

**Representations by Barratt Strategic****Medway Council ref 04****Medway Council's Core Strategy – Examination in Public – Closing Submissions following the Further Hearing Sessions on 22<sup>nd</sup>/23<sup>rd</sup> May 2013 Regarding Matter 5 – The Strategic Allocation at Lodge Hill**

It is clear from the debate at the Further Hearing Sessions on 22<sup>nd</sup>/23<sup>rd</sup> May 2013 that:-

**The Policy Context:**The SEP

- 1 Given the revocation of the SEP, there is no longer anything that ties Medway Council to having to allocate land at Chattenden if the evidence demonstrates this is no longer an appropriate development site. There should be an objective assessment of the spatial strategy to establish if Chattenden is still the right location for growth. The Sustainability Appraisal (SA), as per our reps of Feb 2013, should consider other reasonable alternatives – such as a smaller development at Chattenden and additional development in an extended Hoo site for example – a matter we will return to below.

The NPPF

- 2 Medway Council (MC) point to the need for Para 118 of the NPPF to be read in conjuncture with Para 152 on plan making. It's clear from Para 152 that significant adverse impacts should be avoided, and if unavoidable the impacts should be mitigated / compensated for.
- 3 MC believe that developing at Lodge Hill will meet the economic and social aims and objectives of their Core Strategy and that as such the benefits outweigh any environmental harm, that the adverse impacts of developing at Lodge Hill can not be avoided and that the impacts can in any event be mitigated.
- 4 The further hearing sessions have demonstrated that many believe, given Para 14 (footnote 9) of the NPPF that there should be no development within a SSSI, that the economic and social benefits do not outweigh the harm, that the implications of development can not be suitably mitigated, and that there are other sites that could provide comparable benefits and that the SA has failed in not assessing these reasonable alternatives.
- 5 Given the above the 'Consistency with National Policy' must be called into question.

The Core Strategy (CS)

- 6 It is also clear from the further hearing sessions that there is now an internal conflict within the CS – between policies CS6 and CS33. The last Para of policy CS6 clearly looks to avoid any negative impact on recognised wildlife habitats and the development of Chattenden clearly has the potential to adversely impact on a SSSI. Amending policy CS6 to provide for the type of mitigation proposed at Lodge Hill could have severe implications for other SSSI's and ecologically sensitive areas within Medway; whilst amending policy CS33 could conflict with the avoid, mitigate compensate strategy adopted within Para 152 if the NPPF.
- 7 Given the above the 'effectiveness' of the CS must be called into question.

### **Mitigation/Compensation Measures**

- 8 MC appear to believe that as the Lodge Hill policy addresses the social and economic needs of the council and the impact of development can in their opinion be mitigated, the sites allocation is appropriate having regard to Para 152 of the NPPF. This approach is however dependent upon their being no reasonable alternatives which would also address the social and economic needs of the council – which we all believe there are and which we believe MC have failed to properly address – a matter I will return to.
- 9 In debating the Mitigation/Compensation Measures its clear that there is no policy basis for the offsetting strategy proposed at Lodge Hill and that the principle of offsetting should be subordinate to :-
  - Avoidance
  - On site mitigation
- 10 Furthermore as only the exec summary the final BTO report has been made available to the inquiry the details of the off setting strategy it proposes are not clear and as such little weight can be placed upon its finding, especially when one has regard to the fact that the selection criteria proposed by BTO was not, despite what has been said by some, agreed by all at the technical workshops in 2012.
- 11 Given the above and as there is conflicting advise as to how long any mitigation/ compensation strategy will take to establish, the true impact on the delivery of the Lodge Hill scheme is unclear, which calls into question the 'effectiveness' of the CS in delivering its housing requirement over the plan period.
- 12 As highlighted at the further hearing sessions we are surprised that neither MC or Land Securities have provided a clear critique of the implications of the proposed mitigation/ compensation strategy on their housing / employment land supply delivery rates so that the participants can then comment upon the 'effectiveness' of the plan and the need for additional land to be released to address any potential shortfall/ this matter to be considered in the context of 'reasonable alternatives' within the SA.
- 13 As things stand there is nothing before the inquiry to demonstrate that the plan can deliver the 18,600 dwellings and 43,000sqm of employment land it has allocated. MC and Land Securities may well 'have every confidence' that they can deliver but they have not demonstrated this. There is no updated build program, no evidence of a house builder being on board, despite what was said at the EIP last year and no evidence that the compensatory habitat has been acquired/ can be without prejudice to the proposed build program. Whilst Mr McCutcheon indicated that MC believes that Outline Permission could be granted concurrently with the adoption of the CS and that permission for the Reserved Matters and infrastructure works could be issued within 12m on this date; with completions taking place within 24m of a detailed permission no detailed timetable has been put before the inquiry, and these timescales seem totally unrealistic given the proposed mitigation/ compensatory works that will be required, and the debate last year on housing delivery rates. Furthermore, as highlighted by the RSPB what happens if the proposed mitigation compensatory works are unsuccessful – how is this addressed through the policy approach promoted in the CS?

