

Closing Comments from Medway Countryside Forum

1. On the SE Plan revocation, we are disappointed that our Council is choosing not to exercise the new freedom and flexibility which the revocation gives them. In particular, we heard at the Hearing that its consequent removal of the MOD Chattenden land reference eliminates any high level planning onus to deliver Lodge Hill. In addition, our Forum had always understood the Thames Gateway planning framework to be a balanced one between regeneration and preserving the existing natural riches of the area. With the notification of Lodge Hill as an extended SSSI, we do not consider the spirit of that framework affecting North Kent is met by destroying such a wildlife treasure. As to not being able to re-write history, we do now instead have to address current realities and new information. In this, we understand our Council's frustration and we have earlier recognised that neither they nor our Forum realised how rich in biodiversity, apart from the Nightingales, Lodge Hill is.
2. On the NPPF question, we refer to our Written Statement arguments which conclude that Lodge Hill is not in line with Framework principles. Nor is it "Localism" – witness the unprecedented number of objections (to OPA and SA Addendum) from local organisations as well as many individuals who took the trouble to write personally. Natural England agrees that the impact of development at Lodge Hill would be particularly high on this newly-notified SSSI. We would find it extraordinary if the Framework failed to protect Lodge Hill.
3. On the Core Strategy, we did not see an acceptance from our Council that Lodge Hill is not in accordance with Policy CS6, both fundamentally and in the proposed nature of the development. Aside from the national importance of SSSI status in the hierarchy of protection (little hope then for other threatened wildlife sites in Medway would be the consequence), we are still bemused by our Council's approach to the "in place and functioning" requirement. At one stage, CBRE seemed to be saying that having a "strategy in place and functioning" meant only that there had to exist a conceptual compensation plan, in writing we assume, to fulfil the CS6 need ie without ecological proof of outcome, in this case Nightingale occupancy. We cannot believe our Council shares that view because its own Development Brief (EB41) paragraph 4.73 underlines clearly the CS6 requirement. (Incidentally, as local people who worked conscientiously on the DB consultation, we are appalled at the way this document is being downgraded/portrayed as malleable or even virtually meaningless in recent exchanges, in terms of promised safeguards eg "SSSI land ...will not be developed", "off-site mitigation (sic)...should remain within the Hoo Peninsula at worst case", "in place and functioning".) However, what we didn't expect to learn at Wednesday's Hearing was that, according to our Council, "in place and functioning" is not so much a requirement but optional, in whole or part. What proportion less than "fully functioning" would be deemed admissible, please? (See related comments below on compensatory habitat.) As for Policy CS33, we did not receive a satisfactory response to our reference to the development's principles, in particular the third "Environmentally sensitive" principle of paragraph 10.105, which will "...ensure protection of...nationally important sites...". With Natural England's SSSI notification of Lodge Hill, this development cannot be in conformity with CS33. That is why we have respectfully asked for the removal of Policy

CS33 otherwise the Core Strategy would have to be deemed unsound, in our opinion. Policy CS6 would then remain as a worthwhile and solid policy, not in conflict with other CS policies.

4. On mitigation/compensation measures, we are unconvinced by the proposals and endorse Natural England's risk-aware "most certain means" of protecting the Nightingales ie not to build on the site and thus retain the existing habitat – see paragraph 9 of EX20. (We comment below on compensation prospects.) In the bigger picture, others at the Wednesday Hearing demonstrated that the proposed development does not meet the first stage of the avoid/mitigate/compensate requirement. If for argument, nonetheless, we address mitigation then our Forum does not regard the on-site mitigation and access management proposals in CBRE's M5(FH)-40 Annex 3 as at all credible. Measures such as cat management, wet ditches, post and rail/fencing, imposed "dogs on leads", defined footpaths etc were first raised at last June's Hearing and were rated either as impractical (eg cat fences or other controls would restrict free movement of other mammals) or, for those with real experience of habitat management, fanciful if not misleading. (With over 10 years' volunteering on a local SSSI Nature Reserve – even with the best efforts of a staff plus voluntary warden as key resources – I have to concede that people and their pets will not do your bidding!) Don't forget we would be dealing here with an **on-site** population of 12,500 people according to our Council. And we note that both our Council at M5(FH)-MC paras. 2.2 and 4.2, and CBRE at M5(FH)-40 paragraph 20, claim credit for no "loss" of ancient woodland at Round Top Wood etc but overlook the "deterioration" element of the Framework requirement – which would ensue at Lodge Hill – see KWT's M5(FH)-37, page 2. On compensation, we shall not repeat the many uncertainties mentioned in our Written Statement but they are valid. Our Forum contests that there are "reasonable prospects" for effective compensation. We say there are more grounds for questioning the proposition than for it :-

