

# Urban Regions in the Delta



## Case Study Utrecht Rijnenburg, the Netherlands: Failure to Launch

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# CONTEXT

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# Executive summary

Rijnenburg was to become a new residential area in the peat polder southwest of the crossing of the A2 and the A12 motorways where sustainable living would be integrated into the natural landscape: a poster-child for sustainable development. The municipality joined forces with the Province of Utrecht and the Water Board Stichtse Rijnlanden to come up with a sustainable design based on the cradle-to-cradle philosophy. The area was to become self-sufficient in terms of energy and water management, and the historical value of the landscape would be preserved. The design process was innovative and made use of new technologies that facilitated integrating sustainability concerns in the design process. Unfortunately, and despite the enthusiastic commitment of many who were involved in the project, the ambitions were not realised. The construction of Rijnenburg was originally envisioned to start in 2013, but the process came to a temporary stop in 2010, when the landowners and project developers indicated they felt the project was not viable financially. Since then there have been some efforts to restart the project, but for now, the municipality has decided to hold off on Rijnenburg and to focus its efforts on finishing the development of Leidsche Rijn.

The area designated for development measures 800 hectares. An additional 163 hectares in Lange Vliet/IJsselwetering is reserved for recreation. The neighbouring Reijerscop will retain its agricultural nature. The plans for Rijnenburg include a total of 7,000 houses which are to be realised over a period of 15 years. 90 Hectares have been reserved for businesses. The development will have a low density. In most of the area there will be 8 to 20 houses per hectare. In addition there will be a number of hamlets (*buurtschappen*) with 35 to 45 houses per hectare. The financial substantiation of the plan is not included in the *Structuurvisie*, so the required investments are somewhat unclear. However, the municipality feels most of the costs of the developments should be borne by the private landowners who stand to profit from Rijnenburg's development.

The primary responsibility for the housing development in Rijnenburg lies with the municipality. The Province is responsible for Reijerscop and Lange Vliet/IJsselwetering. The municipality has cooperated closely with the province of Utrecht and the Water Board Stichtse Rijnlanden to come up with a sustainable plan. Both parties have a serious stake in the plans: water management in Rijnenburg is complicated due to the geographical and geological conditions in the area. The province has its own goals to meet with regard to the number of houses that are built each year in the province, and has used the Rijnenburg project as a pilot for its own 'Klimaat op Orde' programme. In addition, the neighbouring municipalities are involved, as the residents of Rijnenburg will come to depend to some extent on their infrastructure and facilities. There are a number of NGOs who take an interest in Rijnenburg, which used to be part of the Green Heart. A large number of private actors are involved: the ownership of Rijnenburg is very fragmented, and many current owners invested in Rijnenburg in the hopes of large-scale development taking place. With the current

plans, they stand to make much less of a profit, and some of them might suffer losses. Their co-operation is essential to the realisation of the plans, but hard to come by.

The thoughts about developing Rijnenburg started in the nineties, when Rijnenburg was one of the options for the development of a new VINEX-location. Eventually it was decided this development would take place in Leidsche Rijn, but it was assumed that Rijnenburg would still be developed in a similar way at a later date. In 2001 the area was transferred back from the municipality of Nieuwegein to which it had belonged since 1971 to the municipality of Utrecht, to facilitate its development. In 2008, the municipality published the *startdocument Rijnenburg*, which presented a much less profitable vision for the development of the area, in which Rijnenburg was to become a sustainable residential neighbourhood with low density housing in a well-preserved landscape. Based on the starting document, the municipality developed a *Structuurvisie*. The final version was adopted on 18 February 2010. It was met with negative reactions from the landowners who felt they could not execute the plans profitably and in practice gave the plan their veto. The municipality initially decided to let the private parties come up with an alternative plan, but has now delayed the development of Rijnenburg to focus on finalising Leidsche Rijn.

The legal problems encountered in the process so far are limited. In part this is because the process has not advanced to a sufficiently concrete stage, but the low-density development also has a limited impact on the natural qualities in the area. Water quality and quantity are approached as technological challenges rather than as a legal issue. There are some legal questions about financing and equality though, and sound regulations require some additional measures to be taken. Nevertheless, the project appears to meet all legal quality standards. Indeed, its high quality ambitions seem to ensure that it goes above and beyond them. However, it is still possible that legal problems will surface at a later stage.

