

Date: 18 April 2017
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Dear Catherine Smith

**Medway Local Plan
Development Options Consultation**

Thank you for your letter of the 17 January 2017 consulting Natural England on the Medway Development Options Consultation and the associated Sustainability Appraisal Scoping Report, the Sustainability Appraisal and the baseline documents, including the updated Strategic Land Availability Assessment.

Natural England has a shared objective with Medway of the Council securing a sound plan, that enables growth in Medway in accordance with the principles of sustainable development, and we are committed to working with the Council to achieve this objective. We are providing this consultation response to the Local Plan Regulation 18 consultation report (referred to below as “the document”) and also the Interim Sustainability Appraisal (also referred to as “the SA”) in that spirit.

Natural England recognises the challenges facing Medway in developing its local plan, and this consultation response and our ongoing engagement with you are aimed at helping ensure the vision within the Development Options consultation can be realised. The document states that *‘By 2035, Medway will be a leading waterfront University city of 330,200 people, noted for its revitalised urban centres, and its stunning natural and historic assets, and countryside’*. To this end we support the document’s statement that the scale of planned growth needs *‘careful consideration of how Medway’s environment and infrastructure can accommodate development that is sustainable.’*

Understandably, the proposed development at Lodge Hill is a key concern for Natural England and we have provided a specific section in our comments appended to this letter to address our concerns regarding this site.

Overall, our advice is that in order to meet the tests of sustainable development, alternatives to the proposed development of the site at Lodge Hill need to be fully considered and tested in the plan process. At present, we do not consider this approach has been properly developed. In keeping with our shared objective of ensuring Medway secures a sound local plan, we remain committed to working with the Council to ensure that sustainable alternatives can be identified to avoid the loss of a nationally important environmental asset. To this end, we would be pleased to work with the Council following this consultation to advise on the likely environmental implications of potential site allocations in relation to nature conservation, landscape and best and most versatile agricultural land.

For ease, we have provided our advice in four sections appended to this letter:

1. The Council's Vision for 2035 and Strategic Objectives
2. Proposed development and site allocation at Lodge Hill
3. Development Options Consultation Document
4. Sustainability Appraisal Scoping Report and interim Sustainability Appraisal

We recommend, however, that our advice in each section should not be considered in isolation due to the inherent overlap.

I trust these comments are helpful and we look forward to working closely with you over the coming months as you move towards a preferred options stage of the Local Plan.

For any queries relating to the specific advice in this letter only please contact Sean Hanna on 0208 0266 064 or by email to sean.hanna@naturalengland.org.uk. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

A solid black rectangular box used to redact the signature of Patrick McKernan.

Patrick McKernan
Manager
Sussex and Kent Team

Natural England's detailed advice in relation to the Medway Development Options consultation

Natural England's advice is provided below. Given the potential implications for the Chattenden Woods and Lodge Hill Site of Special Scientific Interest from the Lodge Hill site allocation/development, our letter has been structured to include this towards the start of our response.

1 The Council's Vision for 2035 and Strategic Objectives

- 1.1 Natural England has a shared objective with Medway of the Council securing a sound Local Plan that enables growth in Medway in accordance with the principles of sustainable development. We are committed to working with the Council to achieve this objective.
- 1.2 Our focus is on ensuring that the importance of the natural environment is recognised and valued as a core element of the Local Plan. Medway has a wealth of environmental assets that are an essential part of the distinctiveness and character of the district. We aim to work collaboratively with the Council to help identify the benefits to the environment that can be obtained from sustainable growth, and secure opportunities for working at the landscape scale to create a stronger and more resilient network of environmental sites, in accordance with our (shared) statutory duties, Conservation 21¹: Natural England's conservation strategy for the 21st century, and Government policy.
- 1.3 We welcome therefore the Council's Vision for 2035 that: *'Medway will be... noted for its... stunning natural and historic assets, and countryside... defined by development that respects the character, functions and qualities of the natural and historic environments... to ensure that important wildlife and heritage assets are protected and opportunities are realised to enhance their condition and connectivity'*².
- 1.4 We also welcome this vision for the environment being further underlined by the statements that *'The environment is central to the ambitions for Medway's sustainable growth'*, and that the Local Plan *'will set out the Council's commitment to protecting biodiversity, valued landscapes and geological conservation interests'*³. We also recognise and welcome the Council's ambition to *'work at a landscape scale to conserve biodiversity and secure the wider benefits of a coordinated approach to planning for the protection and enhancement of Medway's natural and local environment'*⁴.
- 1.5 Natural England recognises the challenges facing Medway in developing its local plan, and this consultation response and our ongoing engagement with you are aimed at helping ensure the vision within the Development Options consultation can be realised. The document states that *'By 2035, Medway will be a leading waterfront University city of 330,200 people, noted for its revitalised urban centres, and its stunning natural and historic assets, and countryside'*. To this end we support the document's statement that the scale of planned growth needs *'careful consideration of how Medway's environment and infrastructure can accommodate development that is sustainable'*⁵.

¹ <https://www.gov.uk/government/publications/conservation-21-natural-englands-conservation-strategy-for-the-21st-century>

² Page 15 of the document.

³ Paragraph 7.15 of the document.

⁴ Paragraph 7.12 of the document.

⁵ Paragraph 3.3 of the document.

