



Publication Draft Colchester Local Plan: Section Two

Statement of Common Ground with the Tollgate Partnership and Colchester Borough Council

April 2021

Introduction:

This Statement of Common Ground (SoCG) has been prepared to identify the areas of agreement between the Tollgate Partnership Limited (hereafter referred to as the Promoters) and Colchester Borough Council as the Local Planning Authority (LPA) on matters relating to Section 2 of the Colchester Local Plan. This Statement addresses issues raised by the Promoters in representations submitted to the Section 2 Local Plan during the Publication Draft Local Plan consultation period in summer 2017.

The SoCG establishes the current position on the promoters' proposed modifications. Importantly, given the 3 ½ years that has elapsed since the Publication Draft consultation took place, the SoCG updates the position of both sides in the context of the following matters:

- 1) Planning permissions were granted on appeal for main town centre use developments at Tollgate Village (ref. 150239 and 193133). These permissions have the effect of varying allocations made in the Emerging Plan from employment and residential to District Centre uses.
- 2) Completion of a 2020 Retail Update which has identified for the Council policy wording modifications required to respond to current economic trends and to ensure compatibility with the National Planning Policy Framework. (Please see Topic Paper 4 on Retail and Town Centres and Town Update, [TP4](#))

Other representations submitted on behalf of the Promoters (by Strutt and Parker) are dealt with separately and do not form part of this SOCG.

COLCHESTER BOROUGH COUNCIL /TOLLGATE PARTNERSHIP AGREED AMENDMENTS TO LOCAL PLAN SECTION TWO

Areas of Common Ground

Rep number	Local Plan Section or Policy	2017 Representations by Barton Willmore on behalf of Tollgate Partnership	LPA's 2021 proposed modifications

7261	SG3 Economic Growth Provision	Allocation of 44.2 ha of employment land not justified due to oversupply of employment land in Colchester. On this basis the allocation of land at Tollgate Village is not justified.	Allocations are proposed to be reduced to 32 ha.
7262 and 7263	SG5 Centre Hierarchy Explanatory text	Redrafting required to reflect permissions granted for retail development on land allocated for employment. Remove requirement for Retail Assessments to apply within Tollgate Centre.	Modify explanatory text to update latest position on permissions and delete text relating to a requirement for Retail Assessments in SG6 which is proposed for deletion. 12.49 Tollgate competes with Colchester Town Centre for comparison goods expenditure, but this is likely to be further exacerbated as work has commenced to implement a scheme for additional development of town centre uses allowed on appeal. Another proposal for a large retail-led expansion is currently the subject of an appeal. Accordingly it is important that planning policy for Tollgate District Centre ensures that it enables it to fulfil its plays a subsidiary position to the Town Centre in the centre hierarchy as set out in Policy SG5 and Table SG5a. Its role and function as a district centre would be enhanced through the introduction of new services and/or community facilities, in particular as opposed to further new retail development. 12.50 To help protect the Centre Hierarchy with Colchester Town Centre at the apex and to manage the potential impacts of any further retail and leisure growth at Tollgate on the Town Centre, the local impact thresholds set out in the 'Impact Assessments Thresholds' table below and the requirement for a Retail Impact Assessment will

			also apply to proposals within the Tollgate District Centre (including changing of use or variation of conditions). This will need to demonstrate that there will not be any significant adverse impacts on the Town Centre (and/or any other defined centre) as a result of proposals within the Tollgate District Centre. 12.70 – amend as suggested: In order to manage appropriate growth within the Town and District Centres and to help safeguard the current hierarchy and the role and function of each of the centres, planning applications for town centre uses which are not in an existing centre or allocated in this Plan will be required to address the provisions in the National Planning Policy Framework concerning the sequential test and retail impact assessment
7265	SG6 Town Centre Uses	Redrafting is required for criteria as follows: i) it will be impossible for an edge or out-of-centre scheme to demonstrate that it is appropriate to a particular centre. This is an additional criteria in the application of the sequential test which is not consistent with National Policy. ii) it will be impossible for an edge or out-of-centre scheme to demonstrate suitability to a	Proposed modifications: All proposed modifications are accepted with the exception of the changes proposed to criteria (i) and (ii) excluding in-centre Main Town Centre uses from consideration of their appropriateness for the relevant centre. Changes to criteria (i) and (ii) are discussed in Areas of Uncommon Ground below. Given that there are multiple modifications to the policy including both disputed and accepted ones, the Council's proposed wording for SG6 is provided below the bottom of this table to provide a comprehensive view of its overall position.

