Natural England Executive Board

Meeting number: Extra meeting

Date: 10 October 2012

Item number:01

Paper ref: EB/Lodge Hill notification

Title: Proposal for SSSI – Chattenden Woods and Lodge Hill, Kent

Sponsor: Jim Smyllie, Executive Director – People, Landscape & Biodiversity

Chattenden Woods and Lodge Hill lies on the Hoo Peninsula in north Kent, north-east of Rochester. The site comprises a mosaic of habitats, including long-established semi-natural woodland (areas of which are recorded as ancient semi-natural woodland), dense scrub and neutral grassland. The site is also of importance for its breeding nightingales *Luscinia megarhynchos*. The total area proposed for notification as Chattenden Woods and Lodge Hill is 350.49 ha. The site includes all of the land previously notified as Chattenden Woods SSSI by reason of its nationally important woodland, neutral grassland and breeding birds.

1. Notification and confirmation process

1.1. The attached notification and supporting information documents are presented to the Executive Board for approval to notify Chattenden Woods and Lodge Hill as a SSSI under section 28C of the Wildlife and Countryside Act 1981, as inserted by Schedule 9 to the Countryside and Rights of Way Act 2000.

1.2. The notification document will be sent (if approved) to the owners, occupiers and statutory authorities. It includes a summary of the special interests and site boundary, information on the consultation process and the legal documents. The supporting information document presents the detailed information which has been used to assess the importance of this site and will be available on request from the local team.

1.3. Having determined that land within and extending beyond an existing SSSI is of special interest for reasons including and exceeding those previously notified, Natural England's normal practice is to enlarge the existing site under section 28C. This enables us to include land not previously notified and to subsume any other existing sites within the area in question, as well as to revise the reasons for notification and other legal documents. The rationale for the use of section 28C in this case is set out below under 'the decision-making process'. In this regard, the attention of the Executive Board is drawn to section 2.1 of the notification document, in particular the enlargement of the previously notified Chattenden Woods SSSI (128.37 ha). Enlargement of an existing SSSI entails drawing a boundary that includes but extends beyond the existing site, as well as replacing the other legal documents. A proposed enlarged site is therefore assessed for special scientific interest in its entirety, not as an existing site and a proposed extension separately. With

effect from the date of this proposed notification under section 28C (if approved), the previous notification of Chattenden Woods SSSI would cease to have effect.

1.4. Subject to approval, the formal notification will be issued before the end of September 2012, initiating a four month consultation period with owners, occupiers and other interested parties. The local team will seek to resolve all objections as far as possible. The notification of Chattenden Woods and Lodge Hill under section 28C would take immediate effect when notified. Natural England may confirm or withdraw the notification under section 28C within nine months of the notification date. If it does neither, the notification ceases to have effect.

1.5. If there are no outstanding objections, the approval to confirm notifications under section 28C has been delegated to the Director of Landscape and Biodiversity. Otherwise, the case must be considered by the Board of Natural England.

2. The decision-making process

2.1. These decisions are often contentious as they can cause considerable concern to landowners and occupiers or third parties who are affected by the proposed changes to the SSSI. For this reason the notification and confirmation of any SSSI raises the very real prospect of a legal challenge being brought against Natural England. It is therefore imperative that the Executive Board has an understanding of their powers and duties and the law which governs the manner in which decisions on SSSI ought to be made.

2.2. Section 28C(1) provides that, where Natural England is of the opinion that any area of land which includes, but also extends beyond, a SSSI is of special interest, Natural England may decide to notify that fact. The attached notification and supporting information documents provide information on the scientific case. The main decision for the Executive Board is a scientific one – does the science support the proposal? However when considering enlarging a SSSI, Natural England has discretion about whether to notify (enlargement of SSSIs is a power, not a duty).

