

South Downs National Park Public Inquiry  
(Re-opened)

# Closing Statement

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*on behalf of*



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## 1 Introduction

- 1.1 You may be forgiven for wondering why the South Downs Campaign has played such a prominent role in this re-opened Inquiry. After all, you recommended there should be a National Park and one that incorporated a number of the areas we that we had put forward for inclusion. The answer lies in the strap line to our logo '*Working for the best possible National Park*'. For us it is not simply a matter of having a National Park but of establishing one that will be 'fit for purpose' in the longer term.
- 1.2 Our Campaign is unusual, perhaps in some respects unique for two reasons. The first is the fact, as Professor Tregay pointed out, that we are not NIMBYS trying to stop something happening. We are campaigning for positive change to happen. Secondly, one cannot think of a comparable campaign that consists of so many national, regional and local supporting organisations - including a number of town and parish councils. With very little effort on our part our membership has grown and grown. It rose from 80<sup>1</sup> at the beginning of the first part of this Inquiry to 100 by its close<sup>2</sup>. You might have expected, with the excitement of the Inquiry apparently out of the way, that our support would have fallen away. In fact it has grown steadily. You will recall that by the time of the pre-Inquiry meeting in December last year our membership totalled 128. I can report that today it stands at 151<sup>3</sup>.
- 1.3 We have many and diverse supporting organisations. Our views have been developed and supported by virtually all the key national, regional and local NGOs that specialise in countryside conservation and in quiet recreation. The National Trust, although not a member of the South Downs Campaign, has vast experience of National Parks. It also supports the inclusion of the Western Weald<sup>4</sup>.
- 1.4 You will have noted that many town and parish councils, in their responses to the public consultation last summer, objected to the proposed exclusion of areas from the

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<sup>1</sup> 3275/1/1 and Annex 1, 3275/1/3

<sup>2</sup> 3275/1/4

<sup>3</sup> #1147/0/8

<sup>4</sup> #121/1/1

PSDNP. Many that have joined our Campaign in recent months have done so not only in support of our aims but also because they wished for us to act on their behalf.

- 1.5 I also hope that we have demonstrated that we speak with a voice which represents the views of huge numbers of people who care passionately about the future of our countryside and who want a National Park principally based on the Designation Order boundary.
- 1.6 We do not claim that the PSDNP should cover the designated boundary area just because large numbers of people want it. It is a factor, as submitted by Natural England, which carries some significance<sup>5</sup>. However, the main weight of our argument rests on the fact that we have produced the evidence that demonstrates why the area and the boundaries meet the statutory criteria and why it is ‘especially desirable’ that the National Park should be established to include the Western Weald, the Bentley Nib, Lewes, Ditchling and the proposed additional areas.
- 1.7 Our expert witness has been Professor Robert Tregay, who is one of the most distinguished landscape practitioners in this country. Whilst he has presented evidence on our behalf at this Inquiry, his initial study and recommendations on the boundary of the PSDNP were totally independent. I quote from his evidence<sup>6</sup>:

*“I would emphasise that my original recommendations to the Countryside Agency on the broad extent of the National Park, including the specific inclusion of the Western Weald, were entirely based on my own professional analysis and judgement. I was not asked by the Countryside Agency, or anyone else, to support any particular type or extent of National Park. The matter was open from the outset. I had no axes to grind or political pressures to bow to... ..my professional recommendations were always independent and based on thorough analysis of the legal and policy basis for National Parks and of the South Downs itself...”*

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<sup>5</sup> Paragraph 51, Page 17, #1330/0/20 (there are two paragraphs numbered 51, this is the first one)

<sup>6</sup> Section 2.3, #1147/16/1

1.8 We are very conscious of our responsibilities to this re-opened Inquiry and we have, as always, continued to set ourselves the highest possible hurdle for ensuring that our proofs of evidence are soundly based, thoroughly researched and resilient to challenge. I hope that quality has been apparent to you.

1.9 We believe we have succeeded in our goal, and that the strength of our case, reinforced by the positions of Natural England, Hampshire County Council, East Hampshire District Council, Lewes District Council, our own members and by many others is overwhelming.

## **2 Overarching Issues**

### **2.1 Context**

2.1.1 Regarding the context for this re-opened Inquiry we suggest that there are four key issues that have implications in respect of the findings in the report you submitted after the first part of this Inquiry in March 2006, which I shall refer to as your ‘interim report’:

- The first is the clarification of the statutory framework for National Park designation in England contained within the NERC Act 2006, which has stipulated that:
  - Natural England may take into account an area’s wildlife and cultural heritage and that it may also take into account the extent to which it is possible to promote opportunities for the understanding and enjoyment of an area’s special qualities by the public. The latter is a widening of the original wording as interpreted by yourself in your interim report.
  - Of particular relevance to the South Downs, the NERC Act has also made clear that land whose features are partly the product of human intervention can meet the natural beauty criterion.

- Significantly, the Act has left the responsibility for designation and the judgement over what is ‘especially desirable’ firmly in the hands of Natural England.
- Secondly, the Meyrick judgments also considered issues of direct relevance to your interim recommendations and conclusions. Noteworthy are the criticisms of the New Forest Inspector for not explaining the reasons for his conclusions<sup>7</sup>. Also of relevance, as noted by Natural England<sup>8</sup>, is that the High Court accepted that “*a designation can “wash over” a large tract*”<sup>9</sup> of land.
- Thirdly, as Professor Tregay pointed out in his evidence<sup>10</sup>, the planning context has moved on since the first part of this Inquiry, with the publication in March 2006 of the draft South East Plan. The need for integrated planning solutions to deliver sustainable development, and in doing so to make a full contribution to delivering the Government’s Climate Change Programme and energy policies, is something not considered at the first part of this Inquiry but is clearly highly relevant when considering ‘especially desirable’.
- Finally, the passage of time since the closure of the first part of this Inquiry has meant that substantial new evidence has become available. Some of it, like the draft South East Plan, the South Downs Integrated Character Assessment<sup>11</sup> and the South Downs Management Plan<sup>12</sup>, were published after the closure of the first part of this Inquiry. But the SDC itself has also researched significant new evidence that was not available to the first part of this Inquiry and which is highly relevant to the findings in your interim report.

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<sup>7</sup> #1147/2/1, paragraph 74 in CD #9, paragraphs 21, 44 and 47 in CD #20

<sup>8</sup> Paragraph 67, #1330/0/8 – Natural England Legal Submissions on Topics 1 and 2

<sup>9</sup> Paragraphs 83 & 84, CD #9 – Meyrick High Court Judgment

<sup>10</sup> Section 9.5, #1147/16/1

<sup>11</sup> CD #14

<sup>12</sup> CD #26

## 2.2 The Legal Requirements

- 2.2.1 Natural England has made extensive written submissions on interpretation of the current law relating to the designation of national parks, to which the SDC gave full support on the basis of its legal advice.
- 2.2.2 It has been established that the NERC Act 2006 has clarified the criteria for designating national parks to that prior to the Meyrick case, and the outcome has been to reinforce the way the criteria were applied by the Countryside Agency (now Natural England) in designating the PSDNP by reference to the boundary set out in the Designation Order. We agree with Natural England that the two criteria are separate tests and not a single conjoined test.
- 2.2.3 In particular, the lawyers representing Natural England and Hampshire County Council were all agreed that to confine the South Downs National Park to a particular tract of country on the basis that it exhibits a single or core characteristic natural beauty, or an individual, distinctive and coherent identity, is not lawful. Openness, a sense of relative wildness, or remoteness, are also not legal requirements. As a matter of policy they are not necessary requirements for land to exhibit natural beauty, though they are considerations for Natural England to take into account.
- 2.2.4 We have shown that the New Forest and Dartmoor decisions are no longer a material consideration, either as a matter of law or as a matter of fact<sup>13</sup>. This analysis was fully supported by Natural England, which is the adviser to the Secretary of State in such matters.
- 2.2.5 The SDC concluded that the legislation provides that an area having sufficient landscape quality to meet the natural beauty criterion, (taking account of wildlife and cultural heritage) and which, having regard to its character, offers suitable opportunities for open-air recreation, and which it appears to Natural England to be especially desirable for it to be designated as a national park, then (subject to minor variations) the boundary designating that area as drawn up by Natural England after

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<sup>13</sup> #1147/1/2 – Demise of the Concept of ‘Characteristic Natural Beauty’

proper public consultation, should be confirmed, unless it can be shown on sound evidence to be wholly unreasonable. So great weight must be given to what appears to Natural England as an extensive tract or tracts of countryside which it is especially desirable to designate as a national park so that necessary measures can be taken to achieve national park purposes. In this the SDC agrees with the lawyers for Natural England.