		town / district centre function, or position in the hierarchy. This is again, an additional criteria in the application of the sequential test which is not consistent with National Policy. iii) this criterion now seeks to apply the impact test to in-centre development	
7267	TC3 Town Centre Allocations	Need to update retail capacity assessment work in light of Tollgate permission which will have implications for Town Centre allocation for retail purposes including Vineyard Gate and Priory Walk. An allocation for comparison goods at the edge-of-centre St Botolph's would not be sound as the Council has not undertaken a sequential assessment. The reference to convenience goods proposals in the Town Centre being subject to sequential and impact assessments is not consistent with the NPPF.	Proposed modifications: The need identified in the Local Planning Authority's retail evidence base for additional comparison retail floorspace will be addressed in the first instance by development of the Vineyard Gate site. Medium to longer term need for town centre use floorspace will also be addressed by redevelopment of existing buildings and car parks including the outdated Priory Walk development.... Development will need to protect and enhance the character of the conservation area, listed buildings, heritage assets and their setting on and in the vicinity of the site, including where appropriate, the Scheduled Monument (Town Walls)"; <u>Vineyard Gate</u> Redevelopment of Vineyard Gate over the plan period to provide a residential-led retail and mixed use floorspace scheme: <u>St. Botolphs</u>

			Mixed use scheme providing cinema, 85-room hotel; restaurants-cluster; retail; student accommodation; Creative Business Centre (1.86 ha) Requirements: • Access off Queen Street • Development will need to protect and enhance the character of the Conservation Area and listed buildings • Any retail proposals should satisfy the sequential test given the edge-of-centre location of this site. Priory Walk.... Redevelopment and/or extension of Priory Walk area to provide retail and mixed use floorspace (0.95ha) Requirements; • Development will need to protect and enhance the setting of nearby listed buildings and the town centre conservation area. • Provide for pedestrian connections between St Botolphs and Long / Short Wyre Street The 2016 Retail Study Update identified limited capacity for convenience goods floorspace over the plan period (after allowing for existing commitments). If proposals come forward for new convenience goods floorspace they will be assessed (as required) having regard for the sequential and impact tests set out in the NPPF and other relevant policies in this Plan.
7268	NC1 North Colchester	North Colchester is out-of-centre. We cannot find any	Tollgate Partnership objections are noted, however, debate over uses has been overtaken by the granting of permission for development including main

	and Severalls Strategic Economic Area	evidence that the Council has undertaken a sequential assessment of alternative sequential preferable sites, and the allocation of any Main Town Centre Uses in this location is therefore unsound. Tollgate Village site will need to be taken into account	town centre uses within the Northern Gateway further to permissions 160825/200030.
7269	WC1 Stanway Strategic Economic Area	Clarification required on proposals outside the Tollgate District Centre Significant concerns relating to the identification of Zones 1 and 2. Policies maps should be revised to reflect the latest permission on planning permission for Tollgate Village. Concern that the Plan seeks to restrict any new town centre uses within the Centre.	Proposed modifications to Zone 2. criteria(i): Enhance the role of the centre, in particular through the introduction of new services and/or community facilities, criteria (ii) Proposals outside the Tollgate District Centre should meet the requirements of the sequential test as set out in policy SG6 in so far as the Local Planning Authority should be satisfied that there are no suitable alternative sites located more centrally in or on the edge of the District Centre or any other centre (within an appropriately defined catchment area); and Policies Map to be attached to this statement showing: 1) Residential allocation on former Sainsbury's site to be replaced by District Centre allocation 2) Employment land designation for Stane Park to be removed.

		3) Southwest corner of Tollgate Village to be changed to District Centre allocation to accord with permission for main town centre uses.
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Areas of Uncommon Ground

Rep number	Local Plan Section or Policy	2017 Representation by Barton Willmore on behalf of Tollgate Partnership	LPA's response	BW obo Tollgate Partnership 2021 position / proposed modifications
7262 and 7263	SG5 Centre Hierarchy	The promoters state that in relation to District Centres, it is unclear what is meant by the phrase "but not to a level comparable with Colchester Town Centre". They consider that it should be deleted as it is confusing and would not appear consistent with the NPPF which does not seek to distinguish between Town and District Centres.	This wording is considered appropriate when considered in the light of NPPF policy as its support for the growth and adaptation of centres is set within the context of a hierarchy defining the centre's role and function (paragraph 5.2, Topic Paper 4). The wording helps distinguish between the intended role and function of centres at different levels of the hierarchy. For clarity, however, it is proposed to move the comma from after the word 'Borough' to after the word 'populations, to more clearly establish that District Centres serve a less extensive catchment relative to the Town Centre: ..important role serving the day-to-day needs of their local populations, as well	We remain of the view that this wording lacks clarity on the basis that it is immeasurable in application. We would suggest that the wording "but not to a level comparable with Colchester Town Centre" be deleted from paragraph 12.46 and within Policy SG5.