Because the plans for Rijnenburg have not progressed to a sufficiently concrete stage, the project has limited potential to shed light on the extent to which legal rules can be a barrier to sustainable development. Nevertheless, the project does contain a lesson for the CONTEXT project: sustainable development requires financial commitments, either from public authorities or from private parties. One can wonder though to what extent large-scale sustainable developments like the one in Rijnenburg are realistic under current market conditions. Several authors have implied that the demand for housing and office space is much smaller than the supply (Janssen-Jansen, 2010; Bertolini & Salet, 2009). This causes prices to drop and makes new developments hard to finance. Sustainable projects, which tend to be more expensive, will suffer even more from this.

# 1 Introduction

Rijnenburg was initially selected as one of the case studies for the CONTEXT project. The municipality's ambition to realise a sustainable residential neighbourhood under challenging circumstances promised to be an excellent case for studying potential legal barriers for sustainable development. But because the project stalled in a relatively early phase, this assumption proved to be wrong and the Utrecht researchers selected a different case study: the restructuring of the station area. Because of this, the Rijnenburg study is not a complete report. It is based on a desk study of policy documents and prior evaluations, and consultation with the end-user. Nevertheless, we felt it would be useful to share the results of the study, because they do shed some light on the problems encountered in sustainable area development. In addition, it puts the importance of legislation as a barrier to sustainable area development in perspective.

There have been several evaluations of the Rijnenburg case (Giezen et al., 2012; Van Kruining et al., 2012; Teisman, 2011). The problems that were identified were organisational, financial and spatial, and resulted from the most part from fairly rigid policy choices made by the municipality at the outset of the project. The researchers did not identify any legal issues. This is at least partly due to the fact that the developments came to a halt before legal issues would really come into play.

Rijnenburg is an area of 800 hectares (or 2100 acre) located at the intersection of the A2 and the A12, two important motorways in the municipality of Utrecht that connect Amsterdam with Maastricht and The Hague with Arnhem. Utrecht is one of the four largest urban areas in the Netherlands. Presently, the area is used primarily for agriculture and recreational purposes. At first sight, its position makes the area highly attractive for housing and as a business area, but there are two distinct disadvantages to urban developments in Rijnenburg. First, the area is located just outside of the dyke ring that provides the Randstad with a high level of protection due to the amount of inhabitants and economic value, and faces a relatively large risk that flooding will occur, in particular from the nearby river the Lek. This risk is likely to increase in the future due to climate change. It shares this vulnerability with existing urban areas such as the nearby town of Nieuwegein. Second, Rijnenburg is a peat land area. It is a low-lying area which puts high demands on water management. Heavy rainfall will cause the area to flood, whereas a low level of groundwater will result in dehydration and further subsidence.

Despite these disadvantages, Rijnenburg was one of the locations that were being considered for development in the nineties to meet the growing demand for housing in the Utrecht region. The plans were put on the shelf when it was decided that Leidsche Rijn – also part of the Utrecht urban area – would become the newest residential addition to Utrecht.



Rijnenburg is singled out for development once more in the beginning of this century. Its peculiarities are to become positive attributes: Rijnenburg is one of the few locations where the demand for upscale housing in a rural environment can be met. Rijnenburg is to incorporate existing scenic and historical elements and will provide Utrecht with a residential area with the appeal to preserve higher incomes for the city and the region. Rijnenburg is to contain only 5,000 to 7,000 houses in the higher segment instead of the 15,000 that were anticipated earlier, and is to be a frontrunner in sustainability: the area should be self-sufficient and resistant to climate change.

At the same time, the municipality of Utrecht does not want to bear the financial risk inherent in the development of a project this size. It currently owns approximately 60 hectares, and is unwilling or unable to buy more. Because of that, the success of Rijnenburg is highly dependent on the cooperation of over 60 private landowners. Many of them bought the land under the assumption Rijnenburg would become a run of the mill residential area with approximately 15,000 homes. Their capacity to make a profit on their investment has been drastically reduced by the new approach. The investment per house has already turned out to be significantly higher than anticipated. The municipality's ambitions with regard to sustainability are costly to realise. Again, there are fewer houses to sell to earn those costs back, and if measures do not benefit homeowners directly it is unlikely that they will be willing to pay a higher price. It will be difficult for landowners to earn their investments back and some might have no other option than to limit their losses as much as they can. The current crisis on the Dutch housing market only exacerbates the problem.

These financial problems cause the development of Rijnenburg to grind to a halt in November 2010, in spite of the energy and enthusiasm invested by local government in the process up till then.

## Demarcation

There have been plans to develop Rijnenburg since the 1990s, but the project kicked off in earnest with the publication of the 'Startdocument Rijnenburg' on 4 March 2008. In this document, the municipality set out its ambitions for Rijnenburg, and sketched a trajectory that would have to result in the first stone being laid in the fall of 2013.

