Council of 13 December 2012. However, that shortcoming has been overtaken by events with the abolition of the SEP and the further work undertaken by the Council to establish objectively-assessed needs.
17. The SA of the Main Modifications tested an option (Option B4) to meet the full objectively assessed need for the District of 6,180 additional dwellings. It concludes that Option B4 would entail a further increase in housing in the AONB, above that proposed in the chosen option, which would mean greater and increasingly significant impacts on the AONB. Although there is no quantification of the scale of impacts, the Framework indicates that great weight should be given to conserving landscape and scenic beauty in AONBs. I consider that reasonable strategic alternatives were considered and it is clear why the alternatives to the preferred option were dismissed.

Is the Plan founded on a robust and credible evidence base? Is it flexible and able to be monitored?

18. The CS is supported by a comprehensive evidence base. Subject to the comments I make below, I am satisfied that the evidence base is adequate, up-to-date and proportionate for a strategic plan of this nature. Where there are gaps in the evidence base, such as in relation to Employment Land, I am satisfied that these can be addressed through the neighbourhood planning or DSAP process, or through subsequent reviews of the Local Plan.

⁵ LG2

19. Appendix 5 of the Plan is a monitoring schedule which provides targets and indicators against which the success of the Plan can be measured. The Plan could be strengthened by the inclusion of trigger points and an indication of action to be taken in the event that targets are not met. However, this weakness is not so significant as to make the Plan as a whole unsound, and can be rectified when the Local Plan is reviewed.

Issue 2 – Spatial Strategies for the towns and rural areas

Is the scale of development proposed at Bexhill, Hastings Fringes, Rye, Battle and the Rural Areas sustainable and justified?

Bexhill

20. The Plan identifies a number of objectives for Bexhill (paragraph 8.15), which are developed through policies BX1 – BX3. The Bexhill to Hastings Link Road will enable significant new housing and employment development to be delivered on sites to the north east of the town. The main land owner has expressed strong commitment to pursuing both the housing and commercial development at this location. Since the CS was submitted for examination, the funding for the Link Road has been agreed by central government and construction has commenced, with completion expected in 2015. In the circumstances, the various contingency measures in the event that the Link Road was not built, including Policy OSS2, are no longer relevant and **MMs 4, 12, 24, 30 - 38** are necessary for clarity and effectiveness. The Plan also identifies broad locations for growth to the north and west of the town. Some representors oppose development to the west of the town, but bearing in mind the scale of new development required to meet objectively assessed needs and the evidence supporting further development in this location when compared to alternatives, I am satisfied that the distribution of growth is soundly based. Sites within these broad locations can be identified in the DSAP, and I do not consider that further strategic allocations are necessary for soundness.
21. At the hearings the Council indicated that in the light of recent progress on proposals for new employment development in north east Bexhill, it no longer considers it necessary to make provision for phasing housing land releases to ensure a balance with the supply of jobs, and I have amended **MMs 33 and 77** accordingly.
22. I have considered the various representations about the suite of policies relating to Bexhill which make criticisms of the wording, for example that no reference is made to the need to preserve or enhance the Conservation Area. However, the Plan contains other policies, such as Policy EN2 Stewardship of the Historic Built Environment, to address the issues identified, and there is no need to repeat the provisions of those policies. Overall, I am satisfied that the CS provides an adequate strategic framework to guide the development of more detailed policies through the DSAP and/or neighbourhood plans.

Hastings Fringes

23. The submission CS includes proposals for very limited development of new dwellings on the fringes of the built up area of Hastings, with the focus of

proposals being improvements to the landscape and recreational opportunities. An area of land at Breadsell Farm, which straddles the boundary between Hastings and Rother has previously been considered for housing development. Natural England raised objections to development in this location because of concerns about the impact on the Marline Valley Woods SSSI and in particular potential risks to the site hydrology. Hastings Borough Council consequently removed the area of the site within the Borough from the Hastings Planning Strategy. The Inspector examining that Plan concluded that the site should not be identified for development.