7265	SG6	In-centre main town centre uses should not be subject to criteria concerning their proportionality to the centres position in the centres hierarchy.	as providing access to shops and services for neighbouring areas across and beyond the Borough, but not to a level comparable with Colchester Town Centre.	In cases where the Local Planning Authority are satisfied that the sequential test has been met, proposals will be supported where they also comply with the requirements set out in criteria (i-vii below): (i) The proposals for main town centre uses in or on the edge of centres are of a type, proportion and scale appropriate to the role and function of the centre and would not threaten the primacy of Colchester Town Centre at the apex of the centre hierarchy, either individually or cumulatively with other committed proposals, and; (ii) The proposals for main town centre uses on the edge of centres are suitable to the town /
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7266	TC1 Town Centre	Clarify reference to 'large scale development' and delete reference to 'particularly comparison'. If this is meant to exclude additional convenience goods floorspace in the centre then this would not be consistent with the NPPF.	(ii)The pProposals for main town centre uses in or on the edge of centres are suitable to the town / district centre function and maintains or adds to its viability and vitality and enhances the diversity of the centre without changing the position of the centre within the overall hierarchy and;	district centre function and maintains or adds to its viability and vitality and enhances the diversity of the centre without changing the position of the centre within the overall hierarchy and;
			The Council considers that the NPPF requirement to 'define a network and hierarchy of centres that is resilient to anticipated future economic changes' justifies its approach to prioritising the Town Centre for large scale development. The Council's proposed modifications are accordingly limited to the addition of wording on shared mixed-use space and meanwhile uses to provide flexibility in a rapidly changing economic climate.	We remain of the view that the reference to 'larger scale development' is subjective and therefore open to interpretation.
	SG5 Centre Hierarchy	The promoters state that in relation to District Centres, it is unclear what is meant by the phrase "but not to a level comparable with Colchester Town Centre". They consider that it should be deleted as it is confusing and would not appear consistent with the NPPF which does not seek to distinguish between Town and District Centres.	This wording is considered appropriate when considered in the light of NPPF policy as its support for the growth and adaptation of centres is set within the context of a hierarchy defining the centre's role and function (paragraph 5.2, Topic Paper 4). The wording helps distinguish between the intended role and function of centres at different levels of the hierarchy. For clarity, however, it is proposed to move the comma from after	We remain of the view that this wording lacks clarity on the basis that it is immeasurable in application. We would suggest that the wording "but not to a level comparable with Colchester Town Centre" be deleted from paragraph

			the word 'Borough' to after the word 'populations, to more clearly establish that District Centres serve a less extensive catchment relative to the Town Centre: ..important role serving the day-to-day needs of their local populations, as well as providing access to shops and services for neighbouring areas across and beyond the Borough, but not to a level comparable with Colchester Town Centre.	12.46 and within Policy SG5.
WC1 Stanway Strategic Economic Area	The Plan proposes to remove land east of Tollgate Road from the District Centre designation.	The size of the District Centre should be maintained at a level proportionate to its secondary level in the centres hierarchy. The Tollgate East and Stane Park areas are not easily accessible by pedestrians to the main Tollgate District Centre. See map below.	This land comprises existing town centre uses, which provide a range of unit sizes contributing towards the overall diversity of the District Centre. There is no justification for their removal and they should be re-instated as part of the District Centre.	For completeness.
WC1 Stanway Strategic Economic Area	The District Centre boundary should also include the Costa off the Western Bypass	The exclusion of this area from the district centre is justified because the Costa includes a drive-thru and therefore has a roadside function for motorists (not a use/format typically associated with town centres).		

Council's proposed wording for SG6:

Proposals for town centre uses that are not within a defined centre and are not in accordance with the Local Plan, including proposals for a change or intensification of use, or variation of a planning condition, will need to demonstrate compliance with the that a sequential test has been under taken to site selection as set out in national policy.