The project came to a halt on 22 November 2010, when the climate bureau was informed that the consultations between the municipality and the landowners had resulted in a deadlock that remains unresolved.

## Input end-user

### Energy

One of the pillars of the climate atelier was energy. The CO<sub>2</sub> emission of Rijnenburg should be as low as possible. One of the ways to achieve this is to generate sustainable energy in Rijnenburg

itself. Energy generated in this way is primarily meant to be used in Rijnenburg, but excess production could benefit neighbouring areas. Any arrangement to this effect will have to comply with the fairly elaborate EU and national rules on the energy market. If public authorities are engaged in this activity, or if public funds are used for it, there can be issues under competition and state aid rules.

## Equality

Another pillar of the climate atelier was water and water safety. Rijnenburg is a vulnerable area and requires specific measures to guarantee the safety of its inhabitants and their dwellings. Initially, the ambition was to guarantee a very high level of water safety. However, the neighbouring towns of Nieuwegein and IJsselstein share these water safety issues that Rijnenburg is confronted with, but lack the means for developing a new water safety strategy and lack the necessity for immediate safety measures. The water board was unsure of whether the principle of equal treatment would allow the different levels in safety. The problem lost urgency because the high safety level for Rijnenburg was abandoned for different, more pragmatic reasons: it was feared that the infrastructure necessary to protect the area, in those rare instances where the usual mechanisms (dikes) were not sufficient, would not be maintained, and would degenerate quickly. However, the end user indicated that the principle of equality is used to block initiatives in an early state more often especially concerning financial support by the water board in local developments.

## Financial issues

In the Giezen report it was suggested that there is a need for more creative methods to finance measures like the ones proposed in Rijnenburg (Giezen et al., 2012: 15). The end-user confirms this. It is not clear to what extent the current rules provide the possibility to recover the costs for specific services, or to have differentiated taxes. There is, however, a desire to deviate from current practices.

The end user has indicated that other current practices regarding water management and water safety were open for discussion as well, but whether there are legal impediments to change those practices is still unknown.

## 2 Geographical and historical context

Geographically, the case study is limited to the area demarcated in the *Structuurvisie* that was adopted on 18 February 2010, as indicated on the map below. The *Structuurvisie* is the overall plan for the development of Rijnenburg and adjacent agricultural and recreational areas.

The area measures 800 hectares in the southwest corner of the A2 and the A12. It is currently being used for agriculture and recreation, and is very sparsely populated. In 2001, when the area concerned was transferred to the municipality of Utrecht for development, there were only 72 houses. Its location is attractive: next to two important highways in the centre of the country. It is a peat polder with a historically interesting structure, a so-called *slagenlandschap*. Large parts of the area lie below NAP, and the polder lies outside of the dyke ring.

The city of Utrecht as a whole has a population of 316,000. The agglomeration surrounding it is home to 660,000 people. This number has grown considerably in the past decades, and is expected to grow even further in the future. Rijnenburg is one of the few locations where large-scale development could take place to provide housing to Utrecht's growing population. On the other hand, it is also one of the few locations where an alternative rural housing environment can be realised.

Although at first sight Rijnenburg seems well suited for development, the area has some characteristics that complicate matters. First, it is a peat polder, which complicates water management. A low groundwater level will result in dehydration and further subsidence, which will harm the remaining farmers in the area. At the same time the area is prone to flooding. The area is located outside the dyke ring, the primary flood defence system that protects the Randstad from flooding. If it is developed, additional safety measures and water retention ponds will be necessary. Finally, the landscape has historical value. It is a *slagenlandschap*, a typical landscape of long plots measuring 1300 by 110 meters, which originated when turf was won. Ditches were dug at the long sides of the plots to drain them of superfluous water, and the mud gained from digging the ditches was used to level up the land (PlanMER, 2009: 51).



*Fig. 1. Map showing the scope of the Structuurvisie for Rijnenburg. Source: Municipality of Utrecht*

### 3 Legal framework

The laws that impact the process in one way or another are numerous. At present it is unclear which laws and regulations will prove to be problematic in the development of Rijnenburg, if any. To the extent that legal issues were addressed, they were addressed in the *Structuurvisie* track. In the next paragraph I will identify a number of issues that may have had some impact. The laws and regulations pertaining to those issues alone are plentiful.