- 1.6 This approach is also supported in the document's section on Strategic Objectives, and we welcome the statement that the role of the Medway Local Plan is to *'plan positively for the development and infrastructure that the area needs, whilst protecting and enhancing the natural, built and historic environment'*⁶.
- 1.7 We also support the objective that, in order to deliver sustainable development, and respect Medway's natural environment, growth should be directed to *'the most suitable locations that can enhance Medway's economic, social and environmental characteristics'*⁷.
- 1.8 In our response to this consultation we have provided sections covering the Development Options consultation as well as the recently published Interim Sustainability Appraisal (also referred to as "the SA"). As well as statute and national policy, we have considered both documents against the Council's Sustainability Appraisal scoping report ("the SA scoping report"), including the statement at paragraph 1.1 of the SA scoping report that *'Policies in the Local Plan will be subject to a Sustainability Appraisal at each stage of preparation to ensure the most sustainable approach has been identified and pursued'* (our emphasis).
- 1.9 Understandably, the proposed allocation within the Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI) ('Lodge Hill') is a key concern for Natural England and we have provided a specific section in our comments to address our concerns regarding this site. Natural England does not consider that the approach taken to Lodge Hill is sustainable or sound.

⁶ Paragraph 2.39 of the document.

⁷ Paragraph 2.39 of the document, 12th bullet point.

2 Proposed development and site allocation at Lodge Hill

Lodge Hill

- 2.1 We are keen to work with the Council to ensure the rich environment of the district is conserved and enhanced, whilst realising the economic growth and regeneration of the area. Chattenden Woods and Lodge Hill SSSI is one of Medway's finest natural assets. As well as its national importance, we consider the SSSI is a fundamentally important site underpinning the biodiversity value of the district and the wider area of North Kent.

Impacts on the SSSI and wider biodiversity interest

- 2.2 The SSSI is a nationally important site designated for its breeding nightingale population, woodland and unimproved neutral grassland. The purpose of the SSSI notification of Chattenden Woods and Lodge Hill for nightingale is to contribute to the conservation of the British population of the species. Natural England's position is that in-situ preservation of the Chattenden Woods and Lodge Hill SSSI would provide the best outcome for biodiversity.
- 2.3 The proposed development/site allocation at Lodge Hill would result in major direct and indirect impacts to all of the interest features of the SSSI. In Natural England's statement addressing the matters and issues for the Lodge Hill hearing in May 2013, we considered that the proposed development would be likely to result in the loss of 83% of the nightingales on the site and 92% of its special grassland interest⁸.
- 2.4 In addition to the SSSI interest, the site supports significant biodiversity features which would also be directly impacted by the proposed development. The site is rich in protected and notable species including great crested newts and common toads, slow worms, grass snakes and common lizard, as well as a diverse invertebrate assemblage, a rich breeding bird assemblage, and in excess of 50 bat roosts, with at least eight species of bats using the site for feeding or commuting.
- 2.5 There may also be adverse impacts on the areas of ancient woodland outside of the boundary of the proposed development (but also within the SSSI), such as those which could result from increased levels of trampling, pollution, and disturbance, for example.

SSSI and biodiversity duties for local authorities

- 2.6 Whilst we welcome Medway's stated commitment to protecting biodiversity, we would encourage the Council to clearly set out how the approach to Lodge Hill in the development options document is in accordance with the duty placed upon public bodies under section 28G of the Wildlife and Countryside Act 1981 (as amended); this requires a 'section 28G authority':

'in exercising its functions so far as their exercise is likely to affect the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest... The duty is to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.'

⁸ Written Statement from Natural England for the further hearing session, 22 to 23 May 2013, of the Medway Core Strategy Examination, para. 3.

- 2.7 Similarly, it would be helpful if the Council were to clearly set out how the approach in relation to Lodge Hill is in accordance with the biodiversity duty under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006. This places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity.
- 2.8 Government planning practice guidance (PPG) on the natural environment⁹ states that ‘A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its Biodiversity 2020 strategy.’
- 2.9 Biodiversity 2020 states that the challenge set out in biodiversity is to halt the decline in biodiversity ‘for the benefit of this and future generations.’ Paragraph 19 further states that ‘We need to ensure biodiversity is taken into account by decision-makers within sectors which have the greatest direct influence on our biodiversity, and we need to reduce direct pressures on our biodiversity.’ Specifically with regard to planning and development, Biodiversity 2020 states that government ‘will retain the protection and improvement of the natural environment as core objectives of the planning system.’
- 2.10 In addition, ‘Outcome 1’ (Habitats and ecosystems on land) has a specific target of maintaining at least 95% of SSSIs in favourable or recovering condition. Natural England’s view is that the impact on Chattenden Woods and Lodge Hill SSSI from the proposed development of the site would have a major impact on biodiversity in England. We would therefore expect the Council, in fulfilling its section 28G duty and its biodiversity duty, to seek the protection of the SSSI as a key principle of delivering for biodiversity in its local plan.
- 2.11 We have provided comments on the SA Scoping Report and Interim SA in relation to environmental issues generally which include suggestions for improvement, in Section 4 of this letter. However, on the basis of the SA Scoping Report as it stands, we also consider the protection of Chattenden Woods and Lodge Hill SSSI would be in accordance with the SA scoping report, in particular Sustainability Objective 4 ‘Conserve and enhance the existing green network’ and Sustainability Objective 8 ‘Making the best use of natural assets’. Sustainability Objective 4 speaks for itself, and D.17 in particular makes clear that both policy and legislation protects designated sites against inappropriate development, whilst the ‘sustainability issue’ identified under Objective 4 similarly protects designated sites such as Lodge Hill.
- 2.12 The detail of Sustainability Objective 8 also chimes with Objective 4, and in particular the first of the opportunities identified under that Objective mirrors that under Objective 4, whilst the final Objective 8 ‘opportunity’ is also relevant:

Opportunities:

- *plan for the protection and enhancement of the natural environment...*
- *conserve and protect agricultural land and valuable landscapes and designations in order to support the creation and perseverance of wildlife, habitats and diversity.*

As detailed within Paragraph 113 of the NPPF, the second bullet point should ensure it reflects the hierarchy of international, national and locally important sites.

