

20638/A3/AI/PN

13<sup>th</sup> September 2016

## **COLCHESTER LOCAL PLAN – PREFERRED OPTIONS CONSULTATION REPRESENTATIONS BY THE TOLLGATE PARTNERSHIP LTD**

### **Introduction & Background**

1. We act on behalf of The Tollgate Partnership Ltd (“TPL”) and have been instructed to submit representations in relation to the emerging Colchester Local Plan – Preferred Options Consultation Document (“the Plan”).
2. TPL is a key stakeholder and investor in Colchester and specifically Stanway and therefore welcomes the opportunity to input into the evolution of the Plan.
3. Having reviewed the Plan we are concerned that, as currently drafted the Plan:
  - is not robust;
  - is not based on a meaningful and up-to-date evidence base;
  - is inconsistent with the NPPF and the supporting PPG; and
  - is inconsistent with itself in many places.
4. Rather than identify all detailed matters, our objection focus on three key issues, namely the:
  - robustness of the evidence base;
  - the employment policies; and
  - the retail policies
5. Against this background, we set out our comments on the emerging Plan below.

### **Representations**

#### **Part 1**

##### *Plan Period / Evidence Base*

6. We note that the proposed Plan period is 2016 to 2033. There is however some confusion as paragraph 1.2 refers to the Plan covering the period ‘beyond’ 2033. This should be clarified.
7. It is also important to note that two key evidence base documents, namely the Council’s Retail

and Town Centre Uses Study (NLP, March 2013) and Employment Land Needs Assessment (NLP, January 2015), only cover the period to 2026 and 2032 respectively. Whilst we note the intention to update the evidence base, these documents are not specifically referred to. This should be clarified.

8. As a result, the evidence base documents and the resultant position will need to be updated.

#### *Policy SP3 – Providing for Employment*

9. The Policy sets out a requirement for 55.8ha of employment land in Colchester over the Plan period to 2033. This is based on Scenario 3 (Higher Past Completion Rates) as set out in Table 7.2 of the Employment Land Needs Assessment. In its Assessment, NLP recognise that Scenario 3, as well as Scenario 2 (Past Completion Rates) are less robust as they relate to the inclusion / exclusion of one single firm's relocation within the Borough (paragraph 7.8).
10. Scenario 1 (Baseline Job Growth) shows a requirement for B Class space of 29.8ha, whereas Scenario 4 (Labour Supply) shows a requirement of 22ha. Based on the available employment space of 76.9ha set out in the Assessment, these would result in a surplus of B Class land of between 47.1ha and 54.9ha.
11. At the recent Stane Park Inquiry (CBC refs: 146486 and 150945), in allowing the Appeals the Inspector found that the Council has a 65 year supply of employment land (which was agreed by CBC) and recognised that the Assessment identifies a requirement of between 22ha to 29.8ha of land to 2032 (i.e. Scenarios 4 and 1 set out above). It is therefore clear that there is no justification for adopting the higher employment land requirement. We comment on individual allocations in more detail below.
12. No justification has been provided by the Council for adopting its current approach and discounting the more robust scenarios.
13. On the basis of the above, we therefore object to overall quantum of B Class land identified for Colchester as this is not justified against the evidence base. We recommend that this is reviewed, including an update to ensure needs cover the Plan period and reflect the findings of the robust scenarios in its evidence base and the recent Stane Park appeal decision.

## **Part 2**

#### *Policy SG3 – Economic Growth Provision and Centre Hierarchy*

14. The Policy sets out the requirement for at least 55.2ha of B Class Land up to 2033. For the reasons set out above, this is not considered sound.
15. Supporting Table SG3 allocates 21.4ha of land for 'primarily' B Class Use at Stanway Strategic Economic Area. This is the highest individual SEA allocation. Such an approach is at odds with the Employment Land Needs Assessment which recognises that Stanway:
  - Currently lacks critical mass as an employment location and market appeal appears

limited. The area accommodates more than a third (35% / 26.8ha) of available employment land, although it seems unlikely that the full scale of provision would be required to meet business needs over the plan period. Sites with the greatest prospect of coming forward for employment development in the future – notably Stane Park – should provide the focus for continued allocation.

- Employment development has been slow to come forward and it lacks any significant critical mass and does not have a strong profile as a key Colchester business location, particularly in the face of strong competition / established sites elsewhere such as Colchester Business Park (para 8.46).
- In light of the surplus of employment land it would be difficult to justify retaining the full extent of undeveloped allocations from both a quantitative and qualitative market perspective (para 8.48).