One of the end-users of Rijnenburg, the water board De Stichtse Rijnlanden, is primarily responsible for water management and safety in the area. A number of laws and regulations are relevant in this respect:

- *Waterwet* (Water Act)
- *Wet milieubeheer* (Environmental Protection Act)
- *Wet bodembescherming* (Soil Protection Act)
- *Regelgeving lozingen: activiteitenbesluit; besluit lozing afvalwater huishoudens; besluit lozen buiten inrichtingen* (regulations on discharges)
- *Wabo* (Act laying down the rules for granting an All-in-one Permit for Physical Aspects)
- *Waterschapswet* (inclusief keuren)

At the European level, the most relevant legislation is:

- The Water Framework Directive
- The directive on the assessment and management of flood risks
- The water pollution directive
- The environmental impact assessment directive
- The birds and habitats directives
- The directive on the energy performance of buildings

Despite the fact that water management is going to be a topical issue in Rijnenburg, the applicable legislation does not lead to legal problems. Managing water quantity and safety is seen primarily as a technological challenge, not as a legal issue. The safety norms themselves are not challenged.

### The principle of equality

There was however an issue regarding the principle of equality. This principle is of great importance in Dutch law and has been enshrined in article 1 of the Constitution: All persons in the



Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted. In practice, this means that equal cases should be treated equally, and unequal cases should be treated unequally. In the development of Rijnenburg, this was relevant because initially there were ambitions to go above and beyond the required safety norms. However, the neighbouring town of Nieuwegein, which would be in a similar situation, would lack the extra safety measures, and would thus be treated unequally. The Water Board was unsure whether the extra measures for Rijnenburg alone would be acceptable. However, the principle of equality does not require that strict an interpretation: differences in treatment are allowed as long as they can be properly motivated. The principle does not preclude increasing the safety level for new projects (Van Rijswijk et al., 2013: 70). The additional safety measures in Rijnenburg did not go through because of pragmatic considerations though, so whether uncertainty about the interpretation of the principle of equality would have been enough to stop the measures is unknown.

## Nature protection

Early on in the process, interested parties pointed out the importance of the *Flora- en Faunawet* (the legislation implementing the Bird and Habitat directives). Rijnenburg is home to many rare bird species, including the black-tailed godwit (Aorta, 2007; Oskam, 2008). There are other protected species in the area as well (PlanMER, 2009: 51). The effects of the plans for Rijnenburg on the bird population are severe (PlanMER, 2009: 57). Because the *Structuurvisie* is not binding, and not subject to appeal, it remains to be seen whether this will prove problematic in the future, or whether nature organisations are on board with the plans for Rijnenburg because of its otherwise sustainable nature.

## Noise

The plan area borders on two highways. To achieve the living environment envisioned by the plan makers, additional measures to limit noise exposure are necessary. Houses are being built outside the 8 dB-contour to the extent possible. The plan includes a sound wall that separates Rijnenburg from the high way. Although this wall is necessary to comply with noise regulation, it is an opportunity as well. According to the *structuurvisie*, it will be turned into a climate wall. It will be covered in solar panels, house wind turbines, or provide room for another innovative way to produce energy. The climate wall should help make Rijnenburg self-sufficient in terms of energy, but the specifics are left open (*Structuurvisie*, 2010: 18). Some extra measures should be taken to reduce noise for houses that are located next to road in the plan area itself, but the *Structuurvisie* leaves open the manner in which this noise reduction is to be achieved (*Structuurvisie* 2010, 156). Because noise regulation in the Netherlands only sets targets to be achieved, and leaves the manner in which they are to be achieved up to the plan maker, this not problematic.

## 4 Actors

### The municipality of Utrecht

The population of Utrecht is still increasing and the city is faced with a housing shortage. It aims to build a total of 21,500 new houses from 2010 till 2014. Although Rijnenburg has room for many of those houses, its total contribution with 450 houses planned each year starting in 2013 is limited (*Woonvisie 2009-2019*, 2009: 21). For Rijnenburg, the municipality prefers quality over quantity. Rijnenburg is to meet the demand for housing of a certain quality. Although it is one of the last locations in the region that is suitable for large-scale developments, it is also one of the few locations that can be developed to meet the demand for living in a rural area.

The ambitions for Rijnenburg are based on the wish to meet this demand. It is to provide a rural living environment, rich in nature and water. The buildings will be fit into the existing landscape, the natural characteristics of which will be respected. In addition, the municipality wants to make Rijnenburg climate proof and sustainable. The area should provide its own energy, and be self-sufficient in its water management, meaning there should be sufficient facilities for water retention. By providing a high-quality rural environment, the municipality hopes to keep high incomes from leaving the city.

