



**Colchester Focused Local Plan Review
Post-Hearings Modifications Consultation**

The Local Plan Focused Review was submitted to the Planning Inspectorate on 31 October 2013. A number of modifications are considered necessary to make the Focused Review document sound and legally compliant and current options for these are now subject to a period of formal public consultation.

The modifications are subject to public consultation from 12 noon on Monday 17 February until 12 noon on Monday 31 March 2014.

Contact Details

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1. Do you wish to be informed of the Inspector's Recommendations?

Yes No

2. Do you wish to be informed of the adoption of the Focused Review?

Yes No

4. Do you have any comments on the Post-Hearing Modifications, taking into consideration paragraph 182 of the National Planning Policy Framework which sets out the tests of ‘soundness’:

Positively prepared	<input checked="" type="checkbox"/>
Justified	<input checked="" type="checkbox"/>
Effective	<input checked="" type="checkbox"/>
Consistent with national policy	<input checked="" type="checkbox"/>

Please make clear what modification(s) you are referring to (policy/paragraph)

FM1 (CE1, Table CE1a, Employment Classification, Table CE1b, Table CE1c, CE2b, CE2c, CE3, DP5, DP9, Glossary – Definition of Urban Gateway), and **FM5** (CE1), **FM6** (Table CE1a), **FM7** (CE1 text), **FM8** (CE3), **FM9** (DP5, para 1), **FM10** (DP5, para 4), **FM11** (DP5, para 5), **FM12** (DP5, text, para 3), **FM13** (DP5, text, para 4), **FM14** (Appendix 3), **FM15** (Glossary)

5. Do you have any other comments in relation to the post-hearing modifications? *Please note – comments should only be made in relation to the modifications proposed in the consultation schedule published.*

FM1 - OBJECT: In response to representations, from several parties, to the Issues and Options Consultation, the Council (CBC) included certain employment and retail policies in the Draft Submission version (August 2013).

The Non-Technical Summary to the Draft Submission Consultation thus explains that CBC “... concurred with consultation responses received, which expressed the view that the Centres and Employment policies required analysis to ensure the NPPF definition of centres is adequately reflected and that policy provides greater flexibility for employment-creating uses” (page 3).

The Draft Submission version also explained the need to “... align Council policy with the greater flexibility found in the NPPF for a wide range of employment-generating uses (para 4.1) and that a recent Retail Study evidence base and subsequent further work “... highlighted the need to revise policy to ensure that the evaluation of new proposals would be based on local policies that were consistent with the NPPF” (para 4.3).

Now, the Council has a ‘preference’ to delete the centres and employment policies from this Focused Review (FR). At paragraph 3 of CBC’s Reply to Inspector’s Post Hearing Note 1 seeks to justify this against three considerations:

1. It is “the most straightforward way” to “not create confusion or create inconsistencies” with other adopted Local Plan policies.
2. The Full Review of the Local Plan “will allow any issues of non-conformity with the NPPF to be addressed”.
3. That the “overall focus of (CBC’s) policies are consistent with the NPPF” which “carries forward the commitment to sustainable development contained in Government policies at the time of the

adoption of the Core Strategy in 2008 and the Development Plan in 2010”.

With regard to 2. this is a wholly inappropriate reason to cease the Focused Review bearing in mind it is at a very advanced stage and considerable efforts both by CBC and objectors have been applied to ensure effective and NPPF consistent policies can apply in the short term to help positively guide new economic development without unnecessary uncertainty. With the Full Review not expected to be adopted until June 2017 (CBC, Local Development Scheme (LDS) 2013-16, September 2013), the advice in the NPPF of the need for plans to be revised “*as quickly as possible*” (including “*through a partial review*”) to take account of NPPF policies, is particularly apt and important here (see paragraph 213).

With regard 1. work undertaken by or in submissions to the Examination, Modifications proposed, the debate at the Examination itself and the Inspector’s pre and post Examination notes, have made very considerable efforts, not only to identify all potential inconsistencies but to put forward carefully prepared solutions to address such inconsistencies that might arise from the Focused Review. It is thus wholly unacceptable for all this effort and investment to be so readily and unnecessarily put aside. CBC suggest only that this will ‘avoid confusion’.

But, the real risk of ‘confusion’ arising will be from the kind of simplistic and unjustified assertions that CBC make in support of consideration 3, that notwithstanding all this effort to reconcile the clear recognition of fundamental inconsistency with the NPPF that “... *its (unrevised) policies (will) remain as a valid basis for the determination of planning applications, given that they are supported by an evidence base establishing their appropriateness for the unique circumstances of Colchester*”.