- there are **no** known examples of Nightingales occupying habitat deliberately created for them on a formerly unoccupied site. (Presumably proponents would otherwise have trumpeted them by now.)
- **no** instances where habitat creation for Nightingales has been attempted on any large scale. So it is not just the degree of success probability but the scale of the risk too.
- "social luring" is considered necessary. This is a highly controversial technique – ecologically and ethically - and our Forum considers it pernicious because of the risks of the 'ecological traps' explained at Section 4 of BTO's EX60. We suggest that, rather than sureness of delivery, this betrays hints of recklessness. **Please note that BTO would not permit the use of tapes during the 2012 National Census of Nightingales.**
- despite the author's early hopes expressed in them, the successive offerings of potential receptor sites arising from the three GGKM reports (although we have seen only a short summary of the third) have all been either discarded already or else have obvious major flaws remaining. Of those still standing, as it were, Cleve Hill has managed-realignment issues according to Natural England and apparent conflict with Swale Borough Council intentions (KWT's page 5 of M5(FH)-37) while New Rides also seems to be subject to

east of Sheppey managed-realignment concerns and even more crucially, the major flaw that there has been no confirmed breeding of Nightingales on the entire Isle of Sheppey for decades. Now this large part of Kent has plenty of scrub and thick hedges – and damp ones at that – which should favour Nightingales but they have not settled; why should we think humans can do a better job than nature? There is a similar absence, certainly in recent years, for that part of Essex – Shoeburyness – which is the MOD land currently put forward. **This may not be of concern to GGKM but we suggest it is material because BTO has repeatedly raised the issue of social factors/conspicuous attraction** (Section 3.6 of EX60) **and indeed concludes EX60 with this very warning.** (On the major Shoeburyness proposal, please note that this part of Essex would not appear to qualify under BTO's Core Range notion, neither does it come under the Kent "greater probability" indicator in the Inspector's questions.) The Folkestone site appears to have other wildlife protection complications as well as longer term MOD-needs uncertainties, as must Shoeburyness too one would think. Bearing in mind that MC/CBRE/LS/GGKM have had almost a year to find some credible receptor possibilities, the one conclusion all should draw is that the task is a lot more difficult than the EBL and SA Addendum Reports would have readers believe. Additionally, if we were to remove the Cleve Hill, New Rides, Shoeburyness and even Folkestone site for reasons given above and allow that not all of any remaining site hectares would be suitable for Nightingales, then it would be fair to say the search has failed the compensatory habitat area targets, no matter the calculations methodology – and so is in sharp contrast to CBRE's paragraph 29 of its Written Statement. In short, it proves how uncertain this whole project and its claims for it are, and thereby demeaning the compensation concept – which was not to become a "licence to destroy".

5. It may be helpful to summarise our views on compensation. Dr. Shepherd had every right to confront our choice of words at the Wednesday Hearing (though he did not attend the technical meetings) but our serious point remains. We always knew there is no guarantee of success. However, we relied on Policy CS6 and the Development Brief that we would at least have the compensatory habitat in place and functioning, or the project seriously reviewed, before development commenced. Now the plan is that this safeguard would be jettisoned. If we recall that the conclusions of the EBL final report and the SA Addendum report were much-disputed and cannot be said to reflect a consensus view of stakeholders and additional participants, what we are left with is threadbare. The lack of agreement is seemingly dismissed in the Written Statements of both Medway Council and CBRE both of whom concentrate and pin their hopes on the mere attempted **supply** of alternative scrub etc habitat - or satisfaction (misplaced, see above) that "...sufficient land is suitable and available..." in the words of paragraph 5.3 of M5(FH)-MC - without confronting the more difficult problems of Nightingale **occupancy**. BTO in the first technical meeting stated that "there is a lot of complicated stuff we don't understand". At Section 9 of EX60, BTO state "there are still unknown factors..." and Section 7.1's varied uncertainties do not sit well with our Council's "easier to achieve" claim at paragraph 4.3 of its Written Statement.
6. We say it is not good enough for the Lodge Hill proposers to request us to suspend judgment and to assert that compensatory habitat problems will all be sorted out magically once this allocation is in the Core Strategy and the Outline Planning Application is secured. So far, all

we have are statements that they have or intend to have mitigation and compensatory habitat plans but there is no evidence that they are deliverable in practice or effectiveness. On that, we reject completely our Council's claim that there is "...strong evidence that compensatory measures are likely to be effective" at paragraph 5.3 of M5(FH)-MC. Let us see it, if it exists, please. If we add to the absence of confidence in any occupancy (absolute terms), the new opinion of our Council that something less than "functioning" would in any event be acceptable then "reasonable prospect" is indeed overly optimistic. Worst of all, there are no contingency plans were there to be no actual Nightingale occupancy of whichever receptor sites – a very real possibility for a declining species – other than the implied "we shall try harder". The damage would have been done. This cannot be said to be compensation.

