

Ms.Laura Graham Bsc.MA RTPI
c/o Adams Walters – Programme Officer
Medway Council
Local Development Framework
Core Strategy Examination
Medway Council
Gun Wharf
Dock Road
Chatham
Kent ME4 4TR

Our Ref:JAC/SG/9211

1st May 2013

Dear Ms.Graham

RE: RESPONSE AND FURTHER SUBMISSIONS IN RESPECT OF THE INSPECTORS FURTHER NOTES & QUESTIONS

I refer to the above matter and in particular to the Inspector's note setting out matters and issues for the Hearing on the 22nd May 2013 Lodge Hill.

I can firstly confirm that I have considered in detail the implications of the revocation of the South East Plan; I have read the various items of correspondence in respect of the mitigation and compensation measures for Nightingales in respect of Lodge Hill; and have considered the updated Strategic Environmental Assessment Addendum prepared on behalf of the Council. I therefore write to deal with each matter in turn.

(1A South East Plan Revocation)

Based on the Council's own evidence it is clear that while strategic policy promoting the growth of Medway has been revoked this does not impact upon the fact that the NPPF will require the Council to use an evidence base to ensure that their Plan meets the full and objectively assessed the needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework. That includes identifying key sites which are critical to the delivery of the housing strategy over the Plan period.

The Council must identify deliverable sites and this therefore is key in considering whether or not the Draft Core Strategy can be considered to meet the tests of soundness. This is a matter I return to below.

(1B)

Paragraph 118 of the NPPF makes it clear that on land within or outside an SSSI is likely to be an adverse effect, proposed development should not normally be permitted. It is clear that in a situation such as this there is a requirement for a very careful assessment of alternative sites to determine whether or not they genuinely would have more or less impact than the site within the SSSI.

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The situation therefore is that there should be a sound and consistent evidence base on proper and detailed analysis of not only Lodge Hill but the 'alternatives'. It is considered that this is simply not the case. The Council and its advisors have undertaken cursory work on the alternatives that they identify that can be at best described as *thin*. In my submission the Council have made assumptions and reached conclusions that simply seek to justify their position. Much of the land, for example around Rainham, whilst of reasonable agricultural quality is either in use as paddocks or in use for crops. It is therefore of low ecological value notwithstanding the fact that the Council's Strategic Environmental Assessment shows it to be of significantly greater ecological value.

This is the case with land close to Capstone and indeed is the case with land elsewhere that has been promoted by various parties. In addition to this the Council have not properly considered matters relating to, for example, transport matters. It is one thing to look at a site and say it is not suitable for 4000 houses, but an entirely different thing to look at a site and ask what it may be capable of accommodating and what its highway network is capable of accommodating. The Council have simply not been through that exercise and neither has its appointed consultants.

In considering the impacts of the SSSI therefore inadequate work has been undertaken to satisfy the NPPF paragraph 118.

(C) Core Strategy

There is a clear conflict between CS6 and CS33. There is inadequate evidence to demonstrate that this conflict can be overcome.

(2) Mitigation/Compensation Measures)

It is of significant concern that even the Council's own consultants are of the view that "*there are a number of uncertainties and assumptions with regard to practical delivery.*" This is as set out in paragraph 5.3 of the SEA Addendum.

It is clear from the letters of Natural England, the Kent Wildlife Trust and RSPB that they consider there is a very significant risk of non-delivery of satisfactory mitigation. This is again backed-up by independent ecological expertise from Bioscan UK Limited (Dominic Woodfield's submissions) where he says that the work is open-ended, sketchy and highly risky.

In summary there is no evidence before the Examination which demonstrates that there is adequate compensatory habitat that is both available and deliverable and there is no guarantee in any event that mitigation measures would be successful. In such circumstances the right approach would be preservation insitu with detailed consideration to how much of the Lodge Hill site would then be available for development. This will require substantial further work and a reduction in the potential for delivery from the site. This will of course leave a significant hole in housing and employment numbers which the Council will somehow need to address by reconsidering its overall approach.



(2B)

Whilst I do not wish to comment on the assertion that the amount of compensatory habitat required or the specific quality needed that it is theoretically feasible to create habitat that would be occupied by Nightingales; or indeed that there is a greater probability of achieving success in Kent than in most parts of the country; is not a basis to consider the Plan sound.

In this respect the tests of soundness are as set out in the NPPF 2012. Where the mitigation proposed cannot be guaranteed to be successful it is sensible to assume that there could be significant adverse impacts arising from a Plan or proposal.

Paragraph 152 of the NPPF states that Local Planning Authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided and, where ever possible, alternative options which reduce or eliminate such impacts should be pursued.

Under paragraph 158, with the heading "Using a Proportionate of Evidence Base" it is considered essential that greater detail is now provided of the alternative potential locations for development. At the time of original drafting of the Core Strategy, it may be that it may have been considered that the evidence base for the other sites was adequate. At that time it was not the case that Lodge Hill had been designated an SSSI and it was not known.

That cannot now be the case as with the knowledge that has come to light about Lodge Hill, it is essential that more detailed and comparable evidence is collected for the alternative sites and that alternative plans and proposals are now considered in greater detail and indeed with greater flexibility.

In the circumstances therefore it is submitted that in respect of mitigation and compensation measures, in the absence of knowing what the realistic impacts will be, the Plan cannot be considered to meet the test of soundness by justification.

