

Please contact: Brian McCutcheon

Your ref:

Our ref: BM/LDF/Exam

Date: 29 August 2013

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BY EMAIL ONLY

Dear Inspector,

Medway Core Strategy Examination

Thank you for your letter dated 7 August concerning the above Examination and I am pleased to be able to set out the Council's response. This includes what we hope will be useful clarification on certain issues.

SSSI Notification Process

Following the submission of the 2012 Lodge Hill site count of nightingales the Council undertook a substantial programme of work that sought to answer two questions posed in your letter of 27 July 2012. These were:

- Whether, taking account of Natural England's revised advice, there is convincing evidence that adequate mitigation measures could be introduced to enable the development (Lodge Hill) to proceed?
- Whether the timing of development envisaged in the plan is still achievable?

The Council set out its summary of the work undertaken in the position statement dated 11 January 2013 (EX79). At paragraph 6.1 it said:

"As matters currently stand expert opinion is clear that a mitigation/compensation scheme for nightingales is feasible; and on a scale that would be required if the Lodge Hill development site was assumed to be of SSSI quality – even though that remains a matter of dispute."

This information is available in other formats and languages from Ann Gardner on 01634 331541

Its subsequent appearance statement for the hearing sessions held on 22 and 23 May 2013 (M5(FH)-MC) was written on the same assumption – that is that the site was of SSSI quality. Further it noted that the site had by then been formally notified, notwithstanding that the notification was being contested. It concluded (at paragraph 12.1):

“The consequences of notification of the extension to the SSSI have been considered, and the very extensive evidence, which addresses those consequences, unequivocally supports confirmation of the strategic allocation and in full conformity with the NPPF.”

Attention is drawn to this, as it was the Council’s view that the available evidence supported a strategic allocation at Lodge Hill, even when taking account of its notification as a SSSI and paragraphs 117, 118 and 152 of the National Planning Policy Framework. We fully respect the fact that you came to a different conclusion – but took that to be because of the site’s status as a SSSI (paragraphs 4.1 – 4.3 and 7.1 – 7.2 of your letter of 21 June 2013).

Due to the weight of evidence as we saw it and the considerable delay that there had already been to the Examination we did not request a suspension pending Natural England making its final decision on notification. It was not seen as necessary. However faced with your conclusions as set out in your letter of 21 June and yet more scientific evidence counting against notification that has become available since then we considered it right and proper to request that the Examination is held over until the outcome of the notification process is known.

The Council’s press statement to which you refer is not an examination document but it does reflect the frustration that elected members feel over the matter. As they see it, substantial time and resources have been invested in plan making – only for new obstacles to present themselves long after submission to the Secretary of State. The current Core Strategy took three years to compile at significant cost and it followed an earlier effort that also ran into difficulties. However that frustration has nothing whatever to do with the SA process.

Sustainability Appraisal and Reasonable Alternatives

We are very concerned that there could be a view that the Addendum SA was anything other than a genuine exercise or that the outcome reflected a predetermined view from the Council that Lodge Hill had to be included in the plan *“regardless of other considerations because it had already invested so much time and money in the proposal.”*

The Addendum SA was produced following a full appraisal and review of the options and taking into account the SSSI notification. The Council cannot be criticised for carrying it out at a later stage due to new information emerging and for the following reasons refutes any suggestion that the assessment was not genuine:

- Enfusion were retained to carry out the appraisal as an independent party with appropriate professional skills and experience
- The Council compiled a resource to assist with an objective appraisal in the form of a series of GIS layers providing identical information for each of the options. At

the subsequent workshops this was displayed for all participants to see and it allowed a direct comparison to be made between each option. For the avoidance of doubt this is submitted as an interactive PDF with this letter

- At the Council's suggestion but with the endorsement of Enfusion all four of the SA/SEA statutory consultees were invited to a workshop. These are: Natural England, English Heritage, the Environment Agency and the Highways Agency. Representatives from both Natural England (an official with extensive knowledge of Lodge Hill and the North Kent Environmental Planning Group) and the Highways Agency (the official who attended the hearing on Matter 6 held on 14 June 2012) attended. An official from the Environment Agency failed to reach the venue and English Heritage did not feel it necessary to attend
- Also in attendance were Council officers representing different disciplines, including highways and transportation and greenspaces
- The workshop was facilitated by Enfusion, and each SA objective was considered in turn. That consideration took the form of a focussed discussion that looked at the factual material available, professional and local knowledge of each option. The discussion on each objective did not conclude until there was a clearly expressed consensus on the "score" that should be given to each option. This was then noted by Enfusion
- The statutory consultee representatives were actively involved throughout and endorsed the scores arrived at. In all cases a consensus was readily achieved
- No special or additional information relating to Lodge Hill was considered other than the SSSI notification material and the reports prepared by the Environment Bank, BTO and Greening the Gateway Kent and Medway
- Other alternatives were also considered and reported on in the final SA Addendum report.