24. The majority landowner of the Breadsell site has commissioned expert evidence which suggests that Natural England's concerns could be overcome, particularly bearing in mind that the area of the site within Rother makes up a very small part of the Marline Valley catchment area. Natural England is the Government's statutory advisor on matters relating to the Natural Environment, and their views therefore carry considerable weight. There is no evidence before me to indicate that they have altered their position that at least three years of monitoring of the hydrological regime would be necessary before it would consider removing its objection.
25. Nonetheless, bearing in mind the housing land supply position, I consider that **MMs 39 - 41**, which acknowledge the potential for additional new housing in the Hastings Fringes if the constraints can be overcome, are necessary to ensure that plan meets the test of being positively prepared.

Rye

26. The Council's Rye and Rye Harbour Study demonstrates that Rye is a compact historic town with few opportunities for development in the existing urban area, apart from the possibility of some redevelopment of employment sites at Rye Harbour. Furthermore development opportunities outside the existing built up area are constrained by environmental designations and the need to conserve the historic setting of the town. The increased number of additional new dwellings proposed in **MMs 42 - 45** provides an appropriate strategic context to enable individual sites to be investigated in more detail through the Site Allocations Plan or Neighbourhood Plan, as appropriate.

Battle

27. Battle is a historic market town within the AONB. It has a good range of facilities and services which would facilitate sustainable development, as long as this can be provided in a way which does not cause unacceptable harm to the natural beauty of the AONB. Furthermore the Battle Town Study⁶ concludes that there is a need for new housing in the town. **MMs 46 - 48**, which increase the proposed range of new housing provision from 400-440 to 475-500, are necessary to ensure that the town makes an appropriate contribution to the need for new housing and economic development and that the Plan is positively prepared.

Rural Areas

28. The rural area of Rother is characterised by villages and hamlets within the

⁶ Document LE1

high quality landscape of the AONB. The Rural Settlements Study⁷ examines the particular characteristics of individual settlements and identified Rural Service Centres and Local Service Villages. Some representors questioned the categorisation of individual settlements within the hierarchy, but I have found nothing to persuade me that the identified hierarchy is unsound. Furthermore, the level of development proposed for individual villages is not solely governed by the position within the hierarchy, as opportunities identified through the SHLAA have also been taken into account. Furthermore, the Plan provides flexibility to increase, or in limited circumstances in accordance with Policy RA1, to decrease provision of new housing when individual sites are considered through the Development and Site Allocations Plan or Neighbourhood Plans.

29. The Council's revised proposals for rural housing allocations are based on its review of the SHLAA⁸. I have taken into account the concerns expressed by local residents that the increased levels of new housing provision in the rural areas, as set out in the main modifications, would represent an unsustainable level of growth. The overall number of new dwellings to be accommodated in the rural areas (1,670) reflects an annual average of just under 100 dwellings. Even for Robertsbridge, which has the highest individual total at 155 new dwellings, this would mean an annual average below 10 new dwellings. Site specific constraints such as flood risk, and the cumulative impact of new development on matters such as traffic safety and congestion as well as the natural beauty of the AONB can most appropriately be considered when sites are allocated. **MM73** identifies the land stability and coastal erosion issues which will need to be taken into account in considering development proposals at Fairlight through the DSAP. I am satisfied, however, that the SHLAA Review 2013⁹ provides a robust justification for the indicative housing levels included in the CS.
30. I do not consider that the CS, as proposed to be modified, is inconsistent with paragraph 54 of the Framework. Paragraph 159 of the Framework makes it clear that an assessment of housing need should take account of demand and meet household and demographic projections taking account of migration and demographic change. Over recent decades, population growth in the rural areas of Rother has been driven primarily by in migration, rather than local demographic change. In an area such as Rother, it would not be consistent with the aim of boosting, significantly, the supply of housing (paragraph 47 of the Framework), if new housing development in rural settlements were limited to that which meets needs arising from within those settlements. Furthermore, paragraph 54 encourages local planning authorities to consider whether allowing market housing would facilitate the provision of significant affordable housing to meet local needs. This does not support the interpretation of the words 'reflect local needs' as meaning limited to local needs.
31. Subject to the inclusion of **MMs 49-58** and **MM73**, the CS is sound in relation to development in the rural areas.

⁷ LF1 and associated documents

⁸ Document LA13A

⁹ Document LA13A

Issue 3 – Will the CS meet the full, objectively assessed needs for market and affordable housing?