2.3. There has been no case law on the extent of the discretion accorded to Natural England when exercising its powers under section 28C. English Nature took legal advice on this point. The advice drew an analogy to the situation in section 28(5) where, in fact, the Board has a discretion to confirm a SSSI or not. There has been case law on this point and both the High Court and Court of Appeal were clear that if the science supports the designation of a SSSI then the Board should designate it as such. In other words, in fact as regards section 28(5) there is very little discretion if the science indicates that the site is of special scientific interest. Similarly, legal opinion, including that of Defra's lawyers, is that when considering notifying a site relying on its powers under section 28C the Executive Board, in fact, has very little discretion if the science supports the notification. In the absence of case law it is difficult to hypothesise about the circumstances when the discretion may be exercised; however, in order to minimise the risk of legal challenge, Executive Board members should be aware that they have a discretion in these circumstances and must treat each notification on a case by case basis.

2.4. Natural England also has a number of general legislative duties under the Natural Environment and Rural Communities Act 2006 (NERC Act) and the Countryside Act 1968 that it needs to take account of when considering SSSI notification. Any judgment must be based on the scientific case for the special interest of the site in question. So ordinarily the regard which is due to other general legislative duties will be minimal, though each case must be treated on its own merits.

2.5. Having taken account of the general legislative requirements outlined above, if approved, Natural England will be exercising its discretion in terms of section 28C for the following reasons:

a) non-scientific – Having taken account of our duties under the NERC Act and the Countryside Act, we are satisfied that these duties require no further consideration at this stage and we consider that the enlargement of Chattenden Woods SSSI is a proportionate exercise of our powers under section 28C.

b) sound ecological principles:
   - Specialist surveys have identified nationally important numbers of breeding nightingale, and ancient and long-established semi-natural woodlands within and adjacent to the previously notified SSSI.
   - Inclusion of the additional areas of special interest with the previously notified SSSI as a single enlarged site, is compatible with a 'whole system' approach to the management and protection of the special interests.

2.6. However, if we are of the opinion that an area is of special interest in its own right, but fail to notify that area, exercising our discretion under section 28C, Natural England would be under a duty to notify the area under section 28.

3. Science

3.1. Chattenden Woods and Lodge Hill supports a diverse mosaic of semi-natural habitats, including ancient and long-established semi-natural woodland, scrub and neutral grassland. It is of special interest by reason of the following nationally important features that occur within and are supported by the wider habitat mosaic:

3.2. Ancient and long-established semi-natural woodland – The extensive woodland represents one of the best examples of coppice-with-standards woodland on the London Clay. The dominant woodland community is of the National Vegetation Classification (NVC) type W10 pedunculate oak *Quercus robur* – bracken *Pteridium aquilinum* – bramble *Rubus fruticosus* woodland. Two sub-communities are represented: the W10a typical sub-community and the W10b wood anemone *Anemone nemorosa* sub-community. The woodland is largely comprised of pedunculate oak standards with ash coppice of varying age structure. 'Lowland mixed deciduous woodland', which includes the woodland communities present in Chattenden Woods and Lodge Hill, is a habitat of principal importance for the conservation of biodiversity in England. These woodland habitats are a 'reason for notification' of the current Chattenden Woods SSSI but the proposed enlarged site would increase the total woodland area included from 110 ha to 163 ha, and increase the area of ancient semi-natural woodland included from 18 ha to 55 ha.

3.3. Unimproved neutral grassland – Rough Shaw is an area of dense and scattered scrub on a north facing slope with tall-herb neutral grassland along its upper margin. The tall-herb neutral grassland includes stands of the unimproved nationally scarce NVC type MG5 crested dog's-tail *Cynosurus cristatus* – common knapweed *Centaurea nigra* grassland, which conform mainly to the MG5b lady's bedstraw *Galium verum* sub-community. These grasslands form part of the 'lowland meadows' habitat, which is listed as being of principal importance for the conservation of biodiversity in England.