- 2.2.6 The Western Weald is an extensive tract of countryside in its own right, covering an area of approximately 335 square kilometres<sup>14</sup> which is larger than The Broads which covers 303 square kilometres<sup>15</sup>.

### **2.3 Reliance on the Landscape Assessor**

- 2.3.1 From Professor Tregay's evidence<sup>16</sup> it is clear that you placed great reliance on the Landscape Assessor's reports. The SDC accepts that his main report<sup>17</sup> is based on the evidence heard at the first part of this Inquiry and, although we may disagree with some of his findings, and regard some as legally wrong within the current law, we accept that this was a legitimate document on which to base your recommendations.
- 2.3.2 However, we have serious concerns about the Landscape Assessor's supplementary report<sup>18</sup>, on the Rother Valley east of Petersfield and Petersfield, Liss and the 'A3 corridor' to the north of Buriton. This report did not reflect substantive evidence presented to the inquiry but was additional information requested by the Inspector on these two areas "...due to their strategic importance and in providing a physical connection between the chalk downland and areas of high landscape quality..."<sup>19</sup>.
- 2.3.3 The SDC's disquiet relates to the fact that this was not an expert opinion based on the evidence heard at the Inquiry, but a body of new work undertaken by the Landscape

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<sup>14</sup> Table 1, page 18, #1330/0/20 – Natural England Position Paper 6, Topic 5 - AONB Areas

<sup>15</sup> See Table 1, page 13, WR 3275/9a – Recreation in the South Downs National Park

<sup>16</sup> Section 4, #1147/16/1

<sup>17</sup> Annex A, CD #3

<sup>18</sup> Annex B, CD #3

<sup>19</sup> Paragraph 1.1, Annex B, CD #3

Assessor himself and not subject to subsequent public scrutiny until the Inquiry was re-opened.

2.3.4 Furthermore, not only have the judgements made within the supplementary report been criticised by a series of expert witnesses to this re-opened Inquiry, but the SDC and others have also provided evidence that raises serious questions about the factual accuracy of that report and about the lack of a robust evidence base for many of the conclusions that it reached. This is a particular cause for concern in the context of the Meyrick judgments mentioned earlier and the need for a clear explanation for any conclusions arrived at.

## **2.4 Scope of Evidence**

2.4.1 The SDC has brought a great deal of evidence to this re-opened Inquiry. This has received a high degree of support from other parties.

2.4.2 The SDC has confined its evidence to a few specific issues where we believe that the change in the law, the court cases, the policy context or new evidence combine to raise serious issues about some of your interim conclusions and recommendations. Although we may have reservations about some other findings in your interim report, we have not sought to re-open those issues. However, we respectfully suggest that you might give further consideration to cases where you have excluded AONB land without adequate explanation, such as Windmill Hill to the east of the Adur Valley<sup>20</sup> and around Lewes<sup>21</sup>.

2.4.3 The SDC also made supporting representations in cases where your recommendations to include additional land have been subject to challenge from other third parties.

2.4.4 The SDC has not formally rebutted every contrary submission by other parties as it considers that its evidence, and this closing statement, in effect rebut any such submissions.

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<sup>20</sup> Section 1, #1147/19/1

<sup>21</sup> Section 6, #1147/3/1

## 2.5 Market Towns

2.5.1 There is one more general issue before dealing with specific subjects considered at this re-opened Inquiry. That is the inclusion of market towns and other larger settlements. The SDC recognises that this is an issue that gave you serious concerns, largely based on the planning load you believe it would place on an incoming NPA<sup>22</sup> and the precedent you believed had been set by the New Forest decision<sup>23</sup>.

2.5.2 The SDC set out its approach to the inclusion of market towns in its paper CD 260. The SDC notes that whilst in your interim report you suggested that:

*“There is general agreement that sizeable settlements such as Petersfield, Arundel and Lewes would be unlikely to satisfy the designation criteria...”<sup>24</sup>*

2.5.3 You went on to say:

*“...I am not convinced that towns or other settlements above a certain size or population threshold should be automatically excluded from the PSDNP or, indeed, any other National Park.....it seems to me that if a settlement lies within a sweep of countryside that clearly meets the criteria, its inclusion would probably be justified.....This conclusion is subject to the rider that I consider that the assessment of whether the sweep of countryside meets the criteria should itself take account of the influence of the settlement on the land in question; not least the extent to which adverse or intrusive built development impacts on adjoining landscapes. The degree to which the countryside penetrates a settlement and the strength of any visual or other associations would be additional considerations”<sup>25</sup>.*

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<sup>22</sup> Paragraphs 3.74 & 3.75, Part I, CD #3 and paragraph 7.374, Part II, CD #3 and Inspector’s Covering Letter to the Secretary of State in CD #3. See also paragraph 5.1, #1147/3/3

<sup>23</sup> Paragraphs 2.6 & 3.1, Part II, CD #3

<sup>24</sup> Paragraph 3.1, Part II, CD #3

<sup>25</sup> Paragraph 3.2, Part II, CD #3

- 2.5.4 The SDC has disputed your view that there is general agreement that sizeable settlements would be unlikely to meet the criteria. We are not aware of any such general agreement. Otherwise, the SDC's conclusions in CD 260 broadly accord with those encapsulated in the quote above and we have accepted that the test for inclusion or otherwise should be based on these principles. That said, we have observed that away from the boundary, the Meyrick High Court judgment on the extent of 'wash over' is also highly relevant.
- 2.5.5 However, the recommendation to exclude individual market towns or other larger settlements was not clearly based on the quoted criteria, especially in the case of the market towns and larger settlements in the Western Weald. It is noteworthy that the Landscape Assessor did not refer to these criteria in his supplementary report.
- 2.5.6 The concept of 'wash over' is also particularly relevant to the issue of market towns and larger settlements as well as to 'transport corridors' and other detractors in the landscape. The SDC is supported in this by the Meyrick High Court judgment and by Natural England<sup>26</sup>. In his supplementary report, the Landscape Assessor employed a very narrow definition of 'wash over'. In our evidence we drew attention to the case of a few large fields and to a 60 hectare area said to have lost natural beauty and excluded on that basis, with no discussion of 'wash over'<sup>27</sup>.
- 2.5.7 We now turn to specifics; that is to the cases we put before you at this re-opened Inquiry.

### **3 Lewes**

- 3.1 I will start with the settlements that were discussed under Topics 1 and 2, that is Lewes and Ditchling.
- 3.2 In the case for Lewes and the Ouse Valley to the north<sup>28</sup> the SDC has shown that:

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<sup>26</sup> Paragraph 7, CD #2

<sup>27</sup> #1147/5/1 sections 10.3 and 10.4

<sup>28</sup> #1147/3/1 & 2 and supplementary proof of evidence #1147/3/3

- The strong cultural heritage of Lewes creates a townscape that enhances the surrounding chalk downland in which it is clearly embedded and does not detract from the landscape around it. This stance has been reinforced by the evidence submitted by English Heritage;
- A number of fingers of the surrounding countryside reach well into the town;
- Much of the omitted land around Lewes is AONB and no reason is given for these omissions;
- Lewes has long been seen by expert opinion, such as the Council for British Archaeology and by Alec Clifton Taylor, as a precious ‘gem’ whose conservation and enhancement should be a national responsibility;
- The town and river valley, coupled with its downland setting, offer an ‘inclusive’ recreational and educational experience of national park quality.

#### **4 Ditchling**

4.1 In the case of Ditchling the SDC has shown there is near universal support for this historic village’s inclusion in the National Park. The overwhelming opinion is that Ditchling is part of our downland heritage despite its location a little way north of the Downs.

4.2 In our evidence<sup>29</sup> the SDC has shown that no clear reasoning was given to why Lodge Hill and land to the west of Ditchling was proposed to be deleted from the National Park. At the same time new evidence has highlighted the quality of this landscape including the developments at Oldland windmill and access at Lodge Hill.

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<sup>29</sup> #1147/2/1 & 2 and supplementary proof of evidence #1147/2/3 & 4

- 4.3 Despite your acceptance that the village warranted inclusion in the National Park<sup>30</sup>, the SDC has provided yet more evidence as to why that should be so, including proposed extensions to the Conservation Area and the publication of new interpretative and recreational material.
- 4.4 Finally, we have addressed the major obstacle which prevented you from recommending that Ditchling be included. We have shown how the Countryside Agency was inconsistent in its application of its boundary setting criteria with regard to Ditchling; how its size was overstated and consequently the wrong test was applied. At the re-opened Inquiry, Natural England did not dispute our evidence. Therefore there no longer is a valid reason why Ditchling cannot be part of the PSDNP.