Although the realisation of Rijnenburg is quite costly, the municipality is reluctant to invest money that will benefit only the project developers and future denizens of Rijnenburg. It aims to develop Rijnenburg in a cost-neutral way.

### The province of Utrecht

The province of Utrecht is interested in Rijnenburg as a means to realise both its housing and its sustainability ambitions. At first, the former took precedence, but when Rijnenburg turned out to be unsuitable for large numbers of houses, sustainability won out, and Rijnenburg became a pilot for the province's 'Klimaat op orde' project (climate in order).

Although the province of Utrecht has gotten fully on board with a sustainable Rijnenburg, it was initially not very enthusiastic. A number of parties in the provincial states passed a motion to have the option of increasing the number of houses in Rijnenburg investigated. In the motion, they threatened to force the municipality to increase the number of houses in Rijnenburg using the instruments available to them in the spatial planning act to ensure that the province's interests in providing adequate amounts of housing would be met (motion of 4 July 2008). Additional housing in Rijnenburg might also save the Green Heart from further infractions. Indeed, the coalition fell

over this issue, as one of the parties (CDA) refused to take quite so strong a stance. When the results of the investigation were returned, they showed that additional housing would lead to severe traffic congestion that would be impossible to prevent, and the province changed its mind.

In addition, the province is responsible for the realisation of the *Structuurvisie* to the extent it applies to Reijerscop and Lange Vliet/IJsselwetering. As such, its involvement in drafting the *Structuurvisie* was an obvious choice. The province will draft a more detailed *inpassingsplan* – a provincial variety of the municipal zoning plan – for these areas, based on the *Structuurvisie*.

## The water board

The water board was initially opposed to the development of Rijnenburg. Its geological characteristics and its low altitude make it unfit for large-scale development. However, when the ambition for Rijnenburg was to create only 5,000 to 7,000 houses, and give sustainable water management a prominent place in the design process, the water board got on board. Its primary objective is to ensure that water quality and quantity in Rijnenburg will be manageable.

## Neighbouring municipalities

Rijnenburg will affect neighbouring municipalities in several ways. Because the area is closer to the city centres of IJsselstein and Nieuwegein than to that of Utrecht, the residents of Rijnenburg will rely on those towns for facilities that cannot be found in Rijnenburg itself, like secondary education and health care. This will increase the viability of these facilities. In addition, Rijnenburg can provide housing for residents from the region.<sup>1</sup> The traffic streams from and to Rijnenburg will interfere with those from other towns. The A2 and A12 are already quite busy, and the research conducted on behalf of the province shows that traffic congestion is likely if too many houses are built. Because of this, the surrounding municipalities are much opposed to a larger number of houses being built in Rijnenburg. Montfoort, Oudewater, Lopik, Woerden, Nieuwegein, and IJsselstein expressed their concern about the province's exercising pressure to increase the number of houses in Rijnenburg. Not only did they implore the municipality and the province to take their interests into account, they also warned that a larger number of houses than foreseen in the *Structuurvisie* would cause considerable procedural delays, including the need to conduct a new environmental impact assessment.<sup>2</sup>

Finally, the recreational facilities that are being created in Lange Vliet/IJsselwetering have a regional character, and will serve denizens of neighbouring municipalities as well. However, the development of this area is the responsibility of the Province, and will be further developed in a separate plan.

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<sup>1</sup> Collegeprogramma IJsselstein 2010-2014.

<sup>2</sup> The letter can be found at [http://lopik.nl%2Fdocument.php%3Ffileid%3D8669%26f%3D19aae709b886e2b26b43a1e4890ac73c%26attachment%3D1%26c%3D11374&ei=kEsOUsqNLKiO4ATNyIHQBw&usg=AFQjCNFPr-upDIOPjUn2kaJr\\_aLNdy-ydw&sig2=gB0sMicyh7U3RTuEUD6LCA](http://lopik.nl%2Fdocument.php%3Ffileid%3D8669%26f%3D19aae709b886e2b26b43a1e4890ac73c%26attachment%3D1%26c%3D11374&ei=kEsOUsqNLKiO4ATNyIHQBw&usg=AFQjCNFPr-upDIOPjUn2kaJr_aLNdy-ydw&sig2=gB0sMicyh7U3RTuEUD6LCA).