16. We do not therefore consider that there is justification for the allocation of 21.4ha of land at Stanway, particularly in the context of the overall requirement for between 22-29.8ha set out in the employment evidence base.

17. The Policy then sets out a Centre Hierarchy, but has removed all of the existing Urban District Centres in Colchester from the hierarchy. There is no justification for this approach and it would not accord with NPPF paragraph 23 which requires LPAs to define a network and hierarchy of centres, that is resilient to anticipated future economic changes. In undertaken this approach, the Plan would offer no policy protection to existing retail facilities in these locations, which would otherwise be the case.

18. We therefore object to the Policy on this basis as it is not consistent with the NPPF, is not justified and cannot be considered sound.

#### *Policy TC1 – Town Centre Policy and Hierarchy*

19. We support the proposed threshold of 2,500 sq m for undertaking a retail impact assessment. It is however unclear why a retail impact assessment would be required for proposals in District and Local Centres (which we assume relates those outside centre of the Colchester urban area), as this is not consistent with the NPPF.

#### *Policy TC2 – Retail Frontages*

20. Policy TC2 refers to the Town Centre Primary Shopping Area. However, the Proposals Map Key does not identify a Primary Shopping Area, but does show a Town Centre Main Shopping Area. It is unclear if they are intended to be the same, but for the avoidance of doubt the Key should be updated to refer to the Primary Shopping Area.

#### *Policy TC3 – Town Centre Allocations*

21. The Policy sets out the need for 36,730 sq m net (i.e. sales) additional comparison goods floorspace over the period to 2026, derived from the 2013 Retail Study. It refers to evidence being updated to inform specific allocations, but it is unclear whether this will comprise a new Retail Study. In the absence of an up to date evidence base to cover the Plan period, the Policy cannot be found sound.

22. Notwithstanding this, the Policy allocates Town Centre sites for development (St Botolphs, Vineyard Gate, Priory Walk) although does not specify the quantum of retail floorspace they could accommodate. NPPF paragraph 23 requires needs to be met in full and Plans should identify and allocate sites in accordance with the sequential approach, in order to meet this need.
23. The Retail Study figure of 36,730 sq m net, excluding 9,000 sq m net at Vineyard Gate referred to in the Study, would still leave circa 28,000 sq m net floorspace. It should be recognised that Vineyard Gate has been identified for over 15 years and is still yet to come forward.
24. The Plan does not set out how this quantum of floorspace can be accommodated on the remaining sites and we do not consider that the remaining Town Centre sites referred to are capable of accommodating this level of need. Therefore, the Council is required to undertake sequential assessment to assess sites in edge and then out of centre locations in order to meet identified needs in full. No such assessment has been undertaken. It should be recognised here that the Retail Study sets out that if longer term comparison goods growth (beyond 2016) cannot be accommodated in the Town Centre, the Council should consider the potential to expand Urban District Centres or the provision of new shopping destinations in the urban area.
25. The sequential assessment should include existing Urban District Centre sites (noting that the removal of such Centres from the hierarchy is considered to be unsound). This would include land north and south of Tollgate West (also known as Tollgate Village) and which is a part-in / part edge-of-centre location to the existing Tollgate District Centre and could contribute to meeting identified needs.
26. On the basis of the above, the Policy is not sound as it not positively prepared, is not justified against the evidence base, and not consistent with the NPPF.

*Policy NC1 – North Colchester and Severalls Strategic Economic Area*

27. We are concerned that the Policy seeks to allocate land at Zone 2 for new leisure floorspace, with reference to the 2006 planning permission. It should be recognised that the permitted Class D2 leisure component of that scheme has been delivered by way of the new David Lloyd health and fitness centre. The permission does not allow any other Class D2 leisure floorspace and therefore cannot be used to justify other D2 class uses in this location.
28. As with the Town Centre retail floorspace set out above, a sequential assessment is required under NPPF paragraph 23 for leisure uses. This should assess in Centre, then edge of Centre and finally out-of-centre locations. No such assessment has been undertaken and the allocation for leisure use cannot be considered sound on this basis. Land north and south of Tollgate West, Stanway represents a sequentially preferable location (in relation to the existing Tollgate District Centre) for such use against the terms of the NPPF.
29. Therefore, on the basis of the above, the Policy is not sound as it not justified and not consistent with the NPPF. The reference to leisure use in this location should be removed and sequentially preferable sites / locations assessed in order to accommodate such use.