## 5 Additional Areas

- 5.1 As you yourself commented at the pre-inquiry meeting, the SDC was very successful in getting across our case for additional areas to be included in the National Park. Many of your proposed additional areas were indeed areas we promoted. In promoting these areas, we took care to liaise with local people both directly and through our members. Therefore it has come as no surprise that these areas have been so well supported during the public consultation last summer and that overall there have been relatively few objections to them.
- 5.2 Nevertheless, the SDC has provided rebuttals to a number of objections along with new evidence in relation to Woods Mill (addition 7)<sup>31</sup>, Ryngmer Park (addition 8)<sup>32</sup>, Gote Farm (addition 9)<sup>33</sup>, Wilmington (addition 11)<sup>34</sup>, Roedean School (addition 16)<sup>35</sup> and Toads Hole Valley (addition 23)<sup>36</sup>. In addition the SDC has also provided more general support for all the additional areas, whilst also addressing some specific issues

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<sup>30</sup> Paragraph 7.318, CD #3

<sup>31</sup> #1147/4/5

<sup>32</sup> #1147/4/6

<sup>33</sup> #1147/4/7

<sup>34</sup> #1147/4/2 – see also #1147/4/9

<sup>35</sup> #1147/4/8

<sup>36</sup> #1147/4/3 & 4

raised by respondents to the public consultation<sup>37</sup>. In particular, we have agreed with proposed boundary changes at Washington Common (addition 5), Ryngmer Park (addition 8), Gote Farm (addition 9), Tide Mills (addition 13), Dead Man's Wood (addition 21) and Binsted, West Sussex (addition 26).

5.3 Of the few objections that have been received, a number express concern that national park designation will stifle future development and therefore an area should not be included. The SDC has strongly refuted this claim and emphasised that this is not a consideration for or against designation<sup>38</sup>.

5.4 In a few instances your decision to recommend an area's inclusion was 'on balance' such as at Woods Mill, Wilmington, Tide Mills and Roedean School, to name but a few. The SDC trusts that its new evidence combined with the change in the legislation and clarification provide by the Meyrick judgments strengthen the case for these areas' inclusion. Overall, we feel that there is a strong case for you confirming your original recommendations to include all the additional areas in the PSDNP.

## **6 The Western Weald**

### **6.1 Overview**

6.1.1 It is understandable, given the size of the proposed exclusion, that the Western Weald has generated the greatest degree of objection.

6.1.2 There appeared to be three reasons for your interim recommendation that the Western Weald should be excluded from the PSDNP: the Landscape Assessor's view that there were degraded areas within the Upper and Lower Rother Valleys that had lost natural beauty; the issue of whether a PSDNP should be restricted to a single or core character, and finally, lack of a superior recreational opportunity. Taking each of these in turn:

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<sup>37</sup> #1147/4/1 – see also #1147/4/9

<sup>38</sup> Paragraph 4.3.2, #1147/4/1

## 6.2 'Degraded' Areas

- 6.2.1 Without question the part of the your interim report that has attracted most criticism is the proposition that some 100 sq. km of nationally designated landscape in the Western Weald has become so degraded that it has lost natural beauty. As we said in our Opening Statement on the Western Weald<sup>39</sup>, if this really is so, then that is proof that there has been a profound breakdown in public policy at the national, regional and local level.
- 6.2.2 We have brought to this re-opened Inquiry a wealth of evidence to demonstrate that the Landscape Assessor's supplementary report was flawed. The SDC has demonstrated serious factual inaccuracies within it and that the impact of 'detractors' in the landscape was exaggerated. We have also provided evidence to show that most of those 'detractors' were in place, or were under construction or planned at the time the AONBs were established. We have shown that far from overseeing the degradation of the area, public authorities have been very conscious of the need to protect it and have been successful in so doing. And finally we have demonstrated the considerable enhancement that has taken place, as one would expect, given that these are nationally protected landscapes.
- 6.2.3 No one at the re-opened Inquiry has questioned the veracity of this evidence, no one has challenged what we have said; no one has suggested it is not true.
- 6.2.4 I put it to you that not only our own landscape expert, but those for Natural England, for Hampshire County Council, for East Hampshire District Council and even for West Sussex County Council and Chichester District Council all disagree with the judgements of the Landscape Assessor on degradation. There is therefore a consensus amongst a wide body of opinion that all of these landscapes retain their natural beauty.

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<sup>39</sup> #1147/0/3

6.2.5 We believe the body of the evidence that we have provided lays open to question the whole basis of the Landscape Assessor's advice to you on the state of these areas. We summarise our case as follows:

*Sandy Arable Farmlands*

6.2.6 The main issue raised by the Landscape Assessor in relation to the part of the Lower Rother Valley described as the Sandy Arable Farmlands is the current state of the landscape due to farming practices. As explained by Professor Tregay<sup>40</sup> the size of this area was exaggerated in the Landscape Assessor's supplementary report.

6.2.7 New research has demonstrated that the landscape here is just as it has been since the Second World War and before<sup>41</sup>. It was a farmed landscape with arable fields interspersed with woodland long before the AONB was established. It is a landscape that does not sit in isolation but is part of a complex mosaic that forms the Lower Rother Valley: Dr Tony Whitbread has separately described the ecological value of this area including the River itself<sup>42</sup>. The main change within the Sandy Arable Farmlands has been in different cropping patterns within field boundaries, which themselves have always been varied in nature. The alleged loss of hedgerows has therefore been significantly exaggerated.

6.2.8 In contrast, the SDC has demonstrated through case studies, that there has been and there continues to be significant enhancement to the Sandy Arable Farmlands in the Lower Rother Valley brought about largely through agri-environmental schemes. But it is an important consideration that this is a nationally protected landscape which has an agreed statutory Management Plan. There is a countryside management system in place to help implement this and landowners and users can be steered towards the options within the schemes that maximise the landscape and ecological benefits.

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<sup>40</sup> Paragraph 8.5.2, #1147/16/1

<sup>41</sup> #1147/8/1 & #1147/8/2

<sup>42</sup> Section 4.2, #1147/14/1

- 6.2.9 The SDC has also shown that the chief landscape detractor mentioned in the Landscape Assessor's supplementary report, the line of pylons, was actually planned or even in place or under construction at the very time when the AONB was established. The pylons had been the source of much concern at a national as well as regional level, in the period leading up to the confirmation of the AONB, but they did not prevent establishment.
- 6.2.10 The SDC has also brought evidence to show that the A272, mentioned by the Landscape Assessor in his supplementary report, is in fact far less obvious in the landscape and less busy than are other major roads within the chalk landscapes that you recommended should form part of the PSDNP.
- 6.2.11 On the issue of the suburban nature of the settlements, we referred you to your own tests for the inclusion of settlements. The evidence we have brought to the re-opened Inquiry show that the settlements do not impinge on the wider landscape. They lie within a sweep of countryside that clearly meets the criteria, and their inclusion is justified.

'A3 Corridor'

- 6.2.12 It has become clear during the course of this re-opened Inquiry that there is no agreed definition for the so-called A3 corridor, if, indeed, it exists at all.
- 6.2.13 Professor Tregay aptly described it as:

*"a swathe of attractive country, through which 3 quite separate transport routes pass...Not only is there a distinct horizontal separation between them, there is also a substantial difference in elevation"*<sup>43</sup>.

- 6.2.14 He also drew attention to the rich landscape, ecology and culture that is interspersed between the two roads and the railway. In addition Dr Tony Whitbread has described the rich biodiversity to be found in this area<sup>44</sup>.

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<sup>43</sup> Section 8.4, #1147/16/1

- 6.2.15 During his oral evidence Professor Tregay explained that the Area of Search technical report (CD 36) included the area in proximity to the A3 up to and including the settlement of Liphook. But he identified it, along with a number of other areas, as one that needed particular scrutiny during the boundary setting phase because he and his team were undecided where the boundary should be drawn. The whole area was subsequently omitted by the Countryside Agency in its report on the Area of Search. However, the southern part, including Petersfield, Liss, and Longmoor was later included within the draft PSDNP boundary. I will come back to the area to the north of the settlements, Longmoor and Woolmer Forest later.
- 6.2.16 Regarding the main issues referred to in the Landscape Assessor's supplementary report on the so-called A3 corridor, there is the issue of the road itself and its impact on the landscape. The SDC has demonstrated that the need for a road to replace the existing A3 (now the B2070) was recognised before the East Hampshire AONB was confirmed. Subsequently the AONB and the possible routes for the new road were safeguarded in strategic and local plans<sup>45</sup>. The importance of the nationally protected landscape and the possible impact of the road upon it were fully discussed at the two inquiries. Assurances were given at the inquiries about extensive mitigation measures, which satisfied the inspector that the landscape of the AONB would be protected<sup>46</sup>.
- 6.2.17 The road was opened in 1992. In 1998, when the East Hampshire AONB Guidelines (CD 183) were published the landscaping was still in its early and slow growth stage. Unsurprisingly, that report described an impact on the landscape both in the chalk and the Weald.
- 6.2.18 Professor Tregay has calculated that the road is now well contained along its length in the Western Weald to an 85% level in winter and 90% level in summer<sup>47</sup>. The SDC has demonstrated that since then planning policies have safeguarded the environs of the road from development<sup>48</sup> and that, as a result, it retains an intact rural hinterland.

