

c p w planning



Main Town Centre Uses Assessment Specification

prepared for

Colchester Borough Council

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1. Introduction

- 1.1 CPW Planning has been instructed by Colchester Borough Council to prepare a Main Town Centre Uses Assessment Specification ('Specification') for the Borough.¹
- 1.2 The Specification has been prepared in the context of recent changes to the Use Classes Order ('UCO') and has regard to the relevant provisions of the National Planning Policy Framework published in February 2019 ('NPPF') and the *Town centres and retail* section of the Planning Practice Guidance as updated in September 2020 ('PPG'). It follows the preparation of the Retail and Town Centre Study Update 2020 ('RTCS Update') by CPW Planning to assist the Council with its work on the retail and town centre policies of the emerging Local Plan, and to support the Council's development management function.
- 1.3 The purpose of the Specification is not to replace national policy and guidance, but to provide further detail within the broad framework set out in the NPPF and PPG of how sequential and impact assessments should be undertaken in the Borough; so as to improve consistency in approach and avoid unnecessary delays in the decision-making process.
- 1.4 The PPG makes it clear that it is for applicants to demonstrate compliance with the sequential and impact tests and that the tests will need to be undertaken in a way that is proportionate and appropriate for the given proposal, drawing on existing information where possible. This Specification seeks to help applicants 'scope out' their assessments (where applicable under the terms of the NPPF) and the level of detail required in advance of applications being submitted. However, it does not negate the need for pre-application consultation and the Council would strongly encourage applicants to discuss their development proposals and agree the scope of supporting sequential and/or impact assessments at an early stage.
- 1.5 Section 2 below sets out the Council's requirements for sequential assessments, and Section 3 provides a specification for assessing the impact of new retail and leisure development on existing centres.

¹ It updates and supersedes the Specification for Retail Assessments prepared by Cushman & Wakefield in 2017.

2. Sequential assessments

Introduction

- 2.1 NPPF paragraphs 86 and 87 set out the sequential test and the ‘town centres first’ policy. Paragraph 86 requires local planning authorities to apply the test *to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan*.
- 2.2 Annex 2 (Glossary) of the NPPF contains a definition of ‘main town centre uses’ as follows:

Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

Changes to the UCO (Class E)

- 2.3 The changes to the UCO effective since September 2020 have implications for applying the sequential test, particularly in respect of the new Class E (which embraces retail, commercial, business and service uses). Some – but not all – of the defined main town centre uses are Class E uses under the UCO.
- 2.4 Planning applications for ‘broad’ Class E development (including relaxation of restrictive conditions on existing floorspace and changes of use where restrictions on use are imposed under extant planning permissions) in Colchester Borough, which are neither in an existing centre nor in accordance with the development plan, will be required to address the sequential test for each main town centre use falling under Class E. If applications for Class E development are not accompanied by objective evidence demonstrating that each proposed main town centre use is appropriately located in the light of the sequential test, the Council (if minded to grant planning permission for the development) will consider imposing conditions restricting the use of floorspace to those uses for which the test has been satisfied.
- 2.5 Indeed, applicants/developers may seek planning permission for only certain main town centre uses falling under Class E. This would serve to narrow the scope of sequential assessments to those uses sought (only) and the Council would impose a restrictive condition in respect of all other uses.

Area of search for sequentially preferable sites

- 2.6 The Council will require assessments to identify potential alternative (sequentially preferable) sites that are capable of serving broadly the same catchment area as the proposed development. Information (such as household survey data) from comparable schemes should be used where possible to establish a realistic catchment area.
- 2.7 Sites should not be excluded from sequential assessment based on their location in or on the edge of a ‘lower order’ centre in the hierarchy² – although evidence may be provided as part of the assessment to demonstrate that such sites would be unsuitable (and/or unavailable) for the proposed development.

² Matters relating to hierarchy should be ignored when applying the sequential test: the NPPF recognises ‘town centres’ only (thus including town, district and local centres).

Flexibility on issues such as format and scale

- 2.8 PPG paragraph 011 contains some of the considerations that should be taken into account in determining whether a proposal complies with the sequential test. These relate to ‘flexibility’ and include:
- *with due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. It is important to set out any associated reasoning clearly.*
 - *is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.*
- 2.9 The Council would encourage such flexibility by applicants in formulating their proposal, preparatory to undertaking their sequential assessments (and their impact assessments as required). Accordingly, applicants should recognise that new development, if accommodated in town centre locations, for example, would not require any or as much car parking given the availability of town centre car parks and the relative accessibility by public transport.
- 2.10 Applicants should demonstrate that reasonable flexibility has been afforded in relation to the format and/or scale of development for which sequentially preferable sites are examined, having regard to the commercial requirements of the developer or operator(s) where applicable. In the event insufficient flexibility has been shown, the Council will ask applicants to undertake further work to their sequential assessment on the basis of greater flexibility.
- 2.11 Neither the NPPF nor the PPG explicitly include or exclude consideration of disaggregation. Whether a proposed development is capable of being disaggregated, or sub-divided into more than one component, will depend on the particular facts and circumstances of each case. It is not necessarily the correct approach to consider the development ‘as a whole’, for instance. The Council will require applicants to fully justify the approach taken on a case-by-case basis, in the light of any commercial requirements and relevant case law.