Details of this “*evidence base*” are not now provided for review to justify such an assertion.

There is thus a real risk that without the real effort to provide relevant sound Focused Review policies on employment and retail policies, that very much greater “*confusion*” will arise for users of CBC’s development plan documents.

The “*valid basis for the determination of planning applications*” will have, inevitably, to rely on the NPPF (see, for example, paragraphs 14, 212 and 215), potentially instead of certain development plan policies. That is where the real confusion and inconsistency will arise to the potential detriment of appropriate development being denied or delayed, with consequential effects on economic growth and prosperity.

The Part 2 Modifications must therefore be the “*preference*”. Not as the Council propose, the deletion of the Focused Review’s centres and employment policies.

This is the Inspector’s preference too. His preferred approach (see for

example at para 2.1) is to progress with consultation on the detailed changes suggested and only then if a coherent set of sound changes cannot be made, then for the removal of Focused Review employment policies to occur.

Paragraph 4.3 of the Inspector's Post Hearing Note (IED-06) explains "*the benefit of making some changes to reflect the NPPF*". These "*benefits*" are also noted at paragraph 1.3 in the context of "*the suggested consultation*".

CBC's justification to prefer withdrawal is wasteful of considerable investment to make its development plan more NPPF compliant and will cause confusion with delay to, or the frustration of, economic development necessary to help build the nation's prosperity. The appropriate and preferable alternative, to make relevant policies compliant in a sound Focused Review document, has been shown to be practical (subject to suggested further modifications) and hugely beneficial both in economic and social terms. Our suggested Modifications (below) build on and amend the Inspector's. They are all justified, effective, positively prepared and consistent with national policy. They will ensure a sound and effective development plan is provided "*as quickly as possible*".

FM5 - SUPPORT: We agree with the Inspector's considerations (i.e. at para 2.6 of IED-06).

FM6 – SUPPORT: Subject to Table CE1a being "*not retained*", otherwise OBJECT.

Table CE1a's removal can, as the Inspector advises, take place "*without further consultation*". The only purpose for its inclusion in the Focused Review has already been removed by the earlier modification MAJ7. It remains in the Core Strategy, along with its partner CE1b. Until the Focused Review text is incorporated into the Core Strategy, both documents would need to be read together in any event. By leaving Table CE1a in the Focused Review, it can give the wholly inappropriate and misleading impression that the Focused Review process might have endorsed its content.

The Inspector's issue about cross references elsewhere in the Focused Review to matters set out in Table CE1a cannot be relevant when this Focused Review will inevitably have to be read with the remaining parts of the Core Strategy and Development Plan Documents.

Indeed, appropriate text was debated at the Examination to ensure readers of all parts of the Plan were aware of other parts and the significance of the Focused Review changes to decision making.

There is no objection to new text to be added at the top of page 20.

FM7 – OBJECT: Objection to the insertion of new text from, "*Following changes ...*" to the end of the 'alternative wording' text. The additional text will inappropriately use the Focused Review to give justification to the Core Strategy's Centre Hierarchy (in Table CE1a and elsewhere) notwithstanding

that the Inspector makes it clear that this is spatial strategy matter, i.e. for the Full Review and that it is not for the Focused Review *“to endorse this hierarchy, bearing in mind that the hierarchy appears at odds with the NPPF”*.

Thus in any consideration of planning applications relating to places within the Core Strategy’s Centre Hierarchy, it must be that with Table CE1a not reviewed as part of the Focused Review, that decision making must have regard to the policy in the NPPF relating to ‘town centres’ and any other considerations that might arise from the Hierarchy, but only if it is seen as consistent with the NPPF’s approach.

It is wholly inconsistent with national policy and unjustified for CBC to add in this additional text that seeks to inappropriately use the Focused Review to re-establish the Core Strategy’s Spatial Strategy relating to centres without evidence or indeed in contradiction of what up to date evidence is available in the NLP Retail Study (March 2013), i.e. *“It may be necessary for the Council to review policy to avoid confusion relating to the status of the town centre and district centres”* (para 5.32).

The offending text should be deleted.

FM8 – OBJECT: The Proposed Modification is not supported. The policy text relates to proposed allocations. When CE3 was adopted (in 2008) its purpose was to guide allocations of land in the subsequent Site Allocations Document (adopted in 2010). Hence the text provides the basis for Site Allocations that followed the general designation of Strategic Employment Zones, the identification of land to accommodate 45,100m² gross of industry and warehousing space and the definition of specific Local Employment Zones in the Site Allocations DPD.