Objective Assessment of Housing Need

32. At the hearings in November 2012 the Council sought to argue that the figure of 350-500 dwellings per annum which was contained in the Assessment of Housing Need May 2012¹⁰, represented the full objectively assessed need for market and affordable housing. That figure, however, is constrained by environmental and other policy constraints, which is not consistent with the requirements of the Framework. In response to my concerns, the Council undertook further work, together with Hastings Borough Council and East Sussex County Council, to produce the Strategic Housing Market Assessment Update: Housing Needs Assessment June 2013¹¹.
33. This assessment in broad terms, but subject to my comments below, meets the requirements of the Framework and planning practice guidance. The assessment draws on population and household projections by East Sussex County Council based on the Office for National Statistics (ONS) Interim 2011-based subnational population projections, extended from 2021 to 2028 using the POPGROUP demographic model.
34. The report identifies a demographically driven need for 13,041 new homes in the Hastings and Rother Housing Market Area in the period 2011-28 (767 new homes per annum) which is broken down into 6,178 new homes in Rother (363 per annum) and 6,863 new homes in Hastings (404 per annum).
35. Some commentators, notably in research done for the Royal Town Planning Institute (RTPI)¹², have expressed concerns the 2011-based projections were influenced by both the economic downturn and the effects of a long period of poor housing affordability, and that if conditions in the housing market and the economy more generally improve there may be a return to previous more established trends in declining average household sizes. The RTPI Report concludes that planning on the basis of the latest (2011) projections could lead to an underestimate of housing need over the longer term. However, planning practice guidance advises that, wherever possible, local needs assessments should be informed by the latest available information.
36. By comparison, the SHMA 2013 notes that the 2008-based projections as used in the 'How Many Homes' model suggests an annual increase in households of 584 in Rother, compared to 338 households per annum for the 2011-based revised projection. This is an indication that if the economy improves significantly, it may lead to higher levels of housing need and the Council will need to keep this under review to ensure that the CS is kept up-to-date. However, I am satisfied that the SHMA 2013 is an acceptable assessment of housing need to inform the strategy at the present time,

¹⁰ LA24

¹¹ LI12

¹² Planning for housing in England: Understanding recent changes in household formation rates and their implications for planning for housing in England. RTPI Research Report no.1 January 2014.

albeit that the figure of 13,041 across the HMA may represent the lower end of a range of potential outcomes. Furthermore, no alternative figures were suggested by respondents and there were a limited number of objections to the figure of 6,180.

Provision of affordable housing.

37. The SHMA Update 2013 concludes that if the demographically derived requirement for new homes were met, the expected level of provision of affordable new homes would exceed the requirement for affordable housing. As the CS does not plan to meet the full objectively assessed need for new homes the full requirement for affordable housing is unlikely to be met. Policies LHN3 and LHN4 allow for sites, which might not otherwise be granted planning permission or allocated for development, to come forward to meet affordable housing needs in rural areas. These policies may assist in increasing the number of affordable units provided. I am satisfied that the approach to identifying different thresholds for the provision of affordable housing and different percentage requirements for individual settlements (Policy LHN2) is justified on the basis of the evidence in the AHVA¹³. The Plan is sound in relation to policies for affordable housing.

Provision for different groups within the community including gypsy and traveller needs.

38. The SHMA update 2010, which predates the publication of the Framework, considered the needs of various groups within the community such as older people, black and ethnic minority groups and key workers. The findings of the study have informed the development of policies in Chapter 15 of the CS, Local Housing Needs. This work was not updated in the 2013 SHMA Review which is not, therefore, entirely consistent with paragraph 50 of the Framework. However, this is a matter that can be more fully addressed through a review of the Plan and it is not such a serious failing that the Plan as a whole should be found unsound.
39. Policy LHN5 identifies a need for 11 permanent pitches for Gypsies and Travellers during the Plan period and makes a commitment to allocating sites in the DSAP. A need is also identified for 8 transit pitches across East Sussex. There is one Travelling Showpersons site in the District and no evidence of need for additional provision. Policy LHN6 is a criteria based policy against which new site allocations and planning applications can be judged. Subject to the inclusion of **MM67** which reflects the requirement in PPTS to maintain a five year supply of sites, and **MM66** which strengthens the commitment to work with other authorities to allocate land to meet the need for transit pitches, I am satisfied that the CS is consistent with the requirements of PPTS and is sound with regard to meeting the needs of gypsies, travellers and travelling showpeople.

