



Medway Core Strategy  
Examination in Public

Matter 5: Lodge Hill Strategic Allocation

Closing Statement by

Kent Wildlife Trust

Respondent ref: 37

We have placed our closing statement under the relevant questions for clarity.

**1) Policy context:**

**c) Core Strategy**

**i) Is there an internal conflict between Policies CS6 and CS33?**

Policy CS6 was written with the laudable aim to protect Medway's environment, and the protection, maintenance and enhancement of sites of national importance is a key part of it. It would therefore be extremely concerning if the subsequent designation of a major housing allocation (CS33) as a nationally important site *did not* result in an internal conflict. We have experienced a major change in circumstance regarding the context within which CS33 must be considered, such that that allocation is no longer in conformity with policies in the Core Strategy or the NPPF.

**2) Mitigation/compensation measures**

**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?**

It is fairly evident that the answer to the first question must still be given as a range, from a few hundred to almost a thousand hectares, as the area required is dependent upon the sites used, and these are unknown at this stage.

It is also evident that no weight can be given to the Greening the Gateway Kent and Medway summary report on potential compensation sites, as the criteria used had not been agreed and did not follow all the 'right conditions' suggested by the BTO, specifically with regard to proximity to existing nightingale populations. In defence of these criticisms it was stated that 'these may not be the exact sites', so we see no reason why it should be considered evidence of likelihood of availability. We consider that the summary report presented, a culmination of several months desk and field based work, subject to a number of drafts and some discussion at workshops, demonstrates that sufficient land *will not* be available, as a significant proportion of the areas proposed either do not meet the BTO criteria or cannot be delivered for other reasons (e.g. potential future managed realignment by the Environment Agency).

As with the question regarding 'how much land', the adverse impacts are unknown, and must still be considered in terms of 'potential' impacts. It was clear from discussion regarding analysis of alternative allocation sites and loss of 'Best and Most Versatile Agricultural land' that this is still an unknown regarding the Lodge Hill compensation. It has been suggested that it may be possible to locate the compensatory habitat on lower grade agricultural land, however, it should also be noted that this would extend the time it would take to create the habitat, as per BTO advice.

**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?**

British Trust for Ornithology advice is such that a time lag should not be lead to a permanent loss provided that compensatory habitat was close to a source population. The proximity of future compensation sites to source populations is largely an unknown, but some of the sites proposed in the GGKM report are some distance from any population.

The timescale suggested by Medway Council and Land Securities would appear extremely optimistic. Discussion of ecological issues relating to the outline planning application (submitted Nov 2011) were suspended upon submission of the nightingale survey results at the Core Strategy Examination in 2012. Regardless of the nightingale issue, there are protected species issues (for example, reptiles) that will require seasonally-constrained survey work, agreement of mitigation for each phase, as well as mitigation (habitat creation and/or enhancement) prior to seasonally-constrained translocation exercises. Resolution of these issues will be reflected by Conditions attached to planning consent, so work by Land Securities at this stage would appear to be premature and pre-judge what will be required. There are also issues relating to European Protected Species (for example, bats and great crested newts), covered by stricter legislation and licencing requirements. While it may be hoped by some that development can commence prior to nightingale habitat creation the same cannot be said of protected species on site. It should be noted that this will be necessary prior to site ordnance clearance and land remediation, and protected species mitigation processes, particularly with regard to European Protected Species, can often take two or three years. The timescale for Lodge Hill given in the Core Strategy was extremely optimistic even without the delay caused to the Core Strategy examination.

### **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.**

The discussions held during the examination further reinforce our opinion that the Core Strategy has been an ‘allocation-led’ exercise, with the other options compared with Lodge Hill’s perceived ability to deliver particular economic and social aims, rather than an exercise in identifying the option that best delivers sustainable development; a balance between economic, social and environmental benefits.

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

**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?**

Medway Council consider that tempering the scoring would ‘double count’ the biodiversity as it is assessed under SA objective 1. This demonstrates a failure to objectively assess each option equally against each SA objective. It must be born in mind that the assessment under SA Objective 1 is much broader than that applied by the NPPF PDL caveat, as it considers indirect and direct impacts on biodiversity – all the options are assessed as having a negative impact on biodiversity. If we take a hypothetical situation (as we are considering a process), were more than one option to be assessed as having an equal impact on biodiversity under SA objective 1 (whether direct or indirect), and these options were PDL, applying SA objective 7 in the way that Medway have would not discriminate between these sites with regard to their conformity with the NPPF or contribution to sustainable development.