

MRPP

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HEARING STATEMENT

**NORTH ESSEX AUTHORITIES
JOINT STRATEGIC (SECTION 1)
PLAN**

MATTERS 1,2,4 AND 7

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ANNEX

A. Review of NLP Requirement for Colchester

1. MATTER ONE: Vision for the Strategic Area: Inspector's Questions 9 and 10

- 1.1 The setting of a coherent Vision together with its attendant aspirations to achieve sustainable development are the fundamental starting point to a Local Plan making process. (see for example text at paragraphs 150 – 151 of the NPPF).
- 1.2 Without a readily comprehensible and complete Vision that is signed up to by the respective authorities, there is a real risk that the development of strategic and other policies then become the default starting point of such plan making. It is for the Local Planning Authority to determine the nature of that their Vision and how it should be expressed and to then work with officers in terms of subsequent policy formulation. A weak, partial or unclear Vision will inevitably lead to uncertainty as to the authority's purpose in developing and drafting other policies. A clear Vision can thus not only assist policy formulation but can become particularly helpful in the later interpretation of adopted policies in development management decisions.
- 1.3 Whilst the explanation to the Vision recognises constraints in many of the urban areas, the main towns are projected to accommodate 13,000 new homes (see the Colchester version of the document at its paragraphs 3.3,3.4 and 3.5) the smaller settlements a further circa 5,700 and the garden communities "*at least 7,500 additional homes*".
- 1.4 Thus, whilst the garden communities contribute less than 30% of the projected total, and whilst it is appropriate for the plan to set out in its Vision how they will be delivered, operated and what they will provide, there is a lack of Visioning for the remaining urban areas, where not only the vast majority of residents will continue to live, businesses operate, and the retail and leisure facilities serve them.

- 1.5 Indeed, Policy SP2 starts by explain that “*Existing settlements will be the principal focus for additional growth...*” and continues to explain how this will be accommodated, but there is nothing in the Vision that serves to guide the desired outcome other than that sustainable development principles will be at its core.
- 1.6 Without a justified and effective Vision to guide the growth of these critical urban areas, the plan making process cannot be considered sound.
- 1.7 The authorities must urgently address this fundamental deficiency at the very heart of their plan. It would be presumptuous for an objector to draft such important content notwithstanding that the Vision needs to provide an understanding as to what the area is expected to look like how the issues that are subsequently raised in the Strategic Objectives are cast and the kind of matters referred to at Question 10.

2. MATTER TWO: Policies SP1 and SP6

Question 1

- 2.1 The drafting of policy SP1 is not consistent with the NPPF and is ineffective. This is notwithstanding the reasoned justification explaining that it is “*in accordance*” with the NPPF. The wording has been markedly devalued and is inconsistent with national policy.
- 2.2 Paragraph 186 of the NPPF asks that Local Planning Authorities “*should approach decision-taking in a positive way to foster the delivery of sustainable development*”. Yet policy SP1 refers to “*considering development proposals*” – a rather looser term than the key act of “*decision-taking*” which is the heading to all of paragraphs 186 - 207 of the NPPF.
- 2.3 The two sentences in paragraph 187 have been joined together in a confusing manner and have become ineffective as a result of their consequential noncompliance. The NPPF’s text at paragraphs 186 and 187 are aimed solely at the Local Planning Authority. In terms of their task, whilst they are told to “*work positively with applicants*”. This message is lost when translated into the Authorities’ version at SP1 which has become “*jointly to find solutions*” notwithstanding the onus being a singular one on the Local Planning Authority to “*look for solutions rather than problems*”.
- 2.4 There is no justification for the amendments to paragraphs 186 and 187 as has been undertaken. It weakens the resolve put by the NPPF and is thus inconsistent and ineffective.
- 2.5 The redrafting and additions made to paragraph 14 in its use within policy SP1 is also unjustified. We are very concerned about the reference to “*in this regard*” in the second sentence of the policy’s paragraph 2. We return to this in our response to Question 2 to which that phrase relates.