Is the failure to meet the objectively assessed need for housing justified in accordance with paragraph 14 of the Framework?

40. The Hastings Planning Strategy has now been adopted by Hastings Borough Council and includes a target of at least 3,400 new homes for the period

¹³ LI8

2011 to 2018. This is a shortfall of almost 3,463 new homes against the objectively assessed need of 6,863. Therefore across the Hastings and Rother Housing Market Area the shortfall of proposed housing provision against housing need is 9394 dwellings.

41. Paragraph 14 of the Framework indicates that local planning authorities should meet objectively assessed needs.....unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted. The specific policies referred to include those for Areas of Outstanding Natural Beauty. Paragraph 115 of the Framework states that great weight should be given to conserving landscape and scenic beauty in AONBs. Paragraph 116 further states that planning permission should be refused for major developments in AONBs except in exceptional circumstances.
42. Taken as a whole, I consider that the Council's Strategic Housing Land Availability Assessment 2013 Review¹⁴ is a robust piece of evidence. It has been criticised by some respondents on various counts including the reliance on countywide, rather than site specific, landscape assessments. However, I consider that the level of assessment in the SHLAA Review is proportionate to the requirements of a CS. The CS provides an overview of the likely level of new housing provision that can be achieved, bearing in mind environmental and other constraints.
43. The policies, as proposed to be modified, express the overall target as a minimum, which allows for a higher level of provision to be achieved (Policy OSS1), subject to the more detailed scrutiny of individual sites, which can take place through the DSAP or Neighbourhood Plans. Through its review of the SHLAA, the Council has taken a positive approach to meeting housing needs and the quantum of new housing proposed through the MMs (5,700 new homes) is significantly higher than that proposed in the submission CS (between 3,700 and 4,100). Bearing in mind that over 80% of Rother District lies within the High Weald AONB, I consider that, subject to the inclusion of **MMs 5 - 23** and **MM78** the CS is consistent with the Framework and is sound.

Five year housing land supply

44. Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. **MM77** makes specific reference to this requirement (see also paragraph 21 above). The proposed target of 5,700 new homes equates to an annualised requirement for 335 dwellings and a five year supply of 1675 dwellings. The Framework also requires an additional buffer of 5%, moved forward from later in the plan period, or a 20% buffer where there has been a record of persistent under delivery of housing. In common with many other planning authorities, rates of housing delivery in Rother fell sharply after 2008, as a result of the economic recession, and have struggled to recover until relatively recently. Additionally, new housing development in Rother has

¹⁴ Document LA13A

been constrained for many years by uncertainty over the construction of the Bexhill to Hastings Link Road. Nonetheless, between 1991 and 2011 the annual average for housing completions in Rother was 245 dwellings per annum, which is not too far short of the annualised housing requirement of about 275 dwellings per annum derived from the East Sussex and Brighton and Hove Structure Plan 1991 – 2011. I do not consider that Rother can be characterised as having a record of persistent under delivery of new housing and therefore a 5% buffer is appropriate in determining a five year housing land supply for Rother.

45. The relatively low number of housing completions (358 dwellings) in the first 2.5 years of the plan period (April 2011 to September 2013) gives rise to a shortfall of 480 dwellings. Planning practice guidance advises that 'LPAs should aim to deal with any undersupply within the first five years of the plan period where possible'. Rother is only able to demonstrate a five year supply of housing land if this shortfall is made up over the remainder of the Plan period, rather than within in the first five years¹⁵. If the latter approach were taken the Council would be able to demonstrate only 4.3 years supply. However, there is a reasonable prospect that the housing land supply situation in Rother will improve considerably in the next few years for two main reasons. The first is that the completion of the Bexhill to Hastings Link Road will enable the planned urban extension to the north east of Bexhill, including about 1,300 dwellings, to be developed, and there is clear evidence before me of the majority landowner's commitment to expedite development of the site¹⁶. The adoption of the CS will assist in bringing forward this substantial development. Secondly, the DSAP and neighbourhood plans will allocate sites for development and help to boost the five year housing land supply. These Plans are likely to progress more quickly if an adopted CS is in place. In these particular circumstances, I consider that the Council's approach to calculating the five year housing land supply is consistent with the broad thrust of the Framework to boost significantly the supply of land for housing, albeit that it takes a different approach to dealing with the undersupply which has arisen in the early years of the plan period than that preferred by planning practice guidance.