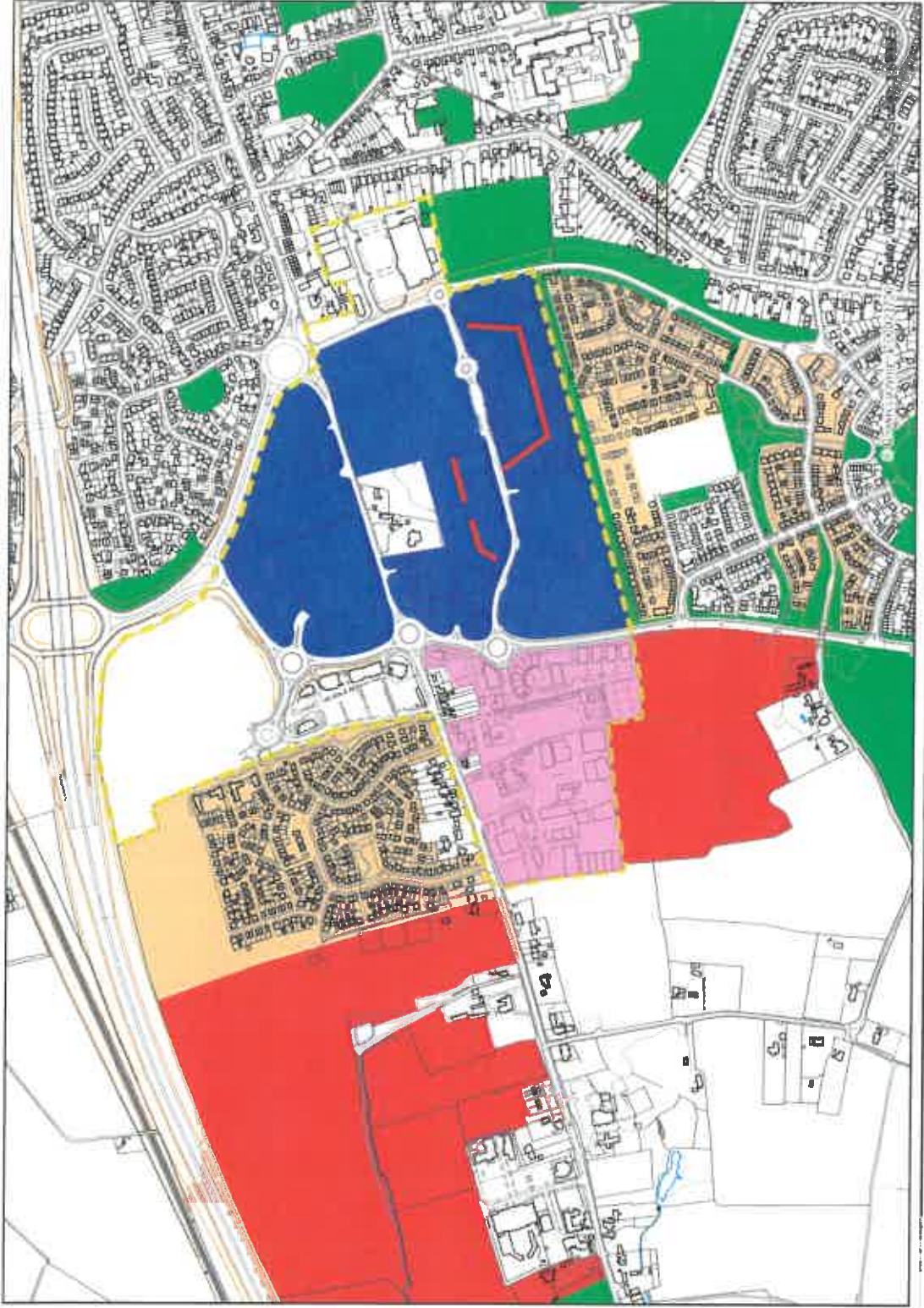
Applicants should demonstrate flexibility on issues such as format and scale. Sites should be assessed in terms of their availability, suitability and viability for the broad scale and type of development proposed; and only when alternative sites have been discounted should less sequentially preferable sites be considered. Only when in-centre sites are not suitable and/or available should edge and then out of centre sites be considered.

~~In cases where the Local Planning Authority are satisfied that the sequential test has been met, pProposals will be supported where they also comply with the requirements set out in criteria (i- vii below).~~

- (i) ~~The pProposals for main town centre uses~~ In or on the edge of centres areis of a type, proportion and scale appropriate to the role and function of the centre and would not threaten the primacy of Colchester Town Centre at the apex of the centre hierarchy, either individually or cumulatively with other committed proposals, and;
- (ii) ~~The pProposals for main town centre uses~~ In or on the edge of centres areis suitable to the town / district centre function and maintains or adds to its viability and vitality and enhances the diversity of the centre without changing the position of the centre within the overall hierarchy and;
- (iii) Proposals would not give rise to a detrimental effect, individually or cumulatively, on the character or amenity of the area through smell, litter, noise or traffic problems and
- (iv) The proposal would not have a significant adverse impact on the vitality and viability of Colchester Town Centre and/or any other defined centre either individually or cumulatively with other committed proposals and;
- (v) The proposal would not have a significant adverse impact on committed and / planned public or private investment in Colchester Town Centre and /or any other defined centre either individually or cumulatively with other committed proposals and;
- (vi) In relation to criteria (iv) and (v) above an Impact Assessment must be provided where the proposal;

- a. ~~In any centre~~Exceeds the thresholds set out in table SG6 below, or;
- b. ~~Where the proposal is within Tollgate District Centre and exceeds the thresholds set out in table SG6 below~~
or;
- eb. Where the Council considers that there are potential impacts arising from the proposal cumulatively with other committed development.
- (vii) **The proposal protects and enhances the special historic character of the town centre as relevant.**

Policy WC1





Signed **Karen Syrett**
Colchester Borough Council



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Tollgate Partnership

