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By email: [planning.policy@medway.gov.uk](mailto:planning.policy@medway.gov.uk)

24 November 2022

Dear Sir/Madam,

### **Hoo Development Framework – public consultation**

The RSPB is grateful for the opportunity to comment on the draft Hoo Development Framework. We would like to make the following comments.

#### ***Key concerns***

The Hoo Peninsula is an extremely important area for nature conservation, reflected by the large concentration of nationally and internationally designated wildlife sites. Of particular significance to the plans for major growth on the Peninsula, and around Hoo St Werburgh in particular, is the Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI), which lies immediately adjacent to the proposed Hoo development zone. The SSSI is designated due to the nationally important population of nightingales that nest within the site, along with a rich mosaic of woodland, scrub and rare grassland habitats. It is the only SSSI in the country for which nightingales are a qualifying interest feature and is therefore considered the most important site in the UK for this culturally significant species. Medway Council has an important duty to ensure this wonderful site remains protected from the direct and indirect effects of development, especially residential dwellings, coming forward in the surrounding area.

Given the importance of this site and others in the surrounding area, the RSPB agrees with section 2.16 Constraints (P.40), which states that: *'Parts of the Hoo Development Framework area lie within SSSI integrated risk zones or in close proximity to them, which restrict development. Any proposed development should have the highest regard for SSSI, Ramsar and SPA designations, their significance internationally and the biodiversity assemblages that they support.'* **We are gravely concerned, however, that the proposals for the Chattenden and Deangate Ridge areas (as defined in 3, Vision and Guiding Principles, Section 3.5, Principle 3: Vibrant and Sustainable Neighbourhoods) contradict this important commitment and place the Chattenden Woods and Lodge Hill SSSI nightingale population at serious risk of harm.**

The protection and enhancement of existing sites such as Chattenden Woods and Lodge Hill SSSI and its nightingale population is key to protection of the area's important biodiversity, and therefore key to delivering on commitments set out in the draft Framework, including those under Principle 1: Landscape-led Development (Section 3.3). Yet protection of this significant biodiversity asset will be jeopardised if

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residential development is allowed too close to the SSSI's boundaries at Deangate Ridge and the Chattenden Barracks site, as indicated in the draft Framework.

The RSPB has repeatedly and consistently advised Medway Council that, in the absence of further evidence regarding the indirect effects of increased urbanisation, new residential development should be set back at least 400 metres from the Chattenden Woods and Lodge Hill SSSI boundary in order to prevent unmitigable effects such as the risk of predation of nightingales by domestic cats. As far as we are aware there is no change to the evidence base concerning urban pressures on nightingales, therefore we cannot see any justification for the proposals in the draft Framework to locate new housing within distances considerably less than 400 metres – indeed in one instance new housing is proposed immediately adjacent to and entirely surrounded by the SSSI.

Our serious concerns regarding the impacts on the Chattenden Woods and Lodge Hill SSSI sadly only add to a series of poor planning, missed opportunities and a general lack of vision in the wider proposals for the delivery of new development and associated infrastructure on the Hoo Peninsula, particularly given the once in a lifetime opportunity for the area presented by the Housing Infrastructure Fund (HIF) funding. Unless significant changes are made to the current proposals, including those for the creation of SEMS infrastructure, we consider that the opportunity to undertake ambitious gains for wildlife, based on a nature-led plan for the whole area, will have been entirely lost.

We set out our concerns on the draft Hoo Framework document in further detail below.

### ***The Neighbourhoods – 5.2 Chattenden***

While we understand that the draft Framework sets out only what the new development *could* look like, it would appear from the detailed neighbourhood plans that the development location, type and scale are more than just indicative proposals and we anticipate these are likely to be reflected in the forthcoming new local plan. It is therefore deeply concerning that the large majority of new housing proposed within the Chattenden neighbourhood area (including all of the new housing to the west of Chattenden Lane) is within 400 metres of the Chattenden Woods and Lodge Hill SSSI, with some dwellings (to the west of Lochat Road) proposed to be located directly along and entirely surrounded by the SSSI; an incomprehensible proposal given the sensitivity of the SSSI. Particularly given that the closest areas of the SSSI to the proposed new housing have traditionally been hotspots for the nightingales to nest, it is simply not possible to reconcile these proposals with the repeated commitments in the draft Framework to '*respect*' the SSSI, or indeed specific references to the creation of an '*ecological buffer*' between the SSSI and development (see 3.3. Principle 1: Strategic Gaps and Ecology Buffers).