- 2.6 The fundamental criteria at the end of paragraph 14 of the NPPF have been obfuscated in the Authorities' drafting. The NPPF is clear that the relevant criteria are "gateway" criteria with the use of the word "unless" applied to each. Thus, the need to consider whether in granting planning permission any "adverse impacts...would significantly and demonstrably outweigh the benefits...". The Authorities' wording "taking into account whether" fails to apply the necessary 'gateway' language. It is therefore, inconsistent with National Policy, unjustified and will be ineffective in decision-taking.
- 2.7 The final gateway criterion relating to the 'specific policies' is well understood. These are policies that are intended to prevent significant spatial planning effects. Whilst examination of related or relevant development plan policies are expected to form part of the relevant decision-taking, that cannot extend to every other Local Plan Policy that might be seen as restraining development. Lord Carnwath's Supreme Court Judgment in Suffolk Coastal v Hopkins Homes (10th May 2017) makes this clear in that "...the list is to be read as including the relevant development plan policies..." at paragraph 14. Thus, to make the text of policy SP1 justified and effective, the wording should be amended to something like, "...specific policies in the framework of the type set out at its footnote nine including related Plan policies that indicate...".

Question 2

- 2.8 In in respect of the first sentence of paragraph two of policy SP1 the Courts now expect that "sustainable development" will be development that meets the test set out at paragraph 14. Such development will "accord" with the development plan or that any impacts of granting planning permission would significantly and demonstrably outweigh the benefits when looked at across the whole of the NPPF and the development plan.
- 2.9 It is therefore, wholly inappropriate to require that "sustainable development" is limited only to that which will specifically and demonstrably contribute to the

strategic and local Vision(s) and objective(s), since these cannot (and are not) all embracing statements of every conceivable form of proposal, and drafted as such, would thus be ineffective.

- 2.10 In addition, “*sustainable development*” cannot be limited to that which “...*accords with the policies of the Plan*”, since the whole purpose of paragraph 14 and of what should be stated in policy SP1 is to address alternative scenarios where policies may not exist or be out of date.

Questions 4 and 6

- 2.11 These matters were addressed in our Representations to policy SP6 in respect of the inappropriate (inconsistent with the NPPF) use of the superlative and related inconsistency across the whole Plan.

Question 7

- 2.12 There are many forms of development where the “*principles*” set out in policy SP6 will be irrelevant or perhaps only marginally relevant. It would therefore be ineffective for decision-taking to apply this policy as it stands.
- 2.13 In order to make it positively prepared, the text should refer to development “*having regard to relevant listed principles in determining planning applications*”.

3. MATTER FOUR: Providing for Employment (Policy SP4)

Question 1

- 3.1 We have focused our response to this and subsequent questions primarily on our knowledge of Colchester but the principles contained within many of our responses should have general application to the part one Plan.
- 3.2 The Plan indicates that Colchester will have a higher requirement than the other Districts. The evidence based relied upon for the Colchester requirement is a Study by NLP (January 2015) *“Colchester Employment Land Needs Assessment”*. The Study considered three approaches to projection requirements and developed four specific scenarios.
- 3.3 We attach a paper at Annex A that reviews NLP’s work focusing in particular on adjustments they make in creating a *“safety margin”* and then an *“allowance”* that re-provides new employment land to compensate for losses. Our assessment of the evidence base is that these adjustments are overstated. It is also important to recognise that NLP conclude that the higher growth scenario (they refer to it as the *“higher past take-up scenario”*) provides *“...a less robust basis for understanding objectively assessed need arising from economic growth as past take-up rates have been very sensitive to the inclusion of a significant ‘one-off’ loss of industrial space...”* (paragraph 6.75).
- 3.4 In contrast they recognise that the scenarios based upon job growth and labour supply are *“...based on the most up-to-date demographic and macroeconomic assumptions and therefore provide the most objective assessment of needs”*. They helpfully add that *“Within the context of the NPPF requirement to plan positively for growth, the Council should plan to accommodate at least the 2012 SNPP based labour supply based requirement to ensure that the Borough’s indigenous growth potential (i.e. arising from its resident workforce) is not constrained by lack of spatial capacity in the future”*. (paragraph 6.76). It is the

Labour Supply forecast that is used in policy SP4 described perhaps inappropriately, as the “*baseline*” scenario.

