

PROOF FOR SUBMISSION

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SOUTH DOWNS NATIONAL PARK INQUIRY 2008

Topic 6: Western Weald

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on behalf of

West Sussex County Council

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1 INTRODUCTION

1.1 Scope of evidence

1.1.1 This evidence is prepared by Moira Hankinson on behalf of West Sussex County Council. The Council submitted evidence at the first stage of the SDNP Inquiry, setting out its case that PSDNP does not meet the statutory criteria for National Parks and that the AONBs should be retained (1881/2698/1/1). The second part of the Council's case was that, if anywhere in the PSDNP should be a National Park, then it is the Downs that most closely meet the criteria (1881/2698/1/6). The Inspector's recommendation is that it is the Downs that should be designated NP; and that the western Weald, although largely beautiful, does not meet the statutory criteria for National Parks.

1.1.2 This evidence does not repeat the Council's 'Downs area' evidence. That stands, as supported by the Inspector. In this evidence, I address the case now being made by Hampshire County Council, the Campaign for the South Downs and reiterated by Natural England, that the western Weald should be reinstated in the PSDNP.

1.1.3 I consider that those bodies, in their evidence to this second stage Inquiry, have misinterpreted the Inspector and Assessor's reports and my evidence. The 'non-chalk' landscapes were not rejected because they are not chalk nor just because they do not have Downs character. My evidence, and the Inspector's and Assessor's reports looked at the whole PSDNP and reviewed how the natural beauty criterion has been applied in other English NPs, there being no statutory definition of natural beauty (*IR Part 1 3.30*). The question we were asking is: 'What makes a National Park?'

1.1.4 The Inspector found that the Downs have NP qualities because the chalk has given rise to a very distinctive landscape of outstanding natural beauty, the character of which provides opportunities for open air recreation of NP quality. Those characteristics include high dramatic topography, large-scale, open landscapes, iconic features, remoteness, relative tranquillity and wildness and a sense of getting away from it all.

1.1.5 The western Weald is beautiful, worthy of AONB status, but has a less distinctive character, which continues across the whole Weald; it has less dramatic topography, with smaller-scale, more enclosed landscapes and few icons; there are settlements, roads and a sense of being in an established, comfortable, quintessentially English landscape of farms and villages, with paths through pretty countryside.

1.2 Structure of evidence

1.2.1 I have already set out the case for designation of the Downs and not the Weald (1881/2698/1/6). This proof addresses other evidence that sets out a contrary view.

1.2.2 The other parties have included aspects of their 'Weald' case in evidence on Topics 1, 2 and 3. I therefore address those 'Topic 6' aspects. My evidence is structured as:

1. **Introduction**
2. **Natural England evidence:**
 - Position Paper 5 (CD#1)
 - Dr Val Kirby (1330/1/1)
 - Alison Farmer: Topics 3, 6 (1330/2/1, 1330/2/2);
 - Alison Farmer Topics 3, 6 rebuttal to WSCC/CBC (1330/2/3);
3. **Hampshire County Council evidence:**
 - Western Weald submissions (1969/2/1).
 - David Carman, Topics 1, 2 (1969/1/1);
 - Topics 1 and 2 Rebuttal to WSCC (1969/1/6);
 - Topic 3: Rebuttal to WSCC/CBC (1969/1/9);
4. **South Downs Campaign evidence**
 - Topics 1 and 2 (1147/1/1);
 - Submissions, Topics 1 and 2 (No reference).
5. **Summary and Conclusions**

2 NATURAL ENGLAND EVIDENCE

2.1 Introduction

2.1.1 Throughout their evidence, Natural England state that their case remains as in the first stage of the Inquiry: that the whole PSDNP should be designated. They state that NERC and Meyrick have not changed their case; they challenge the application of 'characteristic natural beauty' to NP designation. This case is repeated through the NE Topics 1, 2, 3 and 6 evidence (to date) and in submissions. In this section, I address each NE paper, insofar as they are relevant to Topic 6.

2.2 NE Position Paper 5

2.2.1 **NE Draft landscape policy:** (CD#1, paras 5-6). I address Natural England's 'Draft landscape policy' (CD#41) at para 2.3.1 below.

2.2.2 **Designation work in the North-West:** I refer to the AFA and Swanwick reports (CDs#34, 36, 37) in my response to Ms Farmer's evidence (Sections 2.4, 2.5 below).

2.2.3 In response to NE's endorsements of two of these three reports (CD#1, para 15): I note that NE consider NERC and Meyrick to be neutral to their interpretation of the 1949 Act. This, say NE, meant that the North-West assessments '**relied on the approach to NP designations developed by the CA in 2000 and applied in the NFNP and SDNP designation processes**' (CD#1, para 10).