3.4. Breeding nightingale *Luscinia megarhynchos* – The site supports a nationally important number of nightingales during the breeding season, with 84 territorial males representing 1.3% of the GB breeding population. Nightingale is not a 'reason for notification' (in its own right) of the current Chattenden Woods SSSI, which is the principal reason for proposing the notification of an enlarged SSSI under section 28C rather than additional land under section 28B (the latter would not allow

the inclusion of new 'reasons for notification'). Nightingale is not listed in schedule 1 of the Wildlife and Countryside Act 1981, Annex I to the EC Birds Directive or section 41 of the Natural Environment and Rural Communities Act (species of principal importance for the conservation of biodiversity in England). It is an amber-listed 'Bird of Conservation Concern' and is subject to the general provisions protecting wild birds and their eggs and nests in part 1 of the Wildlife and Countryside Act 1981.

3.5. The current SSSI selection guidelines were produced by the Nature Conservancy Council in 1989. They provide the accepted standard for identifying features (including birds) of national importance and are used by all the statutory nature conservation agencies as well as providing a reference for others with an interest in the selection of SSSIs. Since 1991 JNCC, working with the nature conservation agencies, has co-ordinated the production and revision of the selection guidelines. A series of revisions have been made by the JNCC in the form of additional and revised chapters, although the underlying rationale remains intact and fit for purpose. The birds chapter has not been revised and is still relevant to SSSI selection for birds today, although some elements need updating to reflect changes in bird abundance and conservation status since 1989.

3.6. The basic principle of identifying important bird features based on numbers of individuals or pairs remains valid and continues to be the most widely applied approach to recognising and designating nationally and internationally important bird features. The use of 1% of a national or international population as a measure of the importance of a bird aggregation has a long history. It was first established as part of the criteria for selecting wetlands of international importance[1] and has been adopted by both the Ramsar Convention and the UK SPA selection guidelines. It is therefore internationally accepted and, in the UK, is widely applied by the statutory nature conservation agencies and others, including RSPB and BTO.

3.7. The map (see section 7 of the supporting information document) of nightingale territories recorded across Chattenden Woods and Lodge Hill during the 2012 national nightingale survey, which has been checked and verified by the BTO, indicates that nightingales use both woodland coppice and scrub habitats, with the greater number using scrub. Twenty-seven (0.4% GB) of the territories located in 2012 were within the previously notified SSSI, with the remaining 57 (0.9% GB) in the extension areas.

3.8. Nightingales at Chattenden Woods and Lodge Hill depend on a dense cover of shrubs in the form of coppiced woodland and scrub habitats. A wide range of structural diversity of scrub is required in a mosaic with open grassy areas. Nightingales have been recorded using other habitats at some locations, such as bare ground beneath mature trees, open scrub with dense nettle beds and open rides, and such habitats may also be important at Chattenden Woods and Lodge Hill. While nightingale territories tend to be centred on scrub of intermediate growth, it is probably normal for birds to use a home range encompassing a wider range of habitats while breeding[2]. It is therefore important to maintain the extent, quality and diversity of all these habitats as each are likely to support different aspects of nightingale ecology.

3.9. Nightingales depend on a range of habitats in Britain, including scrub, woodland (including coppice), woodland edge, glades and rides, carr, new and young plantations and thick hedgerows. There has been a recent shift in habitat distribution of nightingales in Britain, with a greater

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[1] Atkinson-Willes, G.L., Scott, D.A. & Prater, A.J. 1982. Criteria for selecting wetlands of international importance. In: *Proceedings of the conference on the conservation of wetlands of international importance as waterfowl habitat. Cagliari, Italy, November 1980,* pp 1017-1042. Supplemento alle Ricerche di Biologia della Selvaggina, 81 (1).

[2] Holt, C.A., Fuller, R.J. & Dolman, P.M. 2010. Experimental evidence that deer browsing reduces habitat suitability for breeding common nightingales *Luscinia megarhynchos*. *Ibis* **152**: 335-346.

proportion now occurring in scrub compared to woodland and coppice[3]. The proportion of British nightingales in coppice decreased from 13.6% to 8.6% between 1976 and 1999, and increased in scrub from 28.4% to 46.7% during the same period. This is not simply because of a reduction in availability of coppice (as much apparently suitable coppice is unoccupied) and it appears that scrub offers a more suitable habitat.