- 3.5 It is also important to identify constituent parts of the requirement. Table 6.13 of the NLP Study explains that 15.4 hectares of the 22.0 hectare requirement in Colchester arises from the need to accommodate B1a/B1b office type floorspace jobs with only 6.6 hectares attributed to jobs in industrial and warehousing floorspace (B1c/B2/B8).
- 3.6 Therefore, whilst the evidence base in respect of Colchester provides a justification for Employment Land requirement, this is based upon the author’s preferred use of the so called “*baseline*” or Labour Supply projection. This must be considered an absolute worse case scenario in terms of the quantum derived bearing in mind the identified generous assumptions that our worked Annexed to this document, has found.

Question 2

- 3.7 Yes, to the extent that the Labour supply (baseline) requirement is used. In respect of the NLP (Colchester) evidence base, NLP confirm that the Labour supply approach is based on “...*the most up-to-date demographic and macroeconomic assumptions and therefore provide the most objective assessment of needs*” (paragraph 6.76).
- 3.8 We are not commenting on the methodology adopted to assess the housing requirement.

Question 3

- 3.9 Yes, we understand that, in respect of the University of Essex’s influence on Colchester that this has implicitly been taken into account bearing in mind the historic University science park land allocation that has enabled development to come forward and serve local employment requirements. This land allocation is (other than jobs the University’s in education) the most significant University job related matter and will continue to be relevant.

Question 4

- 3.10 No, our review of the Colchester evidence base comes to the firm view that there should not be a higher (than the Labour Supply) scenario provided. The Council's own evidence base confirms that the Higher Past Completion Rate (or Higher Growth) scenario is unrealistic and to adopt it whether as part of a range or otherwise would be to wholly distort the Employment Land market across the area with the unfortunate effects of overprovision and sterilisation of land that might otherwise be usefully developed. We have provided relevant references within the NLP Study that indicate that the approach using past take-up rates is not robust.
- 3.11 It would be wholly inappropriate to regard the figures relating to land requirement to be seen as a range. They are merely what they are, two different scenarios using different forms of projections and assumptions that have arrived at different figures about which the relevant evidence base author has expressed firm opinions. They are not a range in the traditional sense of specific assumptions being applied as to one or more factors within a projection. These are wholly different projections.

Question 5

- 3.12 It is important in considering this issue to understand the substantial supply side provision that Colchester, in particular, benefits from. The plan does not therefore start from some kind of base position where a requirement is set and a new matching supply needs to be found. Colchester has had at its disposal over many years a level of supply that has been many times greater than the forecast requirement. Table 4.3 of NLP's (May 2017) Colchester Employment Land Supply Delivery Trajectory – Final Report demonstrates that with regard to the Labour supply requirement (i.e. the baseline scenario) there is a substantial excess of supply across all kinds of B Class users.
- 3.13 It is for part two of the Plan to consider the local supply side issues and the extent to which local allocations should or should not.

Question 6

- 3.14 No, particularly with respect to Colchester. The evidence base relating to supply indicates that it would not be necessary to make strategic level allocations.

Question 7

- 3.15 Yes, SP4 should be more specific in terms of distinguishing the requirement for office type floorspace (B1a/B1b) and industrial/warehousing space. Table 6.13 of the NLP 2015 Report helpfully indicates that of the 22 hectares of requirement there is only 6.6 hectares attributable to jobs in the industrial/warehousing sector with a significant 15.4 hectares derived from office type employment requirements. That is 70% of the requirement. This has important spatial planning outcomes in that offices are a “*main town centre use*” which in terms of national and local policy should be located through the sequential test with a preference for town centre locations. It is therefore important that this distinction is set in the part one policy document.

Question 8

- 3.16 The Plan should set out the objectively assessed needs for all kinds of development including for retail purposes. See, for example the sixth bullet point of paragraph 23 of the NPPF. This states that needs for “*retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability*”. However, with the recent grant of planning permission (by the Secretary of State) for a major town centre type (open A1) retail destination at Tollgate, there is unlikely to be any other strategic, cross boundary, retail requirement in at least the short to medium term. More local e.g. DIY, bulky goods and supermarket requirements can be assessed through the part two planning process, or otherwise.

Question 9

- 3.17 Yes, the policy could be more clearly focused with some of the more explanatory material relocated as explanatory text. However, the reasoned

justification (with that policy text relocated), is still substantially deficient in 'telling the story' of how the requirement has been assessed, matters that have been taken into account in fine tuning it and the significance in terms of specific B Class sub-sectors in the figures quoted.