- 2.2.4 I also note that the North-West reports make only passing reference to the Dartmoor and NFNP decisions by the Secretaries of State; the post-March 2006 reports make no reference to the SDNP Inspector's report.
- 2.2.5 There is, therefore, no review or analysis in the North-West reports of the findings of the Dartmoor, New Forest or South Downs Assessors, Inspectors or Secretaries of State – the only National Parks areas to be thoroughly reviewed in recent years. There is no analysis of the NP statutory criteria, as applied in the late 20th and early 21st centuries, by experienced Assessors and Inspectors, and endorsed by the Government.
- 2.2.6 It appears that NE, and their consultants, have ignored the Dartmoor, NFNP and SDNP Inspector's reports and relevant Government decisions.
- 2.2.7 The NFNP and SDNP reports were critical of the CA 2002 approach and its application. Those reports came to very different conclusions on the extent of each NP, as compared with that recommended by the CA.
- 2.2.8 I find it surprising that NE have endorsed consultants' work that so ignores such recent precedent on the application of the National Park statutory criteria; and that NE appear to have instructed those consultants to use the CA approach found wanting in the two most recent inquiries.
- 2.2.9 NERC and Meyrick have not fundamentally altered the statutory criteria. They allow certain aspects to be taken into account; they allow certain aspects not to preclude natural beauty. They have certainly not obliterated from the record the established and recent application of NP statutory criteria to England's National Parks.
- 2.2.10 **NE statutory criteria tests:** Two North-West reports contain new schedules of the factors that contribute to the natural beauty and recreation criteria. CD#34 refers to these as 'factors' and 'indicators'; CD#37 refers to them as 'tests' (*CD#34, Table 2; CD#37 para 3.5.8, 3.5.13*). NE have endorsed these reports. The 'tests' include (inter alia):
- 'Characteristic landscape elements well represented throughout';
 - Distinctive sense of place: coherent landscape character conferring a recognizable sense of place;
 - 'Striking landform/topography: High degree of relative relief and scale and height of landform; striking landform types;
 - 'Striking aesthetic qualities;
 - 'Memorable views and eye catching features;
 - 'Relative wildness;
 - 'Sense of remoteness: extent of land containing no roads; relatively distant from significant habitation;

- 'Relative lack of human influence: uninterrupted tracts of open land; ...
- 'A sense of openness/exposure: large extent of open land at relatively high altitude;
- 'Tranquillity: evidence of apparent openness'.

2.2.11 It appears that in endorsing these 'tests' or factors, NE (contrary to their other evidence) are supporting the application of the statutory criteria used by the SDNP Assessor and Inspector. That emerging guidance must also be read in the context of the CA/NE extant policy, which considers relative wildness to be important (CD38).

2.2.12 **NERC and Meyrick:** The NE approach to NERC and Meyrick (CD#1, 16-35) is addressed in the Council's Topics 1 and 2 evidence and submissions (1007/1/1 and 2/1).

2.2.13 **The alternative boundary:** (CD#1, 36-53). NE state that: '**The exclusion of non-chalk landscapes is based on [the Inspector's] view that they do not exhibit the characteristic natural beauty of the chalk Downs**' (CD#1, paras 41-43). This is not correct, as I set out in my introduction (paras 1.1.3-1.1.5 above). Because the CA had erroneously referred to the whole PSDNP area as 'The Downs' (when it includes Downs, Weald and Coastal Lowlands); the Inspector has had to distinguish between the Downs proper, i.e. CA national character area 125; and the "Downs" as referred to in the CA PSDNP documents. The simplification of that is 'chalk' and 'non-chalk' landscapes. This does not mean that 'non-chalk' landscapes are rejected because they are not chalk. They are, properly, rejected because they do not have a distinctive landscape of outstanding natural beauty, the character of which provides opportunities for open-air recreation of NP quality.

2.2.14 **Characteristic natural beauty: law** (CD#1, 44-46). There is no statutory definition of 'natural beauty'. All parties have explored its meaning and application. The CA considered, for example, that 'relative wildness' was important (CD83). The fact that those two words do not appear in statute does not invalidate that aspect of the CA's approach. There is ample precedent, in the interpretation and application of the statutory policy, for characteristic natural beauty.

2.2.15 **Characteristic natural beauty: policy:** (CD#1, 47-53). As I set out above the CA/NE approach has not been wholeheartedly endorsed by independent Inspectors or the Secretary of State (2.2.3-2.2.7 above). The Dartmoor/NFNP application of the statutory criteria has been endorsed by the Secretary of State. The origin of the concept is not Dartmoor (CD#1, para 51); it goes back to the origin of the English National Parks; to Dower's 'characteristic landscape beauty' (CD73, para 4; quoted at IR Annex A para 1.2).

