

**COLCHESTER BOROUGH COUNCIL
POST-HEARING MODIFICATIONS CONSULTATION
January 2014
LOCAL PLAN FOCUSED REVIEW**

Colchester Borough Council's proposed modifications to the Focused Review document, resulting from discussions at the hearings and detailed in the Inspector's post-hearing Note 1 (January 2014, IED 06).

The modifications included within Part 1 of this consultation set out the Council's preferred approach, based on the Inspector's note,

Part 2 of this document contains alternative options to the changes supported by the Council in Part 1. Responses to this consultation should only respond to those matters included within this consultation document. The Inspector will not take into account any representations which do not directly relate to the merits of the proposed changes.

PART 1

Further modification ref	Focused Review document page number	Policy/paragraph	Council preferred option	Comments
FM1	17-33 and 68	CE1 Table CE1a Employment classification Table CE1b Table CE1c CE2b CE2c CE3 DP5 DP9	Remove from the Focused Review all employment/retail/centres policies, tables and text, deleting pages 17-33 inclusive, along with the definition of Urban Gateways, in the Glossary on page 68. NB The policies/text/tables within these pages would remain as part of the development plan as	The Inspector's Hearing Note 1 (IED-06) highlights his concerns with partial changes to the Centres and Employment policies which he considers could lead to ambiguity and inconsistency. To avoid this problem, the Council would accept removal of the policies in their entirety from the scope of the Focused Review. It is

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		Glossary – definition of Urban Gateway	currently set out in the adopted Core Strategy and Development Policies DPDs,	important to note that removal of the policies from the Review would not reflect on their soundness or unsoundness; these issues would be addressed through the Full Review of the Local Plan. The Inspector has made it clear that he cannot support the addition of an Urban Gateway into Table CE1a (Para 3.7 IED-06). This Glossary entry should, therefore, be deleted to ensure that it is clear that this is not something which the Inspector will be examining. (See Part 2 of this consultation document, for an alternative approach to Centres and Employment policies. Please note that both options include the deletion of the Urban Gateways definition).
FM2	41	H4, last sentence of para 5	The plot size, scale and <u>gGeneral design of the homes should be comparable regardless of tenure within a single integrated development layout.</u>	The Council concurs with the Inspector, who notes that the words proposed for deletion in this modification are unnecessarily prescriptive and would not assist the proper

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				implementation of the policy. With such exception sites, a proportion of market housing would provide a subsidy to facilitate the provision of affordable housing. Flexibility with regards to the size and type of any such market housing is appropriate to ensure that viability can be secured in the most effective way. (Para 5.1, IED-06)
FM3	48-51	DP13	Remove the policy and all the related text on pages 48, 49, 50 and 51 from the submitted Focused Review. (NB This policy would remain part of the development plan as currently set out in the adopted Development Policies DPD.)	The Council confirmed at the hearing sessions that it no longer wishes to pursue any changes to the wording of the policy, as adopted, and proposed its exclusion from the Focused Review. The Inspector's Hearing Note (IED-06, paras 5.2-5.4) highlights the need for consultation on this issue and notes that the removal would be justified due to a lack of justification for the changes.
FM4	56-58	ER1	Remove the policy and all the related text on pages 56, 57, and 58 from the submitted	The Council confirmed at the hearing sessions that it no longer wishes to pursue any

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			<p>Focused Review. (NB This policy would remain part of the development plan as currently set out in the adopted Core Strategy DPD.)</p>	<p>changes to the wording of the policy, as adopted, and proposed its exclusion from the Focused Review. The Inspector's Hearing Note (IED-06, paras 5.2-5.4) highlights the need for consultation on this issue and notes that the removal would be justified due to lack of justification for the changes.</p>

PART 2

Part 2 contains an alternative set of changes to FM1 which is put forward as the Council’s preferred approach in Part 1. These changes would apply if employment and retail policies are retained within the Focused Review. Changes FM2, 3 and 4 would still apply, alongside this alternative set of changes. These alternative options are put forward for consultation alongside Part 1, in order to ensure that all options discussed at the hearing sessions have been subject to consultation and to allow the Inspector to determine if it is possible to selectively modify the Centres and Employment policies without challenging the soundness of the plan as a whole.

