

**Colchester Borough Council's response to Inspector's Questions:**

**Retail policies**

***5. Retail policies (Table CE1a, CE2b, related text - from top of page 20 to page 24. Also MAJs 3, 4, 5, 15 and 16 in CD23.)***

***5.1 In my view, the Centres Hierarchy in Table CE1a and related references to this hierarchy in other policies is an integral element of the spatial strategy of the development plan. Any change to the position of centres in the hierarchy could have implications for other matters which have also not been addressed in this Focussed Review. Accordingly, I consider that reviewing the hierarchy or adding or removing any centres from the hierarchy cannot effectively be undertaken as part of this Focussed Review/Examination and will have to be addressed in the subsequent full review of the Council's plans. Consistent with the explanation of my approach in IED-01 it needs to be made clear that I have not undertaken any such review or endorsed the existing hierarchy. This may need restating in specific parts of the plan if I find sound any amendments to retail policies which refer to centres in the hierarchy. Any comment on this approach?***

**CBC Response**

The Council concurs that the Focussed Review is not intended to make fundamental changes to the plan, including reviewing the hierarchy or adding/removing centres from the hierarchy. Accordingly, the Council would be willing to clarify this point as necessary, and has proposed the wording in MAJ1 to address this point.

***5.2 For the above reason, I advised the Council in IED-01 that the proposed addition to the Urban Gateways of the Northern Gateway (Park and Ride site) in Table CE1a was not appropriate for this Focussed Review. The removal of this proposal is included as MAJ7 in CD23 and I will be having regard to any representations in response. I can make recommendations for changes only if I find a matter unsound. Accordingly, the removal of the Northern Gateway would need to be explained on the basis that for the reasons given in IED-01 it can only properly be considered in the context of the spatial strategy which the Focussed Review does not encompass? Any further comments on how the proposed removal of the Northern Gateway should be handled?***

**CBC Response**

The Council has accepted the Inspector's points concerning the addition to the Urban Gateways of the Northern Gateway (Park and Ride site) and accordingly has proposed its deletion in change MAJ7 in CD23. The Council instead proposes to consider the role and function of the Northern Gateway as part of its development of a new Local Plan.

### ***Retail impact thresholds***

**5.3 The proposed changes to CE2b set out different local thresholds for development within the Rural District Centres and the Urban District Centres and requires them not to compete with the Town Centre. (My emphasis.)**

**5.4 NPPF paragraph 26 indicates that when assessing applications outside town centres not in accordance with an up-to-date plan, impact assessments should be required over a proportionate locally set threshold. The assessment relates to impact, such as on vitality and viability of town centres. The NPPF indicate in the Glossary that town centres and centres refer to the full range of centres. In IED-01, I expressed a brief preliminary view that the approach to thresholds in CE2b was not consistent with the NPPF. That remains my preliminary view.**

**5.5 Is the approach proposed to local thresholds (applying within some centres and seeking to avoid competition with Colchester town centre) justified as an exception to the NPPF by local circumstances or evidence?**

### **CBC Response**

The intent of the Council's spatial hierarchy is that it places the Town Centre at the top. District Centres are considered to provide a secondary role, as is made clear in Policy CE1 and Table CE1a. This ranking was developed to ensure the pre-eminence of the Town Centre and to ensure that new town centre uses were directed there. In practice, the Council has increased the level of flexibility given to new smaller retail proposals in Centres in response to the NPPF, but it considers that the continuing vitality of the Town Centre needs to be supported by the ability to resist larger retail proposals going into Urban and Rural District Centres.

Requirements for sequential tests and impact statements in the NPPF establish that safeguarding the pre-eminence of the Town Centre remains a valid planning policy objective (paras 24 and 26). Further, the general principle of providing a spatial hierarchy for the Borough is considered to be supported by the NPPF in Para 23, where the second bullet point states that authorities should ensure the vitality of town centres by defining 'a network and hierarchy of centres that is resilient to anticipated future economic changes'.

The NPPF definition of centres, however, is not, in the case of Colchester, consistent with the support for town centres and a hierarchy of centres found elsewhere in the NPPF. The definition seems to assume that a spatial hierarchy for a large town with peripheral shopping centres/retail parks such as Colchester would include a designation other than 'centre' for secondary retail areas to allow the Town Centre to be given sequential preference:

*'Unless they are identified as centres in Local Plans, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres'.*

Given that the NPPF provides scope for local flexibility (para 1), it would be expected that local authorities would to adopt a pragmatic approach to any specific anomalies arising from different sections of the NPPF and their effect on the interpretation of local policies. In this instance, over the longer term, the Council will seek to redefine Urban and Rural District Centres as it develops a new Local Plan to take into account the need to set them apart from Town Centres if it wishes to safeguard the Town Centre.

