



Colchester Borough Council

**Independent Examination – Section 2 Colchester
Borough Local Plan 2017-2033**

Hearing Statement – Local Planning Authority

**Main Matter 4a – Generic Infrastructure and Mitigation
Requirements**

**Main Matter 4b- Colchester Town Centre (Policies TC1
to TC4)**

April 2021

Main Matter 4a – Generic Infrastructure and Mitigation Requirements (Policy PP1)

Is the Generic Infrastructure and Mitigation Requirements policy justified by appropriate available evidence, having regard to national guidance, and local context, and CLP 1?

- 4.1 Policy PP1 sets out the generic infrastructure and mitigation requirements for all development proposals in the Local Plan. It sits alongside the strategic policies for infrastructure requirements and mitigation in CLP1 (Policies SP6 and SP7) and Policy SG7 ‘Infrastructure Delivery and Impact Mitigation’ in CLP2.
- 4.2 Policy PP1 relates specifically to the common infrastructure and mitigation issues that surround the allocated sites in order to ensure development in the Plan area is sustainable in line with local characteristics and the requirements of the NPPF and that new development adequately mitigates its impact on the surrounding area and makes a positive contribution to its character and amenity. Locational specific infrastructure requirements are identified within the allocation policies for urban Colchester and the Sustainable Settlements.
- 4.3 The Council considers that Policy PP1 is justified by appropriate available evidence having regard to national guidance, local context and CLP1. Policy PP1 is in line with the policies in CLP1. CLP1 Policy SP6 requires that all development must be supported by the provision of the infrastructure, services and facilities that are identified to serve the needs arising from the development. This includes transportation and travel, social infrastructure required for education and health and wellbeing and water and wastewater. Policy SP7 requires all new development to reflect place shaping principles that include protecting and enhancing assess of historical or natural value, creating well-connected places and including measures to promote environmental sustainability.
- 4.4 The policy takes account of Policy SG7 and the Infrastructure Delivery Plan (IDP) which is in line with the NPPF and identifies infrastructure requirements arising from growth on the strategic sites. The Council’s 2017 IDP ([EBC 5.3](#)) provided the evidence base for the specific infrastructure requirements in the Section 2 CLP.
- 4.5 Policy PP1 sets out the generic requirements for the new allocations detailed in the Place Policies including requirements for wastewater treatment and sewage infrastructure enhancements, sustainable drainage systems, mitigation for transport impacts, the provision of safe pedestrian routes and conservation and enhancement of the natural and historic environment. This is in line with paragraph 156 of the NPPF which requires local planning authorities to set out the strategic priorities for the area to deliver the provision of infrastructure including for transport and wastewater and for conservation and enhancement of the natural and historic environment, including landscape.

- 4.6 Paragraph 128 of the NPPF requires applicants to describe the significance of any heritage assets affected by their proposals. *“The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”*

Criterion (vi) of Policy PP1 is considered to accord with this requirement, reflecting Colchester’s importance as a historic town and the need to protect and enhance the historic environment.

- 4.7 Paragraph 162 of the NPPF requires local planning authorities to work with other authorities and providers to assess the quality and capacity of infrastructure and take account of the need for strategic infrastructure. A range of matters were raised in representations to Policy PP1 with a mixture of support and objection. Notably statutory consultees Environment Agency (6896) and Anglian Water (6323) both support the Policy.

- 4.8 The Policy as submitted is considered sound. Minor modifications are proposed to the Policy as set out in the Draft Schedule of Recommended Modifications ([CBC 1.6](#)). To reflect use of a broader term, agreed in a Statement of Common Ground (SCG3) with Historic England, amend bullet point (v) as follows:

*‘... to minimise any negative impact on the surrounding landscape and/or ~~listed buildings~~ **heritage assets**; ...’*

- 4.9 The Consequential Changes Topic Paper identifies potential modifications to Section 2 policies arising from Inspector’s Proposed Main Modifications to Section 1 of Colchester Local Plan and changes made to reflect updated national policy. The modifications proposed to Policy PP1 are:

- Inclusion of agreed wording on water supply enhancements in Policy PP1.
*(i) Adequate wastewater treatment, **water supply network enhancements**, and sewage infrastructure enhancements for the relevant catchment area.*
- Cross-reference to new Section 1 policy SP2 on Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Add new bullet point as follows:

(vii) Further to Section 1 policy SP2, developments will be required to contribute towards mitigation measures in accordance with the Essex

Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS).