- 3.18 Indeed, there is a considerable amount of evidence that is available to support the policy which could be beneficially explained in the justifying text.

4. MATTERS SEVEN: Policy SP2

Question 5

- 4.1 Our representations raise the concern about, for example paragraph 1.38 (Tendring) referring to *“the countryside will be protected...”*. The correct approach is to identify specific reasons why land needs to be protected. In the Tendring version of the Plan this seems to appear at paragraph 1.23. Consistent with that is the identification of particular locations between main settlements where the prevention of coalescence might be desirable. However, that is different from a blanket approach to the protection of countryside outside an urban area.

ANNEX A

Review of NLP Requirement for Colchester

Colchester Council have been provided with an Employment Land Needs Assessment (January 2015).¹ In terms of future requirements for employment space, the Study considered three approaches that developed four scenarios. These related to:

1. Projections of employment growth in the main B Class sectors (job growth)
2. Consideration of past trends in completions of employment space (this also considered an alternative higher past trend by stripping out a significant one off development),² and
3. Growth in local labour supply.

At the end of NLP's assessment of future requirements to 2032 they find that:

“the two growth scenarios implied by the SNPP labour supply and EEFM job growth approaches are based on the most up-to-date demographic and macroeconomic assumptions and therefore provide the most objective assessment of needs. Within the context of the NPPF requirement to plan positively for growth, the Council should plan to accommodate at least the 2012 SNPP based labour supply based requirement (scenario 4), to ensure that the Borough's indigenous growth potential (i.e. arising from its resident workforce) is not constrained by lack of spatial capacity in future”.

“At the same time, the Council should consider planning to accommodate the higher requirement arising from the baseline EEFM job growth scenario. The annual job growth implied by this scenario would exceed the level of employment growth recorded by the borough

¹ Colchester Employment Land Needs Assessment (Nathanial Litchfield & Partners, January 2015).

² The relocation of Fläkt Woods within Colchester.

in the recent past, and would therefore provide the opportunity for Colchester to readdress the balance between population and employment growth going forward. The industrial land requirement associated with the baseline EEFM approach (11.3ha) would also appear to better reflect local market signals which point to the relative strength of the industrial market as well as a tightening supply of existing stock”.³

It is helpful to set out the floorspace requirements generated by the two favoured scenarios.

Table 1: NLP Floorspace Requirements: Preferred Scenarios (before adjustments)

| | Net Employment Floorspace Required (m ²) | | | |
|------------------------|--|---------|---------------|---------|
| | Job Growth | | Labour Supply | |
| Offices (B1a/B1b) | 94,480 | | 76,000 | |
| Manufacturing (B1c/B2) | -18,090 | - 9,660 | -25,710 | -28,440 |
| Distribution (B8) | 8,430 | | -2,730 | |
| Total B Class | 84,820 | | 47,560 | |

Adjustments to the 2015 Evidence

It is immediately apparent that the B1c/B2 floorspace requirement in both favoured scenarios is for a negative quantum and that for B8 either negative or modest. These predictions of negative requirements are, however, then adjusted to reduce their scale on the basis that *“where a reduction in jobs is forecast (e.g. manufacturing), the associated negative floorspace was halved. This reflects that while there may be ongoing manufacturing job losses (e.g. as firms use more efficient production approaches), it does not automatically follow that all of the existing employment is lost”*.⁴ However, whilst the reasoning given may be questionable, it at least

³ At paragraphs 6.76 and 6.77.

⁴ See paragraph 6.24.

acknowledges the existence of overall job losses, associated effects on floorspace in use and the resulting impact on overall future requirements. This was an issue that the Atkins Study (2007) chose to ignore in its conclusions on land requirements despite having evidence. We accept a factor should be applied to losses to reflect that only some vacated land will be recirculated for employment purposes.

However, there are two further assumptions that NLP then apply to these results which are wholly without rational justification. Firstly, NLP argue that it is normal to add an allowance to reflect a “*safety margin*” i.e. for factors such as delays in sites coming forward for development. In this regard, they argue that “*in a location like Colchester with a relatively unconstrained land supply, but also development pressure from other higher value uses, there is a need to ensure a reasonable but not over-generous additional allowance that provides for some flexibility but avoids over-provision of land. However, it also needs to reflect that there may be potential delays in some of the borough’s development sites coming forward for development*”.⁵ Thus they add an allowance that is equivalent to the average time for a site to gain permission and be developed, i.e. typically about two years.