Assessing potential alternative sites

- 2.12 Applicants will be required to undertake their sequential assessments in the local context of the adopted and emerging development plans, including the Council’s strategies and priority sites for main town centre uses. Applicants should also seek to identify and agree with the Council during pre-application consultation the sequentially preferable sites that require consideration in their assessments. Thus, full account should be taken of any development plan allocations and/or other potential alternative sites in and on the edge of existing centres.
- 2.13 Applicants should submit objective evidence relating to the suitability and availability of potential alternative sites for the proposed development. In terms of site ‘suitability’ the PPG (paragraph 012) recognises that *certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations*; however, it seeks to warn against such arguments undermining the sequential test by requiring *robust justification*.

3. Impact assessments

Introduction

- 3.1 Notwithstanding the UCO changes, the impact test set out in the NPPF (paragraph 89) applies only to *applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan [and] if the development is over a proportionate, locally set floorspace threshold...*
- 3.2 In relation to Colchester Borough, the floorspace thresholds for impact assessments are set out in the RTCS Update.
- 3.3 NPPF paragraph 89 makes it clear that impact assessments (where required) should include assessment of:
- a) *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
 - b) *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).*

Town centre investment

- 3.4 The PPG includes limited guidance on how to assess the impact of relevant applications on town centre investment i.e. NPPF paragraph 89 bullet (a). Applicants should first seek to identify any ‘qualifying’ investments in the catchment area of the proposed development with the Council during pre-application consultation.
- 3.5 In terms of what constitutes ‘planned’ investment, PPG paragraph 015 indicates that the key considerations will include:
- *the policy status of the investment (i.e. whether it is outlined in the development plan)*
 - *the progress made towards securing the investment (for example if contracts are established)*
 - *the extent to which an application is likely to undermine planned developments or investments based on the effects on current/forecast turnovers, operator demand and investor confidence*

- 3.6 Applications should then be supported by objective evidence relating to the likely impact of the proposal on town centre investment.

Town centre vitality and viability

- 3.7 PPG paragraph 018 sets out a step-by-step approach to applying the impact test in respect of town centre vitality and viability i.e. NPPF paragraph 89 bullet (b). The specification below adopts the same broad approach and indicates in more detail how the Council would expect applicants to apply it in preparing their impact assessments.
- 3.8 On the basis there is no standard or established methodology for assessing (in quantitative terms) the likely impact of new leisure development, the specification is focused on impact assessments for new retail development – including new foodstores and retail warehouses, extensions to existing foodstores and retail warehouses (whether by internal alterations or external construction), and the relaxation of restrictive conditions on existing retail floorspace.

Notwithstanding, the Council would expect applicants to assess the likely impact of new leisure development on existing centres/facilities in qualitative terms.

3.9 We discuss each step for retail impact assessments (as outlined in the PPG) below.

Step 1: establish the state of existing centres and the nature of current shopping patterns (base year)

3.10 The starting point involves defining the catchment area of the new retail development. The area covered by the assessment will vary according to the location, scale and nature of the proposal. It should be wide enough to cover the whole of the area from which the development would be likely to attract all but insignificant expenditure; however, it should not be so wide that available expenditure is over-stated (thereby under-estimating the forecast impacts on existing centres). The catchment area and household survey results underpinning the RTCS Update should be consulted and used to help define a realistic catchment area for the development, and to identify the existing centres which would be likely to suffer the greatest impact.

3.11 In terms of establishing the state of existing centres and the nature of current shopping patterns at the base year³, the most recent household survey (covering the whole of the catchment area of Colchester Borough's existing centres) was undertaken in September and October 2016 for the RTCS 2016. Use of such household survey data on actual shopping patterns would be appropriate, with adjustments made to account for new retail developments and/or closures since 2016 (as carried out for the purposes of the RTCS Update). Including new retail developments as 'commitments' within assessments is considered an acceptable approach in principle.

3.12 A fundamental aspect of impact assessments is consideration of a town centre's current vitality and viability, noting that PPG paragraph 018 says:

A judgement as to whether the likely adverse impacts are significant can only be reached in the light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.

