

Matters and issues for Hearing on 22 May - Lodge Hill

- 1) Policy context:
 - a) South East Plan (SEP) revocation.
 - i) What are the implications of the revocation of the South East Plan (in particular paragraph 19.5) for the Lodge Hill allocation?
 - b) The National Planning Policy Framework (the Framework).
 - i) Does the proposed allocation comply with paragraph 118 which indicates that proposed development on a SSSI¹ should not normally be permitted.....an exception should only be made where the benefits of the development.....clearly outweigh both the impacts it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs?
 - c) Core Strategy
 - i) Is there an internal conflict between Policies CS6 and CS33?

- 2) Mitigation/compensation measures
 - a) Is providing compensatory habitat, rather than preservation in situ, the right approach for a site with nature conservation value of national importance?

 - b) If it is acceptable, I am minded to give significant weight to the conclusions of the BTO study that it is 'theoretically feasible to create habitat that will be occupied by nightingales in lowland England' and that '**if the right conditions are satisfied**', there is greater probability of achieving success in Kent than in most parts of the Country'. On that basis:
 - i) How much compensatory habitat is required and how likely is it that sufficient land of a suitable type will be made available and what potential adverse impacts may arise, such as loss of good quality agricultural land?

 - ii) What are the likely consequences of the time lag between loss of habitat at Lodge Hill and the provision of new habitat if development proceeds as currently proposed? Alternatively what are the implications for the Core Strategy if development at Lodge Hill is delayed to allow for new/restored/improved habitat to become available?

¹ Natural England has commenced the process of notification of the enlargement of Chattenden Woods SSSI and its renaming as Chattenden Woods and Lodge Hill SSSI. As set out in my letter to the Council dated 27 July 2012, it would be inappropriate for me to comment on Natural England's decision to consider notification of the site or the underlying evidence which has led to that decision. Please note that these matters will not be discussed at the hearing.

b) To what extent can the loss of the area of MG5 Grassland be mitigated by changes to the Masterplan and if offsite provision is necessary what are the risks to delivery?

3) SA Addendum

a) Does the SA Addendum provide a robust assessment of alternative options? In particular:

i) Are there other reasonable alternatives that should be evaluated in greater detail bearing in mind the changing circumstances in relation to Lodge Hill? For example, is it right to reject a more dispersed pattern of development without a more detailed evaluation of what that might mean in practice? Should neighbouring authorities be approached under the duty to cooperate in order to avoid development at Lodge Hill if there really is no reasonable alternative within Medway?

ii) Does the SA Addendum meet the requirement established in *Heard v Broadland* that alternatives must be appraised as thoroughly as the preferred option; and the implications of *Cogent Land LLP v Rochford DC* and *Bellway Homes Ltd* (as reported in *JPEL* issue 2 2013 (pages 170-192)) that an addendum report must be a genuine exercise rather than a mere justification for the decisions that have already been taken.

4. Is the 'very positive' score given to the Lodge Hill option in relation to previously developed land justified?

a. How much of the development area meets the definition of previously developed land set out in Annex 2 to the framework?

b. Should the scoring be tempered by the Framework's core planning principle that reusing previously developed land should be encouraged, provided that it is not of high environmental value?

5. Delivery and Implementation

a. Further to my comments to the Council in my letter of 23 January 2013 I intend to have a brief discussion with the Council. I am not inviting any further written statements.