- 4.10 A further modification is proposed to Policy PP1 for consistency and to clarify that Policy PP1 covers education provision. The proposed modification is as follows:

Insert 'education provision' into first sentence of the Policy to read: '*In addition to site specific requirements identified in relevant policies, all proposals will be required to make contributions to the cost of infrastructure improvements, **education provision** and/or community facilities as required and supported by up-to-date evidence from appropriate sources including the Infrastructure Delivery Plan (IDP)...*'

Does policy PP1 provide clear direction as to how a decision maker should react to a development proposal?

- 4.11 Policy PP1 relates specifically to the common infrastructure issues that surround the allocated sites in order to ensure development in the Plan area. Rather than repeat criteria relevant to all allocations, Policy PP1 lists criteria which will be relevant to all development proposals, including sites that are not allocated in the Local Plan.
- 4.12 The Policy and supporting text are clear that the generic requirements contained in Policy PP1 are required in addition to the locational specific requirements for infrastructure and mitigation contained in the allocation policies for urban Colchester and the Sustainable Settlements and other requirements as relevant contained in Development Management policies.
- 4.13 The Policy and supporting text are clear that all proposals for development will be required to make contributions to the cost of infrastructure improvements and/or community facilities, required as a result of the development proposed, and that contributions will be secured to an appropriate level as part of the planning application process.
- 4.14 The Policy sets out a number of criteria that should be considered by all proposals to ensure that all Borough wide infrastructure and mitigation requirements are addressed.

Main Matter 4b – Colchester Town Centre (Policies TC1 to TC4)

Are the policies and site allocations for Colchester Town Centre justified by appropriate available evidence, having regard to national guidance, and local context, including the meeting the requirements of the CLP 1?

- 4.15 The Council has prepared a specific Topic Paper ([TP4](#)) on retail and town centre policy which should be read in conjunction with this hearing statement in relation to centres hierarchy and town centre use related policy in TC1-3. The Topic Paper explains how and why the Council is suggesting amendments to certain policies in response to changes in national policy and legislation (including changes to the Use Classes Order in 2020); updated evidence contained within the Council's latest Retail and Town Centre Study Update 2020 ([EBC 3.11](#)) by CPW Planning; and comments received in representations.
- 4.16 In terms of the relationship of Policy TC1-3 to Section 1 of the CLP, Section 1 does not provide specific policies on retail or a centres hierarchy for Colchester. The Section 2 CLP policies on a centres hierarchy are, however, considered to follow on from more general requirement of the Section 1 Spatial Strategy (Policy SP3):

‘Each local authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs’.

Policy TC1 Town Centre Policy and Hierarchy

- 4.17 The policy approach taken for Colchester Town Centre in TC1 is justified by appropriate available evidence and has regard to national guidance and local context. Along with Policy SG5, it addresses the requirements of 2012 NPPF Paragraph 23 to define a network and hierarchy of centres that is resilient to anticipated future economic changes. Policy TC1 for the Town Centre is intended to support its pre-eminent position in the Borough's spatial hierarchy and provide a flexible approach to adapting to changing economic and social circumstances.
- 4.18 The Retail and Town Centre Study Update 2020 ([EBC 3.11](#)) recommended that, whilst TC1 largely provided sufficient flexibility to address current trends, reference to shared mixed-use schemes and meanwhile / temporary spaces should be added to ensure the policy positively contributes towards the vitality of the town centre. No further modifications to the policy are proposed by the Council.

Policy TC2 Retail Frontages

- 4.19 The policy complies with 2012 NPPF guidance in paragraph 23 directing local authorities to;

‘define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations.’

- 4.20 As included in the Retail Topic Paper and the Council’s Draft Schedule of Recommended Modifications to Section 2 ([CBC 1.6](#)), the Council is proposing to modify the policy wording to increase levels of policy flexibility to address evidence of rising vacancy levels, a reduction in comparison goods retailers and declining footfall. Providing greater flexibility for appropriate changes of use would be consistent with the provisions of Policy TC1 and with the changes to the Use Classes Order (i.e. Class E).

