

Colchester Local Plan Focussed Review – Examination

Inspector's Questions for clarification, further comment and pre-hearing statements.

1. Introduction

1.1 These questions seek to clarify or explore a limited number of matters arising from: the Council's proposed changes in the Focused Review; my reading of the representations; the evidence base; and the possible proposed changes on which the Council is currently consulting (set out in document CD23). On a number of matters where no party wants to be heard, I will be deciding whether the changes in the Focussed Review are sound solely in the light of the written material already before me. The questions and clarification sought below are not restricted to the matters which are likely to be discussed at the hearings in January, but do include all matters to be addressed in any pre-hearing statements.

1.2 The Council should respond to all the questions. Representors may respond if they wish, but only to those questions which directly relate to the policy and matters specifically covered in their original representations.

1.3 The overarching questions for my consideration of all the changes is whether in the context of the limited scope of this Review, the resulting policies are consistent with NPPF (or otherwise justified by local circumstances); supported by local evidence where appropriate; effective; and consistent with remaining policies in the development plan.

2. Statutory and Regularity matters

2.1 Is the Council still satisfied (as set out at submission) that all statutory and regulatory matters have been met? I will have regard to the limited representations relating to some of these matters, but have no further questions at this stage.

3. Scope of the Focussed Review

3.1 In my note of Preliminary Comments (IED-01, paragraph 2.3) I indicated that I saw no basis to require the Council to undertake a full review of the Local Plan. Any further comments?

3.2 I also indicated (IED-01, paragraphs 2.4 -2.7) that my preliminary view was not to extend the scope of the Review/Examination to policies not included within the submitted Review, unless necessary to avoid contradictions. I have also suggested additional text to be included in the plan at adoption to make clear the limited scope of the Review/Examination. Any further comments on the appropriateness of this approach? (*I will be having regard to any representations on MAJ2 in CD23.*)

4. Employment policies (CE1, CE3, DP5 and DP9. Also MAJ8 in CD23.)

The 3 main questions on this matter are:

4.1 Do the proposed changes relating to employment policies ensure that the plan enables economic growth and development in a sustainable manner consistent with the NPPF?

4.2 Do the proposed changes result in policies which are consistent with each other and any relevant unchanged policies in the development plan?

4.3 Are the policies clearly expressed to be effective?

Detailed aspects to explore

4.4 Part of the proposed change to CE1 says

Proposals for development that will 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.

This appears consistent with NPPF, paragraph 22. Any further comment?

4.5 Part of the proposed change to CE3 states:

In accordance with the National Planning Policy Framework, where there is no reasonable prospect of a site being used for an allocated employment use, applications for 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.

4.6 *I expressed concern about this wording in IED-01, paragraph 4.5 Is the limitation to alternative commercial uses justified? If not, would proposed change MAJ8 in CD23 make the wording consistent with CE1 and the NPPF? (I will be having regard to any representations in response to CD23.)*

4.7 Part of the proposed change to DP5 states:

Sites and premises currently used or allocated for employment purposes will be safeguarded for appropriate employment uses unless there is no reasonable prospect of a site being used for that purpose. ~~Any use that may have an adverse effect on employment generation will only~~ Alternative uses will be permitted where the Local Planning Authority is satisfied, as appropriate, that:

5 different circumstances are then listed (i)–(v).

4.8 Are (i)–(iv) intended to be separate circumstances, only one of which has to apply to make the loss of employment land policy compliant? If so, should or be inserted after circumstances (i)–(iii)? Is circumstance (v) something which applies generally?

4.9 Circumstances (i) and (ii) appear consistent with NPPF paragraph 22. Do they need to be stated? Circumstances (iii) and (iv) appear additional, separate circumstances which might justify a loss of employment land, even if NPPF paragraph 22 does not apply. Is this the intention? Does the policy need to make any such distinctions clearer to be effective? If the Council consider that there is a lack of clarity in the policy, please include in the pre-hearing statement a suggested rewording for discussion at the hearing - this can be done on a without prejudice basis if necessary.