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<sup>44</sup> Section 4.3, #1147/14/1 and Annexes 3 & 4, #1147/14/2

<sup>45</sup> Section 4.2, #1147/9/1

<sup>46</sup> Sections 4.3 & 4.4, #1147/9/1

<sup>47</sup> #1147/16/1

<sup>48</sup> Section 8, #1147/9/1

- 6.2.19 So far as noise is concerned, it is acknowledged that noise has a greater impact than does the visual impact of the road, but it has to be said that the noise is no greater in the Wealden landscapes than in the chalk. There is no evidence to suggest that the A3 is any noisier than other trunk roads that pass through the AONBs.
- 6.2.20 It is therefore difficult to square the Landscape Assessor's view of the impact of the road with reality.
- 6.2.21 Further evidence brought to the re-opened Inquiry has shown the high landscape value and cultural importance of the landscape to the west of the A3. The field patterns reflecting their medieval origin, the assart fields around Steep, the signs of an earlier and rich culture in the roman villa at Stroud and the roman settlement adjacent to the A3 at Liss, which is in the process of excavation<sup>49</sup>. All are significant features in the landscape to be taken into account when assessing the area against the criteria, as stated by Natural England.

*Settlements in the Upper Rother Valley*

- 6.2.22 The Landscape Assessor found Petersfield and Liss<sup>50</sup> 'suburban' though he did acknowledge that Petersfield has a strong historic core. There was no reference in his supplementary report to the manner in which the settlements relate to the surrounding countryside or indeed to their impact on it.
- 6.2.23 We have brought new evidence to the re-opened Inquiry that demonstrates that both these settlements are largely hidden within the well-wooded and undulating topography of the Upper Rother Valley<sup>51</sup>.
- 6.2.24 Professor Tregay described Petersfield as "*remarkably well-absorbed in the landscape*"<sup>52</sup>. Green fingers enter the town from all directions<sup>53</sup>. Petersfield was

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<sup>49</sup> Section 5.1, #1147/11/1

<sup>50</sup> Paragraphs 3.25 and 3.29, Annex B, CD #3

<sup>51</sup> Section 5.3, #1147/10/1 and section 7.6, #1147/11/1

<sup>52</sup> Section 8.2, #1147/16/1

<sup>53</sup> Appendix G, #1147/11/2

described fittingly in the Report of the Planning Inspector into the East Hampshire Local Plan:

*“The way in which appreciated countryside of great beauty surrounds Petersfield and in some instances sweeps almost into its centre is a fundamental part of the character and appearance of this delightful historic market town”<sup>54</sup>*

6.2.25 Liss is described in the South Downs ILCA<sup>55</sup> as “hidden within the undulating topography”. The East Hampshire Local Plan inspector describing Liss said:

*“The main environmental constraints are the AONB and the sylvan quality of the aptly named Liss Forest. Related to this is the local topography, and the captivating way in which Liss village lies within it and for the most part unseen in the wider surroundings. Liss is the “hidden village” in an attractive rural setting and this is a vital part of its character”<sup>56</sup>.*

6.2.26 The Liss Community Landscape Character Assessment<sup>57</sup> is entitled ‘A Hidden Village’. Green fingers enter the village, most notable along the Riverside Railway Walk<sup>58</sup>.

6.2.27 Moreover, the SDC has brought significant new evidence to the re-opened Inquiry that demonstrates that the developments referred to in the Landscape Assessor’s report were in place, under construction, or largely planned at the time when the AONB was confirmed<sup>59</sup>. Planning policies from the 1960s onwards have prevented additional new development over and above what was then planned. Liss and Petersfield have not therefore impinged on the high quality AONB countryside that surrounds them. Instead, they retain a rural feel thanks to significant green fingers that penetrate to their hearts.

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<sup>54</sup> Appendix H, #1147/12/2

<sup>55</sup> Paragraph K1.5, CD #14

<sup>56</sup> Appendix H, #1147/11/2

<sup>57</sup> CD #47

<sup>58</sup> Section 6.2, #1147/11/1

<sup>59</sup> Section 4.2, #1147/10/1 and section 5.2, #1147/11/1

6.2.28 The SDC believes that this evidence combines to demonstrate that, far from being a degraded landscape, the Upper Rother Valley retains a high degree of natural beauty that washes over the settlements and the road, thanks to the wooded nature of the valley and its complex undulating topography. This characteristic has been noted by professional landscape experts and by a Local Plan inspector and it is a feature well known to the people who live there and visit the area. That is a powerful consensus of opinion.

*Woolmer Forest and Longmoor*

6.2.29 When considering the MOD land at Woolmer Forest and Longmoor during the first part of this Inquiry you did not have the benefit of knowledge of military activity in other national parks in England and Wales.

6.2.30 Since then the Council for National Parks (CNP) has published a comprehensive study<sup>60</sup>. The SDC has therefore been able to bring to this re-opened Inquiry comparative information on the scale and scope of military activity in English and Welsh National Parks, which has an impact on your provisional conclusions.

6.2.31 The CNP report demonstrates that the type of training undertaken at Woolmer Forest and Longmoor is entirely compatible with national park status. Indeed, it is much less intrusive than that encountered in a number of existing National Parks. The closure times at Woolmer Forest, that gave you cause for concern about the recreational criterion being met in this area, have been shown to be comparable to those in Dartmoor National Park, where, in any case, military activity affects a greater part of the national park area than it would in the case of the PSDNP.

6.2.32 The SDC has provided new evidence on the issues raised in the Landscape Assessor's supplementary report demonstrating that he overstated the impact of Longmoor Camp<sup>61</sup>. The issues he raised regarding the impact of military activity on the

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<sup>60</sup> CD #50

<sup>61</sup> Section 4.2, #1147/13/1

landscape are management issues comparable with those that occur in other national parks<sup>62</sup>.

6.2.33 The SDC has also provided much new evidence on the user perception of the recreational value of both Woolmer Forest and Longmoor<sup>63</sup>. This demonstrates that the special qualities of the area, especially its landscape, ecological value, wildness and tranquillity, are highly valued by the visitors.

6.2.34 New evidence has also been provided to this re-opened Inquiry describing the significant cultural resource where early remains, most notably from the Bronze Age, can be seen in their landscape context<sup>64</sup>. It is not clear exactly how much weight you applied to the exceptionally high ecological value of the area, which is further described in Dr Tony Whitbread's paper<sup>65</sup>.

#### Summary on 'Degraded' Areas

6.2.35 The issue of whether significant areas of the Western Weald have become so degraded as to have lost natural beauty, is a highly contentious and questionable one, which has profound implications for the future of the areas concerned. The SDC would have expected to find a high threshold of evidence to support such a contention<sup>66</sup>. Our own researches have failed to find such evidence. On the contrary, all the evidence we have just described points in the opposite direction. We urge you to reconsider this crucial issue.

### **6.3 Core Character and Natural Beauty**

6.3.1 I turn now to the second reason for the recommendation in your interim report to exclude the Western Weald; that is 'core character', or 'characteristic natural beauty'.

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<sup>62</sup> Paragraphs 4.3.3 & 4.3.4, #1147/13/1

<sup>63</sup> Section 6.2, #1147/7/1 and sections 5 & 6.5, #1147/13/1

<sup>64</sup> Section 3, #1147/13/1

<sup>65</sup> Paragraph 4.3.5, #1147/14/1

<sup>66</sup> #1147/0/3

Core Character

6.3.2 In reaching your conclusion you relied almost entirely on the Landscape Assessor and his findings in relation to the Dartmoor and New Forest inquiries and the character of existing national parks in England and Wales. The SDC profoundly disagrees with the Landscape Assessor's interpretation of these precedents and has brought evidence to this re-opened Inquiry to explain why.