Note –

Underlined text is carried forward from the Focused Review document (CD1).

Any new proposed modifications to the Focused Review document (CD1) are in bold red text.

The original deletions to the wording contained in the Focused Review document (CD1) are retained in strikethrough text.

New deletions are in bold red italic text and are also in strikethrough text.

In cases where there is a relationship to the modification proposed in November 2013 in CD23, a hyperlink to the original wording is provided.

The Council has prepared a separate tracked changes version of the Centres and Employment policies to allow the Part 2 changes to be viewed in their overall context ([Link to Tracked Changes version of Centres and Employment Policies](#)).

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FM5		18	Policy CE1 Para 4	The Council will seek to protect and enhance support employment throughout the Borough <u>and will take a flexible approach to proposals contributing to economic growth and job creation.</u> Development that will increase employment capacity <u>in accessible locations</u> will be encouraged. Whilst <i>Proposals for development that will</i>	In his note, the Inspector sets out that he considers that this policy primarily expresses an overarching aim to support employment and economic growth. He considers that it does not need to deal with more detailed development management issues. (Para 2.6,

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				result in a loss of employment capacity will not normally be supported. need to be supported by evidence that there is no reasonable prospect of a site being used for the allocated employment use.	IED-06)
FM6		19/20	Table CE1a	Add below table, if retained, or to the top of page 20 if not retained – The Examination of the Focused Review (November 2013-April 2014) did not consider the consistency with national policy or local justification for the hierarchy and classification of centres set out in Table CE1a and referred to elsewhere in other text in this review.	The Inspector considers that he could recommend the removal of the table without further consultation. However, he recognises that there are a number of references to the hierarchy of centres and the different roles of centres within various parts of the supporting text within the Focused Review. It is impractical for him to try and unpick these parts and exclude them from the Review. Accordingly, he considers that this proposed additional text needs to be added to make the position clear.
FM7	MAJ14	20	CE1 explanatory text	In accordance with PPS6 <u>the National Planning Policy Framework</u> , the historic town centre core <u>centres</u> will be the	The Inspector considers the text at the top of page 20 of the Focused Review to be unsound

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				<p>primary preferred location for retail, office, leisure and entertainment uses. The sequential approach will be applied. and retail uses proposal for main town centre uses should be located in the town centre. 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 Gateways and Urban District Centres. Sites within 500 metres or those well connected with good pedestrian access to the Urban Gateways and Urban District Centres will also be considered suitable for office and mixed use development. <u>Only if suitable sites are not available should edge of centre and then out of centre sites be considered.</u> Following changes to this policy in the Focused Review (2014) the above list applies to references to the application of Colchester's centres hierarchy contained in the following Site Allocations policies (SD12): Centre hierarchy explanatory text</p>	<p>in that form. This alternative text is being consulted on, as a result. This proposed change is slightly different from the wording of change MAJ14 in CD23, previously the subject of consultation in November 2013. The original change reflected the Inspector's concern that the original Focused Review changes strayed into matters of spatial strategy, which fall outside the scope of the Focused Review. There are two differences between FM6 and MAJ14</p> <ol style="list-style-type: none"> 1) FM6 deletes the part of the original second sentence that provided that 'proposals for main town centre uses should be located in the town centre' 2) FM6, last sentence, adds in 'edge of centre' to the hierarchy for

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				<p>(SD12 p. 21, paras 3.15-3.18) Town Centre and North Station explanatory text (SD12 p. 30, para 5.17) SA TC1 Town Centre (SD12, pp 32-33) SA STA3 Employment and Retail uses in Stanway Growth Area (SD12, p. 68)</p>	<p>consideration of non-centre sites.</p>
FM8	MAJ8	25	Policy CE3 Final para	<p>Pending the review of employment allocations in the forthcoming review of the Local Plan required by <u>in accordance with</u> the National Planning Policy Framework, where there is no reasonable prospect of a site being used for an allocated employment use, applications for appropriate* alternative commercial* uses in Employment Zones will be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.</p> <p><i>(* changes subject to previous consultation as MAJ8 in CD23.)</i></p>	<p>In any final recommendation relating to this paragraph, the Inspector would incorporate change MAJ8, already consulted on. He considers that the wording resulting from the proposed change and MAJ8 would be sound given that it is essentially repeating the 2nd part of the NPPF, para 22. The Inspector states that the text, rightly, does not stipulate that this is the only way that alternative uses would be allowed (it is not the only 'gateway' to change), nor does it specifically require the applicant to demonstrate the 'no</p>