3.10. The regular use of a site by a sufficiently high number of birds to merit SSSI notification is normally established by data collected over several consecutive years. Although this is frequently possible in the case of non-breeding waterbirds, which are monitored annually at many locations, it is rarely achievable for breeding species. For example, some scarce breeding species are subject to comprehensive monitoring only once every twelve years. Consequently, some SSSIs and SPAs have been designated for breeding species on the basis of one year's data only. In such cases regular use of the site over a number of years can be established by reference to other data which, although not based on comprehensive surveys, can at least be used to indicate the presence and broad abundance of breeding birds over a number of years. This is a well established and accepted technique applied to cases where species are infrequently monitored.

3.11. This approach has been adopted for nightingales due to the lack of comprehensive, dedicated surveys preceding 2012. The data from preceding years, although not covering all parts of the site, or not employing surveys specifically designed to record nightingales, are still of value in that they provide firm evidence that breeding birds have been present in considerable numbers since at least 2009.

3.12. Sole use of the 2012 data to provide an estimate of nightingale numbers in the SSSI is justified because they are the most recent data, they cover the entire site, they are based on a methodology specifically devised to most accurately survey nightingales and they were collected by an expert surveyor[4]. The differences between numbers recorded in earlier years and those recorded in 2012 are thus due to varying methodology and coverage. Although it is possible that habitat improvements have occurred since the previous survey in 2010, it is extremely unlikely that scrub and woodland habitats could have changed to such an extent to account for such a dramatic increase over such a short time span[4].

3.13. The estimate of numbers of birds present on the site in 2012 is considered to represent numbers present annually rather than an exceptional peak. Although above-average numbers of nightingales often occur in Britain in years with warm, dry weather in spring[5] this is unlikely to be the case in 2012. The peak arrival time for nightingales in Britain is late April to early May[6] which, in 2012, coincided with exceptionally cold and wet conditions. April was the coldest since 1989 and one of the wettest on record, with many regions recording twice the normal rainfall[7]. The cool, unsettled conditions persisted into May, with warmer conditions arriving only in the last week[8]. It is therefore highly unlikely that numbers of nightingales recorded in the SSSI in 2012 were unusually high. In conclusion, it is considered that the 2012 estimate most accurately represents the numbers of nightingales using the site in recent years and that it is a reliable basis for SSSI notification.

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[3] Wilson, A.M., Henderson, A.C.B. & Fuller, R.J. 2002. Status of the nightingale *Luscinia megarhynchos* in Britain at the end of the 20th Century with particular reference to climate change. *Bird Study* **49**: 193-204.
[4] Hewson, C.M. & Fuller, R.J. 2012. Factors potentially affecting the viability and success of biodiversity offsetting to compensate for nightingale habitat loss. BTO report.
[5] Marchant, J.H., Hudson, R., Carter, S.P. & Whittington, P. 1990. Population trends in British Breeding Birds. BTO, Thetford.
[6] Wernham, C., Toms, M., Marchant, J., Clark, J., Siriwardena, G. & Baillie, S. 2002. The Migration Atlas: movements of the birds of Britain and Ireland. BTO, Thetford.
[7] British Wildlife 2012. Volume 23(5): 349.
[8] British Wildlife 2012. Volume 23(6): 424.

3.14. The 2012 national survey will not be published until early 2013 so we do not yet have a revised national population estimate. Comparison of the 2012 estimate for Chattenden Woods and Lodge Hill with the 1999 national population is precautionary because it is highly likely to underestimate the importance of the site, as indicated by:

- A preliminary analysis[9] carried out for the BTO of 2012 survey results in Kent suggests a 26% decline within the county since 1999.
- The nightingale population is sampled annually by the BTO/RSPB/JNCC Breeding Bird Survey (BBS). The latest available trend analysis from BBS indicates with a high degree of confidence (95%) that the UK population fell by between a fifth and two thirds between 1999 and 2010, and it is most likely that the population was halved. The change is assessed as statistically significant.
- Had the magnitude of the decline in the UK nightingale population (90% decline since the 1960s) been apparent at the time of the last 'Birds of Conservation Concern' assessment, the species would have been placed on the red list rather than its current amber status. Whilst the rate of decline was greatest prior to 1978 (17% per annum), the species is still declining at a rate of approximately 3% per annum[4].
- These population declines have gone hand in hand with a range contraction towards the south-east of the country; thus populations in Kent, Sussex and other south-eastern counties are becoming more important for the national status of the species. Preliminary results from the latest BTO Atlas, with breeding season fieldwork conducted between 2008 and 2011, show that the species is being lost from some areas within even these core counties[4].