6.3.3 In our paper *The Demise of the Concept of 'Characteristic Natural Beauty'*<sup>67</sup> we demonstrated that reliance by both the New Forest and South Downs Landscape Assessors on the Dartmoor inquiry was misguided. The Dartmoor inquiry took place against the backdrop of the 1982 Countryside Commission advice to National Park Authorities on reviews of National Park boundaries (CD 79) which stressed that:

*“discussion here does not deal with or affect the way in which proposals for new national parks might be considered by the Commission”*<sup>68</sup>.

6.3.4 It is also clear that the Dartmoor inspector did not devise his own test but adopted that of the then designating authority, the Countryside Commission, which concluded that:

*“The critical test for boundary making **in this case** was whether the landscape was both of Dartmoor character and national quality”*<sup>69</sup> [SDC's emphasis].

6.3.5 The New Forest Landscape Assessor translated this test, which was specific to one National Park variation order and devised it into a test for the designation of a new National Park. It is clear that the Landscape Assessor appointed to this South Downs National Park Inquiry relied on these false precedents in reaching his own conclusions when he said:

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<sup>67</sup> #1147/1/2

<sup>68</sup> Section 2.4, #1147/1/2

<sup>69</sup> Section 2.5, #1147/1/1

*“The findings of the Dartmoor and New Forest Inquiries confirm the need for National Parks to have individual, distinctive and coherent identity ...Land should be excluded if it does not share the characteristics of the core of the proposed National Park, even if it is outstanding quality”<sup>70</sup>.*

6.3.6 The Landscape Assessor also dismissed the precedent of the existing National Parks in England by reference to Hobhouse:

*“Although Hobhouse refers to there being ‘merit in variety’, it is clear from the context of the remark that he was seeking variety between National Parks, not within each one”<sup>71</sup>.*

6.3.7 He also ignored the Welsh National Parks even though they were established by the same body under the same legislation as the English National Parks<sup>72</sup>.

6.3.8 In his evidence Professor Tregay<sup>73</sup> refers to examples of English and Welsh national parks that display variety of landscape at the national level: Snowdonia, Pembrokeshire Coast, Brecon Beacons and the Peak District. Others can be added by reference to CD 217: most notably the Lake District. Whatever interpretation is placed on the words of Hobhouse is irrelevant. National parks in England and Wales do not display a single or core character: that is an irrefutable fact.

6.3.9 The SDC therefore believe that there is a considerable weight of evidence to challenge the Landscape Assessor’s concept of what a national park in England must be. We have noted, however, that his report was written in the knowledge of the National Park (Scotland) Act 2000, section 2(2) of which refers specifically to ‘distinctive and coherent identity’.

6.3.10 Crucially, since the Landscape Assessor’s report was written, the legislative framework for national parks in England has been updated by the NERC Act 2006. A

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<sup>70</sup> Paragraph 7.4, Annex A, CD #3

<sup>71</sup> Paragraph 6.110, Annex A, CD #3

<sup>72</sup> Paragraph 6.114, Annex B, CD #3

<sup>73</sup> Section 5.4, #1147/16/1

number of witnesses to this re-opened Inquiry, including the SDC, have drawn to your attention the lack of any requirement within the amended Act for a national park to have a coherent or distinctive natural beauty. Parliament had the opportunity to make it a requirement but it did not choose to do so. Accordingly the words “natural beauty” must be applied as they stand and without qualification. This is not to say that a national park cannot have a single or core character. But the new legislation completely undermines the basis of the Landscape Assessor’s advice to you, supported by Miss Hankinson for WSCC, that national park land must share the characteristics of its core.

6.3.11 We have set out earlier in this statement a summary of evidence on the legal context in which designating a national park on the basis of core character or characteristic beauty is not lawful.

6.3.12 It is clear that whatever the position may have been prior to the NERC Act, it is now unlawful to apply the test devised by the Landscape Assessor, which in any case was based on a misreading of the Dartmoor inquiry. It is also pertinent to the conduct of this re-opened Inquiry that the statute specifically leaves the discretion as to what land should be designated to Natural England and not to the Secretary of State, as is the case in Scotland.

#### *Types of Natural Beauty*

6.3.13 Miss Hankinson has brought evidence before you to argue that national parks and AONBs display different types of natural beauty. Whilst we accept that there are different types of natural beauty, in that one landform will look different from another, the test for natural beauty is the same for national parks and AONBs as stated by Lord Bach<sup>74</sup>.

6.3.14 As Professor Tregay pointed out in his evidence, there are wild and remote AONBs, just as there are pastoral and lowland national parks<sup>75</sup>. He also ably demonstrated that

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<sup>74</sup> Columns 51/52, CD #21 – Lords Debate 20 March, 2007

<sup>75</sup> Section 2.5, #1147/16/1

just as parts of the chalk hills of the South Downs are farmed and contain attractive villages, the heathland and woodland parts of the Western Weald also have a remote and wild character.

6.3.15 To illustrate this point I quote from the South Downs ILCA<sup>76</sup> which we referred to in our evidence:

*“Prominent hills...with a steep escarpment at their inner edge from where there are panoramic views...settlement pattern typically dispersed and density of settlement low....extensive network of public rights of way, good countryside access...significant woodland cover contributes to sense of enclosure, mystery and remoteness that characterises the hills”*

6.3.16 No not the chalk hills, but those of the Western Weald.

#### Relative Wildness

6.3.17 Relative wildness is not a requirement of law. As a matter of policy, it is a consideration (but not a dominant consideration) that is taken account by Natural England in designating an extensive tract, or tracts, of countryside as a national park. As stated by Natural England, relative wildness does not need to be shown to the same extent in every tract under consideration, or over the whole tract. It is just one of a basket of indicators used to assess natural beauty and recreational opportunities.

6.3.18 Consequently there is no need to show that the Western Weald has a sense of relative wildness in order to include it in the PSDNP, provided it still meets the statutory designation criteria for a national park.

6.3.19 In fact, the SDC has shown that the Western Weald does have a sense of relative wildness. New factual evidence from HCC has demonstrated the abundance of semi-natural habitats, especially heathlands and ancient woodlands. These are areas where man has had least impact, and it is a reasonable basis on which to evaluate relative

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<sup>76</sup> Page 355, CD #14

wildness. But all are agreed that relative wildness is also a matter of experience, and many witnesses with local knowledge have stated their ability to find it in the Western Weald without difficulty. There may be limited fragmentation from detracting features but this is true of landscapes elsewhere in the PSDNP and in other national parks.

6.3.20 It may be true, as Miss Hankinson says, that little has changed on the ground since the first part of the Inquiry. But, the re-opened Inquiry has the benefit of much better evaluation of relative wildness combined with a clearer understanding of the law.

#### *Cultural Heritage and Wildlife*

6.3.21 The law is now clear that both cultural heritage and wildlife may be taken into account in the assessment of natural beauty. The SDC has provided new evidence on the cultural heritage of the Western Weald<sup>77</sup>. It also fully supports the new evidence brought to the re-opened Inquiry by English Heritage<sup>78</sup> and that on historic landscape character provided by HCC<sup>79</sup>. This evidence shows great time depth in the landscape of the Western Weald.

6.3.22 In your interim report you accepted the case that the Western Weald is of considerable nature conservation value<sup>80</sup>. Dr Whitbread, in his written representation<sup>81</sup>, has brought new evidence to the re-opened Inquiry based on data that is now available thanks to advanced technology. This evidence gives added weight to the argument that the Western Weald has an extraordinary richness of biodiversity.

## **6.4 Linkages**

6.4.1 The issue of linkages between the chalk hills and the Western Weald was discussed at great length in the first part of this Inquiry. The proposition was that linkages, visual

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<sup>77</sup> CD #47

<sup>78</sup> #1348/1/6 and #1348/2/1

<sup>79</sup> Paragraphs 3.4 – 3.31, #1969/1/10

<sup>80</sup> Paragraph 2.23 ,Part II, CD#3

<sup>81</sup> #1147/14/1

or otherwise, need to be established between the chalk hills and Western Weald if the latter is to form part of the PSDNP. We never subscribed to this, believing the Western Weald meets the criteria in its own right and that national parks do not have to display a single or core character. However, we also recognised that such links exist and are strong and are perhaps a reason why there has been such a powerful reaction to the proposed exclusion of the Western Weald.

