

MATTER 2: LEGAL PROCESS AND REQUIREMENTS**a) Does the CS present a clear spatial vision for the Borough? Has it been positively prepared and will it deliver sustainable development in accordance with national and regional policy or identified needs?**

- 2.1 The Brett Group made two submissions, which are grouped together as submission 08. In relation to this question, the Brett Group seeks to rely on the following sections of the submissions by Richard Ford (RF) and David Jarvis Associates (DJA):
- para 1.7 on page 3 of DJA
 - para 2.6 on page 4 of DJA
 - para 3.22 on page 4 of DJA
 - CS22 on page 12 of DJA
 - para 10.72 of page 14 of DJA
 - figure 10.8 of page 17 of DJA
 - para 3.1 - 3.2 on page 18 of DJA
 - para 3.7 of page 19 of DJA
- 2.2 The spatial vision does not sufficiently emphasise the important role of minerals and the Core Strategy does not accord with the requirement to promote sustainable development and overcome constraints in accordance with sections 143 and 155 of the National Planning Policy Framework.
- 2.3 The spatial vision does not refer to sustainable development, except for in relation to the design of the settlement at Lodge Hill. It is considered that the spatial vision should refer to sustainable development as the overarching principle of the Core Strategy and to provide a conceptual link with national policy and in particular, with the National Planning Policy Framework.
- 2.4 It is also considered that the Core Strategy was not prepared positively. It does not seek to overcome constraints or find solutions as required by the National Planning Policy Framework. This is exemplified by the intention to restrict development at Cliffe Works through the LCA without the benefit of a planning application or an appropriate assessment. The Council now needs to include the Planning Inspectorate's model policy regarding the presumption in favour of sustainable development and to give due consideration to this in relation to Cliffe Works.
- 2.5 As outlined in paragraph 4.248 of the Core Strategy Issues and Options Report, Medway has a significant regional role in the importation of aggregate minerals. Half of the minerals imported into the region are "landed" at the three wharves in Medway, including Cliffe Works. Policy M3 of the Regional Spatial Strategy indicates that importation of marine dredged minerals is of growing importance and Policy M5 indicates that strategic sites for the handling and processing of imported minerals and materials should be safeguarded. In addition, out of ten mineral planning authorities, Kent/Medway has the third largest sub-regional apportionment of minerals supply in the South East Region.
- 2.6 By contrast, mineral planning is barely referred to in the Core Strategy Spatial Vision. The spatial vision simply refers to the gateway function of Medway for the importation of

- minerals and other materials. Given that the Core Strategy is the main LDF document dealing with mineral development, it is considered that this important issue warrants further attention in the spatial vision. The spatial vision should refer to the need for mineral supply, the important role of marine dredged minerals in meeting that supply and the importance of maintaining and developing the capacity of mineral handling and processing plants.
- 2.7 Section 143 of the National Planning Policy Framework lists matters that local authorities should seek to address in preparing local plans. The fourth bullet point deals with:
- the safeguarding of **"existing, planned and potential...wharfage and associated storage, handling and processing facilities for the bulk transport of...minerals"**;
 - the safeguarding of **"existing planned and potential sites for concrete batching, the manufacture of coated materials...and the handling, processing...of substitute, recycled and secondary aggregate materials"**.
- 2.8 Kent County Council recommended that policy CS22 should be amended to include a reference to planned and potential sites. As outlined in the Schedule of Proposed Minor Amendments to the Publication Draft, Medway Council specifically avoided revising policy CS22 of the Core Strategy. However in order to comply with the requirements of the National Planning Policy Framework, it is recommended that policy CS22 is revised to refer to planned and potential, as well as existing, mineral railheads, wharfage and associated handling and processing facilities.
- 2.9 Such a change is particularly important given the long-standing, existing and potential strategic importance of Cliffe Works for the importation, processing and handling of marine the processing of concrete and blocks. The site is of regional importance for the importation of mineral and has the added benefit of a railhead. This supports the RSS policy to increase reliance on marine dredged mineral and is in accordance with the RSS policy to promote intermodal freight.
- 2.10 As outlined in detail below, the LCA, which is part of the evidence base for the Core Strategy and is incorporated into the Core Strategy by policy CS7, is overly restrictive regarding the potential for developing Cliffe Works. Any proposal for the development, expansion or intensification of the use of Cliffe Works would be contained within the existing site boundary, would not encroach on the adjoining designated nature conservation sites and would be the subject of a planning application and an appropriate assessment, if required. It is unnecessary and premature to restrict the future development of this regionally important, strategic site via the LCA.
- 2.11 Paragraph 155 of the National Planning Policy Framework indicates that early and meaningful consultation and collaboration with neighbourhoods, organisations and businesses is essential and the document advocates proactive engagement. As outlined in relation to items 1c and 2b, the LCA, which forms a key part of the evidence base and is incorporated into the Core Strategy as de facto policy by policy CS7, and for was not adequately consulted on.
- 2.12 The Brett Group, which is a significant stakeholder in Landscape Character Area 1: Cliffe Pits and Pools was not consulted on regarding the content of the LCA. The council did not proactively engage with stakeholders in the development of this crucial part of the evidence

base. The council indicated that this was due to a lack of time and resources and because it was felt unnecessary to consult more widely or with local businesses.