## Landowners

Over 60 parties hold land in Rijnenburg (Giezen et al., 2012: 9). The municipality itself has only 60 hectares, and thus it relies heavily on the cooperation of the landowners. This is even more true because it wants them to pay for most of the measures that aim to increase the sustainability of Rijnenburg. The current owners of most of the land in Rijnenburg have bought it in the hopes that Rijnenburg would be developed into a standard residential neighbourhood, offering room for some 15,000 to 20,000 houses. The lower number of houses included in the *Structuurvisie* means they have less opportunity to turn a profit, and together with the infrastructural measures that need to be taken, this results in a rather grim financial picture for the landowners. Their interests seem to oppose a sustainable Rijnenburg like the one envisioned in the *Structuurvisie*, and it has proven to be hard to involve the owners in the design process (Van Buuren & Sinoo, 2011: 13). However, no development is even worse financially than sustainable development.

## NGOs

As a former part of the Green Heart, Rijnenburg has the interest of a large number of environmental organisations, including the *Stichting Groene Hart* (the Green Heart foundation), the *Milieucentrum Utrecht* (Utrecht environmental centre) and the *Natuur- en Milieufederatie Utrecht* (Utrecht nature and environmental federation). The latter three have joined forces with Staatsbosbeheer and created a joint vision on Rijnenburg.<sup>3</sup> There is no general consensus on what direction Rijnenburg should take, though. Some organisations are fairly cooperative, and emphasize the need for close cooperation and public participation in turning Rijnenburg into a green, sustainable neighbourhood.<sup>4</sup> There are some who argue for a larger scale development, with much higher density. That way, the housing needs of the region are more easily met, and further infractions of the Green Heart may be prevented.<sup>5</sup> However, now that the crisis has struck, there are also those that argue that Rijnenburg should not be developed at all, and should be returned to the Green Heart instead.<sup>6</sup>

<sup>3</sup> [http://www.groenehart.info/pdf/SGHreactieopStructuurvisieInfraenRuimte2011\\_9-9-2011\\_.pdf](http://www.groenehart.info/pdf/SGHreactieopStructuurvisieInfraenRuimte2011_9-9-2011_.pdf).

<sup>4</sup> <http://www.natuurenmilieufederaties.nl/DeProvincialeMilieufederaties/Hoofdmenu/DeNatuurenMilieufederaties/Utrecht/Nieuws/NatuurorganisatiesduurzaamgroenengezondRijnenburg.aspx>;  
[http://www.groenehart.info/PDF/SGHreactieopStructuurvisieInfraenRuimte2011\\_9-9-2011\\_.pdf](http://www.groenehart.info/PDF/SGHreactieopStructuurvisieInfraenRuimte2011_9-9-2011_.pdf)

<sup>5</sup> Groene Hart Beraad, 21 juni 2008.

<sup>6</sup> De Groene Flits, 19 September 2011,  
<http://www.groenehart.info/sites/default/files/DeGroeneFlits%20279.pdf>. D66 has also been opposed to the development of Rijnenburg for a long time, at least until Leidsche Rijn has been completed. (Verkiezingsprogramma 2006-2010).

## 5 Decision-making process

The development of Rijnenburg has been long in the making. It was discussed as a location for development during the preparation of the *Vierde Nota Ruimtelijke Ordening*, which was adopted in 1988, but in 1991, the choice was made to develop Leidsche Rijn instead (Van Buuren & Sinoo, 2011: 9). In 2001, the area was transferred from Nieuwegein to Utrecht. In 2006, Rijnenburg was removed from the Green Heart with the *Nota Ruimte*, and thus became definitively available for development. The process was launched in earnest with the adoption of the *Startdocument Rijnenburg* in February 2008, which was to lead to the eventual adoption of the *structuurvisie*. The process was separated into two tracks, both of which were headed by the same steering group, consisting of the responsible aldermen, Harrie Bosch and Tymon de Weger, dijkgraaf (head of the water board) Patrick Poelman and provincial deputy Wouter de Jong.

### Process

In 2008, the municipality initiated the two tracks that were to result in the adoption of a *Structuurvisie* in 2010. The *Structuurvisie* is a strategic policy plan in the field of spatial/land use planning, made by the competent authority and which serves as a guidance document for further decision making but which is itself not legally binding.

**Tab. 1. Two tracks of Rijnenburg planning process.**

	<b>Track 1: Structuurvisie</b>	<b>Track 2: Climate atelier</b>
<i>Participants</i>	Municipality of Utrecht	Municipality of Utrecht Water Board* Province of Utrecht
<i>Goals</i>	To balance various interests and to decide which building blocks to use in a structuurvisie for a sustainable Rijnenburg	To acquire knowledge and to design measures that could be used in Rijnenburg: the building blocks
<i>Public participation</i>	Participation by interested parties in ateliers, views on concept structuurvisie**	Participation by experts in inspirational meeting, charette en knowledge sessions

\* The water board is a regional water authority which has its own powers to regulate and enforce water affairs and who responsible for regional water management.