6.4.2 The SDC has provided further evidence that explains that in geological terms, the Western Weald beds are, without question, related in a structural sense to the younger, but also southerly dipping, Chalk beds of the South Downs uplands<sup>82</sup>. We have explained that the highest point within the PSDNP (and in Sussex) is not on the chalk ridge but at the most northerly part of the Western Weald at Black Down. The ridges of the Western Weald reduce in height the closer they approach to the chalk hills, thus ensuring visual connectivity over a wide area<sup>83</sup>. We have provided further evidence about the strong cultural linkages<sup>84</sup> in supporting the view of English Heritage that:

*“Unifying factors are present in the landscape...and do ‘effectively link’ the Western Weald to the chalk hills to a greater degree than in most other parts of the country”<sup>85</sup>.*

6.4.3 We have also provided further evidence that these linkages do not extend to Surrey in the north<sup>86</sup>.

6.4.4 In this context the SDC has considered the evidence of Miss Hankinson that the Western Weald shares character at the national level with the Surrey Hills AONB. We regard this as wholly irrelevant. It is noteworthy that the Yorkshire Dales National Park shares character at the national level with the adjacent Nidderdale AONB.

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<sup>82</sup> CD #52

<sup>83</sup> Paragraph 4.5, #1147/15/1

<sup>84</sup> CD #47

<sup>85</sup> Paragraph 2.1, #1348/1/6

<sup>86</sup> CD #46

## 6.5 Recreational Opportunity

- 6.5.1 The SDC was concerned to read your doubts about the ability of the Western Weald to meet the recreation criteria<sup>87</sup>.
- 6.5.2 The SDC has brought evidence to the re-opened Inquiry from groups that use the Western Weald for recreation that contradicts the findings of the Landscape Assessor in his supplementary report. They agree that the Western Weald does in fact provide a superior recreational opportunity and, as we have pointed out in our evidence, these are groups that have access to the finest of our countryside elsewhere, in the other nationally protected landscapes of South East England and no doubt beyond.
- 6.5.3 The SDC has brought to you factual information<sup>88</sup> that contradicts some of the Landscape Assessor's other findings; his under-estimation of the crossings of the Rother in the Lower Rother Valley and his assertion that Rights of Way along the A3 north of the Hangers Way have become fragmented. This latter assertion is shown to be incorrect simply by a comparison of the Ordnance Survey maps showing the rights of way both before and after the construction of the A3.
- 6.5.4 The SDC has also explained that the superior recreational experience in the Western Weald is not dependent on views of the chalk hills, but that it is exceptional on its own merits. This is the product of four factors:
- Accessibility. The Rights of Way take you to where you want to be. A contrast was drawn between the ease with which the Rother can be accessed throughout its entire length and the real difficulty that people have of accessing the Mole in the Surrey Hills AONB;
  - Condition. The Rights of Way are in generally excellent condition and the open access land is well signposted;

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<sup>87</sup> Paragraph 2.20, Part II, CD #3

<sup>88</sup> #1147/7/1

- Variety and contrast. The geology and topography of the Western Weald create a variety of landscapes that enrich the recreational experience for all who use the Weald, from wild, open and tranquil heathland, to enclosed secretive woodland and the charming, more settled, river valleys;
- Inclusion. The steep rugged ridges provide an exhilarating experience for the more energetic walker whereas the river valleys provide less challenging walks for those who want easier access but with the same fine experiences.

6.5.5 Finally, the SDC has demonstrated that the immensely rich cultural heritage and biodiversity of the Western Weald give further opportunity for a wealth of varied experiences that not only provide enjoyment but also the understanding of the landscape in a manner that befits a 21<sup>st</sup> century national park.

## **6.6 Possible New Boundary**

6.6.1 Looking at the possible new boundary between Petersfield and Pulborough, the SDC has noted your statements to the re-opened Inquiry that your indicative line has been afforded a greater level of importance than you intended.

6.6.2 In contrast to the body of support for the designated boundary in the Western Weald, we have also noted that the possible new boundary has remarkably few supporters and many opponents, including the Natural England expert consultant who drew it up.

6.6.3 Our own objections are not only to the boundary itself, though we believe this to be flawed, but to the principles on which it was based. Natural England has confirmed in its evidence that the boundary was drawn using the Landscape Assessor's reasoning as a starting point without qualification on its part<sup>89</sup>. Our concerns are:

- It assumes the need for a single or core character for a national park, which is unlawful;

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<sup>89</sup> #1147/5/1

- It is based on the premise that the so-called A3 corridor, the Sandy Arable Farmlands and other pockets of land are degraded and do not meet the natural beauty criterion for designation, which has been demonstrated to be incorrect;
- It is based on the Landscape Assessor's interpretation of the statutory criteria, policy and guidelines, which amount to the application of different and more stringent tests than were applied to the chalk. (This is a different point to that made by Miss Hankinson in her oral evidence when she suggested consistency was a product of distance from the chalk);
- It is based on the Landscape Assessor's fieldwork which has been shown to be flawed in those cases where he provided sufficient detail for it to be tested.

6.6.4 The SDC believes that any boundary drawn using such criteria to be unsound in law, policy and practice.

6.6.5 In addition the SDC has expressed grave concerns at the inconsistent approach to boundary setting which is being promoted by Miss Hankinson. In our rebuttal evidence we have shown that her suggested boundary criteria would only be applied to approximately a 32km length of the boundary adjacent to the Western Weald. In stark contrast Miss Hankinson is then suggesting applying a different boundary setting approach east of Storrington for around 50km of boundary (to Polegate) where the boundary would be further away from the chalk hills and include land that Miss Hankinson does not feel meets the national park criteria<sup>90</sup>.

6.6.6 Miss Hankinson tried to justify this approach by reference to a 'pragmatic boundary' promoted by the Inspector in the New Forest National Park. However, in the New Forest it was a completely different situation, not least because the inspector there agreed the land he wanted included met the national park criteria. Therefore, the SDC considers that this suggested approach to boundary setting by Miss Hankinson is unsound.

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<sup>90</sup> Section 4, #1147/6/1

## 6.7 AONB Status

- 6.7.1 The SDC has serious concerns about the future of the Western Weald if it were to be outside the PSDNP.
- 6.7.2 First, we consider that any boundary setting process for a possible new AONB is likely to be protracted and difficult. Until such a process might finally be resolved, areas within the designated PSDNP, which you yourself believe have the necessary natural beauty, would be exposed to uncertainty about their future and to a state of extreme vulnerability to potentially damaging developments.
- 6.7.3 The plain fact is that unless the Landscape Assessor's conclusions regarding the natural beauty of the Sandy Arable Farmlands and the so-called A3 corridor are overturned there can be no AONB conjoined with the PSDNP.
- 6.7.4 Although Natural England has suggested a possible way forward<sup>91</sup> that would safeguard the areas that are outside the PSDNP but within the two AONBs, should the Landscape Assessor's conclusions be overturned, it has also concluded that there would be no possibility of safeguarding those areas that lie outside the AONBs but within the designated boundary. This would be a particular problem for the 'Bentley Nib'. This exquisite landscape lies to the north of the B3004, the boundary you suggested in your interim report. There is no other protected landscape nearby apart from the PSDNP and so the 'Bentley nib', also known as the northern part of the 'Binsted Peninsula', would be denied protected landscape status if it were excluded from the PSDNP<sup>92</sup>.
- 6.7.5 Moreover, as the SDC pointed out in evidence, the designated boundary is for a PSDNP not for an AONB. Land beyond the designated boundary that does not qualify for inclusion in the PSDNP because it fails the recreational test, might qualify for inclusion in a new AONB on grounds of natural beauty alone. It is unsafe to

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<sup>91</sup> #1330/0/18 – Legal Note on AONB Designations on behalf of Natural England

<sup>92</sup> Paragraph 2.2, #1147/17/1

assume that the boundary of any new AONB would necessarily be the same as either the existing AONB or the Designation Order boundary.

- 6.7.6 Secondly, Natural England has demonstrated that the funding available to a Wealden AONB would be considerably less than would be available to the area should it be included within the PSDNP, and it would also be considerably less than the area enjoys at present<sup>93</sup>. Furthermore, there would be considerable loss of economies of scale, not only for any future separate AONB but for the PSDNP itself. Key Management Plan targets in relation to, for example, rare heathland habitats would be jeopardised. The SDC does not share Chichester District Council's (CDC) relaxed attitude to the real possibility of an outcome such as this, which the council demonstrated at this re-opened Inquiry. We are wholly opposed to the reduction in the funding for this nationally important landscape that would follow should such a scenario materialise.
- 6.7.7 You will recall that in the SDC's evidence we showed you a map<sup>94</sup>, which explained that because of the topography of the area, any significant developments within the Upper Rother Valley would be likely to have a major detrimental impact on the views from the chalk hills and Hangers of the PSDNP and on the tranquillity of these areas. We are concerned that the NPA would have a statutory obligation to involve itself in such planning issues but it would not be given the financial resources to do so.
- 6.7.8 Pertinent to this is the one and only statement in support of the exclusion of Petersfield and the so-called A3 corridor put to the re-opened Inquiry<sup>95</sup> and to the only two duly made written objections to the inclusion of Petersfield and the A3 corridor put to the first part of this Inquiry. All three submissions were made on behalf of developers wishing to develop land in the context of the East Hampshire Local Plan inquiry: development on all three areas would have impacted on the views from the chalk hills of the South Downs and the Hampshire Hangers.

