

Representations to Colchester Local Plan Post Hearing Modifications

Schroder UK Property Fund
Turner Rise Retail Park, Colchester
31 March 2014

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1 Introduction

- 1.1 These representations are made by Bidwells on behalf of Schroder UK Property Fund in relation to the Colchester Local Plan Focussed Review Post Hearing Modifications. The submission of these representations follows our previous representations to the Focussed Local Plan Review in relation to the retail and centres policies (CE1/CE1a and CE2b). These further representations are intended to supplement our previous submissions in relation to these policies by providing specific consideration to the Post Hearing Modifications in relation to these policies. In doing so, we have sought to respond only to those modifications of relevance to Schroeder UK Property Fund's Interests.
- 1.2 The Council's preferred approach to addressing the issues raised by the Inspector following the Hearings are addressed within Part 1 of the Modifications document (FM1-4). An alternative approach is set out within Part 2 of the consultation document (FM5-FM15).

2 Further Modification 1

- 2.1 Further Modification 1 (FM1) proposes the deletion of all of the employment, retail and centres policies from the Focussed Review. Whilst we understand the general concerns regarding the difficulties in achieving a consistent and unambiguous set of policies which lie behind this approach, we nonetheless consider that such an extreme approach is unnecessary and are also concerned regarding its implications.
- 2.2 We are particularly concerned that the deletion of all of these policies will result in a period of continued uncertainty where the Council's Local Plan is in conflict with the NPPF in a number of respects but with the Council continuing to argue otherwise. A timetable for the full review of the Local Plan has yet to be set out but, realistically, is likely to take a further 2-3 years to complete. On this basis, and given that this Review process needs to be concluded first, it is likely to be 2017 before the Council has an adopted Local Plan which is both up-to-date and consistent with the NPPF. It would therefore be 5 years after the publication of the NPPF before the Council had an up-to-date Local Plan consistent with Government policy.
- 2.3 It is considered that allowing such a situation to develop is itself contrary to Government policy within the NPPF. Paragraph 17 of the NPPF which sets out the Core Principles for planning highlights that planning should be "genuinely plan-led" with local plans setting out "a positive vision for the future of the area". It goes on to stress that "plans should be kept up-to-date" providing a "practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency."
- 2.4 Accordingly, Paragraph 213 of the NPPF therefore highlights that where Plans need to be revised to take account of the policies within the NPPF "this should be progressed as quickly as possible, either through a partial review or by preparing a new Plan".
- 2.5 The NPPF is therefore clear that local planning authorities should seek to update Plans as quickly as possible in order to provide certainty and predictability that will encourage investment and growth.
- 2.6 The deletion of all of the employment, retail and centres policies will only serve to provide continued uncertainty and ambiguity that could frustrate growth and investment. The Council's response to the Inspector's post hearing note makes it clear that the Council considers that the overall focus of its policies are consistent with the NPPF and that on this basis they will continue to argue that its policies remain as a valid basis for the determination of planning applications. This is despite the Council having previously decided that these policies were inconsistent in a number of respects with the NPPF such that they should be included in the Review and the Inspector also highlighting a number of areas of inconsistency both with the original policies and the Council's proposed amendments within the Draft Submission Document.

- 2.7 Having reviewed the proposed Further Modifications within Part 2 of the Consultation Document we consider that the various notations as to what has and has not been subject to review satisfactorily reduce the potential ambiguity. Moreover, the proposed Further Modifications address the main areas of inconsistency and that these, taken together with the associated notations, also ensure that any remaining inconsistencies that may exist are clarified in a way which enables interpretation. Any inconsistencies that remain must be balanced against the greater inconsistencies with the NPPF which would be perpetuated by the removal of all of these policies from the Focussed Review.
- 2.8 Moreover, such inconsistencies insofar as they may exist are generally related to Policy CE1 and DP5. It is considered that the proposed further modifications to Policy CE2b in accordance with Major Modification 15 (MAJ 15) and Major Modification 16 (MAJ 16) can be made independently from other changes and do not result in any inconsistencies or ambiguities with Policy CE1 whether or not policy CE1 is modified as proposed through Further Modification FM1.
- 2.9 It is considered that the proposed further modifications to Policy CE2b in accordance with MAJ 15 and MAJ16 can be seen in isolation and do not result in any inconsistencies or ambiguities with Policy CE1 (or CE3) whether or not policy CE1 is modified as proposed through Further Modification FM1. These changes in relation to the original policy wording relate to matters of detailed policy interpretation rather than the spatial strategy and are capable of being addressed independently without any further implications for other policies. They simply enable a more positive interpretation in accordance with the NPPF and removing references to local needs and competition.
- 2.10 As previously highlighted within our response to the Major Modifications consultation, Schroeder UK Property Fund considers that the changes proposed under MAJ 15 and MAJ 16 would make Policy CE2b sound. It is considered that the proposed modification would make the Policy consistent with National Policy in relation to town centres within paragraphs 23-27 of the National Planning Policy Framework (NPPF).
- 2.11 As such, we do not consider that the Council has considered all reasonable alternatives. No clear justification has been given as to why Policy CE2b cannot be amended independently and why it should be removed from the Focussed Review. As such, we do not consider that the Council has considered all reasonable alternatives.
- 2.12 For these reasons it is considered that the Council's preferred approach of removing all of the employment, retail and centre policies from the Focussed Review would be **unsound** in that it would be inconsistent with national policy within the NPPF and would not be justified as the most appropriate strategy considered against the reasonable alternatives set out within Option 2.

3 Further Modification 6

- 3.1 Further Modification 6 proposes the inclusion of additional text within the Plan to clarify that Table CE1a was not considered as part of the Focussed Review. Schroeder UK Property Fund considers that the changes proposed as part of FM6 help to clarify the extent to which elements of the Policy have been reviewed and may be considered to be fully consistent with the NPPF. As such they enable the Policy to be more clearly interpreted and are therefore considered to be **sound** and are supported.

4 Further Modification 7

- 4.1 Further Modification 7 proposes further amendments to the text on the top of page 20 in relation to the application of the sequential approach for town centre uses. Schroeder UK Property Fund considers that the changes proposed as part of FM7 address our previous concerns in relation to the text, both within the Draft Submission Document and within proposed Major Modification 14 (MAJ 14).

- 4.2 It is considered that the proposed modification would make the Policy consistent with National Policy in relation to town centres within paragraphs 23-27 of the National Planning Policy Framework (NPPF).
- 4.3 Moreover, we consider that the proposed Further Modification, taken together with the other proposed Further Modifications now proposed in Part 2 of the Modifications document in relation to the employment, retail and centres policies satisfactorily reduce the potential ambiguity and that they also ensure that the inconsistencies are clarified in a way which enables interpretation. Any inconsistencies this provides must be balanced against the greater inconsistencies with the NPPF which would be perpetuated by the removal of all of these policies from the Focussed Review.
- 4.4 As such Further Modification 7 is considered to be **sound** and is supported.