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					<p>reasonable prospect test', since the Council should ensure that it is well informed about local market conditions. He sees this as a useful temporary wording to enable one element of a flexible approach to be adopted, pending the full review. Because policy CE3 is primarily concerned with allocations (employment zones), the Inspector considers that it is appropriate that this policy includes the 'no reasonable prospect' test relating to such allocations. (Para 2.8, IED-06)</p>
FM9		27	Policy DP5 Para 1	<p>Appropriate employment uses within designated employment zones will include:</p> <ul style="list-style-type: none"> (a) Business (B1), general industrial (B2), storage and distribution (B8); (b) Display, repair and sale of vehicles and vehicle parts, including cars, boats and caravans; (c) Indoor and outdoor sports uses, exhibition centres and conference 	<p>The Inspector has raised concerns that changes referring to other unamended policies will create confusion and a lack of clarity. The suggested wording is intended to clarify the fact that lists of employment uses found in other policies would be superseded by the changes in the Focused Review. The</p>

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				<p>centres;</p> <p>(d) A limited element of retailing where this is ancillary to another main use under (a);</p> <p>(e) Services specifically provided for the benefit of businesses based on, or workers employed within, the Employment Zone; and</p> <p>(f) Other employment-generating uses, such as those related to leisure, recreation and tourism, which meet local needs and/or promote rural enterprise.</p> <p>Following changes to this policy in the Focused Review (2014), the above list applies to all employment zones and supersedes the more restrictive list of uses suitable for employment zones in the tables following paragraphs 3.13 and 3.14 of the Site Allocations DPD; Site Allocations policies SA NGA3 and SA STA3; and Core Strategy Table CE1b.</p>	<p>Inspector raises the concern in para 2.19 of his note (IED-06) that there is a possible conflict with wording on retail uses in the cross-referenced policies, and that there could be a possible conflict with national policy relating to centres and the sequential test and/or an unpicking of the existing spatial strategy, which is not part of the Focused Review. The Council, however, does not consider that the Focused Review changes result in conflict with cross-referenced policies. The Site Allocations set out the site specific intentions for each of the respective sites. The Development Management policies set out how applications in employment zones, in general, will be dealt with. These two lists (in DP5 and SA NGA3 and SA STA3) have sat alongside each other since their adoption in</p>

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					<p>2010.</p> <p>The wording proposed in this modification is clear in its scope, but the Council's preferred option at this stage, as set forth in FM1, is to avoid any potential conflicts by withdrawing all Centres and Employment policies from the Focused Review (as set out in FM1).</p>
FM10		27-28	Policy DP5 Para 4	<p>Sites and premises currently used or allocated for employment purposes will be safeguarded for appropriate employment uses <u>unless there is no reasonable prospect of a site being used for that purpose</u>. Any use that may have an adverse effect on employment generation will only <u>Alternative uses will be permitted unless where</u> the Local Planning Authority is satisfied, <u>as appropriate</u>, that:</p> <p>i) The supply, availability and variety of alternative employment land is sufficient to meet Borough and local needs;</p>	<p>The Inspector considers that the current list (i) – (iv) can be interpreted in a way that suggests that all the points should be applied. The Inspector states that the “no reasonable prospect” test, which the Focused Review introduces from the NPPF, is not justified as an overarching “gateway” test, but is only one circumstance in its own right. The Council accepted that criterion (v) relating to <i>maritime character</i> was not required because it is</p>