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<sup>93</sup> Paragraphs 21-25 & Table 1, #1330/0/20 – Natural England Position Paper 6, Topic 5 - AONB Areas

<sup>94</sup> #1147/0/10

<sup>95</sup> #936/1/1 and #936/1/2

6.7.9 In oral evidence the SDC demonstrated that, because of the topography, development beyond the designated boundary would not impact so seriously on the PSDNP. We also mentioned that the combination of planning constraints imposed by the internationally protected Woolmer Forest, and the contiguous boundary with the Surrey Hills AONB also afford a degree of protection.

## **7 Especially Desirable**

### **7.1 Overview**

7.1.1 I now turn to ‘Especially Desirable’. This is an issue that is not defined in legislation, save that it is linked to the two statutory criteria, and for which the determining authority is Natural England. The SDC therefore offered ideas on what issues might be considered under this heading in the knowledge that the tests must be devised by Natural England and not by a third party.

7.1.2 Professor Tregay argued that since the closure of the first part of this inquiry the draft South East Plan had set out the strategic planning context for the PSDNP<sup>96</sup>. He referred to Professor David Lock’s presentation to the Countryside Agency’s seminar of January 2001, in which Professor Lock made clear that the PSDNP would need to be planned in the context of substantial development pressures that would lead to massive change in the South East.

7.1.3 We fully agree with Professor Lock. A PSDNP needs to be of an appropriate size and scope in order to be able to respond to such pressures and not be defeated by them. In our view this means the largest possible national park compatible with the statutory criteria and Natural England’s view of ‘especially desirable’ and one with a NPA that has sufficient clout to play its part in the evolution of the South East.

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<sup>96</sup> Section 9.5, #1147/16/1

## 7.2 Climate Change

7.2.1 Since the closure of the first part of this Inquiry climate change has moved significantly up the political agenda. It was not considered at the first part of this Inquiry. In our paper on climate change<sup>97</sup> we drew attention to the often conflicting pressures there will be:

- The need for a strategy to protect the area's existing biodiversity and strengthen its adaptive capacity
- The recreational and development pressures on the PSDNP from the growing population in the South-East and, in the longer term, population displacement (from areas that are flooded or lost to the sea)
- The pressures on the water resources of the PSDNP (such as the River Rother) created by this growing population and the expected trend towards hotter drier summers
- The need for landscape-wide action to manage ecosystems as carbon sinks and so contribute to reduction of the cause of climate change
- The market pressures on agriculture to provide food and fuel for the world's population combined with new crops and their impact on the landscape
- The need to reduce energy consumption and contribute to renewable energy targets without harming the landscapes, ecology or cultural heritage of the PSDNP

7.2.2 The SDC argued that, if these nationally important and iconic landscapes in the South Downs are to survive and prosper there needs to be a strategic body with a vision and with the power to deliver it. The South Downs Management Plan is the first step towards identifying that vision and the steps that will be needed in the years ahead. However, to tackle these issues effectively a body with spatial planning

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<sup>97</sup> #1147/18/1

responsibilities is needed at the heart of the process. It is the view of the SDC that this vision can only be delivered by a NPA operating in a wider PSDNP.

### 7.3 Sustainability

7.3.1 The proximity principle, as a keynote of sustainability has moved a long way since the Edwards report of 1991<sup>98</sup> stated:

*“Earlier reports (notably Hobhouse) have stressed the importance of having national parks accessible to the main population centres, with the implication that southern Britain is poorly served. Since these reports were written, the personal mobility of the population as a whole has increased greatly, putting a much wider range of holiday and recreation areas within easy reach of urban populations.”*

7.3.2 As the SDC has suggested, access to the National Park is now an increasingly important issue with the changes in lifestyle that are required to combat climate change<sup>99</sup>. The SDC supports the Landscape Assessor’s view<sup>100</sup> that:

*“it is appropriate that the designating authority take into account wider policy objectives of sustainability and social inclusion, to reduce the environmental and social impacts of travel while providing for those with reduced mobility”.*

7.3.3 The SDC has demonstrated in evidence to the re-opened Inquiry<sup>101</sup> that the Western Weald benefits the socially excluded who require a less exacting form of recreational opportunity than that traditionally provided in the more rugged and wild National Parks of the north. It can also provide recreational opportunity that helps ethnic minorities and the young to understand better the ecology and cultural history of the

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<sup>98</sup> Page 135, CD 76 – Edwards Report, 1991

<sup>99</sup> Section 12, #1147/18/1

<sup>100</sup> Paragraph 6.154, Annex A, CD #3

<sup>101</sup> #1147/8/1

area and also the nation. The SDC has also provided particular evidence of such activities available for visitors to Lewes and the Ouse Valley<sup>102</sup>.

7.3.4 Moreover, as Professor Tregay has argued<sup>103</sup>, there is the need to have ‘gateways’ within the PSDNP as well as on the fringes; gateways which have good transport links from centres of population and into the surrounding National Park countryside. It is his contention, based on his own experience and from observations in Europe, that gateways within a national park, where crucially the NPA would have spatial planning responsibilities, could most effectively meet government principles of sustainability. It is the SDC’s contention that this is a new issue which hasn’t previously been at the forefront of thinking. But we believe that the concept of what a national park should be cannot be frozen in the past when the world is changing so very fast around us. We believe it is an issue which it is proper for Natural England to take into account when designating national parks and which is therefore right for you to take into account when considering what is ‘especially desirable’.

7.3.5 The SDC is not suggesting that market towns and other larger settlements should be included solely on the grounds of their gateway potential. It is the quality of the surrounding countryside, and its recreation potential that should be the determining factors. However, as has been heard a number of times at this re-opened Inquiry, there is no absolute measure of quality. In a situation where the judgement on quality may be more finely balanced, other factors that could be taken into account should include the positive impact on sustainability of including a settlement within a national park.

7.3.6 The SDC is aware of your concerns that the development control load on a NPA may be too great a burden if the market towns and other larger settlements are included<sup>104</sup>. It is our concern that the NPA should fully engage at the strategic planning and policy level. Development control is not the significant issue. Engagement with the local

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<sup>102</sup> Section 5.4, #1147/3/1

<sup>103</sup> Sections 9.3 & 9.4, #1147/16/1

<sup>104</sup> Paragraphs 3.74 & 3.75, Part I, CD #3 and paragraph 7.374, Part II, CD #3 and Inspector’s Covering Letter to the Secretary of State in CD #3. See also paragraph 5.1, #1147/3/3

communities is important if the PSDNP is to have legitimacy. That should not be difficult given the amount of popular support you have seen.

- 7.3.7 It is our analysis that leaving out the Western Weald or Lewes would not shield the NPA from engagement in the associated planning problems, especially if the areas contiguous with its boundary were to lose national protection.

## 7.4 Consensus

- 7.4.1 In its proof on Public Opinion, the SDC provided significant evidence to show that there has been sustained support for a PSDNP and one which includes the landscapes of the Western Weald<sup>105</sup>. Natural England's Position Paper 6<sup>106</sup> demonstrated that the representation in 2007 on the possible new boundary elicited an overwhelming majority who were opposed to the exclusion of the Western Weald and only 3% of representations favoured AONB status for the area. The majority of these representations were to the principle of excluding the Western Weald and its towns and villages not to concerns over the precise line of the possible new boundary.
- 7.4.2 There can be no doubt that there is a consensus to include the Western Weald in the PSDNP. As HCC has pointed out in their evidence on Topic 6, the support of over 150 organisations within the SDC and a wealth of representations from Parishes and individuals is evidence enough of consensus; combined with the fact that it has been accepted as a nationally protected landscape area over the past forty years and this is recognised in current and emerging development plans. Stakeholder opinion is almost universally in favour.
- 7.4.3 The SDC agrees with Natural England and HCC that this consensus is a factor which should be given significant weight by Natural England in the context of 'especially desirable'.

