

Colchester Local Plan Focussed Review – Examination

Inspector's Preliminary Comments – 8 November 2013

I have only undertaken some initial preparation, but I am making these preliminary comments to move the Examination along quickly. I hope that these comments will enable the Council to put in place the arrangements for the hearings and to undertake consultation on possible further changes which it would be helpful to undertake before the hearings.

1. Hearings

1.1 The hearings will commence on **Wednesday 8 January 2014**. I expect to have a roundtable session on changes relating to the centres and related retail matters (but see further comments below); on employment and possibly a very short session on the wording relating to S106 and CIL. Some further time may be required on other matters on which representors wish to be heard. At present I consider that 2 days should be sufficient.

1.2 By 21 November the Programme Officer will issue to all representors a draft hearings programme and a list of potential participants; my list of questions for pre-hearing statements; and some guidance notes for the progression of the Examination.

2. Scope of the Focussed Review

2.1 A number of representations consider that the scope of the review is too limited and that a full review of the plan should be made now. I make the following comments to indicate my current thinking and to explain how I intend to progress the Examination at present, but I appreciate that some parties may wish to be heard on this issue. I would ask those representors to reflect on the following comments.

2.2 As explained in paragraph 1.4-1.6 of the submitted document, this focussed review is the first part of a 2-stage process. The Council clearly intend to proceed with a full review to create a new local plan in due course and the current review covers only matters that can be addressed relatively straightforwardly in advance. What is said in the Focussed Review is consistent with the Council's Local Development Scheme 2013-2016 (SD15) which sets out the Council's programme of development plan work over that period.

2.3 NPPF paragraph 153 indicates that local plans *can be reviewed in whole or in part to respond flexibly to changing circumstances*. There is no basis for me to require the Council to undertake a full review now. In practice any such finding would be unlikely to achieve a full review much sooner than the Council already intend, given the work required. Requiring a full review now would mean the abandonment of the current focussed review and thus delay the implementation of some appropriate changes in response to the NPPF on which there is support in representations or little or no opposition.

2.4 I also note that several representations seek changes to other policies in the development plan not included within the Focussed Review. In my view, only the policies in the Focussed Review are before me for Examination and it is not my task to review other policies whether highlighted in representations or not. To do so would considerably extend the scope and length of the Examination and undermine the benefit of a focussed review to achieve some broadly agreed changes sooner rather than later. However, the necessary consequence of

adopting such a focussed approach to this Examination is that it must be made clear in the plan that I have not considered or endorsed any of the policies not within the pages of the Review.

2.5 This focussed approach is consistent with that recently adopted by my colleague in undertaking the Examination of the focussed review of Chelmsford City Council's Development Plan. That Inspector required a modification to the introduction of the plan to make clear what policies had not been considered at the Examination and my preliminary view is that a similar clarification is necessary in this plan. I would therefore invite the Council to include in any further pre-hearing consultation a possible change along the following lines:

When adopted these amended policies will replace the previous versions of these policies in the adopted Core Strategy (2008) and Development Policies (2010) Development Plan Documents 2008. All other policies will remain unchanged until a Full Review of the Local Development Framework is undertaken. The Examination of the Focused Review DPD (November 2013 - January 2014) did not include any testing of the unchanged policies for conformity with the NPPF.

2.6 The above wording is intended to reflect the expected position at adoption of the Review DPD. In part, this wording is similar to that suggested by the Council (2.4, CD3b), but for soundness it is not necessary to state that the Council consider that the unamended policies accord with NPPF etc. It will be for the Council to consider whether it wishes to make a statement along those lines as part of other changes it is able to make at adoption. But I would not include any such comments in any modification that I recommend.

2.7 Adopting the above approach, I will need to ensure that the whole of the policies included within the scope of the Review are consistent with NPPF, even though only a part of that policy is being changed. I will also need to ensure that a change to a policy included in the Review does not introduce a contradiction or inconsistency with other policies in the development plan. Where such a contradiction or inconsistency would be introduced, my preference will be to exclude from the Review the policy proposed to be changed rather than bringing within the Review additional policies.

3. Proposed Urban Gateway

3.1 The following comments relate to the proposed change to Table CE1a - additional Urban Gateway: *Northern gateway (Park and Ride)*. This appears to be the only locationally specific change which is made in the Focussed Review. I have a number of procedural concerns with this proposed change, irrespective of its soundness in planning terms.

3.2 The only change put forward in relation to this proposed additional urban gateway is the additional reference in Table CE1a. However, there are implications for other parts of the development plan to ensure consistency and clarity.

- The existing 3 Urban Gateways are referred to in policy CE2a both in general terms and by name. No change is proposed to this policy. The new urban gateway might not fit the description applying to the existing urban gateways, but it would be ambiguous not to refer to it either here or in policy CE2b if that more appropriately reflects its intended role.
- The existing Urban Gateways are shown with a specific symbol on the Key Diagram of the Core Strategy. No change has been proposed to the Key Diagram. Leaving it absent from the Key Diagram would be ambiguous.

3.3 Irrespective of the above, the location of the intended additional urban gateway does not seem clear. The proposed change refers to the Northern Gateway (Park and Ride). The Park and Ride site is on the northern side of the A12, but the Council indicates in CD3b, 12.4 that the intention is for the Gateway to be on the southern side of the A12. In my view, the position is ambiguous and would need to be clarified for effectiveness.