3.15. The 2012 data for the site assessed against the GB population of 6,700 singing male nightingales estimated in 1999 are sufficient to identify the presence of a nationally important population of breeding nightingales at Chattenden Woods and Lodge Hill. Given the evidence of a significant national decline since 1999 it is likely that the site population represents an even greater proportion of the current national nightingale population.

3.16. The site provides an extensive area of scrub, woodland and associated habitats of established value to breeding nightingales. It is also situated in the core of the nightingale's range in Britain and its location in south-east England is optimal for attracting migrating birds arriving from northern France. Nightingales show strong site-fidelity in the breeding season with 40% of males returning to the same locations in Kent in subsequent years[6,10]. Social behaviour is also an important factor in settlement at breeding locations, with the presence of a cluster of singing males more likely to stimulate other birds to settle[11]. Given the substantial population at the site, it is likely that social attraction provides a strong stimulus for further settlement following the return of site-faithful males.

3.17. The favourable site attributes of Chattenden Woods and Lodge Hill indicate that it is highly likely to persist as a major breeding location for nightingales, subject to maintenance of current habitat extent and quality and wider population changes. The longer term future of any breeding bird population is unknown although the location of the site in the species' core area in Britain means that it is likely to persist longer than it would in a more peripheral location.

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[9] Henderson, A. 2012. Nightingale survey: preliminary results for Kent. Report to the British Trust for Ornithology.
[10] Woodcock, A. 1992. The Burham, Eccles and New Hythe Nightingales. Kent Bird Report 1991: 137-140.
[11] Holt, C.A., Hewson, C.M. & Fuller, R. 2012. The nightingale in Britain: status, ecology and conservation needs. *British Birds* **105**: 172-187.

The proposals in the context of the SSSI notification strategy

3.18. In July 2012, Natural England's Board approved Natural England's Designations Strategy. One of the work streams within the Designations Strategy relates to the notification of SSSIs, which is addressed in more detail in Natural England's SSSI Notification Strategy. The SSSI Notification Strategy is being implemented through two parallel and complimentary strands of work: review of the features and boundaries of all existing SSSIs; and assessment of SSSI coverage nationally on a habitat and species group basis. The proposal to notify Chattenden Woods and Lodge Hill under section 28C follows review of the previously notified Chattenden Woods SSSI. The proposed inclusion of breeding nightingale as a feature of interest is made in accordance with priorities for SSSI notification that have been identified by the draft SSSI notification strategy review for birds. The review has assessed coverage of all bird species within the SSSI series and identified those where further coverage may be required. It has not yet reached the stage of finalising lists of candidate sites to address shortfalls in coverage.

3.19. Selection of this site is supported by Natural England's grassland, woodland, and bird specialists. In addition, the specialists have confirmed that selection of this site for the relevant features is consistent with ongoing work under the SSSI notification strategy, as summarised below:

3.20. The key features of this proposal in terms of the SSSI notification strategy are related to the extensions and additional interest features in the context of the previously notified SSSIs. Specifically:

- The site includes extensive areas of ancient and long-established semi-natural woodland, as well as adjoining areas of scrub and neutral grassland. Collectively, these habitats support a nationally important number of breeding nightingales. There is overlap between the features of each of the different components of the proposed SSSI; for instance, nightingales breed in coppice woodland and scrub habitats throughout the site, including at Rough Shaw (where they overlap with neutral grassland). Accordingly, there is no basis for excluding parts of the site without diminishing the ecological coherence of the whole.
- The extensions significantly increase the area of suitable habitat for nightingale over and above those included within Chattenden Woods SSSI. The inclusion of all of the suitable habitat for nightingale will help to ensure the long term sustainability of this species' population in the Chattenden Woods and Lodge Hill area.
- The inclusion of entire blocks of semi-natural habitat to form a near-continuous area of SSSI that supports a common population of breeding nightingales in particular, would make a significant contribution to ecological connectivity in this part of the Hoo Peninsula.
- Natural England's draft SSSI notification strategy for birds has identified breeding nightingales as a species not previously listed as a notified feature in its own right on any SSSI (although they are potentially included as a contributing species in woodland and scrub breeding bird assemblages). It is recommended that all known aggregations reaching or exceeding 1% of the GB population are notified. Improving coverage for nightingales, along with four other relatively scarce breeding woodland birds of conservation concern, is considered a priority.
- In 1999, the nightingale population was concentrated within five counties in south-east England. These five counties held 77% of the total population: Kent (26%), Suffolk (19%), Sussex (15%), Essex (9%) and Norfolk (7%). Available information indicates that the site is currently the most important location in Kent for nightingales, both in terms of numbers and density. Kent's position as the most important county for nightingales in Great Britain (as revealed by national surveys in 1980 and 1999) suggests that this, apparently the most important site in Kent, should receive highest priority for notification.

4. Management and condition

4.1. Chattenden Woods and Lodge Hill is made up of eight site units and all except one are assessed as being in favourable condition. The species-rich neutral grassland in unit 3 has been assessed as 'unfavourable – no change' due to the low frequency of positive indicator species, excessive cover of coarse grasses and the sward height being above the recommended level. Altering the grazing regime to increase the grazing pressure will address these issues. The draft favourable condition tables are attached for information at annex 1.

4.2. The coppice woodland and scrub habitats within the site require active nature conservation management to maintain them in a favourable condition for nightingales in particular. The statement of views about management of the SSSI sets out the management principles that are most likely to be effective in maintaining and achieving 'favourable condition' of all the special features of the site.

4.3. Although ancient and long-established semi-natural woodlands have survived a large range of climatic events and thus demonstrated great resilience to changing conditions, the threat posed by climate change is serious. The biggest threats are thought to be from drought, which may be exacerbated by competition from neighbouring trees, and tree loss resulting from gales. However, Chattenden Woods and Lodge Hill is characterised by oak woodland and this species is not considered especially vulnerable to these threats.

4.4. Lowland meadows are comprised of plant species that fall within the southern temperate, widespread temperate and temperate biogeographical elements of the British flora[12]. Thus, they do not support species at the edge of their range (e.g. Boreal and Arctic species) that are considered to be at the greatest risk under predicted climate change scenarios[13]. This suggests that the community might be relatively resilient to increases in temperature at least.

4.5. If spring/summer temperatures increase as predicted, resulting in longer growing seasons, then meadow plant phenology may change significantly, with earlier flowering and seed setting. This will also affect the timing of the peak in the quantity and quality of the hay crop. This may require a flexible approach to site management, for example by varying the timing of the hay cut or the timing/duration of aftermath grazing.

5. Issues

5.1. Natural England is required to form a view on the special interest strictly on the basis of the scientific information, informed as appropriate by published selection guidelines. The following issues are presented to give additional context to the Executive Board's decision.

5.2. Initial preparations for a detailed notification review of Chattenden Woods SSSI commenced in January 2012 following a request from the RSPB (letter received on 13 January 2012) to consider the importance of the site and land adjacent to it for nightingales. Contrary to the RSPB's assertions in that letter, there was no evidence at the time to show the presence of nationally important numbers. The RSPB noted the 2012 national survey as a means for establishing the true nightingale population of the area. Accordingly, Natural England's Kent Land Management Team included nightingale in the 'rapid notification review' results for Chattenden Woods SSSI as a

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[12] Preston, C.D. & Hill, M.O. 1997. The geographical relationships of British and Irish vascular plants. *Botanical Journal of the Linnean Society* **124**: 1-120.