- 2.13 We have recommended below in our comments on the Sustainability Appraisal that an indicator to ensure no net loss of designated sites from development is included to help the Council in this regard.
- 2.14 We also consider this would be in accordance with the SA scoping report, in particular

⁹ <https://www.gov.uk/guidance/natural-environment>.

Sustainability Objective 4 'Conserve and enhance the existing green network' and Sustainability Objective 8 'Making the best use of natural assets'.

Development options scenarios – compliance with NPPF

2.15 Natural England is concerned that Lodge Hill is included within all of the development option scenarios in the consultation document. Such an approach is not compliant with the NPPF, and seems inconsistent with the Council's stated commitment to protecting biodiversity.

2.16 At the heart of the NPPF is the 'golden thread' of a '*presumption in favour of sustainable development*'. Paragraph 14 of the NPPF states that:

*'At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.*

*For **plan-making** this means that:*

- *local planning authorities should positively seek opportunities to meet the development needs of their area;*
- *Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted'*

2.17 The Footnote to this paragraph clarifies that these '*specific policies*' include those relating *inter alia* to sites '*designated as Sites of Special Scientific Interest.*' It is clear, therefore, that the presumption in favour of sustainable development needs to take full account of SSSIs (as well as other environmental designations) in both plan and decision making.

2.18 The NPPF also makes clear that the aim is to seek firstly to avoid adverse impacts on land of higher environmental value and provide a full consideration of alternatives.

2.19 One of the core planning principles stated in NPPF paragraph 17 is that planning should:

'contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;'

2.20 Paragraph 152 of the NPPF further states that for plan-making, significant adverse impacts on any of the dimensions of sustainable development '*should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued.*' Paragraph 182 of the NPPF continues this theme regarding alternatives (amongst the other points made there).

2.21 Similarly, Paragraph 110 of the NPPF states that '*In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment. Plans should allocate land with the **least environmental** or amenity value, where consistent with other policies in this framework*' (emphasis added).

2.22 Paragraph 113, concerned with plan-making, explains a hierarchical approach:

'Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national

and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'

2.23 As regards paragraph 118 of the NPPF, which makes specific provision for SSSIs in the context of decision making, this states:

'When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that 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 Sites of Special Scientific Interest;*
- development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;*
- opportunities to incorporate biodiversity in and around developments should be encouraged;*
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;'*

2.24 It is clear therefore from paragraph 113 that for policy-making there is a hierarchy as between sites, in which in our view Chattenden Woods and Lodge Hill SSSI sits towards the top, and from paragraph 118 that there is a requirement to follow a decision-making hierarchy when considering impacts on biodiversity. Only if significant harm to the environment cannot be avoided, and alternative approaches have been exhausted, should compensation be considered, as a 'last resort'. This 'avoid, mitigate, compensate' approach is also supported in Paragraph 109 of the NPPF which states that the planning system should contribute to the natural environment by *'...minimising impacts on biodiversity...'*

2.25 In addition, Natural England's view is that the 'last resort' of compensation should only be considered once the planning merits of a development proposal affecting an environmental feature have been fully considered.

2.26 The Development Options report and accompanying documents (e.g. SA, SLAA) do not in our view provide a clear rationale of how these requirements have been met. Whilst the Development Options document notes that the planning status of the land at Lodge Hill is uncertain, the accompanying SA states (in paragraph 4.16) that one of the two main reasons Lodge Hill has been included is due to *'the Council's view that a satisfactory mitigation and compensation package could be implemented.'* (the other is in our view a flawed approach to NPPF policy regarding previously developed land, which we address below).

2.27 This 'leapfrogging' approach (leapfrogging to the assumption that Lodge Hill can be considered as a potential development option because it may be possible to compensate for the environmental impacts) is, in our view, not in accordance with the NPPF. A similar

rationale is implicit in the 2017 version of the SLAA. Although the site is considered unsuitable, this assessment is made *'pending the outcome of the Public Inquiry scheduled for 2018'*¹⁰.