Unless robust new evidence is forthcoming to demonstrate that the SSSI and its nightingale population can be effectively and sustainably protected from the long-term, insidious impacts of urbanisation, alternative sites must be identified for this relatively small quantity of new housing, and less damaging, non-residential development instead considered for the areas of the Chattenden site located within 400 metres of the SSSI.

### ***The Neighbourhoods – 5.3 Deangate Ridge***

The Deangate Ridge neighbourhood area offers the perfect opportunity to create a proper ecological buffer between the SSSI and the new proposed housing. Similar to the principles for the Chattenden neighbourhood, there are encouraging commitments in the draft Framework to the need to protect the SSSI and to it informing both the '*type and scale of development*' planned for this area (section 2.5: Landscape Character and Sensitivity). Therefore it is extremely disappointing that the Deangate Ridge country park has

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been designed to create only around a 150-metre minimum buffer between the two. There is no obvious justification for this width of buffer, or for opting to locate housing as opposed to less damaging, non-residential development to the south of the proposed country park. We consider this design to also be a missed opportunity for creating a much more substantial, more attractive and more nature-rich greenspace resource for the local community, neatly bounded by the A228 to the south.

Without robust evidence to show that the SSSI can be protected from urban impacts at such close proximity, we call on the Council to rethink its proposals for the Deangate Ridge and use the opportunity presented by the current golf course to create an attractive and substantial area of greenspace within a 400-metre buffer around the Chattenden Woods and Lodge Hill SSSI, which would not only protect the SSSI's vulnerable nightingales from unmitigable impacts, but also provide a valuable recreational asset for the existing and new communities.

### ***Avoidance and mitigation measures***

Section 3.3 Principle 1, Landscape-led Development – Strategic Gaps and Ecology Buffers (p.52) states the Council plans to: *'Provide an ecological buffer, as part of a wider package of strategic measures to address potential impacts from development on the Chattenden Woods and Lodge Hill SSSI'*, and;

Section 3.3 Principle 1, Landscape-led Development (p.53) - Key Green Infrastructure states: *'The potential development of residential sites north of the Peninsula Way, which are in close proximity to the nationally important Lodge Hill Site of Special Scientific Interest (SSSI), need to be planned in consideration of their impact on key species such as nightingales and bats. Therefore, factors such as cat predation, noise, light and air quality all need to be understood to manage impacts with the creation of buffers to the protected habitats and species of the SSSI and other measures such as the provision and management of cat proof fencing and the creation of ditches as wet fences or swales. Further detailed work is needed to plan for open space requirements.'*

Although not reflected in the proposed neighbourhood master-planning, we nevertheless welcome statements in the draft Framework highlighting the impacts on the SSSI and surrounding area arising from the proposed developments. However, it is the RSPB's strong view that so-called *'cat proof fencing'* and *'wet fences'* will be ineffective in protecting breeding nightingales, particularly in the long term – and given the trend towards drier summers. Therefore, placing residential development so close to dense nightingale populations, particularly at the Chattenden site (see 5 The Neighbourhoods – 5.2 Chattenden, fig. 5.15 on p.85) and the *'potential growth'* areas at Deangate Ridge (see 5 The Neighbourhoods – 5.3 Deangate Ridge, fig. 5.21 on p.89), will negatively impact on the SSSI and a key reason for which it is designated. Therefore, based on the current evidence, we strongly advocate an approach of impact avoidance rather than mitigation in these cases.

