

20638/A3/PT/PN

9<sup>th</sup> December 2013

**COLCHESTER LOCAL PLAN FOCUSED REVIEW: MODIFICATIONS CONSULTATION**  
**(NOVEMBER 2013)**  
**REPRESENTATIONS BY TOLLGATE PARTNERSHIP LIMITED**

**BACKGROUND**

1. We act on behalf of Tollgate Partnership Limited ("TPL") and have been instructed to submit representations in relation to the Colchester Local Plan Focused Review ("Local Plan") Modifications Consultation (November 2013).
2. This representation follows our earlier representation to the Issues and Options Consultation draft, dated 29<sup>th</sup> April 2013 and the Submission draft, dated 9<sup>th</sup> September 2013. This has also been prepared alongside TPL's Hearing Statement in advance of the January 2014 Local Plan Examination Hearing Sessions.
3. As explained in previous representations, TPL is an important stakeholder in Colchester, in particular within the wider Stanway area, and have been responsible for the delivery of considerable commercial investment in Tollgate. TPL will continue to perform an important development role within the area.
4. This current representation responds to the proposed modifications of the Local Plan Focused Review, following preliminary comments from the Inspector at the upcoming Examination in Public.
5. We confirm that that our comments continue to be made in accordance with the guidance set out in Paragraph 182 of NPPF which describes the 'tests' for examining Local Plans. Paragraph 182 identifies that Plans are to be assessed as to whether they have been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. To be considered sound, the NPPF states that a Local Plan should be: Positively prepared; Justified; Effective; and, most importantly in this instance, consistent with national policy.
6. Our client seeks to ensure that the Local Plan is progressed as sound in order to comply with national planning policy. The following comments are set against this background and the Local Plan's performance against the soundness tests as set out in the NPPF.

## REPRESENTATION

7. We continue to affirm that a full review of the Colchester Borough Development Plan is most appropriate and required as part of the Focussed Review process. As we have clearly stated in our previous representations, we consider that a review of the three adopted Development Plan Documents (DPDs), namely the Core Strategy, Development Policies DPD and Site Allocations DPD is essential in order to comply with national planning policy. As this process progresses towards Examination, we continue to question the Soundness of the current approach and the exclusion of the Site Allocations DPD and key policies in the other DPDs from this process.
8. The justification for the partial review process is considered to be fundamentally flawed. This has been discussed in our previous representations and in detail in our Hearing Statement (December 2013) submitted on behalf of TPL.
9. Notwithstanding the above comments and our consideration that a full review of the Development Plan is required to ensure the Soundness of the Local Plan as it progresses, we make the following comments to the proposed modifications of relevance.

### **MAJ1**

10. TPL welcomes the clarity that is provided in terms of the status of the Local Plan (and DPD's not reviewed) post-Examination. TPL do continue to **object** to the uncertainty that will arise as a result of some policies remaining unchanged and inconsistent with national policy (the NPPF) and changed policies in the Local Plan. We note that the proposed additional text clarifies that the review does *"not include any testing of the unchanged policies for conformity with the NPPF"*. TPL strongly object to this approach and add that these policies should have been tested alongside these other policies.

### **MAJ2**

11. This relates to and is replaced by the proposed text of MAJ1.

### **MAJ4**

12. We note that this modification proposes the removal of 'Local Shops' from the Centres Hierarchy (Table CE1a). Whilst this is not directly of relevance to TPL and their objection to the Review, the rest of the hierarchy is not looked at as this is considered to be too great an issue to be reviewed at this stage. For consistency, TPL continue to **object** and suggest that the Centres Hierarchy is looked at in its entirety at this stage.

### **MAJ7**

13. Similar to Modification MAJ4, this modification proposes changes to the retail hierarchy and the Edge of Centre tier of this. TPL continue to strongly **object** to the centres classification and hierarchy at Table CE1a. As highlighted in our previous representations, Table CE1a continues to identify 'Edge of Centre

Locations' as a 'Centre Type' within the defined retail hierarchy. This is not consistent with the requirements of paragraph 23 of the NPPF or the definition of 'Town Centre' / 'Edge of Centre' in the glossary at Annex 2 of the NPPF. Although the current draft Local Plan expands this to 'Edge of Centre and other Accessible Locations' this still does not comply with the NPPF 'Centre Type' definition.

#### **MAJ8**

14. This modification relates to Policy CE3 and the role of Employment Zones and appropriate land uses therein. TPL **supports** the changes that have been made previously and the recent modification that proposes the wording 'appropriate alternative uses' (MAJ8). This is considered to be consistent with NPPF paragraph 22 (and Policy CE1 as amended). TPL also support the clarification that is provided by the proposed entry of 'Economic Development' in the Glossary of terms (MIN13).

#### **MAJ14**

15. TPL continue to **object** to the proposed modifications at MAJ14. This is not consistent with national policy insofar as there are two clear areas of conflict. Firstly, Main Town Centre Uses should be located in Town Centres (including District Centres) and not just 'the Town Centre' as is proposed. Secondly, NPPF paragraph 24 looks to Edge and Out of Centre sites together where no sites are available in Town Centres. The proposed amended wording continues to give unprecedented support to sites on the edge of Colchester Town Centre above development within other defined centres, an approach that is not consistent with national policy.

#### **MAJ16**

16. TPL **supports** the deletions at MAJ16 as these do make this element of Policy CE2b consistent with NPPF, paragraph 26. Being dealt with in any other way, in the absence of any justification (which CBC has not presented) is not considered to be Sound and therefore the changes are necessary and welcomed by TPL.
17. On the basis that in order for the emerging Local Plan to be consistent with national policy, we recommend that the following changes are considered as the Local Plan progresses.

### **Recommended Changes to the Local Plan Focused Review: Issues and Options Consultation**

18. For the reasons set out above, we continue propose the following changes:
  - That the complete Development Plan, including all policies in the Core Strategy and the Development Policies DPD and the Site Allocations DPD, is considered for review.
  - That Policy CE1 is amended to remove 'Edge of Centre and other Accessible Locations' from the centres hierarchy as this is not consistent with the definition of 'Town Centres' / 'Edge of Centre' in the glossary at Annex 2 of the NPPF.
  - That the supporting text to Policy CE1 is revised to correctly apply the sequential approach in the consideration of sites within Urban District Centres to be consistent with the NPPF (paragraph 24).

- That Policy CE2b is amended to be consistent with paragraphs 26 and 27 of the NPPF. This includes treating retail proposals within Urban District Centres consistent with their 'in centre' location.

19. As explained above, TPL have prepared a Hearing Statement for the January 2014 Examination Hearings. This Statement contains further information regarding the general approach to the Local Plan Focussed Review and individual policies therein. TPL reserve the right to make further 'recommended changes' as the Local Plan Focused Review is progressed as part of the Examination and receipt of other parties' Hearing Statements.

**BARTON WILLMORE LLP, 9<sup>th</sup> December 2013**