- 2.28 Appendix 2 of the SA also implies that the use of mitigation and compensation means the site can be considered for development. Whilst having a principle that *'Development will be directed away from areas of environmental designations'*, it suggests that Lodge Hill can be considered for development *'if an acceptable solution can be determined for ecological mitigation and compensation...'*
- 2.29 Paragraph 4.27 of the SA also states that the Lodge Hill Public Inquiry *'will determine if the proposed mitigation and compensation strategy is an appropriate planning approach in assessing development on a designated SSSI'*. Natural England's view is that it can already be determined that moving straight to consideration of a mitigation-and-compensation strategy by 'leapfrogging' is not an appropriate planning approach with regard to the NPPF.
- 2.30 Paragraph 4.60 of the SA, which states that the scale of development *'is identified as potentially presenting negative impacts on the environment'*, similarly appears to reflect a 'leapfrogging' approach that does not meet the requirements of the NPPF, as well as the Council's statutory duties regarding Chattenden Woods and Lodge Hill SSSI. This is also the case within paragraph 4.65 of the SA, since the 'balance' suggested fails to differentiate between undesignated and designated sites such as Chattenden Woods and Lodge Hill SSSI and therefore may not be in accordance with the NPPF.
- 2.31 We consider that these NPPF requirements should underpin the further development of Medway's local plan. Our view is that the reliance on the possibility of a mitigation and compensation strategy for Lodge Hill is not sufficient justification for the site being included in all development options as this approach does not comply with the NPPF, in particular the policies in Chapter 11 of the NPPF discussed above and, most specifically, the 'avoid' (or alternatives) part of the 'avoid, mitigate, compensate' hierarchy in the NPPF.
- 2.32 We advise that the assessment of development options will need to clearly identify how the NPPF's principles of avoiding environmental harm and seeking alternatives have been addressed. The inclusion of Lodge Hill in any of the development options should therefore be based on a clear rationale of how the requirements of the NPPF have been met. We recommend that the revised development options are then tested through the Sustainability Appraisal (SA) of the local plan.

Reliance on assumption that Lodge Hill contains Previously Developed Land

- 2.33 The other main reason provided in the SA for the Council considering Lodge Hill potentially suitable for development is that the site contains Previously Developed Land. Natural England is concerned that this approach does not take into account the requirements of the NPPF regarding brownfield land, and the comments made by the Inspector to the Council concerning the withdrawal of the core strategy in 2013.
- 2.34 With regard to brownfield land, the core planning principles of the NPPF (paragraph 17) state that planning should (emphasis added): *'encourage the effective use of land by reusing land that has been previously developed (brownfield land), **provided that it is not of high environmental value;***
- 2.35 This requirement is also reiterated in paragraph 111 of the NPPF: *'Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.'*
- 2.36 As stated in our response to the SA, Natural England supports the reuse of brownfield land

¹⁰ Footnote to Appendix 5 in the 2017 SLAA

where this is not of high environmental value. We are concerned, however, that the SA does not include consideration of the SSSI status of Chattenden Woods and Lodge Hill SSSI as clearly demonstrating the nationally important environmental value of the site. This seems at odds with the recognition in the Landscape & Environment section of the 2017 SLAA that *'the NPPF makes reference to the importance of land of high environmental value.'*¹¹

- 2.37 The fact that this assessment in the SA is followed by reference (in paragraph 4.16) to a mitigation and compensation package implies, without being stated, that this is the means by which the NPPF exception to brownfield land policy for land of 'high environmental value' is addressed. Our comments above regarding the requirement in the NPPF to seek to avoid environmental impacts and examine all alternatives apply equally to this aspect of the approach being taken towards the Lodge Hill site which we also consider out of step with the NPPF.
- 2.38 We consider therefore that the SA and Development Options document as currently presented are not consistent with the requirements of the core planning principles of the NPPF.
- 2.39 Our view is supported by the comments made in the Inspector's letter to Medway Council in June 2013 concerning the withdrawal of the core strategy. In her letter¹², the Inspector noted:

'Various estimates of the amount of the site that can be classified as previously-developed land were put to me in evidence, ranging from 15% (RSPB) to 53% (verbal evidence of CBRE for Land Securities)...

From what I saw [on a site visit], I formed the view that the proportion of the site that could be described as previously developed land is more likely to be towards the lower end of the range set out above. In any event, paragraph 111 of the Framework encourages the reuse of previously developed land, provided that it is not of high environmental value. Whatever the proportion of the site that is previously developed, the fact that it has been designated as a SSSI and is therefore of high environmental value means that its development does not benefit from any particular support from the Framework in this respect.'

- 2.40 We consider therefore that both the Development Options and the accompanying SA should provide a clear recognition of the high environmental value of Lodge Hill as an SSSI with regard to any extent of Previously Developed Land on the site. In our view this should highlight that the lack of support in the NPPF for development of the site in this respect is a key consideration in assessing the suitability of Lodge Hill for development.

Employment land potential at Lodge Hill

- 2.41 In addition to the provision of housing, Lodge Hill and the potential allocation sites on the Hoo Peninsula are being considered as potentially offering an opportunity to deliver business park space. The December 2015 Employment Land Needs Analysis (ELNA) highlights that there may be *'the opportunity to deliver an office and research development employment proposition at the site.'* Table 27 in the ELNA suggests that a potential requirement for seven hectares of employment at Lodge Hill area *'Could have more campus office/R&D function.'*
- 2.42 However, the ELNA applies a considerable degree of caution when considering the employment land potential at Lodge Hill, recognising in particular the 'weak market for business parks in Kent':

¹¹ SLAA report January 2017, p.13

¹² Letter from Laura Graham, Inspector, to Medway Council, dated 21 June 2013

'Clearly, given the early stage the proposals for Lodge Hill are at there needs to be some caution exercised in predicting its future activity, particularly given the need to establish it as a place first, the lack of an existing high quality office market in this area and the still relatively weak market for business parks in Kent.'

