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Dear Peter

## Medway Core Strategy - Lodge Hill – Nightingales

Thank you for bringing to my attention Medway Council's letter to the Inspector dated 28 August regarding the above matter, and asking me to provide further comment on its content.

The letter sets out the Council's proposed approach to further studies it intends to commission to establish in more detail the feasibility of delivering adequate compensatory habitat for nightingales displaced from Lodge Hill by development. In commenting below, I firstly consider the degree to which the proposed programme of work is likely to further assist the Inspector in deciding on the suitability of Lodge Hill as a key strategic site. I then raise a procedural concern.

### Proposed further work by Medway / EBL - lack of consideration of timescales and phasing implications

As I have advised previously, the overarching principle that compensatory habitat for nightingale can, with suitable conditions and timeframes, be created, is in little doubt. The Environment Bank Limited (EBL) report already commissioned and submitted by Medway does little more than rehearse this general principle. What that report does not do, and what it appears there is still no intention to do within the terms of reference of the proposed further work, is to provide the Inspector with timescales for securing any identified compensation sites, nor for creating or enhancing habitat on those sites, nor to furnish her with predictions of when such compensatory habitat will be ready to absorb displaced nightingale territories.

Such omissions are fundamental, as the Inspector needs to be provided with sufficient detail and confidence on these matters to enable her to decide on the deliverability of the proposals for Lodge Hill within the fifteen year timescale of the Core Strategy (CS). She needs to be convinced that delivery at Lodge Hill can somehow be phased within the life of the CS in a manner that ensures a position of 'no net loss' of nightingale territories. I make the point here that in the context of the NPPF and applicable statutory obligations, this applies whether or not the site is ultimately designated as a SSSI.

As I have previously advised, I remain highly sceptical as to the practical achievability of adequate compensatory habitat in the requisite timeframe. For suitably located 'virgin' sites, my own experience is that at least ten years is required before scrub development is likely to reach a point in succession where it becomes attractive to nightingales. Methods to accelerate this process through shrub planting can be attempted, but the lead in time remains significant even if this is successful and I note that the RSPB have, rightly in my view, questioned the Council's and EBL's cited examples of 'successful' nightingale habitat creation using such methods.

This suggests that significant reliance would need to be placed on sites that already have at least some suitable nightingale habitat. There is obviously a finite availability of such sites on the Hoo Peninsula in particular and the locality in general. Many will be previously developed or 'brownfield' in nature and therefore held by parties likely to be eager to explore their development potential, and therefore unwilling to release them for biodiversity offsetting purposes, at least without securing equivalent value through an elevated sale price.

Assuming a number of sites with suitable nightingale habitat can be identified that do not have these overarching constraints, the presence or absence of the species at the present time then needs to be ascertained. Where there is ostensibly suitable habitat but the birds are absent, the reasons for their absence need to be determined. Where the birds are present, the total carrying capacity of the site needs to be assessed. Restrictions on public access may limit the availability of adequate existing data for such sites, rendering baseline surveys a necessity. In this context, I note that the proposed programme suggests that sites will be surveyed in September when territory holding nightingales are absent. This has to call into question the experience of the preferred consultant - a point I note is made by the RSPB.

### **Procedural matters**

I note the Council claim to have spoken to all participants in the Lodge Hill hearing, and they further claim that "all have endorsed the approach". This is patently not the case, and given that your interest in this matter has been made abundantly clear by the submission of my previous advice and comment to the hearing via your letter of 20<sup>th</sup> July, your omission from the Council's consultations on the form these various studies should take, would appear a significant oversight.

Had we been given the opportunity to input to the process on your behalf, we would have raised the concerns about approach and methodology set out above. As that did not occur, I consider that you are left with no option than to submit my comments, in the form of this letter, directly to the Inspector.

### **Conclusions**

The Council appears to have moved on from its earlier position of attempting to downplay the conservation significance of the nightingale population at Lodge Hill. Similarly, they do not repeat their earlier complaint that Natural England were firstly slow to advise of the site's importance and then acted in a dilatory and inconsistent manner. Clearly the Council now recognise that such charges merely bring into focus the failure of their own Strategic Environmental Assessment / Sustainability Appraisal procedures to identify the significant environmental constraints to the suitability and deliverability of the Lodge Hill site.

However the approach set out in their letter of 28 August still suggests that a prejudicial approach is being taken to the nightingale issue. The suggested approach focuses on matters of general feasibility, without addressing the practical issues imposed by the timeframe of the CS. The timeframe in which suitable compensatory habitat can be provided is in many ways the crucial consideration in terms of the inclusion of the Lodge Hill strategic allocation in the CS. My own view is that it is most unlikely that the site can be developed within fifteen years in the highly piecemeal manner that the known distribution of nightingale territories would appear to suggest would be necessary. There remains nothing in front of the Inspector, nor on present evidence will anything be forthcoming, that suggests otherwise and consequently scant reliance can be placed on Lodge Hill for significant housing delivery within the life of the Core Strategy.

Yours sincerely



Dominic Woodfield CEnv MIEEM  
Director