

20638/A3/PN

28th March 2014

COLCHESTER LOCAL PLAN FOCUSED REVIEW
POST HEARING MODIFICATIONS CONSULTATION (FEBRUARY 2014)

REPRESENTATIONS BY TOLLGATE PARTNERSHIP LIMITED

Background

1. We act on behalf of Tollgate Partnership Limited ("TPL") and have been instructed to submit representations in relation to the Colchester Local Plan Focused Review (LPFR) Post Hearing Modifications Consultation (February 2014).
2. This representation follows our earlier representation to the Issues and Options Consultation draft dated 29th April 2013, the Submission draft dated 9th September 2013 and our appearance at the Local Plan Examination Hearing Sessions in January 2014.
3. At the Hearing sessions we set out TPL's case. In summary, TPL felt that:
 - there should be an immediate review of the Local Plan rather than the LPFR and that the approach adopted by CBC was unsound when considered against the requirements of the NPPF; and
 - notwithstanding the unsoundness of the LPFR, the proposed changes to the individual employment and retail policies are not consistent with national policy as set out in the NPPF.
4. Following the Examination, the Inspector produced his Post Hearing Note 1 – January 2014 (IED-06). He raised concern over whether the LPFR could, even with further modifications, be found sound without a more comprehensive review (paragraph 1). In light of this finding he suggested 3 possible courses of action, namely:
 - Withdraw the LPFR in its entirety;
 - Exclude from the review all of the Employment and Retail policies; and
 - Progress further Post-Hearing Modifications to the LPFR policies.

Council's Proposed Approach

5. CBC has resultantly produced a 'Reply to Inspector's Post Hearing Note 1 (IED-06)' which sets out that they have chosen to progress with the LPFR and are now consulting on two options; namely:
 - The Council's preferred option to delete the centres and employment policies from the LPFR; and

- Retention of the policies but with further modifications.

6. Our position on both approaches was clearly set out at the Examination and is not repeated here. Instead we highlight below new issues arising from the suggested approach.

Representation

Option 1 – Deletion of the Employment & Retail Policies from the LPFR (Part 1)

7. Throughout the LPFR process we have maintained a consistent position that the LPFR is unsound and that CBC should have progressed a full Local Plan Review from the outset. This would have addressed the inconsistencies and ambiguities that have arisen as a result of the LPFR and which the Inspector correctly highlights.
8. The deletion of the retail and employment policies from the LPFR only serves to reinforce this point as without those policies the LPFR will only cover a very limited amount of policies which would not in our view justify the time and expense of the process. Further, it does not address the fundamental non conformity of a number of 'key' policies with the NPPF.
9. We are also very concerned that the CBC persist in asserting that the overall focus of its policies are consistent with the NPPF. This is reiterated in their Reply to the Inspector's Post Hearing Note 1. Most concerning is the assertion that:

"The Council will accordingly argue that its policies remain as a valid basis for the determination of planning applications, given that they are supported by an evidence base establishing their appropriateness for the unique circumstances of Colchester".

10. This is clearly not the case, and a point upon which the Inspector is very clear. As matters currently stand the adopted Retail and Employment Policies are **not** consistent with the NPPF. If they were there would be no need to include them within the LPFR and the Inspector would not be seeking ways of modifying the policies to bring them into conformity.
11. If this remains the Council's position we do not support the Option 1 approach as this will lead to further uncertainty and ambiguity when dealing with retail or employment proposals.

Option 2 – Further Modifications to Employment & Retail Policies (Part 2)

12. We set out very clearly the modification we felt were necessary to the employment and retail policies of the LPFR in our original representations and at the LPFR Examination. We do not reiterate that again here.
13. We are broadly content with the suggested further modifications subject to the following changes:

FM7 – Amend final sentence to read "*Only if suitable sites are not available in existing centres should edge of centre and then out of centre sites be considered*". This amendment would provide further clarity.

FM7 – the additional paragraph at the end of FM7 (which is not included in the Tracked Changes Document) is not necessary and is not supported. It serves to reiterate and reinforce the hierarchy set out in Table CE1a which as the Inspector states is '*at odds with the NPPF*' (para 3.1 of IED-06). The final paragraph should be deleted.

Policy CE2b – whilst the proposed November MAJ 15 modification is supported, the words '*Expansion of the Urban District Centres will not be supported*' should be removed. This clearly conflicts with the NPPF sequential approach where such locations would be supported should no in centre sites exist. Without this further amendment the policy cannot be found Sound.

14. We trust that these further representations will be positively considered by CBC and the Inspector. We would of course be happy to discuss further should this be considered appropriate.

BARTON WILLMORE LLP, 28th March 2014