2.43 Paragraph 9.21 then considers the challenge of taking forward the proposition at Lodge Hill:

'Recent experience at Kings Hill, a major business park located within Tonbridge and Malling, highlights the potential challenges of establishing the Lodge Hill proposition. Despite strong performance and demand for early phases of development more recently demand for space has reduced significantly reduced. As a result the site owners have reviewed the plans for later phases and received planning permission to deliver additional housing rather than the planned future office space.'

2.44 Given the relatively small requirement for office space across the plan area and the weak argument for business park space at Lodge Hill, it is unclear why this requirement could not be fully met on a mix of alternative development sites with lesser environmental constraints, thereby helping to achieve sustainable development and adhering to the 'avoid, mitigate, compensate' hierarchy in the NPPF.

2.45 We recommend therefore, that to ensure the local plan is sound, a full consideration of alternative sites and ways of realising the economic aspirations for Medway is undertaken and robustly tested through the Sustainability Appraisal (and where appropriate Habitats Regulations Assessment) process as part of the work the Council will be undertaking to progress the Local Plan to the next stage.

Consideration of alternatives to Lodge Hill

2.46 We recognise that one of the reasons for the withdrawal of Medway Council's core strategy was the Inspector's conclusion in a letter to the Council in June 2013¹³ that she was *'not convinced that there are no reasonable alternatives to the proposed development at Lodge Hill.'* The inclusion of Lodge Hill within all of the development option scenarios means that it is not clear how this comment by the Inspector has been addressed.

2.47 We note that the Issues and Options consultation document (paragraph 27.7) considered that the uncertainty surrounding the Lodge Hill site necessitated the consideration of alternatives, stating:

'...given the uncertainty on the site, in advance of the outcome of the Public Inquiry, the new local plan must consider options for development, should Lodge Hill not form part of Medway's growth strategy. This involves not only identifying sufficient alternative land for the homes and employment proposed at Lodge Hill, but also a fundamental review of the development strategy being promoted for Medway.'

2.48 However, it is not clear from the Development Options document whether a fundamental review has been undertaken, but as the reference is to uncertainty, which is plainly the current position, with the outcome of the public inquiry still unknown, we consider that this review should be taking place at this stage of the plan process.

¹³ Letter from Laura Graham, Inspector, to Medway Council, dated 21 June 2013

- 2.49 Paragraph 4.29 of the SA states that the Council will need to consider its response to Lodge Hill if the proposed development is not supported by the Secretary of State. Natural England is concerned that waiting until after the outcome of the public inquiry, and any subsequent challenge, may risk the Council being able to secure a sound plan. We advise that the consideration of alternatives set out in the SA to development at Lodge Hill should be explored fully at this stage of the plan-making process so that a clearer assessment of the deliverability of the plan is made before the commencement of the public inquiry.
- 2.50 The SA suggests one of the alternative approaches could be to seek to increase development allocations in other areas of Medway. The first bullet point of paragraph 4.29 considers that such an approach *'could place unacceptable pressures on the environment...'*. Natural England recognises and welcomes the Council's stated commitment in the Development Options document to protect biodiversity, valued landscapes and geological conservation interests. We also recognise the Council's concerns, in this document, the SA, and the SLAA, regarding the potential impacts from development options on environmental features including best and most versatile agricultural land and areas of local landscape value (as well as the nationally important Kent Downs Area of Outstanding Natural Beauty [AONB]).
- 2.51 We consider, however, that the potential local environmental impacts of alternative sites to Lodge Hill, including their potential impact on undesignated land such as best and most versatile agricultural land, need to be weighed up against the significant harm from the proposed development of a nationally important SSSI.
- 2.52 We note that various development options which were assessed in the 2017 SLAA as unsuitable (and also considered in the November 2015 SLAA as *'unsuitable for development unless identified constraints can be addressed'*) are nevertheless shown on the maps in the Appendices of the Development Options document. This is noted in paragraph 4.19 of the SA. We would wish to explore further with the Council whether the environmental impacts of alternative sites can be addressed, when seen in the context of avoiding the significant direct harm to the Chattenden Woods and Lodge Hill SSSI. We consider support for this approach is provided in the SA (paragraph 4.19), which states that with regard to the review of sites not considered suitable in the SLAA *'Other constraints may need to be assessed in the wider context of establishing a balance of planning considerations.'*
- 2.53 In this respect, we would consider that if alternative sites can be taken forward as development options, because their environmental impacts can be addressed and/or are of a lesser magnitude, these are likely to represent a more sustainable alternative to Lodge Hill. In other words, such sites might only be considered as suitable in environmental terms because of the significant environmental harm they avoid to the Chattenden Woods and Lodge Hill SSSI. We suggest this approach should be tested as part of the Sustainability Appraisal of the emerging local plan.

Duty to Cooperate

- 2.54 Natural England notes that in the SA (paragraph 4.29) a further alternative option to Lodge Hill is through the Duty to Cooperate, through requests being made to neighbouring areas to meet unmet housing need outside of the borough boundary.
- 2.55 This may be particularly important, not just given the constraints upon Medway, but also because the November 2015 North Kent Strategic Housing and Economic Needs Assessment identifies that the Medway Council Housing Market Area (HMA) encompasses a wider area beyond the authority area, to include Gravesham, Swale, Maidstone, and Tonbridge & Malling.
- 2.56 We are committed to working closely with Medway Council as part of the Duty to Cooperate and note that the Duty to Cooperate Scoping Report will be consulted upon in due course. It would be helpful if further information could be made available on the outcome of the

stakeholder workshop with the prescribed Duty to Cooperate bodies in February 2016 (a summary of which is provided in the Issues & Options Consultation Responses report), and the conclusions of any other discussions with neighbouring authorities on the potential for allocating some of Medway's housing need outside of the district. This would also help Natural England understand more clearly how Medway's housing requirement sits within the wider north Kent area.