3.13 The Council will therefore expect applicants to assess the local circumstances or 'health' of the relevant existing centres, having regard to the indicators listed in PPG paragraph 006 and drawing upon the findings of the RTCS Update where appropriate. The Council recognises the unprecedented circumstances arising from the Covid-19 pandemic. To that end, assessments should take into account the likely implications of the pandemic on the Borough's existing centres and the future recovery (insofar as possible) based on the most up-to-date information available.

Step 2: determine the appropriate time frame for assessing impact, focusing on impact in the first five years, as this is when most of the impact will occur

3.14 A realistic assessment of the likely date of opening of the new retail development should be made and the reasons for this date clearly set out. Expenditure capacity and impact assessments should then be undertaken at a 'design year' which accords with the definition in PPG paragraph 018; that typically being *the second full calendar year of trading after the opening of each phase of a new retail development*. For larger and/or phased developments, it may take longer for the development to become established; however, the Council will take

³ The base year for forecasting should normally be the year preceding that in which the retail assessment is prepared. However, the current year could be more realistic for assessments prepared towards the end of a year and/or if more up-to-date per capita expenditure data has been published.

no account of forecasts of expenditure capacity and impact for dates beyond the second full calendar year of trading unless the applicant can provide robust justification.

Step 3: examine the ‘no development’ scenario (which should not necessarily be based on the assumption that all centres are likely to benefit from expenditure growth in convenience and comparison goods and reflect both changes in the market or role of centres, as well as changes in the environment such as new infrastructure)

- 3.15 The ‘no development’ scenario represents the turnover of existing centres and other shopping destinations at the design year(s) without the new retail development in place. In estimating the turnover of the relevant existing centres and stores, the key data inputs include:
- i. Population estimates and forecasts for the catchment area;
 - ii. Per capita expenditure estimates and forecasts;
 - iii. Deductions from per capita expenditure to allow for Special Forms of Trading (SFT);
 - iv. Estimates of existing retail floorspace in the catchment area;
 - v. Household survey data on actual shopping patterns (or market shares).
- 3.16 It is important that realistic population estimates and forecasts for the defined catchment area are used. It would be appropriate for assessments undertaken before the end of 2021 to rely on the population estimates underpinning the RTCS Update; otherwise, the latest estimates for the catchment area should be obtained from Experian or Precisely (formerly Pitney Bowes). Where possible, estimates of current population and forecasts of future population in the defined catchment area should be checked with the Council as part of pre-application consultation.
- 3.17 The most recently available per capita expenditure estimates for convenience and/or comparison goods⁴ expenditure specific to the catchment area should be obtained from Experian or Precisely. These should be projected forward using the most recently published growth forecasts by the data supplier for the period up to the design year(s). All expenditure and sales figures are to be in 2019 prices (for consistency with the RTCS Update). Where it is necessary to convert from a different price basis, the price conversion indices set out in the most up-to-date Retail Expenditure Guide published annually by Precisely, or equivalent indices published by Experian, should be used.
- 3.18 Expenditure on SFT (including but not limited to online shopping) is to be deducted from per capita expenditure. The Council would expect realistic deductions for SFT by applicants, such as those used in the RTCS Update (updated as necessary).
- 3.19 Up-to-date data on existing retail floorspace in the catchment area should be obtained from credible sources such as the RTCS Update, Experian Goad, IGD and the Valuation Office Agency. Where published data is not available, applicants’ own surveys and measurements based on OS mapping will be acceptable. Information on committed developments should be obtained from the Council and/or the Council’s online database of planning applications.
- 3.20 The household survey results should be used to make realistic forecasts of sales in existing centres and stores at the design year(s) assuming the new retail development does not occur. These will then form the turnover on which ‘solus’ impacts of the development can be calculated. Account should also be taken of likely sales in committed retail developments, to form the basis for assessment of cumulative impact of the committed and proposed

⁴ It will be important for assessments to distinguish between convenience and comparison goods.

developments. When assessing likely sales in committed retail developments, company benchmark sales densities (distinguishing between convenience and comparison goods floorspace and sales densities as above) should be used for 'named' foodstores and comparison goods stores⁵; otherwise, average sales densities appropriate to the scale and nature of the development should be used.

Step 4: assess the proposal's turnover and trade draw (drawing on information from comparable schemes, the operator's benchmark turnover of convenience and comparison goods, and carefully considering likely catchments and trade draw)