Issue 4 Employment and Retail

Will the CS meet the need for new employment land provision?

46. The CS gives a high priority to securing sustainable economic growth. The need to secure economic regeneration in Hastings and Rother was recognised in the SEP and although there have been signs of improvement in the Hastings and Rother TTWA in recent years, the unemployment rate in Rother at 2.9% and in Hastings at 5.8% in 2011 was above the South East average of 2.5%.
47. The CS makes substantial new allocations for employment land, notably at north east Bexhill. I find there is considerable force in the evidence before me that, based on past completion rates, the CS proposals could represent an oversupply of committed employment floorspace. One representor

¹⁵ Appendix 1 to Council Letter regarding Planning Practice Guidance dated 17 April 2014.

¹⁶ Letter from Bidwells on behalf of Trinity College regarding Planning Practice Guidance dated 23 April 2014.

calculates that there is a 40 year supply of committed employment floorspace. The Council accepts that the approach to the allocation of employment land in the CS is based on generous assumptions. Nonetheless, there is evidence of a significant commitment to economic regeneration across the Hastings and Rother TTWA through the efforts of the two Councils and their partners such as the LEP and organisations such as Sea Change Sussex. If the objectives for economic regeneration are to be met it is important that a range of sites is available to accommodate sustainable economic development. Much of the existing employment land and floorspace in Hastings and Rother would not be considered to meet modern standards, a matter I return to below. In these circumstances there is a good justification for the provision of new, well located sites for business and industrial development, as provided for in the CS. **MM69** provides greater clarity and flexibility in relation to the potential for the provision of smaller units across the District. I conclude that the CS will deliver sites to meet the need for new employment land.

Does the Plan strike the right balance between ensuring that a range of suitable sites is available for employment uses and avoiding the protection of sites that are not well suited to that purpose.

48. In addition to the allocation of land for employment purposes the CS contains Policy EC3 which seeks to retain all sites currently or formerly in employment use in almost all circumstances. I indicated to the Council¹⁷ that I did not consider this policy to be consistent with paragraph 22 of the Framework, which cautions against the long term protection of sites allocated for employment use and paragraph 161 advises local planning authorities to undertake reviews of land available for economic development at the same time, or combined with SHLAAs. The Employment Land Review undertaken by Hastings BC and Rother DC in 2008 and updated in 2011 has limitations, particularly with regard to the assessment of the continuing suitability of existing employment sites for that purpose and taking into account market signals. Bearing in mind the significant shortfall of housing land to meet identified need, it is important to ensure that sites are not retained in employment use where the site would be better suited to meeting housing needs.
49. Planning Practice Guidance provides clear advice on assessing economic development needs and carrying out land availability assessments. The evidence base for the CS, including the Employment Land Review, is not compliant with this guidance, and does not justify the retention of all sites currently in employment use. I am aware that Policy EC3 has considerable local support, particularly from those concerned with supporting business in rural areas, but such support cannot be regarded as a substitute for a thorough review of sites and premises. I have considered whether Policy EC3 should be deleted from the Plan to ensure soundness. However, such an approach would leave employment sites vulnerable to loss to higher value uses regardless of their suitability for continued employment use. I have also considered the suggestions made at the hearings in January 2014 that the loss of sites which were in employment use in 2011 (the base date of the CS) only should be protected. However, I do not consider that this would be

¹⁷ My letters to the Council dated 2 February and 8 March 2013

a reasonable substitute for a full review, as land and buildings in employment use may become vacant for a variety of reasons and vacancy at any particular date may not be a good indicator of suitability for such uses over the long term.