The proposed modifications are as follows:

- remove the minimum percentage thresholds for A1 retail use (including the requirement for ‘extended marketing (over 1 year)’ to demonstrate non-viability of A1 retail use) on the basis setting such thresholds is too rigid and can lead to unintended consequences (for example, long-term shop vacancies).

retain the qualitative criteria:

- *Make a positive contribution to footfall and levels of activity throughout the day; and*
- *Retain and /or enhances the quality and design of the street frontage through the inclusion of active frontages and / displays; appropriate use of materials; sympathetic scale; retention of historic features; and relationship to surrounding streetscape; and*
- *Are compatible with adjacent uses – the proposal complements the town centre uses in the immediate area.*

In light of the deletion of minimum percentage thresholds criteria add a new more flexible criteria to require that proposals should not harm the main retail function of the primary frontages in order to reflect the greater prominence of retail uses in primary frontages. The following new criteria is proposed and will be added to the Schedule of Recommended Modifications;

Development proposals for non-retail uses within primary frontages will be permitted where they would enhance vitality and viability, be appropriate to the character and function of the area and not compromise the appearance of the frontage and its contribution to the streetscape.

Policy TC3 Town Centre Allocations

- 4.21 The policy approach taken for Colchester Town Centre in TC3 is justified by appropriate available evidence and has regard to national guidance and local

context. Paragraph 23 of the NPPF requires that local planning authorities should 'allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential needed in town centres', with the needs for main town centre uses to be met 'in full' and not be compromised by limited site availability.

- 4.22 In this context, the Retail and Town Centre Study Update 2020 ([EBC 3.11](#)) (section 5) identified that, whilst some of the existing centres (including Colchester Town Centre) and other shopping destinations will have limited capacity or 'need' for new comparison and/or convenience retail floorspace, the Borough-wide picture is that there will be a theoretical over-supply of floorspace over the plan period. This is largely due to the major committed developments, particularly at Tollgate (Stanway) including the nearby Stane Retail Park.
- 4.23 There is no standard or accepted approach to quantifying the floorspace need for other main town centre uses (except for offices) in the same way there is for comparison and convenience retail floorspace. The Retail and Town Centre Study Update 2020 considered in 'qualitative' terms the role of the remaining other main town centre uses in achieving a balanced mix of uses and helping to ensure town centre vitality. This is reflected in the advice given on (a) national trends affecting town centres (section 2 of the Update [EBC 3.11](#)) (b) commercial leisure audit of the Borough (section 6 of the Update); (c) potential development opportunities in Colchester Town Centre (section 7 of the Update); and (d) policy recommendations in respect of primary and secondary frontages (section 8 of the Update). Such advice has been carried forward into the Plan and Policy TC3 allocates suitable sites in and on the edge of Colchester Town Centre to meet the identified 'needs' for retail and other main town centre uses over the plan period.
- 4.24 To that end, the Retail and Town Centre Study Update 2020 found that Colchester Town Centre continues to perform reasonably well, but that there were weaknesses and signs that the Town Centre is increasingly vulnerable to structural changes in the retail sector and growing competition from nearby shopping destinations. The current outlook and the committed developments at Tollgate (Stanway) in particular, were considered to reinforce the need for measures to maintain the Town Centre's attractiveness and role as the principal mixed-use shopping destination in Colchester Borough. This includes continued investment in the public realm and key opportunity sites (including Vineyard Gate, Priory Walk and St John's Walk Shopping Centre) to improve the visitor experience and create a more vibrant, differential offer (see paragraph 3.10). These key opportunity sites comprise the town centre allocations set out in Policy TC3.
- 4.25 The changed aspirations for Vineyard Gate which, in light of reduced retailer demand and less expenditure-based capacity for new retail floorspace, is now the focus of a proposal for a residential-led mixed use scheme, illustrate the impact of these recent changes. Modifications to Policy TC3 are therefore proposed (see

Topic Paper 4 and Proposed Schedule of Recommended Modifications to Section 2 (CBC 1.6) to reflect the latest position on Vineyard Gate and the need for flexibility rather than an absolute requirement for additional retail and other main town centre uses. This approach would accord with the more flexible policy response set out in recent national policy and legislation, and the modifications to increase flexibility in Policy TC2 on retail frontages.