- 3.21 Applicants should identify the operator(s) of the proposed development where possible to help provide a realistic estimate of scheme turnover and patterns of trade draw. As with committed retail developments, sales in the proposed development should be based on company benchmark sales densities (goods-based) derived from the RTCS Update, Global Data or Mintel. This includes proposed extensions to existing foodstores, which should be assessed as trading at the 'benchmark' average levels (with allowances for comparison goods floorspace efficiency increases between the base and design years).
- 3.22 Where it is not possible to identify named operators (for example, in instances where the scheme is speculative) the use of average sales densities should be realistic and fully justified by applicants, having regard to the scale and nature of retail development and the survey-indicated trading performance of any existing developments on-site or nearby.
- 3.23 Robust justification will be required to support impact assessments that assume proposed new mezzanine (or upper level) floorspace is likely to achieve below-average sales densities. For robustness, assessments should assume that mezzanine floorspace will trade in line with ground floor retail (particularly in instances where company benchmark sales densities are used).
- 3.24 Trade draw to the proposed development should be assessed by reference to the 'base year' survey-indicated pattern of market shares of existing centres and stores; and (as the PPG advocates) make use of information from comparable schemes where possible. It will be preferable to use a modelled approach, which starts from the base year pattern of market shares of convenience and/or comparison goods expenditure attracted by existing centres and stores, and then indicates clearly and transparently how this pattern will be likely to change in the design year as a result of, first the committed developments, and second (and cumulatively) the proposed development. This will then show the pattern of market shares expected to be attracted by the committed and proposed developments, the resulting expenditure flows to each⁶, and their expected sales in the design year. The resulting trade diversion and retail impacts should then be calculated by comparing design year sales in the existing centres and stores in the absence of the committed and proposed developments, with the reduced sales which will occur as a result of the committed and proposed developments.
- 3.25 Realistic assessments must be made, and it will not be sufficient merely to allocate the great majority of the impact onto out-of-centre stores (which are afforded no protection by the NPPF), if that is not a realistic change to the base year pattern of market shares. New retail

⁵ With allowances for comparison goods floorspace efficiency increases between the base and design years (for example, the RTCS Update assumes comparison goods floorspace will increase its sales density by approximately 2% per annum over the period to 2033). No floorspace efficiency factor is necessary for convenience goods floorspace.

⁶ Depending on the scale and nature of the development and the extent of the defined catchment area, it may be necessary to make allowances for inflows of expenditure from outside this catchment area. Evidence for the assumptions made about such inflows should be provided.

development tends to compete with 'like-for-like' facilities operating in the same catchment area. As the PPG paragraph 015 sets out:

As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities. Conditions may be attached to appropriately control the impact of a particular use.

Step 5: consider a range of plausible scenarios in assessing the impact of the proposal on existing centres and facilities (which may require breaking the study area down into a series of zones to gain a finer-grain analysis of anticipated impact)

- 3.26 Applicants should consider a range of scenarios when undertaking their impact assessments based on the scale and nature of new retail development that could potentially come forward under the terms of the application made.
- 3.27 Furthermore, in the light of the Covid-19 pandemic and the significant (accelerated) shift towards online shopping, the Council would want to be satisfied that impact assessments consider 'worst case' scenarios for SFT. Depending on the amount of comparison goods floorspace proposed (in particular), it may therefore be necessary for applicants to undertake sensitivity testing to show how the forecast impacts would change in the event SFT is higher than published data currently predicts.

Step 6: set out the likely impact of the proposal clearly, along with any associated assumptions or reasoning, including in respect of quantitative and qualitative issues

- 3.28 Realistic assessments of changes in market shares, expenditure flows and sales due to the committed and proposed developments should be made. These should be clearly indicated and transparent. Impacts on town centre trade/turnover and on trade in the wider area should be calculated from the differences in design year sales with and without the committed and proposed developments; and the impacts expressed incrementally and cumulatively.
- 3.29 Assessments should be supported by qualitative analysis, drawing on the up-to-date 'healthchecks' of relevant existing centres (see **Step 1** above) likely to be affected by the proposed development. Applicants should therefore assess the consequences of the forecast impacts in the light of local circumstances, to determine whether 'significant adverse impact' in the terms of the NPPF is likely to occur. The Council will not accept a simple calculation of base year sales relative to design year sales in existing centres as satisfactory evidence that a significant adverse impact is unlikely to occur.
- 3.30 Applicants will further be required to consider, as part of their assessments, the likely effect of the proposed development on the Borough's hierarchy of centres including the position of Colchester Town Centre at the apex of this hierarchy. Thus, the guiding principle is that development proposals (either individually or cumulatively with other committed developments) should not alter or undermine the Borough's network and hierarchy of centres. Applications for new retail development that would change the defined role and function of any existing centre will not be supported by the Council.

Step 7: any conclusions should be proportionate: for example, it may be sufficient to give a broad indication of the proportion of the proposal's trade draw likely to be derived from different centres and facilities in the catchment area and the likely consequences for the vitality and viability of existing town centres

- 3.31 Applicants' conclusions in respect of the impact on town centre vitality and viability should be proportionate to the given proposal, drawing on the assessments undertaken and considered in a commercially realistic way. The Council will ask for further work to be undertaken in the event impact assessments do not provide a reliable basis on which to reach a judgement on the likely consequences for town centre vitality and viability.