

Please contact: Brian McCutcheon
Our ref: BM/LDF/CS Exam/Lodge Hill
Your ref:
Date: 18 October 2012

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By Email Only

Dear Rob,

Chattenden Woods SSSI and Lodge Hill

I refer to my email to you sent on Friday 12th October at 15:00 acknowledging receipt of the letter from Maddy Jago and Rob Cooke, also dated 12th October and indicating that a more detailed response would follow.

In compiling this response we have been assisted by the papers relating to this matter and which were received early on 16th October. Many thanks for passing these on as they make the minutes of the Executive Board much clearer.

The Council is pleased to note the decision of the Executive Board not to notify the site “*at this stage*”. Having considered all the evidence the Council is of the view that the available “*science*” falls a long way short of what would be required to justify notification and rather more so than is implied in the minutes.

Your letter suggests that the Board is waiting for further evidence from the national results from the 2012 nightingale survey to enable it to consider notifying the site at some stage in the future. We would point out that this is by no means a foregone conclusion and the results may equally show the site is not of sufficient interest to justify notification. There is little doubt that Lodge Hill was comprehensively surveyed in 2012 but that will have to be balanced with consistent under counting at a national level and the implications of relying on a single year’s results in considering notification, amongst other factors.

We also note that the Board’s position on this point is inconsistent with the way in which it considered the matter of scrub vegetation.

Given these points it follows that the Council cannot safely “*attribute the same weight to this site as would normally be given to a SSSI*”. According to Natural England’s assessment of the available evidence it is insufficient to justify notification and to suggest that the Council (and presumably the Examination Inspector) should somehow take a contrary view is not legally sound.

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

That is not to say that the Council does not recognise the obvious nature conservation value of the site. As you know it is expending considerable resources and effort to determine whether a mitigation/compensation package (primarily but not exclusively for nightingales) is possible, appropriate and deliverable in full accordance with Natural England's letter of 9th July and as alluded to in the penultimate paragraph of the letter of 12th October. The approach being followed is rigorous, inclusive and wholly transparent and we expect it to be concluded long before the national 2012 nightingale results are available.

In that context I would remind you that the Core Strategy Examination, although "suspended" is still open. Due to the last minute submission of evidence on nightingales it has already substantially exceeded the target PINS programme of 23 weeks and your latest letter implies that it might remain open for many months yet so that evidence not yet compiled can be considered.

Given this I would draw your attention to Annexe 1 of the National Planning Policy Framework and the Duty to Cooperate introduced by the Localism Act 2011¹. If the core strategy examination has not been concluded by April the expiry of the transitional arrangements in Annexe 1 will place the natural environment across Medway at greater risk. Natural England's duty to cooperate is ongoing and is intended to assist the Council in achieving a sound plan. Currently it is difficult to see how this might be the case.

These are fundamental issues that must be given appropriate weight.

You may consider that any further response should await the stakeholder workshop scheduled for 9th November but it is incumbent on both our organisations to provide clear advice to the Inspector before the reopening of the Core Strategy Examination. With that in mind we remain open to all discussions.

Yours sincerely,



Brian McCutcheon
Planning Policy & Design Manager

¹ A useful short guide is available on the PAS website at:
<http://www.pas.gov.uk/pas/core/page.do?pageId=2133454#contents-6>