From: Heslop, Anna [Anna.Heslop@rspb.org.uk]
Sent: 01 November 2012 18:04
To: Dominic Woodfield - Bioscan; mccutcheon, brian; Tom Tew; Mason, Elizabeth @ London HH
Cc: Bexs Benmayor; jarrett, andy; smith, catherine; stoddart, carly; pullin, mark; hall, martin; Dawes, Samantha; Owen Sweeney; Hanna, Sean (NE); Burges, Dave; Cameron, Rob (NE); Debbie Salmon; greg.hitchcock@kentwildlife.org.uk; stephen.neal@landsecurities.com; Dodd, Andrew; acbh@btinternet.com
Subject: RE: Lodge Hill: Technical Workshop

Dear Tom,

Like Dominic, the RSPB are struggling to understand why the Council need to await the draft EBL report before they can review the SA, but I think the SA issues are probably best separated from the current discussion.

We're grateful for Brian's clarification. The RSPB's reading of Brian's email is that both the technical process and the Council's review of the SA will be done and dusted by mid December, allowing the best part of 4 working weeks "*breathing space"* before the Examination resumes. It seems to us that the production of the report (and the review of the SA, if the Council remains of the view that they ought to be conducted sequentially) could feasibly be put back by 4 weeks, to allow time for the technical process to be completed. This should help to resolve the current constraints on that which can be completed in the time available.

Many thanks

Anna

From: Dominic Woodfield - Bioscan [mailto:dominicwoodfield@bioscanuk.com]
Sent: 01 November 2012 17:44
To: 'mccutcheon, brian'; Heslop, Anna; 'Tom Tew'; 'Mason, Elizabeth @ London HH'
Cc: 'Bexs Benmayor'; 'jarrett, andy'; 'smith, catherine'; 'stoddart, carly'; 'pullin, mark'; 'hall, martin'; Dawes, Samantha; 'Owen Sweeney'; 'Hanna, Sean (NE)'; Burges, Dave; 'Cameron, Rob (NE)'; 'Debbie Salmon'; greg.hitchcock@kentwildlife.org.uk; stephen.neal@landsecurities.com; Dodd, Andrew; acbh@btinternet.com
Subject: RE: Lodge Hill: Technical Workshop

Hi Brian

I am struggling to understand why you are waiting on EBL's report before commencing the SA review in earnest. Surely you must agree that the correct approach is to establish that Lodge Hill is the most sustainable location for the proposed development first, and then consider offsetting as a last resort (in accordance with the avoid, reduce, compensate approach). You have been through the SA process once, yes, but it is already abundantly clear that Lodge Hill is a significantly more sensitive site than was allowed for in previous SA iterations. With NE now asking that the site be considered as equivalent to SSSI status pending formal confirmation of notification, and with even the most conservative of estimates suggesting it is the most important site for nightingales nationally, what possible further evidence needs to be forthcoming in order to trigger a review of whether this is the most sustainable location for this proposed development? Your response to Anna and the timescales Tom has set out rather suggest that offsetting is being looked to as a means to justify something less than a full and proper review of the SA. I am sure this would not be acceptable to the Inspector, as much as anyone else.

Offsetting, even if viable, should only be being countenanced as an option if there is no more sustainable alternative to Lodge Hill, otherwise we are at risk of putting the cart before the horse in terms of due process. Such an approach would also provide real grist to the mill of those detractors who have voiced loud concerns that offsetting will be misused as a tool for justifying inappropriately sited developments. The way things appear to be progressing, I see a real risk of Lodge Hill being seen as a case in point, particularly if the nightingale population is sacrificed in the short term on the basis of a long-term 'promise' (the nebulously titled 'temporal lag'). For those who feel offsetting, if used wisely, has a part to play (and I count myself amongst these) this would hardly represent a

'golden dawn' to its application in the UK. Indeed I would go so far as to say that for active proponents of the system to be associated with such a questionable application of the principles would also be rather short-sighted.