For the current Focussed Review, however, the Council considers it appropriate to allow the current approach to District and Rural Centres to continue based on the local circumstances as outlined in the following paragraphs.

The explanation for CE2 (p. 44 of the Core Strategy) notes the Council's policy aspirations for the District Centres. Like most UK cities, Colchester developed a number of car-dependent centres in the 80s and 90s before national town-centre first policies seeking to curtail their growth began to take effect later in the 90s. This policy move on the part of central government reflected the view that while the centres met consumer demand, they also reinforced unsustainable travel patterns that increased levels of car traffic. The pre-2004 Local Plan policy accordingly sought to restrict the role of the centres to the provision of bulky goods in large format buildings which could not be provided in the Town Centre. Most out-of-town retail areas in Colchester were covered by bulky goods restrictions on planning applications for new development and a bulky goods retail designation on the Proposals Map. The earlier Local Plan requirement to limit out-of-town retail centres to bulky goods retail only has now been replaced by a more flexible approach that seeks to increase the attractiveness and diversity of the centres.

The Core Strategy reconsidered the categorisation of out-of-centre retail areas in Colchester in light of changing national policy and developed the Urban District Centre category designed to ensure the continuing priority of the Town Centre but also encourage increased diversity of uses in the District Centres provided they did not undermine the viability of the Town Centre. The five areas designated as UDCs were considered to be of the scale and potential to serve as centres for their local areas which could over time come to provide a greater range of commercial uses and community facilities while continuing to provide an appropriate location for bulky goods retail.

The Council's approach to retail development and the centres hierarchy was supported by evidence in the form of a Retail Study and update carried out by GVA Grimley (2007 and 2009). It found that while Colchester town centre appeared to be performing well, 'there are signs that any stronger growth has been held back in recent years due to the constrained nature of the centre' (para 6.8, p. 43). It recommended that additional comparison floorspace be provided in an expanded core town centre shopping area, with St. Botolph's providing the 'much needed retail space to ensure the continued economic growth of the town centre'. (p. 54) The Core Strategy accordingly pointed to expansion of the retail area of the town centre in the St. Botolphs

Regeneration Area, and this growth was linked to the restraint of town centre retail uses growth in the Urban District Centres. The Council's approach was endorsed by the Inspector for the Core Strategy:

*The inclusion of the five Urban District Centres in table CE1a is appropriate in my view. Although four of these are typical out of centre supermarkets or retail parks, policy CE2b seeks a more diverse range of uses with improvements to the built character and public realm and limits new retail development. I consider this is a sound approach that does not conflict with national or regional policies. (Para 7.57)*

While the soundness of adopted policies now needs to be revisited in the light of the NPPF, overall continuity has been preserved at national level on the principle of safeguarding Town Centres. The Council accordingly considers that the retention of a distinction between the Town Centre and Urban and Rural District Centres remains valid as a locally distinctive approach justified by evidence of its successful application and adaptation over time.

**5.6 If not justified, would the deletion of the changes to CE2b in the Focussed Review (together with part of an existing sentence in the policy) as proposed in MAJ15 and MAJ16 in CD23 make CE2 consistent with NPPF? (I will be having regard to any representations in response to CD23.)**

#### CBC Response

As noted above, the Council does not support the changes proposed in MAJ15 and MAJ16 as it considers that Colchester's unique circumstances justify its approach to its spatial hierarchy and the requirement that larger District Centre retail proposals be supported by evidence that they do not compete with the Town Centre.

#### **Edge of centre**

**5.7 Text at the top of page 20 of the Focussed Review proposes a number of changes relating to the sequential approach outside the town centre. The most relevant part of the NPPF is the Glossary definition of Edge of Centre which is:**

**for retail uses - within 300m of the primary shopping area;**

**all other main town centre uses - within 300m of the town centre boundary;**

**for offices - within 500m of a transport interchange.**

**5.8 Consistent with my approach to avoid considering any matters that relate to any element of the spatial strategy of the overall development plan, should I be excluding any detailed consideration of these changes since they relate to the hierarchy of centres?**

#### CBC Response

The changes proposed are considered to link with the other changes to Centres and Employment policies made to address both NPPF compatibility

and Colchester's local circumstances. It is not considered that they raise any fundamental issues concerning the hierarchy of centres in Colchester.