- 4.26 In relation to offices, evidence on office supply and demand in Colchester Town Centre is contained in the 2015 Employment Land Needs Assessment ([EBC3.2](#)) and 2017 Employment Land Trajectory ([EBC3.4](#)). The policy (TC3) provides an allocation for office floorspace just outside the Town Centre boundary within the Middleborough Local Economic Area to meet the limited but still important requirement for new purpose-built office accommodation in the town centre. Although the extent of office floorspace in the town centre has been affected by permitted development changes of use from offices to residential and by the impact of changed working patterns arising from the COVID pandemic, the 2015 Employment Land Needs Assessment (EBC 3.2) identified that over the longer term, and from a more qualitative perspective, the requirement for office space in future will be for better quality, modern space and to cater for small and start-up businesses.
- 4.27 The Plan also provides for other ways in which identified needs will be met. Policy TC1 supports a diverse mix of retail and non-retail town centre uses, while the policy criteria relating to appropriate changes of use within retail frontages (Policy TC2) provide important flexibility to ensure Colchester Town Centre can respond to retail market trends and the increasing role of non-retail uses in ensuring town centre vitality.
- 4.28 Residential uses continue to be an appropriate Town centre use, contributing to the vitality, diversity and economic activity. This complies with the NPPF and in particular the following relevant criteria included in paragraph 23 identifying the requirement for local authorities to;

....‘recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;’

And to;

‘recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites;’

- 4.29 The allocations in Colchester town centre directly reflect the sustainable development principles underpinned by the NPPF, being at the top of the spatial hierarchy. Development within Colchester’s town centre achieves all three dimensions of sustainable development that is: economic, social and environmental, as defined in the NPPF (paragraph 7). The Council’s Hearing

Statement covering an Introduction to Place Policies explains the process the Council followed in allocating sites. In accordance with the NPPF the allocation of sites took account of the evidence base which includes a Strategic Land Availability Assessment (EBC 2.17) as well as the Sustainability Appraisal as required by legislation. The Sustainability Appraisal (SA) (CBC2.2) identifies, describes and evaluates the likely significant effects on the environment of the plan and reasonable alternatives. More details about the SA and how it has influenced the site selection process for allocations in principle is contained in the Introduction to Place Policies Statement. Appendix 1 of the SA report includes tables for each site allocation policy justifying why the preferred option (site) was selected and why reasonable alternatives were rejected. A table summarising the appraisal of the preferred sites and reasonable alternatives is included to provide a comparison of likely effects. Commentary is included on the cumulative and synergistic effects of the allocation(s).

- 4.30 Policy SP3 in the CLP Section 1 states that *‘Existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period.’* It further provides clarity for each authorities Section 2 Plan: *‘In Section 2 of its Local Plan each local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs’.* Colchester town centre and urban area is at the top of the Spatial hierarchy making these allocations compliant with the CPL Section 1.
- 4.31 The CLP 2 Policy SG1 provides the Spatial Strategy for Colchester. The Town Centre is the most sustainable location for new development given its central location and good access to public transport, walking and cycling routes. Although there is scope for development to be provided at higher densities in the Town Centre, there remain limited opportunities for further growth with demand on land for a mix of uses, further explained below.
- 4.32 Paragraph 4.24 above refers to the changed focus of the Vineyard Gate redevelopment to a scheme which is residential led, reflecting a number of changing factors which emphasise the requirement for town centre uses to have a degree of flexibility to respond to this.
- 4.33 Policy TC3 also includes residential allocations within the Town Centre on land at Britannia car park and part of St Runwalds car park with the need for both to result in a neutral impact on parking provision in the town centre.

Policy TC4 Transport in Colchester Town Centre

- 4.34 Policy TC4 is justified by appropriate available evidence, having regard to national guidance and local context, including meeting the requirements of the CLP1. Strategic transport modeling has been undertaken ([EBC 5.5](#)) which has

shown links and junctions in Colchester town centre operating over capacity at peak times. Development will add pressure to the transport network and measures will be required to help mitigate this impact.

- 4.35 The assessment of the modelling identifies potential solutions on the highway network resulting from proposed development. These potential solutions have been reflected in the Infrastructure Delivery Plan (IDP June 2017) ([EBC 5.3](#)).
- 4.36 Policy TC4 requires developments in Colchester town centre to contribute to a package of sustainable transport measures including walking, cycling, public transport, travel planning and the promotion of sustainable travel. This is in line with NPPF and CLP1 Policy SP6 which requires local planning authorities to work with partners to deliver changes in travel behaviour by applying the modal hierarchy and increasing opportunities for sustainable modes of transport that can compete effectively with private vehicles.
- 4.37 Colchester town centre will benefit from the development of new transport infrastructure serving the Tendring Colchester Borders Garden Community. This includes an A120/A133 Link Road as well as a Rapid Transit System linking the new community to Colchester, with preferred route options running through East Colchester to the Town Centre and onward to North Colchester to the Park and Ride site. The Section 1 CLP, Policy SP6, provides that this strategic infrastructure must have secured planning consent and funding approval in advance of the grant of planning approval for the Garden Community. In August 2019 it was announced that the A120/A133 Link Road and the Colchester Rapid Transit System (RTS) scheme had been successful in securing £99 million in funding and in March 2021 ECC confirmed the imminent submission of a planning application for the project.
- 4.38 Policy TC4 as submitted is considered sound. The following modifications are proposed to strengthen wording to address historic environment implications of highways infrastructure as agreed in Statement of Common Ground with Historic England (to be added to the Examination Statements of Common Ground webpage)
- *Add text to end of Policy;*
The positioning and size of bus shelters, signs and other highways infrastructure must have regard to the historic character of the area and setting of heritage assets.