Best regards

Dominic Woodfield MIEEM CEnv
Director

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From: mccutcheon, brian [mailto:brian.mccutcheon@medway.gov.uk]
Sent: 01 November 2012 16:33
To: Heslop, Anna; Tom Tew; Dominic Woodfield - Bioscan; Mason, Elizabeth @ London HH
Cc: Bexs Benmayor; jarrett, andy; smith, catherine; stoddart, carly; pullin, mark; hall, martin; Dawes, Samantha; Owen Sweeney; Hanna, Sean (NE); Burges, Dave; Cameron, Rob (NE); Debbie Salmon; greg.hitchcock@kentwildlife.org.uk; stephen.neal@landsecurities.com; Dodd, Andrew; acbh@btinternet.com
Subject: RE: Lodge Hill: Technical Workshop

Anna,
I appreciate your email is specifically addressed to Tom Tew but in fairness to him I think I should respond in relation to the SA and the timetable.

Both matters will be addressed in papers for the stakeholder workshop to be despatched tomorrow and Monday but I hope the following will help all parties.

It is incumbent upon us all to complete as much work as possible by 14th January in order that the Inspector can determine what she would like to do without further delay. With that in mind:

- EBL are scheduled to issue a draft report a week after the Stakeholder Workshop
- Stakeholders will then have 2 weeks to comment on that draft
- EBL will issue a final report 1 week later
- That report and all responses to the draft will be forwarded to the Programme Officer (together with all other papers relating to the matter). Whether they are subsequently admitted as examination documents is a matter for the Inspector.

Hopefully that will give us all a little breathing space before Christmas.

In relation to the SA we have been doing some initial analysis but are otherwise awaiting EBL's draft report. The statutory SA consultees are about to receive an invitation to a technical workshop in early December and it is expected that Enfusion will be able to complete an Addendum report by mid December. We will publish it at that time. Otherwise it will be recalled that a formal general public consultation on that Addendum report will take place alongside "main modifications" as discussed with the Inspector at the last hearing session and as referred to in the Council's letter of 28th August to the Inspector.

I would emphasise that all this is entirely consistent with the Inspector's letter of 14th September and as such I hope it is of assistance.

Kind regards,

Brian McCutcheon
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From: Heslop, Anna [mailto:Anna.Heslop@rspb.org.uk]
Sent: 01 November 2012 10:17
To: Tom Tew; Dominic Woodfield - Bioscan; Mason, Elizabeth @ London HH
Cc: Bexs Benmayor; jarrett, andy; smith, catherine; mccutcheon, brian; stoddart, carly; pullin, mark; hall, martin; Dawes, Samantha; Owen Sweeney; Hanna, Sean (NE); Burges, Dave; Cameron, Rob (NE); Debbie Salmon; greg.hitchcock@kentwildlife.org.uk; stephen.neal@landsecurities.com; Dodd, Andrew; acbh@btinternet.com
Subject: RE: Lodge Hill: Technical Workshop

Many thanks for the clarification Tom. Apologies for the delayed response, I have been out of the office for a couple of days.

There are a couple of points the RSPB think are very important here:

The Timetable
We are extremely concerned to hear you say that what we should aim to complete must be dictated by the time which is now available.

Although the Council have not been able to provide the stakeholders with a revised timetable for this process, the RSPB's understanding from what the Council have said verbally, is that they intend EBL's final technical report to be produced by the second week in December at the latest (following a two week stakeholder consultation). This is because they do not intend to review the Sustainability Appraisal until after the technical report is completed. In order to produce that revised SA and conduct an adequate public consultation (as described in their letter to the Inspector of 28 August 2012) of a minimum of 4 weeks, before the Examination emerges from its suspension on 14 January, the technical report cannot realistically appear any later than w/c 10 December. (There may yet be a

separate conversation about whether a 4 week public consultation which takes in the Christmas period is in fact adequate, but we will save that for another forum).

The important point for EBL (and the stakeholders) to note, is that this very tight timetable is entirely of the Council's making and could still be overcome. We can see nothing to prevent the Council from reviewing the SA before the technical report is produced (indeed they were encouraged to do so by the Inspector in her letter of 14 September 2012), and this remains an option for them – they could start that process today.

The RSPB does not consider that EBL, BTO or any of the stakeholders should be forced to limit the effectiveness of this process, or to by-pass those actions which we all took some time to agree at the first technical meeting, because we are constrained by what can or cannot be completed within a timescale which could be extended.

There really is nothing to prevent this technical process from running until 14 January 2013, if that would allow us to complete it properly.