**5.9 If some element of this paragraph is appropriate to consider as part of the Focussed Review, are the proposed changes consistent with NPPF or are any local variations justified by local circumstances/evidence? In particular, the following questions arise:**

- **A *primary shopping area* is not defined for Colchester Town Centre. Can the inner core or inner and outer core combined be equated with the primary shopping area?**

#### CBC Response

The primary shopping area for Colchester can currently be best defined as the inner and outer core areas, as they most closely align with the NPPF definition of a 'defined area where retail development is concentrated (generally comprising the primary and those secondary frontages which are adjoining and closely related to the primary shopping frontage).' 'Inner Core' and 'Outer Core' have been used to define key Town Centre areas for many years now and are considered to be well understood locally. It is accordingly not considered necessary to replace those terms by the equivalent NPPF term. If it considered necessary, however, a note could be added to DP6 clarifying the relationship between the Inner and Outer Cores and the NPPF definition of the primary shopping area.

Additionally, the Council will be reviewing its policies for these town centre areas as part of the development of a new Local Plan. This full review will need to take on board the fundamental changes occurring to the balance between retail and other uses in the town centre, potentially resulting in a more far-reaching re-definition of terminology and regulation of different uses.

- **The Focussed Review treats retail the same as other town centre uses and all are required to be within 300m of the town centre core, whereas the NPPF allows non-retail town centre uses to be within 300m of the town centre boundary. Is the Focussed Review more or less flexible than the NPPF and if so is this justified?**
- **The Focussed Review maintains the existing policy that such edge of centre locations are to be preferred to locations in the Urban Gateways and Urban District Centres. Is this locally justified?**

#### CBC Response

(The response covers both bullet points above as they are inter-related within the relevant text of the Focused Review)

The relevant NPPF guidance on the first bullet point is contained within the definition of 'edge of centre' in the Glossary. The NPPF definition is currently more flexible than the Focused Review on the issue of non-retail uses and requires that they be within 300 metres of the town centre boundary rather than the town centre core. The Council considers that this discrepancy would

be best addressed by modifying the proposed wording as provided at the end of this section of the CBC Response.

Further to the second bullet point, Table CE1a outlines the classification of the Town Centre fringe, Urban Gateways and District Centres, but does not indicate a priority between Urban Gateways and Town Centre fringe. This distinction has been added into the explanatory text for policy CE1. The current wording of the explanatory text does not align precisely with the groupings in the table, so the Council would support rewording the text as follows to ensure a consistent approach:

Current wording of third sentence on page 20 of the Focused Review:

If suitable sites are not available such uses will then be directed to sites in the town centre fringe (within 300 metres of the town centre core) and then to Urban Gateway and Urban District Centres.

Proposed wording:

If suitable sites are not available such uses will then be directed to sites in the town centre fringe (within 300 metres of the town centre **boundary**) **or** Urban Gateways and **then to** Urban District Centres.

**5.10 If the text in the Focussed Review is not justified, would possible proposed change MAJ14 in CD23 make this paragraph sound? Should it say town centres or simply centres consistent with the first sentence?**

#### CBC Response

The Council does not consider that change MAJ14 in CD23 is required to make the plan sound as explained above.

Since Colchester is commonly agreed to contain only one main Town Centre, the use of town centre rather than town centres is considered appropriate.

#### ***Local shops***

**5.11 *The Focussed Review proposes the deletion of the reference to local shops being safeguarded. Why is this deletion necessary or justified following publication of the NPPF? (I want to be clear as to the Council's reasoning.)***

**5.12 In IED-01 I indicated that to avoid inconsistency with the development plan a change was required to DP7. This and other consequential changes are included in CD23 as MAJs 3, 4 and 5. Will these changes ensure that the development plan reads consistently? Given my overall approach to limiting the scope of the Review, is it reasonable to bring this additional policy into the Focussed Review? (I will also be having regard to any representations on CD23.)**

**5.13 Given my concern to avoid straying into matters of spatial strategy, could I make the small change to Table CE1a proposed in MAJ4 without otherwise endorsing the hierarchy in the rest of the table?**

### CBC Response

The deletion of provision of local shops being safeguarded is intended to provide consistency with the Town centre definition in the Glossary which provides that centres should exclude small parades of shops of purely neighbourhood significance. This means that it is not appropriate to include Local Shops within the Centres and Employment Classification and Hierarchy (Table CE1a) or the Local Centre category covered by CE2c. The deletion in those two higher level policy references then removes the justification for safeguarding local shops in Development Policy DP7.

The proposed addition of DP7 to the list of reviewed policies is considered to amount to only a small increase in the scope of the Focussed Review. It is required to ensure that all references to safeguarding local shops are deleted to ensure a consistent approach.

An alternative would be to ensure consistency in the opposite direction by not making any changes at all to adopted policies on this point, but this would not support the objective of this review to carry out as thorough a review as possible within the constraints of not introducing significant new evidence or changes to overall spatial policies. Deletion of references to safeguarding local shops is not considered to have any other follow-on consequences affecting other parts of the plan. References to local shops could be removed from the spatial hierarchy without affecting any other elements of the hierarchy.