But there is no logic in adding such a margin. In assessing allocation needs (i.e. for a Development Plan) land should only be allocated where it is available. Plans should be deliverable and therefore should not identify land which would have problems coming forward. Land that is designated ought to be viable and deliverable.⁶ There is therefore no risk of a shortfall of land and certainly not one that requires an allowance for delays in ‘sites coming forward for development’, arguably such land should not be ‘identified in a plan’.

Secondly, NLP provide an ‘allowance’ in converting the net requirement of employment space into a gross requirement. They say that “*an allowance is also typically made for some replacement of losses of existing employment space that may*

⁵ Paragraph 6.44 and 6.45.

⁶ See for instance paragraph 173 NPPF.

be developed for other, non B Class Uses. This allowance ensures that sufficient space is re-provided to account for employment space that is anticipated to be lost in future and provides some protection against continued erosion of employment space in the Borough".⁷

NLP state that "*Judgements were made on the suitability and degree of the allowance for future losses which it would be appropriate to apply here based on analysis of supply-site deliverability factors and current trends in the market. Not all losses need to be replaced as some will reflect restructuring in the local economy, for example as less manufacturing space is needed in future*".⁸ NLP have chosen to assume that "*50% of the residual industrial losses will be replaced each year, equating to 41,760m² by 2032*". In terms of office floorspace, the 50% is applied to only 6 years i.e. 2006 to 2011 equating to an additional allowance of 7,840m² to 2032.

It is wholly inappropriate to add a substantial addition, reflecting 50% of historic losses of B Class land or floorspace to non B Class use, without first having an understanding of whether the supply of land to 2032 is likely to be 'sufficient' (or more so). NLP's analysis of the existing supply side is demonstrated to be very ample or generous compared with requirements.

Losses of allocated employment land are regulated to avoid the harmful loss of such land. NLP's adjustments would have adverse consequences for the Council's own strategy. In the context of there then potentially being a large future oversupply, development control decision-making will, when faced with the NPPF's requirement to determine applications "*on their merits*" in the context of "*market signals*", have very little choice but to agree to the requested loss. The vastly over-inflated margin will therefore have the consequence of increasing the prospect of even further losses. This is a fundamentally unsustainable approach to planning for the provision of objectively assessed needs or requirements.

⁷ Paragraph 6.48.

⁸ Paragraph 6.49.

It will therefore only serve to create further Class B land that has “no reasonable prospect of ... being used for that purpose”. Thus the adjustments will have no purpose other than to seek to sterilise the use of such land.

The adjustments equate to 41,670m² of additional industrial floorspace requirement and 7,840m² of office space for the period to 2032. For the preferred scenarios, these “adjustments” (safety margin and adding back 50% of each future year’s loss of floorspace, turn negative requirements for industrial floorspace of either -9,660m² or -28,440m² into positive requirements of 45,140m² or 26,360m² respectively).

However, notwithstanding these wholly unjustified and unreasonable adjustments, the two recommended scenarios provide gross land requirements as follows:

Table 2: NLP Land Requirements: Preferred Scenarios (incorporating adjustments)

| | Gross Land Requirements (ha) | |
|--|------------------------------|---------------|
| | Job Growth | Labour Supply |
| Offices (B1a/B1b) | 18.5 | 15.4 |
| Manufacturing and Distribution (B1c/B2/B8) | 11.3 | 6.6 |
| All B Uses | 29.8 | 22.0 |

Even combining the B1c/B2 requirement with the B8 requirement generates at most, a need for 11.3ha of such land to be provided for the period to 2032. This equates to annual take up of 0.63ha (i.e. from 2014 to 2032). It is relevant to note that the Atkins projected requirement for B1c/B2/B8 floorspace between 2004 and 2021 (17 years) was for 11.29ha of land, and that NLP project a requirement for 2014 to 2032 also of 11.3ha but over a 18 year period. Over both Plan periods this represents ‘take up’ of less than 1ha per annum.