If that would still not provide sufficient time, the Inspector could be approached - perhaps even approached by the stakeholders jointly - to request an extension to the suspension of the Examination, so that the work can be thoroughly completed. The RSPB know that Medway Council are extremely concerned that any further suspension of the Examination will risk a situation where the Core Strategy is not resolved by April 2013 and the Borough is left without a local plan. Of course this is an extremely unappealing prospect for all concerned, but fear that such a state of affairs may come to pass should not cause us to diminish the rigour with which we approach either scientific or democratic processes. These are processes which will affect not only the Lodge Hill nightingales, but also local people, well beyond the 15 year period of this Core Strategy.

Your points 1, 2, 4 and 5 below

1 & 2. The RSPB had understood that the point of the case studies was not only to form views about management of future sites, but to drill down in a more scientific way, into what we do and don't know about nightingale habitat creation and management, in order to better assess whether there is a reasonable prospect of establishing compensatory habitat. The RSPB does not consider that in their current form, these examples constitute "*evidence that habitat creation and restoration in England does indeed work for nightingales*" as was suggested in EBL's first report. We would re-iterate that the information included in the BTO report is interesting, but much of it is understandably conjecture. The RSPB continue to be of the view that the compilation of robust case studies is a vital part of this process.

It appears that a great deal of reliance is being placed on the Orlestone Forest example, but our understanding is this requires two types of habitat creation – the Orlestone Forest quick fix and a more long term scrub site. The case studies have not received scrutiny and we are left to simply rely on the information Chris was able to collect at short notice before the initial report was produced.

4 &5. The RSPB agrees that site selection criteria should compliment expert opinion. However, the RSPB does not agree that we cannot sensibly formulate a set of basic essential criteria to inform the search for sites, utilising the expertise we have available and then refine those sites which are found, based on that same expert judgement. We consider this would be a more robust approach. I don't suggest that we could formulate a perfect and exhaustive list, but we did agree what seemed to be a sensible course of action, which has now substantively changed without the stakeholders being informed.

The process

It was certainly not the RSPB's understanding that this process would result in a full blown compensation package. Apologies if I gave that impression in my last email. However, Brian McCutcheon's letter to the Inspector of 28 August 2012 set out eight items under "process" that the stakeholders agreed to prior to your engagement. These elements were discussed at some length and were considered sufficiently important, that they were agreed between the Council and stakeholders and reported to the Inspector. These include at item 5. "*Seek to agree criteria and methodology for the selection of "receptor" sites. Identify options for receptor sites where created and/or enhanced habitats could be provided to compensate for on site losses; survey sites for suitability*". The issue of case studies was raised by the RSPB in our letter of 29 August to the Inspector, and her responses on that point can be found in her responses to our Samantha Dawes and to Brian McCutcheon of 14 September.

I'm conscious that there is undoubtedly a great deal of work being undertaken by EBL and BTO in preparation for the meeting on 9 November and that communication with stakeholders about changes to the process might not have been uppermost in your minds. I'm afraid it is now unclear whether the manner in which the technical process is being handled - and therefore what it hopes to be able to report to the Inspector - has fundamentally changed and whether its scope is now more constrained. If so, then that should be made clear to stakeholders, with an explanation of what it is that we are now working towards, but also, the Inspector needs to be made aware.

What we fear we are heading towards, and what I am certain none of the stakeholders, or the Inspector would wish to see, is a situation where a technical report is presented, which cannot afford the Inspector the certainty she has requested.

Once again, hoping this input is helpful.

Best wishes,

Anna

From: tom.tew@hotmail.co.uk [mailto:tom.tew@hotmail.co.uk] **On Behalf Of** Tom Tew
Sent: 29 October 2012 15:24
To: Heslop, Anna; Dominic Woodfield - Bioscan; Mason, Elizabeth @ London HH; Tom Tew
Cc: Bexs Benmayor; jarrett, andy; smith, catherine; mccutcheon, brian; carly.stoddart@medway.gov.uk; mark.pullin@medway.gov.uk; hall, martin; Dawes, Samantha; Owen Sweeney; Hanna, Sean (NE); Burges, Dave; Cameron, Rob (NE); Debbie Salmon; greg.hitchcock@kentwildlife.org.uk; stephen.neal@landsecurities.com; Dodd, Andrew; acbh@btinternet.com
Subject: RE: Lodge Hill: Technical Workshop

Hi Anna

Thanks for your email. We are indeed on a very tight timetable and I share your concerns that we don't miss things out, it also shapes my view on what we can (and cannot, and therefore should not aim to) complete in the time available. In particular, I stress again that we are not aiming to get a full-blown 'compensation' package for Lodge Hill agreed in the next few weeks - **if** it is agreed that compensation is a good way forward, and is technically feasible, then there will be significant work to do to properly assess the best sites (against a range of criteria and taking into account expert ornithological advice), and to conclude long-term management plans at those sites.