\*\* Residents associations, local, regional and national authorities, and nature organisations participated in the ateliers. There have been separate meetings 'to involve land owners.' Ninety parties submitted a view on the concept *structuurvisie*, including a number of real estate developers.

The first track was the *Structuurvisie* track. This was the track in which the policy choices that would be set down in the *Structuurvisie* were to be made. The municipality controlled the process and retained decision-making power. The second track was the climate atelier (*Klimaatatelier*), which was essentially a project team whose task it was to acquire knowledge and to design measures that could be used in Rijnenburg, without deciding which of these measures would end up in the eventual plan. Rather, it was to provide 'building blocks' that could be used in the first track. The efforts resulted in the toolbox Rijnenburg, a catalogue of measures designed to promote sustainability and resistance to climate change, focused on CO<sub>2</sub> reduction, climate of life, economy and mobility, nature and landscape, and water and water safety.

The climate atelier produced building blocks – individual measures that could be applied in Rijnenburg; a tool called sustainable design 'duurzaam ontwerpen' which allowed it to assess the sustainability of proposed scenarios based on a number of measurable indicators; and proposals for changes to the strategies developed by the other track. The *Structuurvisie* track produced three initial strategies, a preferred strategy, a *Concept Structuurvisie* and a *Structuurvisie*, based on the building blocks provided by the climate atelier and incorporating the feedback it received from it on its scenarios. In addition, participants in the *Structuurvisie* track produced views on the concept *Structuurvisie*, which have led to a number of changes.

The tracks interacted with each other, and must be studied in connection to each other.

## Timeline

In the *Structuurvisie* the municipality has refrained from choosing specific measures and has instead decided to set down the goals and ambitions to retain flexibility in later phases. After its adoption, the municipality initiated two new tracks that are to result in the adoption of a zoning plan. The first track remained unnamed, but is the heir to the *Structuurvisie* track. The second track was the continuation of the climate atelier, which was renamed and became the climate bureau (*klimaatbureau*). Its task was to look in greater detail at the technological feasibility of the measures, while the municipality took it upon itself to smooth out the financial issues with the landowners in the first track, who feel the plan as included in the finalised *Structuurvisie* is financially untenable. The latter scheme fails, and in November 2010, the climate bureau was informed that the other track has reached an impasse. After that, there have been attempts at mediation, and the municipality has given the private parties the opportunity to come up with a plan themselves. These efforts have not led to concrete results though, and at the moment, the development of Rijnenburg is postponed until after Leidsche Rijn has been completed.

**Tab. 2. Time line of Utrecht Rijnenburg**

Date	Policy docs	Track 1: Structuurvisie	Track 2: Climate Atelier
March 2008	Startdocument Rijnenburg		
April 2008		Information evening for residents	
September 2008			Inspirational meeting
			Charette*
October 2008		1 <sup>st</sup> meeting working group: assessment of the task ahead**	
November 2008		1 <sup>st</sup> atelier: formulating core values	Developing building blocks to strengthen sustainability and resistance to climate change
December 2008		2 <sup>nd</sup> meeting working group: exploration of the program and possible scenarios	
			Testing***
January 2009		2 <sup>nd</sup> atelier: developing three scenarios	
			Testing
February 2009	Plan-EIA (Environmental Impact Assessment) adopted	3 <sup>rd</sup> meeting working group: SWOT-analysis	
March 2009		3 <sup>rd</sup> atelier: formulation of the preferred alternative	Further development of building blocks as a base for ambitions in the <i>Structuurvisie</i>
April 2009		4 <sup>th</sup> meeting working group: masterplan	
			Testing
June 2009		Concept Structuurvisie	
August 2009			Sharing acquired knowledge of sustainability and resistance to climate change with other developments in the Netherlands
23 September 2009		Concept Structuurvisie open to public inspection	
18 February 2010		Structuurvisie adopted	
15 September 2010			Project agreement climate bureau Rijnenburg signed
22 November 2010			The climate bureau is informed on the impasse of the other track

\* The Charette was a two-day meeting during which people with different backgrounds cooperated in small groups to create a complete design for Rijnenburg, after a plenary session in which the goals were discussed. The results have been brought together in the booklet 'Charette Rijnenburg'. The outcomes of the Charette were used as building blocks in the formulation of scenarios.