7. In these circumstances, our Forum is entitled to ask, like Mr. Woodfield, whether Natural England should really be content with such unconvincing assertions alongside their duty to protect their newly-extended SSSI.
8. On the consequences of delay to avoid time lag, given the timetable we learned at the Hearing from our Council before planning matters would be settled, receptor sites negotiated and finalised etc, and added to the time for compensatory habitat to become ecologically functioning, it is even clearer now that Lodge Hill housing etc would not be deliverable within the CS. This would again indicate that the CS is unsound, in our opinion.
9. On MG5 Grassland, we raise similar concerns about the lack of credible compensatory habitat plans as for Nightingales and without any seeming soil etc checks on possible receptor sites having been done, we are expected to accept a similar "pig in a poke" offer. There is also a lack of Lodge Hill proper survey work ie carried out in summer time which could reveal other plant, invertebrate etc species so far undiscovered. When one adds this MG5 Grassland element of risk to the earlier uncertainties of Nightingale compensation – and we have not even studied other Lodge Hill biodiversity - one has to question also the overarching (hubristic?) claim by our Council that "there will be no net adverse impact on nature conservation interests and on the features which justified notification of the site as an SSSI"; or that "the net impact of the measures proposed will be positive" – see Written Statement paragraph 2.2, third bullet point.
10. On the SA Addendum, we say that the Wednesday and Thursday Hearings demonstrated that there were major flaws in the supposedly like-for-like comparisons of sites, of those listed in the Addendum and possibly others not included. Much of the legal precedent exchanges were beyond our Forum's ken but to exclude the consequences of compensatory land for Lodge Hill, in terms of loss of greenfield/agricultural land, from fair comparisons with other sites is to us unacceptable. I am not the only person in Medway over the years to have brought elderly relatives, children and grandchildren, friends etc to Lodge Hill to hear their first Nightingale and the pleasure and wonder this brings to all involved. It is a marvellous local amenity and wildlife treasure which lifts the spirits and contributes to the well-being of Medway residents and others which should be celebrated by our Council, elected Members as well as Officers, rather than destroyed. There are significant social, health and potentially other benefits here which do not seem to have been factored in to

the SA Addendum assessment, and scored at Table 4.2, particularly now with the extended SSSI notification. Any re-write should do so, please.

11. On previously developed land, the Inspector will have now seen the site and have a feel for its extent as, visually, a mainly green and natural habitat and amenity, in line with its Area of Local Landscape Importance (and two Protected Open Spaces) designation. We ask that you also, please, take into account the evidence of Dr. John Day at Thursday's Hearing that even some of the concrete bases of former buildings etc can form part of the 'home range' of Nightingale pairs (see Section 3.4 of BTO's EX60). Nightingales are mainly ground feeders and beetles and ants are key items in their diet; such food can be found on bare/concreted areas on the margins of a pair's breeding/nest site. These same concrete bases (and similar features that don't develop scrub, including open water) may well serve to maintain indefinitely the 'dense edge' blocks of scrub that would otherwise vanish as patches coalesced (and the low vegetation was shaded out). The importance of the extending dense edge is stressed in Section 3.4 of EX60. The point we are underlining here is that some of the apparently PDL elements of Lodge Hill cannot be regarded as redundant in relation to its Nightingale population. With Lodge Hill's "high environmental value" accorded due weight, Natural England's view that the SA Objective 7: Previously Developed Land score in the SA Addendum should be amended from 'Very positive' to 'Very negative' seems appropriate – see NE's Written Statement paragraph 36.
12. Finally, we could perhaps understand a compensatory habitat attempt for Nightingales for a site with a small number of pairs and we earlier suggested as much for the local Temple Waterfront development – see paragraph 9 of EX71. But untried and untested, Lodge Hill could only be viewed as a high-risk experiment adversely affecting probably the top site in UK for this glorious songster, an iconic (overused word but not here) and declining species and a Kent Red Data species at that. In the context of decline of many of Britain's much-loved wildlife species, what would we be doing?