3.4 It is made clear in the Submission Document (1.4) that the revisions made in the Focussed Review do not include any amendments to the spatial strategy. However, my preliminary view is that designating an additional urban gateway, which is 2nd in the hierarchy of centres is a change to the spatial strategy. So there is an inconsistency of intentions. The Council will be aware of a number of representations seeking a wider review of the plan. My preliminary view is that a partial review along the lines proposed is acceptable and justified provided that its scope is clear-cut. The proposed urban gateway would seem to blur the scope of this review.

3.5 Finally, it is not a change which flows directly from any change in national policy as set out in the NPPF, which is the primary foundation for the changes being put forward.

3.6. Accordingly, for these procedural reasons I would invite the Council to propose to withdraw the proposed change to CE1a in relation to the northern gateway (and any related changes). This change would need to be included in the consultation. Subject to any further representations on the matter, I would not then need to consider the soundness of the proposal and it could be considered afresh in the forthcoming review of the Local Plan as a whole. If the Council does not see the logic of this approach then I would invite the Council to include in any pre-hearing consultation the withdrawal of the additional urban gateway as *a possible change suggested for procedural reasons by the Inspector*.

3.7 If, however, it is a change that the Council intend to pursue in this Review, then I would need to consider carefully the soundness of the proposal in the context of the role of urban gateways generally. This might make the Examination somewhat more complex than it would otherwise be.

4. Other possible changes already highlighted by the Council

4.1 In CD3b the Council indicates that, in response to representations it is agreeable to some further changes to the wording of changes in the focussed review. If I conclude that such changes are necessary for soundness then I could recommend such a change only if they had been the subject of appropriate consultation and I had taken into account the additional representations received. There is clearly an advantage in consulting on such possible further changes before the hearings as this will enable the changes to be fully discussed and for all parties with an interest to attend if they wish. It minimises the possibility of having to arrange further hearings.

4.2 Any change which amends the scope of a policy either by a change to the wording of the policy or by a change to the text as to how the policy will be applied should be included in the consultation. Matters which are minor, which are factual corrections (such as deleting reference to the PPGs and substituting references to the NPPF) do not need to be the subject of consultation. In addition to any modifications for soundness that I recommend in my report, the Council is, of course able to make additional modifications at adoption within the terms of the Regulations. I comment on some of the matters raised in CD3b below, but

the Council should consider including in any consultation any other possible changes it has suggested even if I have not referred to them, other than things which are obviously minor. In the Council's schedule of minor modifications (CD7), I suggest that Mod Nos 2 and 3 (concerning ER1) are included in the consultation given potential confusion on the matter because of drafting errors.

Policy CE2c Local Centres

4.3 The review includes the deletion of the last sentence of this policy which refers to local shops. In response to representations, the Council indicates (12.13, CD3b) that it would be agreeable to the deletion of the reference to local shops in Table CE1a and the last paragraph of p21. I am unclear as to which paragraph in which document is being referred to. The Council also indicates (18.2 CD3b) that it would be agreeable to the penultimate paragraph of policy DP7 being deleted as it is otherwise inconsistent with the deletion in CE2c. My preliminary view is that the currently proposed change to CE2c would introduce an inconsistency with the table in CE1a and with DP7 which would be unsound because it would undermine effectiveness. As indicated above, my preference is not to introduce additional policies into the Review and so the unsoundness would have to be removed by not making the change and excluding CE2c from the Review (this to be included in the consultation). If not, then changes to both the table in CE1a and DP7 would have to be included in the consultation instead.

H4 Affordable housing

4.4 In response to representations, the Council indicates (24.2, CD3b) that it would be minded to raise the threshold for rural areas from 3 to 5 units to ensure that the 20% requirement can be applied consistently and that this reflects the housing evidence base (ED17) which test 5 sites of 5 units. I agree that if the proportion is to be reduced to 20% then for effectiveness the policy should have a threshold of 5, thus avoiding debate at the application stage about contributions to part only of an affordable dwelling. In any case there is not the evidence to support a threshold of 3. Given that this is clear change to the scope of the policy I could only consider recommending it if had been the subject of appropriate consultation.

CE3 employment zones

4.5 In response to representations, the Council indicates that it would be willing to add *other appropriate uses* to the proposed change to this policy. My preliminary view is that to be consistent with the intended flexibility set out in the other changes, the word *commercial* should be deleted from the change since a wide range of commercial developments are already identified as being acceptable in employment zones and retaining this word is too restrictive.

5. Changes to retail policies

5.1 I have concern that the proposed changes to the retail policies (such as the changed text at the top of page 20 of the Review and the changes to policy CE2b) are likely to involve a wider consideration of the soundness of the retail hierarchy and stray into matters of spatial strategy which I consider should be avoided. At first glance, the changes to CE2b relating to thresholds for retail assessments are not consistent with the NPPF which applies such tests to out of centre locations only. I am unable at this stage to comment further on this matter, but invite the Council to consider whether it is necessary to pursue these changes at this time.

Simon Emerson
Inspector
8 November 2013