4.10 In what circumstances is the 2nd sentence of the last paragraph of the policy intended to apply? Would contributions to alternative employment be justified if a relevant circumstance set out in the policy (as referred to above) had been met?

4.11 Is encouragement to provide training justified?

4.12 The text relating to alternative employment land provision is proposed to be deleted (page 29 of the Focussed Review beginning *In exceptional circumstances...*). This deletes a reference to Appendix 3 of the Development Policies DPD. Should Appendix 3 of that document be deleted for consistency?

4.13 Do the proposed changes create a coherent, consistent approach to the scale/location of economic development which is appropriate in rural areas/countryside, which is also consistent with NPPF?

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

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

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

Retail impact thresholds

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

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

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

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

Edge of centre

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

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

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

for offices - within 500m of a transport interchange.

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

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

- *A primary shopping area* is not defined for Colchester Town Centre. Can the inner core or inner and outer core combined be equated with the primary shopping area?
- The Focussed Review treats retail the same as other town centre uses and all are required to be within 300m of the town centre core, whereas the NPPF allows non-retail town centre uses to be within 300m of the town centre boundary. Is the Focussed Review more or less flexible than the NPPF and if so is this justified?
- The Focussed Review maintains the existing policy that such edge of centre locations are to be preferred to locations in the Urban Gateways and Urban District Centres. Is this locally justified?

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

Local shops

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

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

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

6. Other matters

Affordable Housing

6.1 Is the proposed change from 35% to 20% likely to make a significant practical difference to the delivery of affordable housing over, say, the next 5 years compared with leaving the policy unchanged? In other words, is it

regularising what is occurring and likely to occur in any case because developments are unviable with 35% provision such that there would be no actual substantial reduction in affordable housing provision in the short term?

6.2 Over, say, the last 3 years what proportion of affordable housing has been secured by the policy from new residential planning permissions (assuming the information is readily available to the Council)?

6.3 If the change would make a significant difference to the delivery of affordable housing to that previously expected in the Core Strategy, are any consequential changes required within the development plan?

S106/CIL

6.4 Do proposed changes MAJ9 and MAJ11 in CD23 ensure a clear and consistent explanation of the use of CIL and S106 contributions? Are these changes needed for soundness? *(It seems to me that the Focussed Review is essentially seeking to reflect the practical, factual position which flows directly from the Regulations, rather than being primarily local policy on the matter.)*

Energy policy ER1

6.5 What is the justification for requiring residential dwellings to attain Code for Sustainable Homes level 4, bearing in mind that the Building Regulations will incorporate the energy requirement relating to that level (which is most relevant for energy use) and that demonstrating compliance with Code requires additional compliance work to be done by the developer and assessed by the Council?

6.6 Is the proposed wording of ER1 consistent with the direction of travel signalled in the Government's consultation on national building standards? Should the policy refer to the Code if this might be phased out? I will need to have regard to any changes in national policy which are published before the close of the Examination.

6.7 The last sentence regarding the urban extensions to the north and south west of Colchester is unchanged from the adopted plan and the underlining in the Focused Review was an error. This is corrected in the updated version of CD7 v2 (MIN3). What is the factual position in relation to planning permissions for those developments and what any such permissions require in relation to zero carbon homes from 2016?

Dwelling alterations extensions and replacement dwellings - policy DP13

6.8 The position of the new text relating to Annexes would apply in both urban and rural areas. Is this the intention, since some of the criteria would seem justified in a rural area only? In the adopted policy, the section on Annexes applies only outside settlements - what is the justification for moving it?

- In urban areas why are annexes, in principle, only supported where additional space cannot be met within an existing dwelling or buildings suitable for conversion (provided that there are suitable criteria for the acceptability of any detached annexes)?
- Why does criterion (iv) refer only to the surrounding rural area? (My emphasis.)
- Why are isolated annexes unacceptable in an urban area? How is *isolated* to be judged in an urban area?

Simon Emerson
Inspector
20 November 2013