We will not have done that by the 9th and, more importantly, we will not be presuming to have made those decisions on receptor sites without much more input from key stakeholders. What we will try to do is present some early options, and the results of preliminary site visits, to the stakeholder workshop (and in a paper to go out before the workshop) - i.e. "these are the sort of sites that were thrown up by application of some early criteria (as previously discussed) and this is what we found when we looked at those sites on the ground, it seems to us these are potentially suitable and these are not". And, therefore, that there is no/some/good chance of compensation being possible for Lodge Hill.

With that context in mind, my answers to your questions are:
0. We certainly expect to refine the technical work after the workshop on the 9th, that is part of the rationale for the workshop - but we are not seeking

perfection at that stage.
1. Examining case studies in more detail for management information - this will I agree be key for informing the future management plans of potential sites but is not necessary at this stage.
2. The extra comments re Orlestone are indeed what BTO has added to the revised report - there is no more to come (at this stage).
3. The desk study analysis of Lodge Hill using refined criteria following a site visit, which allow a more accurate assessment of what applying the Defra metrics means (rather than the huge ranges of the preliminary report), will be done by us and (we hope) circulated ahead of the workshop.
4 & 5. The criteria for site selection are important, but at this stage of the process are not critical and, in any case in my opinion, should serve to complement expert opinion rather than replace it; for instance, a site appearing to meet all criteria might be felt to be 'wrong' by experts for an unusual reason not captured by criteria, whilst a site that fails one or two criteria might be felt to be 'right' because it was outstanding in other respects. The search for a perfect and exhaustive list of *a priori* criteria is a dangerous one. By the way, I agree entirely with the example you give of woodland. We embark on a search for potential receptor sites with, we hope, a clear understanding of broad criteria to guide (rather than dictate) the process.

We share your goal that the process be as robust as possible, with clarity on what is agreed and what is not, and the next step on that path is to build on the principles agreed at the first workshop and present the results of some early receptor-site searches for discussion - not to agree that 'these are the 6 sites' but that 'there seem to be suitable sites out there'.

best wishes
Tom

Subject: RE: Lodge Hill: Technical Workshop
Date: Fri, 26 Oct 2012 10:11:38 +0100
From: Anna.Heslop@rspb.org.uk
To: tomtew@environmentbank.com; dominicwoodfield@bioscanuk.com; elizabeth.mason@cbre.com
CC: rbenmayor@environmentbank.com; andy.jarrett@medway.gov.uk; catherine.smith@medway.gov.uk; brian.mccutcheon@medway.gov.uk; carly.stoddart@medway.gov.uk; mark.pullin@medway.gov.uk; martin.hall@gtgkm.org.uk; samantha.dawes@rspb.org.uk; osweeney@blueyonder.co.uk; sean.hanna@naturalengland.org.uk; Dave.Burges@rspb.org.uk; rob.cameron@naturalengland.org.uk; debbie.salmon@kentwildlife.org.uk; greg.hitchcock@kentwildlife.org.uk; stephen.neal@landsecurities.com; andrew.dodd@rspb.org.uk; acbh@btinternet.com

Dear Tom,

I've had a look back through your summary report of the first technical meeting and I'm a bit concerned that with two weeks to go before the second technical workshop, there is a risk that some of the agreed actions may fall by the wayside.

The Council have told me that their intention is that EBL will produce a draft final report for comment by stakeholders as soon as possible after the meeting of 9th November. What this

means in terms of number of days is unclear (the Council haven't been able to provide me with their proposed timetable going forward), but I am concerned that it may leave little or no time to revisit or refine any of the technical work, after the meeting on 9th November.