[13] Preston, C.D., Telfer, M.G., Roy, D.B., Carey, P.D., Hill, M.O., Meek, W.R., Rothery, P., Smart, S.M., Smith, G.M. & Walker, K.J. 2003. *The Changing distribution of the Flora of the UK: Technical Report*. CEH Project No. C01903. CEH, Monks Wood.

feature to be considered further and planned for a 'detailed notification review' to be carried out following the results of the 2012 survey.

5.3. The preliminary results of the 2012 nightingale survey became available in mid-June 2012 and indicated (for the first time) that the Chattenden Woods and Lodge Hill area supports a nationally important population. RSPB immediately drew this to the attention of Natural England and other interested parties, including the Inspector of the Medway Council Core Strategy Examination in Public. On 2 July 2012, the Executive Board commissioned relevant teams to commence assessment of the evidence for SSSI notification and, if appropriate, to prepare a case for formal consideration.

5.4. From June 2012 land owners were contacted by email or telephone to request permission to survey land and offering the opportunity to discuss the Integrated Site Assessment and notification review process. The Director of the Chattenden Syndicate (which runs a small scale shoot within woodland that it owns) met with Local Team Advisers during a recent Integrated Site Assessment. In a subsequent telephone conversation, the Syndicate Director was supportive of the notification because he felt it would help to protect the woodland. No responses have been received from the other private landowners.

5.5. A substantial part of the existing SSSI and most of the proposed extension is owned by the Ministry of Defence (MoD). The proposed extension has been allocated for development in Medway Council's draft Core Strategy, which is currently subject to Examination in Public. It is also subject to an outline planning application for development, including 5000 houses, three schools and substantial employment uses. The allocation of this land for development has been in Medway Council's development plan for many years and is seen as critical to the soundness of the Core Strategy. Due to the expiry of the current adopted development plan, early next year, if the draft Core Strategy is found to be unsound, it could leave Medway without an adopted development plan.

5.6. An outline planning application was submitted by Land Securities, the commercial partner of MoD. As part of the development process, it is expected that land ownership will pass from MoD to Land Securities in the coming months.

5.7. The overlap between the proposed development area and the proposed SSSI extension is great, because nightingales are distributed such that it has been necessary to draw the proposed extension boundary so that it coincides closely with the boundary of the development allocation. Land Securities and Medway Council have advised that the development proposal is not capable of substantial adjustment in scale. Thus if development were to proceed, the proposed SSSI extension would be lost almost in its entirety. Conversely if the existing habitat proposed for SSSI notification is to be retained, the development will not be able to proceed. There is little or no potential for the scientific interest and the development to be accommodated together within the area currently proposed for development.

5.8. It is the role of the planning system to balance the nature conservation interests against other interests. Notification of the development allocation would clarify the status of the land in relation to the guidance in the National Planning and Policy Framework (NPPF). This includes: *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.*

5.9. In the interim, on a precautionary basis, we have advised the Inspector of the Core Strategy Examination that the land should be considered as important, on the level of an SSSI. In addition

we have advised that retention of the habitat on site is the lowest risk scenario for the local nightingale population but that, should planning permission be granted, compensatory habitat creation should be capable of reducing the impact.

5.10. We are actively engaged in a consultation organised by Medway Council to assess the deliverability of compensatory habitat. It is understood to be likely that after the completion of that consultation, the Inspector of the Core Strategy examination will reopen hearings to consider the development allocation. Through that process we will continue to communicate frequently with the Land Securities, Medway Council and other main stakeholders, including RSPB. MoD is not engaged in the planning process directly, and so we are keeping it informed through our account manager.

5.11. The RSPB have specifically asked Natural England to consider SSSI notification at Lodge Hill to include the nationally important number of breeding nightingales recorded by the 2012 survey. The RSPB have publicly expressed this in their submissions to the Examination in Public. The Kent Wildlife Trust have also asked that Natural England considers the importance of the neutral grassland interests when reviewing the SSSI notification.