50. I consider that this shortcoming can be rectified through the process of allocating sites, providing Policy EC3 is recognised to be an interim policy in force only until it is superseded by policies in the DSAP or neighbourhood plans, as appropriate. The Council's proposed MM68 would add text to the reasoned justification of Policy EC3 to indicate that a full review of existing business sites will be undertaken as part of the site allocations process. Whilst this goes some way towards meeting my concerns, it would leave Policy EC3 in force, i.e. protecting all employment sites in most circumstances, regardless of the outcome of the review. I have therefore amended the wording of **MM68** to make it clear that Policy EC3 will only remain in force until the adoption of the DSAP or Neighbourhood Plans as appropriate. Other criticisms, including the way in which alternative uses are prioritised in part (iv) of the Policy, can be more thoroughly considered at that stage, with the benefit of the additional information that will be provided by the review.
51. Subject to the inclusion of **MM68** and **MM69** the CS is sound in relation to the provision of employment land.

Does Policy EC3 strike the right balance between the promotion of tourism activities and the protection of the environment?

52. Concern was expressed that Policy EC6 fails to contain the necessary safeguards for the environment and the AONB in particular. However, read as a whole, the CS clearly recognises the statutory duty to conserve and enhance the natural beauty of the AONB. **MM70** clarifies that all other policies in the CS, not just those relating to access, would need to be taken into account in considering proposals for tourism development.
53. I consider that the Policy, as proposed to be modified, is consistent with paragraph 28 of the Framework which indicates that planning policies should support economic growth in rural areas by, amongst other things, supporting sustainable rural tourism and leisure developments that benefit businesses in rural areas... which respect the character of the countryside. If necessary, more detailed development management policies for particular types of development such as caravan sites can be included in the DSAP.

Will the CS meet the need for new retail development?

54. Policy EC7 seeks to direct retail and related service uses to Bexhill, Battle and Rye, which are the only town centres in Rother. Specific proposals for increased retail floorspace are included in the policies relating to those towns (BX2: Bexhill, BA1: Battle, and RY1: Rye). The policies are based on the findings of the Rother Shopping Assessment¹⁸, which was updated in 2013¹⁹. **MM28** and **MM29** take account of information in the updated assessment including recent completions and permissions for convenience goods

¹⁸ LJ3

¹⁹ LJ9

floorspace. These main modifications are necessary to ensure that the CS is based on the most up-to-date evidence. Proposals for new store(s) exceeding the identified quantitative requirements can be considered on their merits, including retail impact assessments.

55. The submission CS included a requirement that development proposals likely to impact on a town centre should undertake an impact assessment. This approach does not accord with the Framework's requirement to define a proportionate locally set floorspace threshold over which impact assessments will be required. **MM 71** introduces a requirement that retail development proposals in excess of 500sq. m. should be accompanied by a retail impact assessment. This is a considerably lower threshold than the default of 2,500 sq m. included in the Framework. Bexhill, the District's main town centre comprises mainly small units and has a lower proportion of national multiple retailers than is common in many town centres. In these circumstances the town centre may be particularly vulnerable to out of centre retail schemes. I consider the Rother Shopping Assessment Update Report 2013²⁰ provides compelling evidence to demonstrate that 500 sq m is a proportionate locally set floorspace threshold in compliance with paragraph 26 of the Framework.

Issue 5 Infrastructure Provision

Are key infrastructure requirements identified in the Plan and is there a reasonable prospect that schemes will be provided in accordance with the timescales for the provision of new development.

Bexhill to Hastings Link Road

56. When the Plan was submitted for examination the final decision on funding from the Department for Transport was still awaited. Funding for the scheme was subsequently confirmed and the road is under construction, with completion expected in 2015. This will facilitate substantial new housing and economic development at north east Bexhill. The main modifications necessary to ensure that the CS is based on the most up-to-date position are referred to at paragraph 20 above.