It cannot be concluded that the Plan is the most appropriate strategy because the evidence base considering alternatives is not adequate to determine whether the impacts at Lodge Hill are less than the impacts on those sites. In addition and with the way matters have moved forward, the Council should consider whether it would be possible to provide a lesser scale of development at Lodge Hill and whether a different strategy could perhaps deliver the balance of necessary housing and other development. This again has not been done. In addition in the absence of knowing whether mitigation and compensation measures will work, it cannot be concluded that the Plan will be effective as there is no certainty over the timescale for delivery.

It is considered that in view of the situation with the bird population at Lodge Hill, it is highly likely that an Appropriate Assessment under the Birds or Habitats Directives would be required for any planning application. It should be noted that the NPPF sets out at paragraph 119 that the presumption in favour of sustainable development does not apply in such circumstances. As a consequence again



the Plan is considered to fail the test of being consistent with national policy in that it does not accord with the NPPF and the Plan does not enable the delivery of sustainable development in accordance with the policies of the NPPF for that reason.

3 SA Addendum

Having considered the SA Addendum and the previous evidence base prepared by the Council, it is clear that the consideration of reasonable alternatives that should be evaluated has not been undertaken in sufficient detail to give comparison with Lodge Hill, bearing in mind that it is now of SSSI status.

It cannot be right to have rejected a more dispersed pattern of development without a more detailed evaluation of what that might mean in practice. In reality all the SA Addendum has done is to look at other major strategic allocations. Bearing in mind the change in circumstances, the Council should have had a much more detailed look at each of those alternatives to determine whether or not the implications and impacts of each were more adverse than Lodge Hill now that it is known how significant the ecological interest at that site is.

In addition there should be more detailed work in respect of Lodge Hill to determine what could perhaps be delivered in any event whilst conserving bird populations on site and to then consider whether an aggregation of developments on the other sites, of smaller scale, could achieve what is necessary.

The SEA is not thorough and is not of proportionate detail bearing in mind the classification of Lodge Hill.

It is clear that there are realistic alternatives within Medway but these have not been explored to the level of detail required. Indeed in response to 3(a) ii it is clear that the SA Addendum does not meet the requirement established in Hurd Vs Broadland. There is no evidence presented that the discounted alternatives have been appraised as thoroughly as the preferred option and I am afraid I have to state that the Addendum is in effect nothing more than a justification for the decision taken, rather than a full and complete exercise to consider strategically whether Lodge Hill remains the most sustainable option.

4 The Score For the SA Addendum

The scoring for the SA Addendum makes no sense whatsoever. In respect of the land towards north and east Rainham, land at Capstone and indeed in respect of other land that has not been fully considered by the Council, there is no doubt that the impact on ecology scores given is not based on detailed work. For example in respect of north Rainham, consideration has been given to the SPA without any consideration as to whether or not an appropriate buffer could be kept between potential development sites and the SPA. For east Rainham there is similarly concern over ecology when the reality is much of the land is either ploughed or in hors' culture such that there is very little ecological value on those sites. There are judgements and assessments made in respect of transport matters that have simply asked the wrong questions. It is wrong to ask whether site could potentially



accommodate several thousand home. The question that should be asked is "...how many homes could a site and a highway network accommodate ?" It is only by that strategy that you can pull together a proper picture of what the area and the infrastructure within that area can realistically sustain.

It is a very significant concern that within the SEA Score System there is nothing about whether or not existing centres are successful and there is the completely illogical conclusion in respect of the Rainham sites that somehow more housing on the edge of Rainham would impact negatively on its centre. The complete opposite would of course be true and it is clear from proper assessment of Rainham, with its reasonably high vacancy rates etc., that the area does require a greater critical mass of population in order to sustain services and facilities. Without this the Settlement will not be sustainable. The matrix therefore is fundamentally flawed; is not based on a proper assessment of sustainability and as stated has been skewed by the use of inadequate information.

It is also a significant concern that while there is no doubt that large areas of Lodge Hill can appropriately be regarded as previously developed land there is similarly very large areas that simply do not meet a common sense interpretation. While it is accepted that the land is within one ownership and arguably historically could be considered to form part of an overall planning unit, the bottom line is that very substantial areas have never been developed and are no different to fields or woodlands or land in other ownership.

In summary it is clear that the Council's Core Strategy cannot be considered sound as it fails to meet the tests as set out. This is not to say that Lodge Hill could not provide some development going forward and indeed the redevelopment of the genuinely previously developed parts does represent a sensible and sustainable way forward for those parts. The substantial likely shortfall in housing and employment numbers does however need to be made up if the Plan is to be found sound, especially as reducing housing and employment numbers is not a realistic option bearing in mind the Strategic Housing Market Assessment. In such circumstances the most appropriate action is for the Council to start again. The Council should seek to determine the environmental capacity of sites rather than saying they are simply not acceptable for a large maximum number. They should then reappraise where best to deliver jobs, housing and services. To go by any other route will mean that unfortunately the Council's strategy is bound to fail and that Medway will stagnate in an already difficult economic environment. That cannot be in the interests of anybody.

Several years ago there were a number of consultants and local people who made representations saying that the Council's strategy was unsound. Unfortunately that was found to be the case. There are now yet more people and bodies saying the same thing for good reason and the sooner the Council restart their work on their Local Plan and the sooner they realise the problem the better.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Collins', written in a cursive style.

John Collins