Best and most versatile agricultural land

2.57 Natural England recognises that significant areas of land on the Hoo Peninsula, and bordering the urban areas of Strood and Rainham are of the highest grades of best and most versatile agricultural land (as noted in paragraph 3.12 of the Development Options Consultation document). We would be happy to work with the Council to offer advice on the wider environmental implications for possible allocation sites.

2.58 The NPPF does not preclude the allocation of best and most versatile agricultural land within a Local Plan, with paragraph 112 stating:

'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.'

2.59 This contrasts with the presumption against development on a designated site unless there are exceptional circumstances, as detailed in Paragraph 118 of the NPPF:

'...proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that 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 Sites of Special Scientific Interest'

2.60 The Development Options Consultation and accompanying documents do not appear to reflect this difference in approach to nationally designated sites and agricultural soil protection detailed within the NPPF. In Table 2 of the Sustainability Appraisal Scoping Report, the decision-aiding question for Objective 4: Conserve and enhance the existing green network in relation to designated sites is *'Will it protect and enhance the environmental designations?'*. This would appear to exclude the further consideration of an allocation at Lodge Hill within the Local Plan.

2.61 For Objective 8: Making the best use of natural assets, a similar decision-aiding question is provided, namely *'Does it protect or improve on the quality of agricultural land?'*. This approach appears to give agricultural land the same level of consideration in the Local Plan decision-making process as nationally designated sites.

2.62 Natural England therefore recommends that as the development options are refined, greater clarity is provided on how potential development allocation sites will be considered in accordance with the differing requirements of the NPPF in relation to designated sites and agricultural land to ensure that the Plan is sound.

Summary and recommendations in relation to the proposed allocation at Lodge Hill

2.63 Overall, our advice is that in order to meet the tests of sustainable development, alternatives to the proposed development of this site need to be fully considered and tested in the plan process. At present, we do not consider this approach has been properly developed. In keeping with our shared objective of ensuring Medway secures a sound local plan, we

remain committed to working with the Council to ensure that sustainable alternatives can be identified to avoid the loss of a nationally important environmental asset. To this end, we would be pleased to work with the Council following this consultation to advise on the likely environmental implications of potential site allocations in relation to nature conservation, landscape and best and most versatile agricultural land.

2.64 We are concerned that the lack of alternatives to Lodge Hill within the strategic development options gives rise to considerable uncertainty and risk of the Plan being found unsound. We would encourage the Council to consider and set out alternative options to the development of the SSSI that recognise the approach that needs to be taken under the NPPF to address significant impacts on the environment. We welcome the initial consideration in the SA of alternative options to Lodge Hill and we are committed to working with the Council to examine all alternative options that will result in the protection of the SSSI.

2.65 We consider that addressing the question of alternatives to Lodge Hill at this stage of the plan process is both a requirement of plan-making, and a core principle of sustainable development. We also consider that identifying alternatives is the appropriate way to reduce the considerable risk to the plan having undue reliance on this site, and to enable the Council to realise its stated commitment of protecting biodiversity.

2.66 In summary, we have advised:

- that the Council should clearly set out how the approach for Lodge Hill is in accordance with the biodiversity duty for local authorities (under the NERC Act, 2006), and Medway Council's responsibilities as a 'section 28G authority' under the Wildlife and Countryside Act 1981 (as amended).
- that a robust assessment of development options will need to clearly identify alternatives to Lodge Hill.
- that the consideration of Lodge Hill should fully recognise the requirement in the NPPF to reflect a hierarchy of environmental designations in plan-making and to follow a decision-making hierarchy when considering impacts on biodiversity - only if significant harm to the environment cannot be avoided, and alternative approaches have been exhausted, should compensation be considered, as a 'last resort'.
- that both the development options and the accompanying SA should provide a clear recognition of the high environmental value of Lodge Hill as an SSSI and that this removes any policy support for development of any Previously Development Land on the site.
- that the potential local environmental impacts of alternative sites to Lodge Hill need to be weighed up against the significant harm from the proposed development on a nationally important SSSI.
- that the consideration of alternatives set out in the SA to development at Lodge Hill should be explored fully at this stage of the plan-making process so that a clearer assessment of the deliverability of the plan is made before the outcome of the public inquiry.
- that if alternative sites can be taken forward as development options, because their environmental impacts can be addressed and/or are of a lesser magnitude, these are likely to represent a more sustainable alternative to Lodge Hill.