Glyne Gap Station

57. Policy BX1 of the submission draft CS included 'provision for a new railway station adjacent to Ravenside Retail Park', which is also referred to as the Glyne Gap Station. There was, however, no indication that the provision of a new station was supported by Network Rail and no indication of from where finance would be forthcoming. The Council commissioned a Review of the Proposal²¹ which concluded that the scheme would represent 'poor value for money' when assessed in accordance with Network Rail's Guidelines. The scheme is no longer included in the County Council's Rail Strategy and Action Plan.
58. A local campaign group commissioned a review²² of the work undertaken for the Council which concludes that the Glyne Station can be justified if other

²⁰ LJ9

²¹ LL7 – LL10

²² LL11

factors are taken into account, including planned railway infrastructure improvements which would facilitate a more frequent service, and the potential for growth in passenger numbers in the local area above that which is derived from standardised modelling techniques. The report's overall conclusion suggests that the station 'can be justified in the new circumstances facing the East Coastway railway during the 2020s, if not sooner.' However, there is no evidence to demonstrate that Network Rail or the train operating company are likely to pursue the provision of a new railway station at Glyne Gap.

59. There is general agreement that a Glyne Gap station would assist in meeting the Plan's aims for the provision of sustainable local transport. However, the Framework cautions that Local Plans should be aspirational but realistic. On the evidence before me there is no prospect of this scheme being funded in the near future and no clear indication that it is likely to be achieved in the Plan period. It would therefore be unrealistic to retain it in the CS and **MM27**, **MM76**, and **MM79** are therefore necessary for soundness. If circumstances change, it may be appropriate to reconsider the scheme when the Plan is reviewed, but that is a matter for the Council.

Water and wastewater infrastructure

60. Southern Water argues that the Plan lacks strategic policies to support the delivery of water and wastewater infrastructure to serve the levels of new development being proposed, and that some policies would unduly restrict the provision of such infrastructure in some circumstances. The Company does not cite any specific infrastructure requirements that it has identified at the present time. Policy SRM2 of the CS addresses the effective management of water resources including 'ensuring that the relevant water companies are aware of and have capacity to meet demands for water, wastewater and sewerage arising from new development'. Policy OSS4 requires that in considering the suitability of a particular location for development the capacity of existing infrastructure and services and any planned improvements must be taken into account. Planning Practice Guidance highlights that water and wastewater infrastructure sometimes has particular locational needs which mean otherwise protected areas may exceptionally have to be considered. However, in the absence of any particular requirements or schemes for new water-related infrastructure, I consider that the CS provides an adequate policy context at the strategic level. Proposals for new infrastructure can be considered through the Neighbourhood planning or site allocations process and the reviews of the IDP.

Other infrastructure matters

61. I am satisfied that the CS identifies critical infrastructure requirements, and that other items such as improvements to facilities for cyclists should, more appropriately, be pursued through the DSAP or neighbourhood plans.
62. Planning practice guidance advises that the detail concerning planned infrastructure provision can be set out in a supporting document such as an infrastructure delivery programme that can be updated regularly. The CS and IDP are compliant with this guidance.

Assessment of Legal Compliance

63. 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 Local Plan is identified within the approved LDS September 2013 which sets out an expected adoption date of May 2014. There has been a few months slippage regarding the date of adoption which is largely due to the need to carry out additional consultation on the introduction of planning practice guidance in March/April 2014. The Local Plan's content and timing are broadly compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in August 2006 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed main modifications.
Sustainability Appraisal (SA)	SA has been carried out and is adequate, see also paragraph 17 above.
Appropriate Assessment (AA)	The Habitats Regulations AA Screening Report (December 2007) sets out that the plan may have some negative impact, and a full assessment should be undertaken. AA work was undertaken in partnership with neighbouring authorities. MM72 clarifies the role of the AA and the implications of its findings. MM74 clarifies the protection to be given to international, national and locally designated sites in accordance with their status and MM75 makes specific reference to geodiversity as well as biodiversity in accordance with paragraph 117 of the Framework. Natural England has advised that it considers policies relating to the natural environment to be sound.
National Policy	The Local Plan 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 CS complies with the Duty and is adequate as demonstrated by the Equalities Impact Assessments 2011 and 2012 ²³
2004 Act (as amended) and 2012 Regulations.	The CS complies with the Act and the Regulations.

²³ LA12 and LA12A

Overall Conclusion and Recommendation

64. 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 Act. These deficiencies have been explored in the main issues set out above.

65. 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 Rother Local Plan Core Strategy satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Laura Graham

Inspector

This report is accompanied by the Appendix containing the Main Modifications