- 2.13 It is considered that given the potentially negative and restrictive influence of the LCA on the potential development of the Cliffe Works, that the LCA warranted further consultation and engagement. An LCA is not a purely technical document. As outlined in the Countryside Agency guidance on landscape character assessment, the process involves an element of subjectivity and there is "scope for a wide range of stakeholders to contribute to characterisation, each contributing their own judgements about variations in character"⁶.

Conclusion

- 2.14 **It is submitted, therefore, that the Core Strategy does not offer a clear spatial vision and was not prepared in accordance with national policy.**

b) Is the Plan founded on a robust and credible evidence base? Is it flexible and able to be monitored? What are the trigger points/actions to be taken if monitoring indicates that targets are not being met?

- 2.15 The Brett Group made two submissions, which are grouped together as submission 08. In relation to this question, the Brett Group seeks to rely on the following sections of the submissions by Richard Ford (RF) and David Jarvis Associates (DJA):
- para 1.9 on page 3 of DJA
 - para 2.6 on page 4 of DJA
 - para 4.72 of page 6 of DJA
- 2.16 The Core Strategy is not based on a robust and credible evidence base. This is exemplified by the Landscape Character Assessment, which was not adequately consulted on and was not carried out in accordance with the relevant guidance. In addition, the Brett Group does not concur with the analysis of the Eastern Thames Marshes and Cliffe Pits and Pools.
- 2.17 The Brett Group considers that the Landscape Character Assessment does not accurately reflect the character of the Eastern Thames Marshes and Cliffe Pits and Pools. On page 17 of the LCA, which describes the Easter Thames Marshes, the section entitled 'Principal characteristics' underplays the current, permitted and legitimate industrial use taking place at Cliffe Works.
- 2.18 Cliffe Works accommodates, *inter alia*, a wharf for landing marine dredged sand and gravel, a conveyor, stockpiles, a processing plant, three block making factories, product storage, a rail terminal and a concrete batching plant. The aggregates, concrete batching and the landscape and building products operations employ 78 people and employed a total of 128 people, prior to the recession. This is a significant industrial undertaking that provides significant employment and warrants specific description. In addition, the section entitled 'Principal issues' does not refer to the ongoing and sustainable processing of marine dredged mineral and the use of intermodal freight.

⁶ Paragraph 2.13, The Countryside Agency, Scottish Natural Heritage (2002). *Landscape Character Assessment: Guidance for England and Scotland*.

- 2.19 Pages 18 – 20 of the LCA describe the Cliffe Pits and Pools Area. This area is described as 'T3a – Marsh with urban/industrial influence'. It is considered that there is relatively small area of marsh and the majority of the site is used for aggregate importation, processing or building produce manufacturing and related uses. It is considered that the area should be described as 'T3B – Marsh with urban/industrial dominance'.
- 2.20 The Brett Group considers that the 'Characteristics' and 'Analysis' sections also underplay the industrial uses in the area and overstate the condition and sensitivity of the area. The 'Guidelines' section indicates that industrial development should be restricted. It is submitted that the economic and social value of Cliffe Works should be weighed against any environmental or landscape impacts and the impact of potential development should not be prejudged without a detailed analysis of specific proposals.
- 2.21 The Brett Group was advised at a pre-planning consultation that certain operations, including the infilling of a former chalk pit/ lake would be refused on the basis of this erroneous analysis.
- 2.22 It is generally acknowledged that LCAs usually involve a degree of subjective judgement of the quality and aesthetic value of a landscape. In this instance, however, the council acted contrary to established guidance (paragraph 7.4 of Guidance on Landscape Character Assessment by the Countryside Agency), by failing to consult with relevant stakeholders. It is important to consult stakeholders as part of the LCA, in order to temper that element of the LCA analysis, which is inherently subjective (please refer also to matter 1c).
- 2.23 Medway Council previously advised the Brett Group (see Appendix 1 of the Brett Group submission to the Pre-Publication Draft Core Strategy consultation) that it was unable to carry out a consultation due to a lack of time and resources. It should be noted, however, that the council consulted with one landowner (Land Securities) and carried out several presentations and a seven week consultation with a selected group of stakeholders (please refer also to matter 1c). It is assumed that the presentations may have been made to parish councils. Parish council meetings are open to the public and the reasons for not inviting other stakeholders, such as landowners, is not clear.
- 2.24 The lack of consultation on the LCA also runs contrary to:
- Paragraph 155 of the National Planning Policy Framework, which indicates that early and meaningful consultation and collaboration with neighbourhoods, organisations and businesses is essential and advocates proactive engagement.
 - Paragraph 4.37 of Planning Policy Statement 12, which indicates that one of the two key elements of the evidence base is participation.
- (Please refer also to matter 1c)

Conclusion

- 2.25 **It is considered that the Core Strategy is not based on robust or credible evidence. The LCA, in particular, which forms a key part of the evidence base and is incorporated into the Core Strategy as de facto policy by policy CS7, was not adequately consulted on and the Brett Group does not agree with the assertions it contains in relation to Cliffe Pit and Pools.**