In accordance with the National Planning Policy Framework (NPPF - see below), it is our view that the Hoo Development Framework must be altered to incorporate a buffer zone (applicable to residential development) of at least 400 metres around the length of the SSSI's boundary in order to avoid likely harm. This distance is based on our understanding of the available scientific evidence of cat roaming distances. In addition, it would reduce a number of other well-documented urban effects, including recreation disturbance (where access to the SSSI allows), noise, artificial light and uncontrolled fires. So-called *'cat proof fencing'* and other barrier measures mentioned in the draft Framework are untested as a mitigation measure in these circumstances and therefore represent a high-risk (as well as high cost) commitment.

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Experience from similar sites, such as the protection of important populations of ground-nesting heathland birds from the indirect effects of urban development in southern England, confirms an acceptance by decision-makers that it is generally not possible to mitigate the acute impacts of housing located in such close proximity to the protected sites. This is particularly the case with respect to the effects of cat predation, due to the tendency of cats to roam (in some cases considerable distances) from their homes, with fences and hedges presenting little obstacle to them doing so, and which in addition provide long-term challenges of maintenance and enforcement. The RSPB, for example, would never choose to fence areas of our own landholdings if other options were available, and only relies on fences in extreme and unavoidable cases, as fences are unreliable, expensive and time-consuming to maintain. The introduction of a new, permanent threat to the environs of the SSSI therefore must and can be avoided.

### ***The National Planning Policy Framework***

The RSPB therefore considers that the draft proposed development layout does not comply with the tests and robust policies set out under section 15 of the National Planning Policy Framework 2021 (NPPF) in relation to developments in proximity to Sites of Special Scientific Interest.

Paragraph 179 of the NPPF states: *'To protect and enhance biodiversity and geodiversity, plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity.'* With the concerns we have raised over the effectiveness of fences and other barriers as mitigation, we consider that this part of the draft Hoo Development Framework would fail to meet these tests.

Paragraph 180 goes on to require that: *'When determining planning applications, local planning authorities should apply the following principles:*

*a) if significant harm to biodiversity 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;*

*b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact 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;'*

**It is our view that, based on the current evidence, locating housing closer than 400 metres to the Chattenden Woods and Lodge Hill SSSI will lead to an unmitigable adverse effect on the nightingale population, and therefore unless there can be shown to be no alternative less damaging locations for the development and exceptional circumstances that justify the damage to the SSSI, applications in line with the draft Framework's indicative masterplans for these areas will not comply with the NPPF.**

### ***Potential alternatives to avoid or reduce harm***

As highlighted above, we consider that there are a number of alternative approaches available to the Council that would allow the overall planned development to come forward while also protecting the SSSI. We expand on some of these suggestions below, acknowledging that some may be unfeasible due to other important considerations, but also that a variety of additional options are also likely to be available for

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development of this scale that would achieve the same objectives of delivering the required development while protecting important wildlife assets.

- At Deangate Ridge, moving housing outside a 400-metre buffer around the SSSI and increasing the density of housing in the southern part of the neighbourhood area (particularly to the south of the A228 where large areas of low-density housing are currently proposed) could allow for the same quantum of housing to be delivered while also creating the opportunity for a more substantial and more attractive country park. Should higher density housing be considered inappropriate in this location, some elements of non-residential development compatible with the greenspace, that are currently proposed elsewhere in this neighbourhood (and potentially from other neighbourhoods too) could potentially be relocated to the north of the housing (within the 400-metre buffer). This would limit a reduction in the overall development footprint while still protecting the SSSI from the most acute impacts.
- At Chattenden, switching housing currently located within 400 metres of the SSSI with features such as the proposed '*water bodies*' that are currently located to the east of this neighbourhood area (see Figure 5.8, p.81) would help provide the necessary ecological buffer around the SSSI without substantially reducing the development footprint. However, even if such a switch were not practically feasible, we would suggest that the relatively low quantum of housing currently proposed within 400 metres of the SSSI in this neighbourhood could be relocated to other areas within the wider Hoo Development Framework area, including by gentle densification in suitable areas.