Do the housing land site allocations in Colchester Town Centre show how they will contribute to the achievement of the overall housing requirement of the CLP Section 1 (14720 new homes) and its timescale for delivery?

Policy TC3 Town Centre Allocations

Land at Britannia Car Park

- 4.39 The allocation of Council owned land at Britannia Car Park provides for up to 150 dwellings, recognising the opportunity for higher density development within the town centre location. Policy TC3 identifies requirements which are relevant to the site specifically including; a neutral effect on overall town centre car parking capacity; the protection and enhancement of the Scheduled Ancient Monument (The Priory); protection and enhancement of the setting of the nearby listed buildings and town centre conservation area; and contributions towards flood risk solutions in accordance with Policy DM23 and the Surface Water Management Plan recommendations for CDA03 ([EBC4.62](#)).
- 4.40 Since the submission of the CLP matters have progressed with pre-application discussions taking place between Colchester Amphora Homes Ltd (CAHL), the Council's commercial housing company, the Council as planning authority and Historic England. Survey work is underway including archaeology, trees and a Heritage Impact Assessment, as well as work on viability. It is anticipated that a planning application will be submitted later this year. Delivery of this site is in the control of the Council with no insurmountable constraints preventing implementation during the plan period.

Part of St Runwalds Car Park

- 4.41 The allocation of Council owned land at St Runwalds car park provides for up to 40 dwellings. Policy TC3 sets out specific requirements which are relevant to this site including; access to be agreed with the Highway Authority and the need to protect and enhance the setting of nearby listed buildings and the town centre conservation area.
- 4.42 Since the submission of the CLP progress with planning has commenced with pre-application discussions taking place between Colchester Amphora Homes Ltd (CAHL), the Council's commercial housing company and the Council as planning authority. Survey work, including archaeology and feasibility has been undertaken. It is anticipated that a planning application will be submitted later this year. Delivery of this site is in the control of the Council with no insurmountable constraints preventing implementation during the plan period.

Vineyard Gate

- 4.43 The recommended Modification in respect of the Vineyard Gate allocation recognises the revised focus of this re-development for residential purposes. The proposed modification addresses this point. It is also suggested that the Vineyard

Gate reference in Policy TC3 is moved to follow the allocation 'Part of St Runwalds Car Park and precede 'Employment allocations' so it falls under the residential allocations section of the policy. The recommended modification is set out below and will be added to the schedule of recommended modifications;

- Vineyard Gate

*'Redevelopment of Vineyard Gate over the plan period to provide a **residential-led** retail and mixed use floorspace **scheme**:
Requirements;*

- **Approximately 100 dwellings**
- **Development will need to protect and enhance the character of the Scheduled Ancient Monument (Town Walls)**
- **Provide direct pedestrian connections to / from Lion Walk;**
- **Contributions needed towards the delivery of flood defence / flood management solutions as identified in the SWMP for CDA 03.'**

4.44 The justification for proposing that Vineyard Gate should now be residential led, is based on changing circumstances and work undertaken by the Council as landowner since the submission of the CLP. Additional retail floorspace has been permitted in Stanway (Tollgate Village and Stane Park) and the changing retail market has meant there is less demand for retail floorspace more generally. Masterplanning has commenced led by Colchester Amphora Homes Ltd (CAHL), the Council's commercial housing company (RIBA Stage 1 is complete and Stage 2 is underway). The successful award of £18.2 million through the Towns Fund also includes a contribution towards delivery of a scheme at Vineyard Gate. This is a Council owned site and it is anticipated that a planning application will be submitted later this year. There are no obstacles to delivery and implementation during the Plan period and the recent progress and securing of additional funds will help with implementation.