2.2.16 NE, in 'rejecting the 'characteristic natural beauty' approach' (*CD#1, para 52 and 53*) is also rejecting the approach of its own Secretary of State, who endorsed that approach at the NFNP.

2.2.17 **Position Paper 5: Topic 6 conclusions:** I conclude that NE's current approach is to ignore precedent in the interpretation and application of the NP statutory criteria, where it does not suit their internal views. NE's internal views are in conflict with those of the Secretary of State and independent landscape Assessors and Inspectors. NE now acts as though the relatively minor changes of NERC and Meyrick have entirely rewritten the NP statutory criteria; and that recent precedent can be ignored or rejected.

2.2.18 The statutory criteria 'tests' endorsed by NE in the North-West appear to support the SDNP Assessor and Inspector's use of concepts such as characteristic landscape, distinctive sense of place, striking aesthetic qualities, relative wildness, remoteness, openness and tranquility.

2.2.19 NE is incorrect in asserting that exclusion of the Wealden areas is based on them not having the characteristic natural beauty of the Downs. The Weald is excluded because it has AONB, not NP, qualities.

2.2.20 Natural beauty is not statutorily defined. The absence of words such as 'relative wildness' or 'characteristic natural beauty' does not prevent the application of those concepts, consistent with the joint criteria and with precedent, guidance and judgement.

2.2.21 That the CA/NE current 'policy' rejects this concept and seeks 'variety' within a NP is irrelevant. That approach has itself been rejected at Dartmoor, the NFNP and the SDNP, by independent Inspectors and by the Secretary of State.

2.3 **Evidence of Dr Val Kirby: Topics 1 and 2** (*1330/1/1*)

2.3.1 **NE Draft landscape policy:** (*1330/1/1, paras 15-19*): Dr Kirby refers to NE's 'Draft Policy on Landscape' (*December 2007, CD#41*). This document sets out NE's draft outline policy on all landscape issues. It makes no statements that affect the non-designation of the western Weald as a National Park. NE are planning to produce a Landscape Policy Position Statement on Protected Landscapes for consultation in Oct-Dec 2008 (*CD#41, Annex 1, (v); Priority 3 out of 5*). I assume that this Inquiry will be closed by that date; and that NE's confirmed policy would not be available until 2009 at the earliest.

2.3.2 **Characteristic natural beauty:** (*1330/1/1, paras 23-48*): Although Dr Kirby's evidence was submitted with Topics 1/2, 'characteristic natural beauty' has no relationship with

NERC or Meyrick. These legal changes have not affected the concept of characteristic natural beauty one way or the other. NE seem to be of the opinion that this concept lies at the root of exclusion of the Weald. However, the Inspector also considered the inherent qualities of the Weald not to be those of a NP, in accordance with the statutory criteria for National Parks.

2.3.3 Both the SDNP Assessor and Inspector identified that there is no statutory definition of 'natural beauty' (*IR Part 1 3.30*). Their assessment of natural beauty was, therefore, based on law, guidance, precedent, evidence and judgement.

2.3.4 The NERC changes have not changed the law in those terms. They have set out elements that can be taken into account in considering natural beauty, such as wildlife, cultural heritage, land uses and human influence. It remains, however, that there is no statutory definition of 'natural beauty' and its application must continue to rely on the interpretation of law, guidance, precedent and judgement.

2.3.5 The SDNP Assessor, like the NFNP Assessor, looked thoroughly at law, guidance and precedent, and the appearance of these landscapes, in applying the natural beauty criterion to National Park designation. He particularly related this to:

1. Relative wildness;
2. Substantial continuous extent;
3. Possessing characteristic natural beauty: 'individual, distinctive, coherent identity'; (*1, 2, 3 refs at IR Annex A, 1.10, 1.18; 6.31, 6.102, 6.163, 6.167*)
4. Special qualities embracing cultural aspects, species, habitats, openness, wildness, tranquillity (*IR Annex A, 1.21, 6.60*);
5. Iconic landscape worthy of NP status; symbolic value; (*IR Annex A, 6.41, 6.127, 6.128*);
6. Inter-relationship of the two statutory criteria: recreational opportunity taking into account the special qualities of the area, including its relative wildness, remoteness, tranquillity and openness (*IR Annex A, 6.189*).