3 Development Options Consultation Document

- 3.1 Natural England has a shared objective with Medway of the Council securing a sound plan, that enables growth in Medway in accordance with the principles of sustainable development. We are committed to working with the Council to achieve this objective.
- 3.2 Our focus is on ensuring that the natural environment is fully considered as part of the plan-making process, and that every opportunity is sought to protect and enhance Medway's environmental assets. We welcome therefore the Council's vision that: *'Medway will be... noted for its... stunning natural and historic assets, and countryside... defined by development that respects the character, functions and qualities of the natural and historic environments... to ensure that important wildlife and heritage assets are protected and opportunities are realised to enhance their condition and connectivity.'*
- 3.3 We also welcome this vision for the environment being further underlined by the statement that *'The environment is central to the ambitions for Medway's sustainable growth... The Local Plan will set out the Council's commitment to protecting biodiversity, valued landscapes and geological conservation interests'*¹⁴.
- 3.4 Natural England is supportive of the text within the *'Developing a vision for 2035'* and we are keen to work with the Council to ensure that Medway's rich and varied natural assets are conserved and enhanced through the local plan delivery.
- 3.5 Similarly, Natural England welcomes, and is generally supportive of the Strategic Objectives detailed in Section 2.39. Given the diverse environmental assets in Medway, we would recommend that the first bullet point under the *'Ambitious in attracting investment and successful in place-making'* could be made to reflect better the aspirations for Medway elsewhere in the document by a minor amendment along the following lines:
- ...meeting the needs of Medway's communities, ~~respecting~~ *safeguarding* the natural and historic environment...
- 3.6 Natural England supports the reuse of brownfield land where this is not of high environmental value (as detailed within Paragraph 17 of the National Planning Policy Framework); it would therefore seem appropriate to include this caveat within the second bullet point under the *'Ambitious in attracting investment and successful in place-making'* strategic objective to ensure it fully reflects the approach advocated by national policy.
- 3.7 Natural England supports the *'Policy Approach: Securing strong green infrastructure'* and we note that *'A high level of protection from damaging impacts of development will be given to Sites of Special Scientific Interest and Ancient Woodland'*. The inclusion of the development site at Lodge Hill within each of the Development Options appears contrary to this Policy Approach and, as detailed in the second section of our response to this consultation, does not reflect the 'avoid, mitigate, compensate' hierarchy within the NPPF.
- 3.8 Natural England notes the Council's desire to safeguard Rochester Airport to provide *'an enhanced aviation facility'*. Given its location, any proposed increase in flights would need to fully consider the implications for the Kent Downs AONB.
- 3.9 In terms of the development scenarios presented within the Development Options Consultation Report, notwithstanding the advice above in relation to the inclusion of the site at Lodge Hill within them all, Natural England considers that the option (or elements of more than one option) which avoids impacts to the most important environmental assets should be pursued to the preferred options stage. We consider that the best way to test this is through a robust Sustainability Appraisal process which should thoroughly compare the environmental implications of the site allocations against each other.

¹⁴ Paragraph 7.15 of the document

- 3.10 Natural England would be pleased to work with the Council as you move towards the preferred options stage of the local plan to provide advice on the likely environmental impacts of individual allocation sites and the nature and scale of any mitigation measures that may be required to help realise our shared aspiration of a sound local plan.
- 3.11 Natural England considers that it would be helpful if the Council were to undertake a reasonable alternatives and preferred options consultation, once further details of the development options presented in this consultation have been finalised, before consulting on the draft Local Plan.
- 3.12 In summary, we have advised:
- that the development option, or options, which avoids impacts to the most important environmental assets within Medway should be pursued to preferred options stage. Natural England would be pleased to work with the Council to offer further advice on a site-by-site basis.
 - that the Council undertakes a reasonable alternatives and preferred options consultation following this consultation so that a robust assessment of allocation sites and their potential environmental impacts can be undertaken.

4 Sustainability Appraisal Scoping Report and interim Sustainability Appraisal

- 4.1 Natural England welcomes the opportunity to provide comments on the Sustainability Appraisal Scoping Report and the Interim Sustainability Appraisal Report (both dated March 2017). It is normal practice for the scoping report to be consulted in advance of the Sustainability Appraisal to ensure that any comments or amendments recommended by consultees can be taking into account during the appraisal process. Natural England therefore recommends that the interim Sustainability Appraisal report is revised following the amendments that may be necessary as a result of this current consultation.
- 4.2 The Sustainability Appraisal process is key to ensuring that a robust consideration of proposals and their alternatives is undertaken to confirm that the most sustainable development allocations are selected, considering all elements of sustainable development on an equal basis.
- 4.3 The SA Scoping Report identifies the area of land covered by key environmental designations within Medway. It would, however, be helpful if the individual sites were detailed by name as part of the baseline information to ensure that the appraisal considers all potential direct and indirect impacts. It would also appear appropriate for priority habitats to be mapped as part of the baseline data following the 2012 Kent Habitat Survey which also covers Medway. They should also be detailed fully within the subsequent iterations of the Local Plan documentation in accordance with Paragraph 117 of the NPPF which requires that:
- 'To minimise impact on biodiversity and geodiversity, planning policies should:*
- *Plan for biodiversity at a landscape-scale across local authority boundaries;*
 - *Identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated site of importance for biodiversity, wildlife corridors and stepping stones that connect them...'*
- 4.4 In addition to areas of high wildlife or landscape value, Medway supports key populations of protected, rare or notable species. Whilst a comprehensive data set for Medway is not available, it would appear appropriate for species data from the Kent and Medway Biological Records Centre¹⁵ to form part of the baseline data to aid the decision-making process.
- 4.5 The 'Specific issues and opportunities' section of the Scoping Report highlights, in paragraph D.17, that *'Planning policy and legislation provide strong protection against inappropriate development of the most important designated sites...'*. The inclusion of Lodge Hill within all of the development options, and the identification of some of the employment sites on the Isle of Grain appears to be in conflict with this approach highlighted in the Scoping Report and also *'Sustainability Objective 4: Conserve and enhance the existing green network'*.
- 4.6 *'Sustainability objective 5: To adapt and mitigate the impacts of climate change'* is also pertinent to designated nature conservation sites and wildlife since air quality can result in changes to habitats, and providing habitat and corridors to help species adapt to the effects of climate change is key to sustainable development. It would therefore seem appropriate to make reference to biodiversity within Sustainability Objective 5.
- 4.7 In terms of the natural environment, Natural England considers that Sustainability Objective 4 within the Sustainability Appraisal report, *'Conserve and enhance the existing green network'* could be more clearly worded to reflect the rich environmental assets (International, European, national and county sites of wildlife importance and the national and local areas of landscape importance) in addition to the wider green spaces which may have significant