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				<p>or</p> <p>(ii) There is no reasonable prospect of the site being used for employment purposes Evidence can be provided to demonstrate that no suitable and viable employment use can be found, or is likely to be found in the foreseeable future;</p> <p>or</p> <p>(iii) There are substantial benefits (e.g. environmental or economic) which outweigh the loss of employment or employment potential from the site.</p> <p>(iii) There would be substantial planning benefit in permitting an alternative use, for example in removing a use which creates residential amenity problems such as noise or odours;</p> <p>(iv) There are demonstrable economic benefits to the area that would result</p>	<p>covered by existing policy DP23. Its retention here adds unnecessary complexity to the wording. The changes here reflect the fact that the Inspector considers that (i)- (iv) are alternatives, while (iii) and (iv) can be combined. (Para 2.20, IED-06)</p>

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				<p>from allowing redevelopment, for example by facilitating the retention of a business in the area through funding a new site or premises; and</p> <p>(v) The traditional maritime character of the coastal areas would not be adversely affected.</p>	
FM11		28	DP5 Para 5	<p>Where redevelopment of employment land is accepted for a new employment use or an alternative use, particular consideration will be given towards ensuring the future viability of individual businesses (e.g. tenants of an estate or premises) that might be displaced. Planning contributions towards alternative employment, regeneration and training schemes could will be sought where sites are redeveloped for nonemployment uses and alternative employment land is not provided. Additionally, new employment-generating schemes will be encouraged to provide training schemes for local employees.</p>	<p>The Inspector considers that all of the last paragraph of DP5 should be deleted. New text was added to encourage, rather than require, contributions towards training schemes. However, the Inspector's note sets out that he considers this paragraph to sit uncomfortably with the rest of Policy DP5. The Inspector does not consider that he has seen evidence that there is a local need for training schemes. In addition, the Inspector considers that deletion of this paragraph should help to make it more clear that Appendix 3 of the</p>

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					Development Policies DPD is deleted (which is also the consequence of the deletion of the fifth paragraph of DP5's supporting text in the Focused Review document (page 29). It is for these reasons that deletion of the paragraph is being consulted upon. (IED-06 para 2.21)
FM12		29	DP5 Explanatory text 3 rd paragraph, last sentence.	Alternatively, Where where the local need for employment land can be met elsewhere, it may be that alternative uses could be considered favourably (within the context of the other policies in the LDF).	The Inspector considers that, In the 3 rd paragraph, the word <i>alternatively</i> should be added, before the last sentence, to make clear that this is an alternative, not part of one exception.
FM13		29	4 th paragraph	Exceptionally, An alternative use may be preferable, providing evidence is submitted of marketing the site for a reasonable period of time. The marketing campaign will need to be agreed between the authority and applicant(s) before it begins, including	The Inspector considers that the 4th paragraph (beginning <i>Exceptionally An alternative...</i>) should all be deleted. He states that marketing should not be a requirement for justifying an alternative use as it may cause

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				<p>the length of the campaign; asking, price; sales particulars; and number frequency and source of advertisements. Applicants will also need to demonstrate that the site is no longer usable and viable for another form of employment use, for example where continuation of the employment use would be detrimental to other planning objectives such as regeneration, protecting or enhancing residential amenity or the appearance of the countryside, or where other economic benefits to the area might result. Consideration of overall economic benefits must also extend to include addressing the future of any firms displaced through the redevelopment, including redevelopment for a new employment use.</p>	<p>delay - although applicants may want to use evidence of past marketing to show lack of demand. The paragraph also puts all the onus on the applicant to come up with the evidence, but pending a review of employment allocations, the Council needs to be alert to changing local circumstances. (IED-06, paras 2.22 and 2.23)</p>
FM14		Page 66 of Development Policies document (Submission)	Appendix 3 Mitigation for loss employment land or	Delete entire appendix.	The Council accepted at the hearing stage that Appendix 3 should be deleted for consistency with the deletion of mitigation requirements in DP5.

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		n document SD11)	employment premises		(see IED-06, para 2.24)
FM15		68	Glossary	URBAN GATEWAY Key Transport hubs for Colchester which provide accessible locations for new commercial development. They are considered to be next in preference to Town Centres, along with Edge of Centre locations, in the sequential test for new sustainable Town Centre use development sites.	The Inspector has made it clear that he cannot support the addition of an Urban Gateway into Table CE1a. (Para 3.7 IED-06) This glossary entry should, therefore, be deleted to ensure that it is clear that this is not something which the Inspector will be examining.