

Legal Requirements

1. The Inspector is invited to give consideration to the terms of the purported resolution of the Council of 30 May 2012 to resolve to grant permission for a development at Chatham Docks “subject to any issues arising from the Inspector’s Hearing on the Core Strategy”.
2. This approach is wholly novel and raises a procedural point which the Inspector is invited to consider at the outset of this hearing.
3. It is far from clear what it is that the Inspector is being invited to determine in respect of this site, or what the Council is asking the Inspector to find in respect of the relevant parts of the Core Strategy.
4. Policy CS25 provides for the retention of existing wharves and port capacity at Chatham Docks. The proposed development would result in the loss of existing port/wharf capacity. The proposal which is the subject of the purported resolution is therefore in our submission plainly in conflict with policy CS25.
5. That conflict is recognised by the comments of Mr McCutcheon, the Council’s Planning Policy & Design Manager, on the application. It is also recognised by Nathaniel Lichfield & Partners (“NLP”) acting on behalf of the Peel Group (see representations of 22 May 2012), who submit that policy CS25 as currently drafted is “unviable and inappropriate” and renders the Core Strategy unsound. The same submission was made in NLP’s original written representations. They make that submission as a means of promoting the Chatham Docks development.
6. If the Council is inviting the Inspector to amend policy CS25 to take account of its purported resolution to grant planning permission for development at Chatham Docks, that is a misuse of the Core Strategy process. In any event it would be a major change upon which there has been no consultation. If the Council is inviting the Inspector to make findings in respect of a particular planning application, that is plainly also a misuse of the plan-making process.
7. The approach taken by the Council in its purported resolution is circular and indeed irrational. The proposal is in conflict with the Core Strategy; but permission will be granted if the Core Strategy is found to be sound. Further, the Chatham Docks proposal would risk

prejudicing the delivery of the Core Strategy before it is even adopted. It is a major development which forms no part of and is contrary to the submission draft Core Strategy.

8. In those circumstances the Council should be invited to clarify, at the earliest opportunity, that: (i) it wishes to maintain the policy of protecting wharves and port capacity at Chatham Docks; (ii) it disagrees with the amendments proposed by NLP; (iii) it does not seek specific findings from the Inspector in respect of the proposed development at Chatham Docks; (iv) that its interpretation of policy CS25 is consistent with the understanding of representors, namely that it seeks to prohibit non-port related development at Chatham Docks. Further, the Council is invited to explain whether the proposal would prejudice the delivery of the Core Strategy; and if not, why not.

Richard Turney
Landmark Chambers
12 June 2012