My major concern is that by by-passing some of the actions we agreed at the first technical meeting, or by leaving those matters for comment at/after the second technical meeting, concerns and issues might be raised after work has been completed by EBL, BTO or others, or will possibly only come to light when the draft report is published. I suspect this would be extremely unhelpful and may leave us in a position where it is too late to take those concerns and issues into account, provide sufficient certainty to the Inspector and still meet the Council's timetable.

The outstanding actions from the first meeting, which I had been under the impression would inform the second meeting are:

1. Examine case studies in more detail for additional technical management information. Nightingale records through time held? – given what you have said about Chris Hewson's availability, I'm concerned that this may now fall by the wayside. Can you confirm whether this work is still intended to go ahead?
2. BTO to investigate further habitat management at Orlestone – I'm not sure whether this is covered by the additions at pages 22 and 25 of the revised BTO report, or whether BTO are preparing something in addition?
3. Desk study metric approach to offsetting to include all semi-natural habitats onsite including indirect impacts on SSSI – my understanding was that you were going to circulate a questionnaire to all parties on this issue, following the first technical meeting.
4. Develop key criteria for site selection, invite input from workshop attendees – I'm conscious of Chris Hewson's availability, but I'm concerned that those included in table 2 of the "habitat criteria for nightingales" document currently fulfil the requirements. For example, the amendments to the BTO report would suggest that where areas of woodland are sought for short term compensation, these should be areas of woodland no more than 10 years old. This is not reflected in the criteria in table 2.
5. Seek to identify potential offset sites in Kent – I would be concerned if this process was undertaken without the completion of point 4 above.

Can you provide clarification about whether these actions are still going to be completed, and where you now envisage that they will fit into the technical process?

Thank you

Anna

From: tom.tew@hotmail.co.uk [mailto:tom.tew@hotmail.co.uk] **On Behalf Of** Tom Tew
Sent: 19 October 2012 15:23
To: Dominic Woodfield - Bioscan; Heslop, Anna; Mason, Elizabeth @ London HH
Cc: Bexs Benmayor; jarrett, andy; smith, catherine; mccutcheon, brian; carly.stoddart@medway.gov.uk; mark.pullin@medway.gov.uk; hall, martin; Dawes, Samantha; Owen Sweeney; Hanna, Sean (NE); Burges, Dave; Cameron, Rob (NE); Debbie Salmon; greg.hitchcock@kentwildlife.org.uk; stephen.neal@landsecurities.com; Dodd, Andrew; acbh@btinternet.com
Subject: Lodge Hill: Technical Workshop

Dear all

You will have received news of Natural England's recent decision on SSSI notification at Lodge Hill, and Medway Council's response, separately - none of which affects our ongoing analysis into the potential for biodiversity offsetting for the nightingales, and for which Medway are organising a stakeholder workshop on November 9th.

Please find attached a final version of the minutes of the technical workshop - thank you for your comments on the second draft, I have amended the text particularly to

reflect a lack of consensus on (mitigation and acceptability of) temporary loss.

Please find attached also a revised and final version of the BTO report - which now has all necessary publication permissions and also features an updated section on mitigation management techniques.

The Environment Bank, Thomson Ecology and BTO visited Lodge Hill last week to do a more complete analysis of 'habitat condition for nightingales'. We are writing this up now but I can say that we found the great majority of habitats at Lodge Hill to be in 'good' condition for nightingales, as assessed using the nightingale-specific habitat criteria previously circulated and together with BTO assessment. This allowed us, in the limited time available and given the time of year, to do an assessment based on habitat condition taking into account 'habitat use as determined by occurrence of singing males'. We will share these with all stakeholders in due course.

We had hoped that BTO would be able to refine the table of 'major limiting factors concerning nightingale habitats' that we sent last time, but Chris' frenetic diary and overseas commitments has precluded that, so we will use what we have, together with a desk-top analysis of suitable areas that Martin Hall is doing, to inform our preliminary search for potential offsetting sites at the end of the month and will report back to the stakeholder workshop on 9 November.

We will keep you posted and I look forward to seeing you again shortly,

best wishes

Tom

PS Catherine - Once again, would you be so kind as to check that the email list covers all parties and forward it on to anyone I have missed? Thanks.

Dr T E Tew FRSA FBS MIEEM
Chief Executive
The Environment Bank

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