### The SA Addendum

- 14 We have throughout our representations on this CS highlighted the benefits of development within the extended Hoo area. We believe this is a reasonable alternative and that if MC and Land Securities were able to clearly identify the scale of development that would come forward at Lodge Hill with the mitigation strategy now proposed it would be possible to identify a scale of development within an extended Hoo to compensate for that which will not come forward at Lodge Hill in this plan period because of temporal lag. The extended Hoo option has always been recognised as providing comparable social and economic advantages to Lodge Hill (see p18 of the initial SA July 2009) the only difference being the environmental implications of development as originally envisaged when the CS was first tested through a SA in 2009, when Lodge Hill was not a designated SSSI and MC were assessing comparable 5000 dwelling settlements.
- 15 Given the significant and material change in circumstances that has occurred during the plan making process, we believe that MC should have reviewed the entire strategy, including any reasonable alternatives dismissed in the initial SA, and any other reasonable alternatives required to offset the implications of temporal lag in the addendum SA, to ensure the ultimate plan is fully justified in accordance with Para 182 of the NPPF.
- 16 As highlighted at the Further Hearing Sessions we believe that MC have not looked at reasonable alternatives, that to establish what they have done requires a paper chase, and that the CS has been predicated on the premise that Lodge Hill should be the strategic allocation – what ever the cost.
- 17 Mr McCutcheon provided critique of where the social and economic benefits of Lodge Hill are recorded. What he did not do was provide a critique of what other reasonable alternatives were assessed.
- 18 The initial SA (June 2009) looks at alternative sites at pages 14 – 18. The assessment is based upon the 5 spatial options proposed in the CS Issues and Options July 2009 (chapter 5 - p89 – 106) i.e. 5 comparable sites capable of delivering 5000 houses and 43,000sqm of employment floorspace. Mr McCutcheon then referred to the Pre Publication CS (Oct 2010) paragraphs 3.16 – 3.21 (p16/17) as assessing the other reasonable alternatives. However the Pre Publication CS and associated Interim SA (Nov 2010) do not, contrary to what was said look at a reduced level of development at Lodge Hill and a residual level of development elsewhere and assess this against the sustainability objectives. I would draw the inspectors attention to paragraphs 4.22 4.27 of the Interim SA (Nov 2010) in this regard.
- 19 Whilst not referred to by Mr McCutcheon the updated interim SA – Medway CS Publication Draft (August 2011) contains only a brief appraisal of the alternatives in chapter 4, as does the SA that accompanied the submission draft CS in Dec 2011 – chapter 4, and in particular Para 4.8 refers.
- 20 Whilst, given the 'Save Historic Newmarket' case one should not have to go through a paper chase to understand what alternatives were assessed, its clear that other than the comparable sized spatial options identified at the CS Issues and Options stage no detailed assessment of any other reasonable alternative to the spatial strategy adopted by MC has been undertaken. Given the material change in circumstances since the CS issues and Options was published (July 2009), and the CS submitted (Feb 2012) the council should in our opinion, if they