2.3.6 The Assessor, in considering natural beauty against those elements, considered all aspects of natural beauty. His overall conclusion was that the land should be remote, relatively wild and of such a distinctive character as to provide a superior recreational experience (*Annex A, paras 7.2, 7.3, 7.4, 7.6, 7.16, 7.17, 7.23, 7.24, 7.27, 7.28, 7.34*). The Assessor included the core character of that distinctive landscape. He concluded that the Downs did have a NP character providing opportunities for recreation of a national quality, consistent with his review of law, precedent and guidance, but that the Weald did not.

2.3.7 The Inspector made his own, independent, assessment of natural beauty. He particularly considered the qualities of tranquillity, openness, a sense of wildness and remoteness to

be key to the special experience of National Parks (*IR Part 2, 2.18, 2.39*). He also considered a dramatic and iconic landscape to be key to that experience (*IR Part 1, 3.35, 3.50, 3.56; Part 2, 2.19*). He found those qualities, combining the natural beauty and recreational criteria, to occur in the downland areas. He found that those qualities did not occur in the more settled landscapes of the Weald to the north, attractive though they are, nor in the Coastal Lowlands to the south. Having concluded that it is the open, remote, iconic, relatively wild and tranquil downs that met both criteria, he was then informed by the Assessor's report as to the extent and relationship of those landscapes to the core – the characteristic natural beauty inherent to the landscapes that meet both NP criteria. The Inspector's approach seems to me to be consistent with the 'tests' that NE is now applying in the North-West (*para 2.2.10 above*).

- 2.3.8 NE consider the 'Dartmoor' decision to be site specific (*NE paras 27-30, 38*). I agree with the SDNP Inspector and Assessor in rejecting that view (*IR Part 2, 2.30, 2.32; Annex A, 6.3*). In the absence of a statutory definition of 'natural beauty', decision-makers have to rely, inter alia, on precedent. The Assessor's review confirmed that the NFNP and Dartmoor NP decisions were consistent in the identification of a distinctive core identity. There clearly must be consistency in the application of the criteria to English National Park designation – hence the use of precedent.
- 2.3.9 NE also consider that the CA policy 'rejects' the Dartmoor Inspector's approach (*NE para 30*). The CA may well have considered 'a variety of landscapes' to be part of their interpretation (*as in IR Part 1, 2.7*), but that was rejected by the NFNP Assessor and Inspector (*CD203/204; NFNP App.1, paras 2.45-46; NFNP IR Pt 1, 5.340*) – decisions that were endorsed by the Secretary of State (*CD203, NFNP Defra letter, paras 13, 14, 20, 21*).
- 2.3.10 NE can reiterate their evidence and policy – the same for both the PNFNP and PSDNP – but there is absolutely no doubt that this aspect of the CA approach was rejected by the Assessor, Inspector and Secretary of State in designating the NFNP. It is not true that the Avon Valley was rejected because of its mediocre quality (albeit that was the reason in places). It was found not to be a New Forest landscape, even when of high quality, and rejected for that reason (*CD204, NFNP IR, Appendix 1, paras 3.62, 3.82, 3.83, 3.86; CD203, NFNP IR, Appendix B, 5.280, 5.282, 5.283, 5.287, 3.301, 5.306-5.318, 5.321*).
- 2.3.11 NE seem to be trying, in this evidence, to overturn the Secretary of State's decision on the NFNP. However 'inappropriate' NE think the NFNP Inspector to be (*NE paras 32, 38*), the Secretary of State agreed with the Inspector, and hence rejected the CA approach, reiterated here by NE.