## *Policy WC1 – Stanway Strategic Economic Area*

### Zone 1

30. We object to the identification of land north and south of Tollgate West for B Class employment use in Zone 1. It is clear from the Council's Employment Land Needs Assessment, as detailed above, that there is a substantial oversupply of employment land in the Borough and that land at Stanway is appropriate for release.
31. The Assessment shows that this land (Sites 9 and 10 in the Assessment) have a total score (against various assessment criteria), of 20. Higher rated sites have available / undeveloped land of circa 51ha, which is clearly more than sufficient to meet the needs under Scenarios 1 and 4 of the Assessment and would still leave a substantial oversupply. There is no justification set out in the Plan or evidence base for the allocation of this land for B Class purposes. It is clearly not required to meet the identified need for future B Class Land as set out in the Assessment.
32. Further, the criteria based approach in the Policy does not allow for flexibility against the terms of NPPF paragraph 22, which seeks to avoid the long term protection of employment sites, where they are no longer needed for that purpose.
33. Notwithstanding the above, the Policy also refers to Main Town Centre uses not being permitted in Zone 1. This would preclude B Class offices and therefore appears to be at odds with itself.

### Zone 2

34. This comprises land currently identified in the adopted Development Plan as Tollgate Urban District Centre. We hereby object to the proposed removal of this designation as it is not justified and not consistent with the NPPF. It is unclear how the Plan intends to 'safeguard' this area in the absence of a Centre designation which would otherwise afford policy protection from competing development. The only justification appears to be the reference (para 6.67) to this and other former District Centres no longer meeting the 'commonly understood definition of a district centre'. We can find no evidence in the Plan as to what this 'commonly understood' definition is and have serious concerns with the Council's approach on this basis. If there is such a definition, it is unclear what has changed in the Centre since the current Development Plan was adopted and allocated the existing District Centre.
35. Notwithstanding the above, the reference to a sequential and retail impact assessment in such locations is not consistent with NPPF paragraphs 24, 26 and 27. This equally applies to Policy SP5.
36. For the sequential test, the Policy suggests this relates to sites 'closer' to the Town Centre. This is not consistent with NPPF paragraph 24 which requires town centre, followed by edge, then out-of-centre locations. It states that for edge and out of centre sites, preference should be given to accessible sites, well connected to the centre. In relation to impact, the NPPF clearly sets out that the 'test' is whether proposals for retail development outside of centres would be likely to have a 'significant adverse impact' on Centres against the paragraph 26 criteria. The

proposed policy wording, referring only to 'adversely', is not consistent with the NPPF.

37. As it stands we do not consider that the Policy is sound as it is neither justified nor consistent with the NPPF.
38. Arising from the above, and for the reasons set out at paragraphs 22 and 25 above, land north and south of Tollgate West should be identified for leisure and retail use, in order that the Plan can meet identified needs in the next most sequentially preferable location after the Town Centre.

### **Summary & Recommendations**

39. Arising from the above and in order to be found sound, the Plan should be amended as follows:
- Evidence base documents will need to be updated to assess needs for retail and B Class use over the plan period to 2033. The Plan will then need to be updated accordingly.
  - There is a substantial oversupply of employment land in the Borough and the Plan should be updated to refer to the most robust scenarios for B Class requirements, as set out in its evidence base. There is no evidence based justification for the allocation of land north and south of Tollgate West for B Class Use in Policy WC1.
  - The Plan has not established how identified comparison goods needs can be met in full. It is clear that identified Town Centre sites cannot meet the identified need for additional comparison goods floorspace and a sequential assessment of edge and out of centre sites has not been undertaken. It is therefore not consistent with NPPF paragraph 23. Land north and south of Tollgate West represents the next most sequentially preferable location for such use and should be allocated accordingly.
  - There is no justification for the de-allocation of existing Urban District Centres in Colchester, and this approach is not consistent with NPPF paragraph 23 which requires LPA's to identify a network and hierarchy of centres. This includes the former Tollgate District Centre which should be identified as such in Policy WC1.
  - The sequential and impact tests at Policy WC1 and SP5 are not consistent with the NPPF.
  - There is no justification for allocating land at north Colchester for leisure use. Land north and south of Tollgate West represents a sequentially preferable location.
40. We trust that these representations will be taken into account and would welcome the opportunity to discuss them with the Council in more detail.

### **BARTON WILLMORE LLP**