¹⁵ www.kmbrc.org.uk

cultural and social importance but have a lower wildlife value. A possible alternative wording for Objective 4 which reflects the District's rich environmental heritage is provided below:

'Conserve and enhance the District's designated sites, important landscapes, priority habitats, priority and protected species and areas of green infrastructure.'

The above wording would appear to reflect better the *'Decision Aiding Questions'* accompanying Objective 4 in Table 2 of the Scoping Report.

4.8 Natural England supports the *'Decision Aiding Questions'* for Objective 4 *'Conserve and enhance the existing green network'* of Table 2 within the Interim Sustainability Appraisal, namely:

- Will it protect, conserve or enhance the green infrastructure network?
- Will it protect and enhance the environmental designations?
- Will it contribute positively to the green infrastructure network, the Authority's established high quality landscapes and biodiverse landscapes?
- Does it result in the creation of more open space including allotments, parks, gardens etc.?
- Does it create opportunities to link to and create a green infrastructure network?
- Will it improve access to green spaces?

However, the Sustainability Appraisal assessment tables for Development Options and Policy Approaches contained within Annex 2 of the Appraisal do not appear to reflect the decision-aiding questions detailed within Table 2 and reproduced above. It would be helpful if a table detailing how the various Development Options and Policy Approaches proposed score against each of the *'Decision Aiding Questions'* to allow an understanding of how the appraisal scores have been reached as the issues identified within Appendix 2 for each Option or Policy do not reflect these questions.

4.9 All of the proposed development options include the site at Lodge Hill; as highlighted above the lack of a development option without the proposed development site at Lodge Hill would appear to be contrary to the NPPF. It also appears contrary to Sustainability Objective 4 *'Conserve and enhance the existing green network'* and Sustainability Objective 8 *'Making the best use of natural assets'* along with the supporting text for these Objectives. Natural England therefore recommends that clarity is provided on how the inclusion of Lodge Hill in all of the development scenarios accords with the requirements of the NPPF and the Sustainability Appraisal before the next formal stage of the local plan.

4.10 We note in the Spatial Options section of Appendix 2 within the appraisal comments column that Lodge Hill is only specifically mentioned within Options 2 and 3 despite it appearing in all four options. In addition, it is stated for Options 2 and 3 that *'Development will be directed away from areas of environmental designations (if an acceptable solution can be determined for ecological mitigation and compensation at Lodge Hill)'*. This approach appears contrary to the NPPF and guidance provided by the Inspector on the withdrawn core strategy. In addition, it does not appear to consider all allocation sites equally since some proposed allocations within the Strategic Land Availability Assessment have been discounted on environmental grounds but these impacts may be lesser and more straightforward to mitigate than those at Lodge Hill, thereby providing a viable alternative to the proposed development at Lodge Hill.

4.11 The proposed indicators against which Objective 4 will be assessed appear to focus primarily on greenspace provision from development rather than ensuring the rich natural environmental assets of Medway, and wildlife they support, are conserved and enhanced. In addition to the proposed indicators contained within Table 2, Natural England suggests the

Council should consider including the following as indicators:

- No net loss in areas of designated wildlife sites.
- Area of net gain of priority (or Biodiversity Action Plan [BAP]) habitats delivered by development.
- Area of multifunctional greenspace delivered through developments contributing to the district-wide green infrastructure strategy.
- Number of landscape enhancement schemes secured.

4.12 Natural England advises that it may be appropriate to separate landscape and nature conservation during the Sustainability Appraisal process. Whilst the two are linked, to aid clarity in the decision-making process, we consider dividing them into separate sections would make the process more sound.

4.13 Sections 2.9 and 2.10 of the Interim Sustainability Report confirm that a Habitats Regulations Assessment of the Development Options Report has been undertaken which highlights the potential for impacts to occur from noise and light pollution, along with water and air resources. We received this Assessment on the 13 April 2017 and Natural England will of course be pleased to provide advice on this document in the near future.

4.14 In summary, we have advised:

- that further work is required to identify and map the ecological networks across Medway, being mindful of the hierarchy of designations.
- that clarity is provided on how the inclusion of Lodge Hill in all of the development scenarios accords with the requirements of the NPPF and the Sustainability Appraisal before the next formal stage of the local plan.
- the Sustainability Objectives are modified to fully reflect the rich environmental assets within Medway to allow a robust Sustainability Appraisal of the development options.
- that the Sustainability Appraisal is revised to provide detail on how each of the proposed allocation sites scores against the '*Decision Aiding Questions*' to allow a clear appraisal of the environmental implications for each of the potential allocation sites.
- that additional indicators against which the development options will be assessed should be included to ensure that important wildlife, landscape and environmental assets within Medway are conserved and enhanced through the lifetime of the Local Plan.