The Inspector also recognises that Policy CE3 *“is primarily concerned with allocations (employment zones)”* (para 2.8).

As there can be no further *“allocations”* made prior to the Full Review of the Local Plan (which the LDS confirms is proposed to include new or revised Site Allocations), there is no purpose remaining for Policy CE3. Removal of this policy and its text now is consistent with the fact *“that the allocations have not been reviewed”* in the Focused Review (see Inspector’s note at para 2.2). It and its text can thus simply be deleted. This will be *“effective”* and *“justified”* and help address the Inspector’s identified *“overlap between policies CE1, CE3 and DP5”* (para 2.1 of IED-06) and achieve a *“coherent set of sound changes”* (also Inspector’s para 2.1).

FM9 – OBJECT: Objection to parts of the proposed drafting.

The Inspector raises concern that the re-drafted DP5, providing greater flexibility in the range of acceptable uses with employment zones, should not create inconsistency with other policies (see his para 2.19 of IED-06).

The Council’s comments suggest that such conflict will not occur and as a

development management policy, sequential testing would still be applied. DP5 is not an allocation. However, any confusion can be removed by the insertion of “*subject to any necessary sequential testing (through Core Strategy Policy CE1)*” after “*will*” in the opening sentence of the policy.

The Modification adds text to try to address the Inspector’s uncertainty expressed at para 2.19 of his Note. The Council in their ‘Comments’ correctly distinguishes between Site Allocation policies and this Development Management policy explaining how two lists of uses have sat alongside each other since respective adoptions in 2010. However, in the proposed Modification wording they use the word ‘supersedes’ to diminish the role of the Site Allocation etc. text. It would be more appropriate and ‘effective’ to avoid consequential change to policy not before the FR and instead amend the Modification wording to ‘justify’ the purposes of the respective policies. Thus after “*and*” in line 3 of the ‘alternative’ wording to the new text add “*will be applied for development management purposes notwithstanding the more limited list of allocated uses identified*” (and delete “*supersedes the more restrictive list of uses suitable*”). This wording would then reflect that the ‘allocation lists’ date from 2010 implying change following the assessment of allocated employment land and local needs through the Full Review consistent with the approach in paragraph 20 of the NPPF.

The supporting text to DP5 could clarify this as suggested by the Inspector at his para 2.15. As Table CE1b is not proposed for review now and essentially only helped direct the Site Allocations, supporting text could also clarify how it is divorced from Policy DP5 and thus address the Inspector’s comment in his proposed text at the end of para 2.18 of his Note.

FM10 – OBJECT: Limited to parts of wording.

The words “*the Local Planning Authority is satisfied that*” is not only redundant in development plan policy, it is also potentially misleading, e.g. when the decision maker may not be the LPA. Policy text is not about ‘who’ determines a relevant test but about ‘what’ should be done.

There is also benefit in adding ‘social’ to the examples of benefits set out at (iii). Although they are examples, ‘social roles’ or benefits should not be given any less weight. Paragraph 7 of the NPPF does not distinguish between their importance.

FM11 - SUPPORT: We agree with the Inspector’s considerations (i.e. at para 2.21 of IED-06).

FM12 – SUPPORT: We agree with the Inspector’s considerations (i.e. at paras 2.22 and 2.23).

FM13 – SUPPORT: We agree with the Inspector’s considerations (i.e. at para 2.22).

FM14 – SUPPORT: We agree with the Inspector’s considerations (i.e. at para

2.24).

FM15 – SUPPORT: We agree with the Inspector's considerations (i.e. at para 3.7).

Continue on a separate sheet if necessary

Signature MRPP.Date 31/03/2014

I understand that my full response will be considered by Colchester Borough Council and the Planning Inspectorate in line with this consultation and that my comments will be made publicly available and identifiable to my name and/or organisation. The information in this form is, to the best of my knowledge, correct.

Thank you for completing this representation form. Your response will be sent to an Independent Examiner appointed by the Planning Inspectorate who will consider it as part of the Local Plan Focused Review Examination.

Representation forms should be returned before **12 noon on Monday 31 March 2014** to planning.policy@colchester.gov.uk, or alternatively via post to:

**Spatial Policy, Commercial Services, Colchester Borough Council,
FREEPOST RL5L-ZTSR-SGYA, Colchester, Essex, CO3 3WG.**

If you have any queries or questions about the post-hearings modifications consultation, or any aspect of the Local Plan Focused Review Examination please contact the Spatial Policy Team on 01206 282473 / 282476 / 282596 / 282480 or alternatively email planning.policy@colchester.gov.uk.