\*\* The working group is composed of officials of the municipality, province and water board. Public participation occurs in the ateliers in track 1.

\*\*\* The climate atelier tests the sustainability of the strategy developed in the ateliers and proposes improvements.

## 6 The problem of contextualisation

The process for Rijnenburg has not progressed beyond the finalised *Structuurvisie*. This document is global in nature, and the municipality has drafted it to provide flexibility during the rest of the process. Because the *Structuurvisie* is not legally binding, it is likely that not all legal problems have surfaced yet, especially since the environmental impact assessment indicates that the plan will have serious adverse effects on the bird population: a state of affairs that offers ample opportunities to start legal procedures in the future. However, some legally protected interests have definitely had a formative influence on the plans.

The higher number of houses advocated by the province was problematic for water management as well as for traffic reasons. Although the province's (and the municipality's) housing assignment did trigger the development of Rijnenburg, the characteristics of the area tempered their ambitions. Its vulnerability to dehydration as well as flooding required the municipality and the province to adopt a unique approach to the development, to get both the water board and the neighbouring municipalities on board. A lower number of houses were to be developed, but this compromise offered opportunities as well: a Rijnenburg with a low density could become a sustainable, self-sufficient Rijnenburg.

Although this seems a good solution, it came at a cost: the envisioned development turned out to be expensive, perhaps prohibitively so. It is too easy to accuse the public authorities of making plans in a vacuum, disconnected from reality though. They did try to involve the landowners at several points in the design process, but they showed little enthusiasm at the prospect of a Rijnenburg with only 7,000 houses to begin with.

Contextualisation therefore did take place. The characteristics of the area made certain developments difficult, from a legal, but mostly from a practical perspective. The approach chosen for Rijnenburg conciliated the need for development with nature, water and cultural-historical interests. Although this approach prevented glaring legal problems, it comes at a cost: the envisioned development turned out to be prohibitively expensive.

The financing of Rijnenburg was problematic. Other evaluations of the Rijnenburg case argue that this is partly due to the ground exploitation rules in the Spatial Planning Act, which prescribe a number of set methods for financing new developments. However, because the municipality has started from the premise that the development of Rijnenburg should be financially neutral, it has not sought the boundaries of the policy room available to it under the Grex. There has been no attempt to come up with a creative financial solution under the applicable rules in consultation with the private partners.

It is quite remarkable that the water board indicated that the principle of equality could be a barrier to taking extra safety measures. However, because these measures were set aside on other grounds, it has made no attempt to contextualise the norm. I expect they would have succeeded if they had tried.

# 7 Dilemmas

The first dilemma face in Rijnenburg is whether to develop at all. The area's geological characteristics make it unsuitable for development, a problem which was exacerbated by traffic conditions south-west of Utrecht. On the other hand, it was one of the few locations in Utrecht that were at least theoretically available for development. The current plans for Rijnenburg are clearly a compromise. The compromise has proved a fertile ground for new ideas though. Had Rijnenburg not been the complex location that it is, the sustainability ambitions might never have been there, and the toolbox Rijnenburg with all its ideas for sustainable development would not have been created. Ironically, the small scale of Rijnenburg makes it more difficult to finance the sustainability measures (Giezen et al., 2012).

Second, the financing of the developments in Rijnenburg is clearly problematic. The measures that are to be taken in Rijnenburg benefit various parties: future homeowners and residents, but also the wider region, and to some extent the entire nation. That makes it difficult to determine who should pay for these measures.<sup>7</sup> The methods that are currently employed to finance similar projects fall short for several reasons. Giezen et al. (2012) evaluate those existing options and arrive at the conclusion that the best solution is to balance the costs with future benefits in more innovative ways, like creative taxing, or the granting of concessions, provided the law provides the opportunity to do so. They do not offer any concrete proposals for this though.

They conclude that the level of ambition of the administrative authorities involved in the Rijnenburg case clashed with the economic interests of the landowners. Although they do criticise the lack of involvement of the latter group in the process that led to the adoption of the *Structuurvisie*, they appear to assume that given the current economic situation, a sustainable Rijnenburg is simply not going to happen.

Again, we see a discrepancy between decision-making competence and responsibility for execution/funding. In this case the dynamic is reversed: public authorities dictate the development, the private parties have to execute and finance the ambitious project.

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<sup>7</sup> There are several principles that could be relevant in this regard: cost recovery (article 9 European Water Framework Directive (EWFD), the principle of solidarity, or the direct benefit principle.

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