5.12. Two of the land owners (MoD and Medway Council) and one interested party (Land Securities – MoD's commercial partner) are considered likely to object to SSSI notification. Both RSPB and Kent Wildlife Trust are likely to be highly supportive of SSSI notification.

6. Summary and recommendations

6.1. It is recommended that the Executive Board:

a) **Note** the use of discretion in line with the provisions of sections 28C.
b) **Note** that the notification under section 28C would cause the previously notified Chattenden Woods SSSI to cease to have effect.
c) **Approve** the enlargement of the previously notified Chattenden Woods SSSI and change of name to Chattenden Woods and Lodge Hill SSSI.
d) **Approve** the extension of 222.12 ha to the previously notified area.
e) **Approve** the statement of Natural England's views about management and the lists of interest features and operations requiring Natural England's consent.

Definitions of Favourable Condition for designated features of interest

These definitions relate to all designated features on the SSSI, whether designated as SSSI, SPA, SAC or Ramsar features.

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Name of Site of Special Scientific Interest (SSSI)	
Chattenden Woods and Lodge Hill	
Names of designated international sites	
Special Area of Conservation (SAC)	n/a
Special Protection Area (SPA)	n/a
Ramsar	n/a
Relationship between site designations	
n/a	

Version control information	
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Prepared by	Lorraine Smith
Date of this version	6 September 2012
Date of generic guidance on favourable condition used	CSM Guidance: Woodland (January 2003) CSM Guidance: Birds (January 2004) CSM Guidance: Grassland (February 2004)
Other notes/version history	No previous version

Quality assurance information		
Checked by	**Name** **Mick Oliver**	**Date** **12thSeptember 2012**
	Signature	

Definitions of Favourable Condition: notes for users

Definitions of Favourable Condition

The definitions comprise one or more condition definitions for the special interest features at this site. These are subject to periodic review and may be updated to reflect new information or knowledge. They will be used by Natural England to determine if a site is in a favourable condition. The standards for favourable condition have been developed and are applied throughout the UK.

Standards for favourable condition are defined with particular reference to the specific designated features listed in Table 1, and are based on a selected set of attributes for features which most effectively define favourable condition as set out in Tables 2, 2a and 3. When an SSSI's features meet these attributes, then they are said to be in 'favourable condition'.

Explanatory text for Tables 2 and 3

Tables 2, 2a and 3 set out the measures of condition which we will use to provide evidence to support our assessment of whether features are in favourable condition. They have been tailored by local staff to reflect the particular characteristics and site-specific circumstances of individual sites. Quality Assurance has ensured that such site-specific tailoring remains within a nationally consistent set of standards. The tables include an audit trail to provide a summary of the reasoning behind any site-specific targets etc. In some cases the requirements of features or designations may conflict; the detailed basis for any reconciliation of conflicts on this site may be recorded elsewhere.

Use under the Habitats Regulations

The Definitions of Favourable Condition (DFCs) are used to periodically measure and assess the condition of both notified SSSI features and designated European Site features.

Where SSSIs also form part of a European Site (such as a SAC or SPA), a separate document containing specific European Site Conservation Objectives will have been prepared. These objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") and the Habitats Directive 1992. They are for use when either the appropriate nature conservation body or a competent authority is required to make an 'appropriate assessment' of the likely effects of a proposed plan or project on the integrity of a European Site under the relevant parts of the respective legislation. The European Site Conservation Objectives are available at www.naturalengland.org.uk.

The concepts of 'site integrity' and 'favourable condition' are similar and the assessment of a site's condition will measure attributes that also represent aspects of a site's ecological integrity. However, the periodic determination of a site's condition is separate from a judgement about the effect upon a site's overall integrity. This is because the DFCs do not represent a comprehensive or definitive list of all of the elements that might contribute to site integrity, merely those that are most appropriate to monitor in order to rapidly determine site condition. The full range of factors that are components of a site's integrity, and which may need to be considered by an appropriate assessment, will be specified in the European Site Conservation Objectives. Some of the information contained within the DFCs may however contribute to such assessments.