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<sup>105</sup> Section 5, #1147/0/2

<sup>106</sup> Paragraph 51, Page 18, #1330/0/20 (there are two paragraphs numbered 51, this is the second one)

7.4.4 There also appears to be a clear consensus for the inclusion of Lewes and Ditchling, though these settlements were not the subject of a specific consultation in 2007 as was the case of the Western Weald.

7.4.5 Traditionally some local authorities have opposed the establishment of national parks as was demonstrated in the example quoted in Professor Tregay's evidence on the Yorkshire Dales National Park<sup>107</sup>. Yet a successful national park has been established there.

## 7.5 Public Consultation

7.5.1 In its Opening Statement on the Possible New Boundary<sup>108</sup>, the SDC said that in its view due acknowledgement had not been given to the breadth and extent of public consultation that took place regarding the boundary set out in the Designation Order. By way of reminder, this public consultation included: two separate consultations on a draft boundary, one public, one Local Authority, followed by a third on the designated boundary; widespread availability of the rationale for the boundary, at all stages; and public exhibitions providing the opportunity for members of the public to question Countryside Agency staff.

7.5.2 There was a long discussion with you in which the SDC argued the importance of proper and extensive public consultation if a boundary is to become accepted by the population at large. The SDC told how it regarded the public consultation process on the designation boundary as a model of its kind, which has now set legitimate expectations as to the standards of public consultation in the designation of boundaries of national parks.

7.5.3 In the course of this re-opened Inquiry Miss Hankinson proposed a boundary for the PSDNP, excluding the Western Weald. It departs significantly from the Inspector's indicative line, up to 4 or 5 kilometres in places<sup>109</sup>. It excludes a further tract of

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<sup>107</sup> Appendix C, #1147/16/2

<sup>108</sup> #1147/5/3

<sup>109</sup> Paragraph 4.1, #1147/6/1

countryside and some 20 settlements. Yet crucially, this proposed boundary has not been subject to public consultation, despite the fact that the proposed exclusion will affect those with interests in the area; and despite the legitimate expectations as to the degree of public consultation created by the consultation process in respect of the designated boundary. Miss Hankinson agreed that the only two boundaries which had been subject to public consultation were the Designation Order boundary and the possible alternative boundary advertised last summer.

- 7.5.4 The legal principles relating to fairness in public consultation are well established in common law and would not be complied with without at least letting those who have a potential interest in such a suggested boundary (which would be many) know in clear terms what the proposal is and exactly why it is under positive consideration, and giving them sufficient information to enable them to make an intelligent response. Potential consultees must be taken to include ordinary members of the public and not be restricted to those who can be taken to be “in the know”. So, relying on people having read the relevant proof of evidence or attending the re-opened Inquiry would be quite insufficient. The SDC agrees with the reasoning and conclusion of the legal advisors to Natural England<sup>110</sup>.
- 7.5.5 These principles of public consultation apply to any new boundary, including the possible alternative boundary, and any eastern boundary to accommodate the Inspector’s fallback option of excluding the so-called A3 corridor alone. At present there is no proposed eastern boundary for this on which public consultation could take place.
- 7.5.6 SDC expressed the firmly held view that the only boundary that has clearly met all legal requirements as to public consultation, and beyond, is the designated boundary.

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<sup>110</sup> #1330/0/25

## 8 Concluding Remarks

- 8.1 In our Opening Statement on the Western Weald<sup>111</sup> we quoted from the book ‘The Weald’ the prescient comment that “*there can be no question of ‘cutting along a dotted line’*” to detach the Downs from the Weald.
- 8.2 We hope that will be your message to the Minister. The grounds on which you made your interim recommendation to the Minister to exclude the Western Weald have been subject to vigorous scrutiny based on new evidence. This has demonstrated that some of the advice you were given at the first part of this Inquiry was flawed. The arguments for exclusion on the grounds of core character, degradation of natural beauty and lack of superior recreational opportunity have foundered under the weight of evidence from the SDC, Natural England, Hampshire County Council and many others.
- 8.3 Natural England, West Sussex County Council and our South Downs Campaign all agree that your Landscape Assessor was wrong in his opinion that the Sandy Arable Farmlands no longer meet the natural beauty criterion. In the case of the so-called ‘A3 corridor’ Natural England and the SDC also share the opinion of HCC that the area remains of high quality and that in fact the design and landscaping of the A3(T) has been remarkably good. No party at this re-opened Inquiry has questioned that the whole of the Western Weald meets the natural beauty criterion.
- 8.4 Miss Hankinson considers that the Western Weald is simply “pretty countryside” and unfit to be a National Park. She conveyed not the slightest enthusiasm or interest in any of the much-visited Wealden landscapes. As an example, she considers that the chalk downs give a relative sense of wildness and recreational opportunity and yet she said that the heathlands, which most people regard as the wildest of all the Wealden landscapes, should not be included.
- 8.5 In complete contrast you have heard the opinion of Professor Tregay, who has a deep knowledge of British landscapes and the PSDNP, who is in no doubt that the whole of

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<sup>111</sup> #1147/0/3

the Western Weald is outstanding and fully meriting national park status. His views are shared by those who have an even more intimate knowledge of this countryside than he does and gave evidence in our proof Recreational Opportunities in the Western Weald<sup>112</sup>.

- 8.6 As far as we are aware, WSCC & CDC have not demonstrated that the Western Weald would be better off as an AONB, rather than as a National Park. A separate AONB would set the clock back years and would mean that all the splendid work that the Joint Committee and its predecessor bodies have done on the Western Weald would be undermined.
- 8.7 Instead of a single NPA that would dedicate all its time to the stewardship of the South Downs and build upon the South Downs Management Plan, there would be two much weaker bodies – a “Chalk only” NPA with comparatively little influence outside its very narrow territory and an AONB managed by County and District Councils. For the AONB, the care and management of the countryside would have to compete with the other responsibilities and priorities that Councils have and it would inevitably get less attention and resources than it would if it were included in the National Park.
- 8.8 Now that South East England is under enormous pressure from the huge demands for housing and infrastructure and the greatly increasing population, it is ‘especially desirable’ that the South Downs National Park should be there for people to meet their personal needs: the inspiration and stimulus of the natural beauty of the diverse and culturally rich landscapes, the contact with wild plants and animals, the opportunities for physical exercise and fresh air and the appreciation of peace and space.
- 8.9 There is another factor. You have heard a lot about ‘consensus’. In the view of the South Downs Campaign it is vital. Popular consensus confers legitimacy on a National Park and in this case a wider National Park. A chalk only National Park without such consensus would not have that legitimacy.

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<sup>112</sup> #1147/7/1

- 8.10 The outcome of this Inquiry will be momentous. You are considering the long-term future of an extensive area of one the finest landscapes in Britain. Your recommendations, and the Secretary of State's decision, will determine the future of this very special and much loved countryside, not for five or ten years but as far as one can foresee into the future. After all, many of our National Parks are now nearly sixty years old and still thriving.
- 8.11 A South Downs National Park that excludes the fantastic countryside of the Western Weald is inconceivable to us. It would mean that some of the finest heathlands and the finest ancient woodlands in England, the breathtaking views from the sandstone hills of Black Down and Older Hill, the River Rother and the Capability Brown designed extensive rolling pastures of Petworth Park would be excluded.
- 8.12 By the same token, Lewes, a national 'gem' of a market town that is well and truly embedded in the Downs and Ditchling, an archetypical downland village if ever there was one, both fully justify inclusion in the Park. Both places are so very strongly linked to the South Downs, culturally, historically and physically, that a National Park that excluded them would be denied two key features at its very heart. The dramatic and rich countryside around Lewes and Ditchling flows smoothly into their centres so that to divorce them from their surroundings would be to create an artificial divide.
- 8.13 We have also very carefully selected and supported of a number of smaller, but equally important areas that we consider to fully justify inclusion in "the best possible National Park". Many of these you chose to promote as possible additional areas to be added to the PSDNP. Most have been roundly supported with a small number attracting a handful of objections, mostly from those fearing that the National Park might inhibit development, a factor not relevant to designation. We have presented new evidence and rebutted evidence from objectors to support the case for these areas to be included. We trust now that you will confirm your initial recommendations to include these additional areas in the National Park.
- 8.14 In conclusion we suggest that there is overwhelming evidence that demonstrates that all the areas we have proposed meet the statutory criteria for national park status in

regard to their natural beauty and the opportunities they provide for the quiet enjoyment of the countryside and also because it is especially desirable for them to be included.

- 8.15 We therefore urge you to recommend to the Secretary of State that they should all be within a South Downs National Park for the 21<sup>st</sup> Century. In doing so you would be fulfilling the wishes of the overwhelming majority of the local residents and the myriad of national, regional and local organisations that constitute the South Downs Campaign.