#### **Other RSPB comments on 4.1 The Framework Plan**

We welcome the creation of attractive and nature-rich greenspaces alongside new housing development, but much of the forward-looking SEMS work will be in vain if new habitat for wildlife is limited to the urban environment, constrained in size and hemmed in by large numbers of surrounding new housing, such as the current proposals for the Deangate Ridge Country Park and the Lodge Hill Countryside Site. Any benefits of the SEMS for species such as nightingale will also be far outweighed by impacts on the current population if housing development is located in close proximity to the Chattenden Woods and Lodge Hill SSSI, as discussed above. In such a constrained landscape, the area of the individual SEMS sites should be maximised in order to reduce edge effects and increase their value to wildlife and people; this is particularly important for the Deangate Ridge Country Park which we consider to be highly compromised by its current size, shape and the proximity of the proposed new housing. As stated in our response to the previous SEMS consultation (22 July 2022), we consider that the overall package of SEMS proposals could be dramatically improved by taking a more strategic and more ambitious approach, looking to create habitat at a larger scale, including on sites away from core areas of new and existing housing, and ensuring avoidance of harm to existing wildlife sites as a starting principle.

On the eastern side of the Chattenden Woods and Lodge Hill SSSI, at the edge of Flander's Farm, a community facility, playing fields and, further to the south, an employment area are planned (Section 5.3 Deangate Ridge). Although potential impacts arising from these proposals, such as noise and light-spill, will still need to be assessed to ensure no adverse impact on the SSSI features, these forms of development present a far lesser risk of harm to the SSSI features (in particular the nightingale population) than residential development. The RSPB therefore considers these development types more suitable for the areas within the Hoo Development Framework surrounding the SSSI and consider them to be compatible with maintaining a 400-metre ecological buffer.

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## **Conclusion**

Following years of development threats hanging over the Chattenden Woods and Lodge Hill SSSI, the Council has one final opportunity to secure the future of the SSSI and the UK's largest remaining nightingale population. It can either take this chance to demonstrate positive, forward-thinking master-planning that places new housing beyond the core zone of impact, thereby removing the most acute, unmitigable effects. Or it can choose to pay lip service to the protection of the SSSI by claiming to have high regard for the protected site while allowing damaging residential development to proceed around it, effectively locking in impacts in perpetuity and leaving those responsible for the management of the site in an eternal battle to protect the country's most important site for this vulnerable species.

The RSPB urges the Council to introduce a robust strategic approach to the long-term protection of the SSSI and the nesting nightingales that depend on it as a matter of urgency. As part of such an approach, we consider it critical that new housing developments are located beyond a 400-metre 'ecological buffer' around the boundary of the SSSI and the Hoo Development Framework and forthcoming local plan adjusted accordingly. We have identified a range of opportunities available to the Council that could help to achieve this objective while still meeting the development needs of the area, including locating other forms of non-residential development within the ecological buffer which would not lead to the same urban impacts associated with housing. We are certain that more options exist beyond those we have been able to identify, given the scale of the development proposed and the opportunities presented by the HIF funding.

Taking a nature-positive approach to the Hoo Development Framework, as described above, would be consistent with the robust policies set out in national policy which are designed to conserve and enhance the natural environment, including in particular the national network of SSSIs. It would also be consistent with Medway Council's duties in respect of the protection of SSSIs as described in Sections 28 to 33 of Part 2 Wildlife and Countryside Act 1981 (as amended) and Section 40 of the Natural Environment and Rural Communities Act 2006. Doing so would enable the Council to embrace the remarkable and valuable nature of this important place, securing a biodiverse, nature-rich future for the current and future residents of Hoo.

We trust that this information is helpful. Please do not hesitate to get in touch should you have any questions regarding this response or points of clarity you might require. We reserve the right to amend our position should any further information be presented.

Yours sincerely,

Joseph Beale  
RSPB Conservation Officer, Kent and Essex

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