are to justify their spatial strategy, demonstrate that there are no other reasonable alternatives that could accommodate the level of growth proposed at Chattenden, whether individually or cumulatively, in a sustainable way and with less harm to the natural environment. The SA does not demonstrate this so the CS can not be said to be 'justified' or 'consistent with national policy'.

- 21 In the context of the above we believe that in assessing the reasonable alternatives to Lodge Hill in the adendum SA MC should, with Land Securities, have identified the implications of the proposed mitigation/ compensation strategy on employment and housing delivery rates so that the SA could then look at how this could be off set through other strategic allocations i.e. if the effects of temporal lag are such that Lodge Hill delivers 1000 units less during the plan period and this needs to be accommodated elsewhere – where should it go – would placing this in an extended Hoo be the most appropriate reasonable alternative given its relationship to Lodge Hill etc etc.
- 22 This to me is a reasonable strategy to adopt and the fact MC have not done this clearly demonstrates that reasonable alternatives have not been properly addressed. Given the findings of 'Save Historic Newmarket', in particular paragraphs 14, 15, 16, 17; and 'Heard v Broadland DC', in particular Para 71 we believe the lack of an assessment of the reasonable alternatives within the adendum SA to result in a plan that is fundamentally unsound.
- 23 In addition to the above there is the issue of how the adendum SA has dealt with the impact of the proposed mitigation/ compensation strategy. Others have made the point that if off site compensation requires extensive areas of agricultural land to be taken out of production this should affect the scoring Lodge Hill receives under SA objective 16 in table 4.2 of the adendum SA. In our opinion an assessment that looked at this issue equitable would see the scoring for SA objective 16 revised so that Lodge Hill is comparable to the other spatial options considered in the SA i.e. only receives 1 tick not 2.

#### **The Scoring of Lodge Hill in relation to Previously Developed Land (PDL)**

- 24 This leads neatly onto the issue of PDL and how much of the Lodge Hill site is PDL.
- 25 MC say 67% is PDL – as do Land Securities – albeit there is nothing to show how this has been calculated and it has been confirmed that this is 67% of the application site. Only 53% of the whole site is, according to MC /Land Securities PDL. Not only does this figure differ from that proposed by NE and the RSPB, but conflicts with one of the key premises of allocating the site – as set out in Para 4.4.47 of the CS Issues and Options.
- 26 In addition to the above, as highlighted by the RSPB, the NPPF, Para 17 (bullet point 8) differentiates between PDL that is of high environmental value and that which is not. The PDL at Lodge Hill is clearly of high environmental value given the sites SSSI status. As such the fact the site is partly PDL does not mean it's appropriate for development.
- 27 Given the above the score Lodge Hill receives under SA objective 17 in table 4.3 of the adendum SA is disputed. We believe the site should only receive 1 tick – not the two contained in table 4.2.

### **Conclusions**

- 28 Whilst we accept that the allocation of Lodge Hill has to be considered in the round, having regard to the social and economic benefits it could also bring about, the environmental implications of its allocation are significant and having regard to the avoid, mitigate, compensate strategy promoted in the NPPF, many would question its allocation per say. Others, such as us feel some development at Lodge Hill could take place, but the scale of development and the delays in delivery are such that MC need to provide for reasonable alternatives to plug the gap or accept that they can not meet their objectively assessed needs within this plan period. As the implications of the latter strategy are so severe, both for Medway and the adjoining authorities, we believe that there is a need to review the reasonable alternatives – such as an extended Hoo and that the SA has not properly done this to date, such that the CS as drafted is not sound.