We consider all of this to be properly reflected in the Addendum report (EX83) and would draw specific attention to paragraphs 2.13, 4.4, 4.15 – 4.20 and Appendix 2.

However more can always be done and more detailed accounts provided. For this reason we are supplementing the SA Addendum appraisal by:

- Compiling a quantified comparative analysis of each option in terms of nature conservation impacts, agricultural land loss etc.
- Setting out an even more detailed transport assessment for each option
- Again assessing all hybrid and other options (raised but never defined by other participants) against the plan's strategic objectives to determine whether any can be regarded as "reasonable alternatives". This was done in the original SA but will be repeated in even greater detail.

This may go beyond what might be regarded as "proportionate" but we consider it necessary to lay to rest the unsubstantiated assertions made by some at the last hearing and suggestions of predetermination.

Housing Needs Assessment

As indicated in previous correspondence we have retained ORS to compile a new housing needs assessment and a refresh of the SHMA report that forms part of the evidence base. This will be available well before and can, if necessary, be consulted on before Natural England concludes its notification process.

At this stage we have little idea of what the findings are likely to be but by itself it will not cause any further delay. If it requires significant changes to the plan that could not reasonably be dealt with 'in examination' the Council will accept that.

We are fully appreciative of the fact that the need to compile a needs assessment comes from the NPPF but we did not anticipate that it would have to be done post submission.

Evidence Base and New Guidance

We fully appreciate your comments in relation to this matter.

In response we have already begun a critical assessment of the evidence base but clearly cannot complete this until there is an accepted cut off date for new national policy to emerge. We suggest that this should be the date of the Natural England Board meeting as this would, again, involve no further delay but ensure that the most up to date requirements are taken into account.

Way Forward

We would like to emphasise that the Council has no wish to prolong the Examination any longer than is absolutely necessary to ensure fairness. However given the considerable uncertainty over the SSSI notification at Lodge Hill we do consider that a limited suspension is justified.

We are confident that all the work streams referred to in this letter can be comfortably completed before Natural England has concluded the notification process and this is set out in the attached schedule.

We can advise you that the nine month period available to Natural England to conclude the notification process ends on 12 December 2013. Initially the Board set a date of 27 November to meet but following a request from the Council this has helpfully been brought forward to a special meeting on 19 November.

It is assumed that the Board will (as previously) not announce its decision on the day but want it to be accompanied by the release of minutes of the meeting. We would expect this to be on 22 November.

Allowing one week for the Council to consider its position a suspension until 29 November is proposed.

As shown in the schedule, not only can all the technical work associated with the Housing Needs Assessment, the SA update and the review of the evidence base be completed well before Natural England's decision but full public consultations can be completed for both the needs assessment and SA if appropriate.

On this basis therefore the Council is formally requesting that the Medway Core Strategy Examination is suspended until 29 November 2013 for the reasons set out above.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Brian McCutcheon', with a long horizontal flourish underneath.

Brian McCutcheon
Planning Policy & Design Manager

Work Programme and Outputs to Inform Examination: SSSI notification, Housing needs assessment, Evidence base review

Item	W/C 26/8	W/C 2/9	W/C 9/9	W/C 16/9	W/C 23/9	W/C 30/9	W/C 7/10	W/C 14/10	W/C 21/10	W/C 28/10	W/C 4/11	W/C 11/11	W/C 18/11	W/C 25/11
NE Board Meeting													19/11	
NE Board Decision													22/11	
Consideration of Board Decision by Council														29/11
Receipt of draft SHMA update report			13/9											
Fact check of draft SHMA report				*										
Receipt of final SHMA update report				20/9										
Poss. Public consultation on SHMA update					27/9	*	*	*	*					
End of poss. Consultation on SHMA update										1/11				
Complete discussions on													22/11	

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implications of SHMA with neighbouring authorities															
Complete drafting of main modification (if appropriate)														29/11	
Review of evidence base and new requirements	*	*	*	*	*	*	*	*	*	*	*	*	19/11		
Further SA appraisal: <ul style="list-style-type: none"> • Factual data collection and analysis • Workshop with statutory consultees • Consultation draft SA report • SA consultation • Complete SA report 	*	*	*	*	*										
						4/10									
								18/10							
									22/10	*	*	*	*	26/11	
														29/11	

* Whole working week