- 2.3.12 NE reject Dower (*NE paras 26, 35(a)*). However, the NFNP Assessor and Inspector, endorsed by the SoS, considered Dower to be relevant to the interpretation of natural beauty.
- 2.3.13 **NP conjoined criteria:** NE reject the Assessor's conjoined approach to the natural beauty and recreational criteria (*NE para 35b*). It is clear that the whole definition of National Parks in the Act must be taken into account, including the inter-relationship between the extensive tract of natural beauty, the character of which provides opportunities for open-air recreation. The NFNP Inspector took this conjoined approach (*CD204 IR App 2 para 15*); the Secretary of State accepted the Inspector's conclusion (*CD204; Defra letter para 6*). That conjoined approach is clarified by NERC: the recreational opportunities include enjoyment of 'an area's special qualities' (*NERC 5(2A)(b)*)
- 2.3.14 Indeed, NE has endorsed that conjoined approach to the two NP criteria in the assessments of North-West England: The '**Recreation**' factors include '**opportunities to enjoy outstanding natural beauty, ... tranquillity ... relative wildness ... and ... recognised and valued landmarks**' (*CD#34, Table 2: Criterion: Recreation*). '**The National Parks Act suggests a link between opportunities for recreation and the special qualities of the Park – this is to the understanding and enjoyment of its natural beauty**' (*CD#37, para 3.5.11*) (*CD#34 and #37 are endorsed by NE at CD#1, Position Paper 5, para 15*).
- 2.3.15 NE also state that the current CA 2002 Guidance (*CD 57*) does not propose a 'distinctive and common character' as a factor (*NE para 35c*). However the whole of the 2002 Guidance is predicated on the distinctive character of the landscape (*CD 57, para 2.1, Box 2.1 on p 8*). The purposes of CD57 include using landscape character assessment for 'identification of areas for designation, mapping of boundaries' (*CD 57, para 1.13, 3rd column, 2nd bullet*), including the natural beauty of National Parks in England (*CD57 para 7.2.1*). The relevance of the CA Guidance criteria (*CD 57, paras 7.22, 7.23*) for assessing natural beauty was thoroughly aired at the Inquiry. The Assessor, and hence the Inspector, recognised the significance of the 1999 and 2002 Guidance, based on the Character Map. The 2002 criteria include '**whether the landscape contains a particular character**' (*CD 57, para 7.27, 4th bullet*). This is entirely proper use of the CA's own Guidance, and consistent with its use by practitioners.
- 2.3.16 **Characteristic natural beauty, conclusions:** NE are concerned that 'characteristic natural beauty' has led to exclusion of the western Weald; so attack that concept. However, it has been an integral part of NP designation since Dower, confirmed in the last two NP area designation exercises, by both Inspectors and Secretaries of State. It is

unchanged by NERC or Meyrick. Characteristic natural beauty is entirely relevant to consideration of the exclusion of the Weald from the PSDNP.

2.3.17 **Natural England's policy:** (*NE paras 41-48*): NE reiterate the CA policy approach. The NFNP Assessor, Inspector and Secretary of State have rejected the CA's policy approach insofar as it relates to diversity of landscapes within a National Park.

2.3.18 I am surprised at NE's implication in this section that a landscape may or may not have 'relative wildness' for inclusion in a National Park, if it has other attractions (*NE para 45*). The CA specifically identified that 'a sense of relative wildness' was an important characteristic of National Parks (*CD83, CD43, Annex 2, refs at SDNP Annex A, paras 2.7, 2.8 ref at SDNP IR Annex A, 2.7*). It is also part of NE's assessment of natural beauty for the North-West (*CD#34, Table 2*).

2.3.19 NE reiterate their evidence on 'variety'; this has been consistently rejected by the NFNP Assessor and Inspector, the Secretary of State and the SDNP Assessor and Inspector (*NE para 46*).

2.3.20 NE conclude that their policy should predominate (*NE paras 47, 48*). This begs the question as to the purpose of any public consultation or public inquiry into National Parks, if NE must always be right. Aspects of the CA (now NE) policy approach and its application have been rejected by the NFNP Assessor, Inspector and Secretary of State.

2.3.21 **Dr Kirby's evidence, conclusion:** I conclude that NE's defence of their position cannot be supported by the Secretary's of State's confirmation of the NFNP Inspector and Assessor's reports. Characteristic natural beauty was properly considered in the first part of the SDNP Inquiry, as part of (but far from the entire reason for) exclusion of the western Weald; and the CA/NE policy has not overridden proper consultation and review of the NFNP or the PSDNP. The NERC and Meyrick changes make no difference to the consideration of the characteristic natural beauty or relative wildness of a proposed National Park.

2.4 **Evidence of Alison Farmer for NE: Topics 3 and 6**

2.4.1 **"Difficulties encountered in understanding the work"** (*AF para 29*): I have not found the 'difficulties' set out here by Ms Farmer, in the context of our same task, of defining a northern boundary. As I set out in my Topic 3 boundary evidence, I consider that the AFA study based itself too much on the Inspector's '**indicative line**' and insufficiently on the principles for boundary definition set out by the Inspector and Assessor, which are, broadly, consistent. If AFA and NE had accepted the Inspector and Assessor's principle that the Downs should be the National Park, and the western Weald should remain

AONB, rather than seek to fight that principle, then boundary-definition can be reasonably consistently applied.

- 2.4.2 **Use of landscape character types in evaluation:** (*AF paras 38-41*): Ms Farmer expresses surprise that 'land of high landscape quality' is recommended for exclusion (*AF para 39*). This is not at all surprising. The western Weald is an AONB, so would be expected to have high landscape quality. It has not, however, been found to have the qualities required by the two NP criteria.
- 2.4.3 Ms Farmer has also failed to understand the Assessor's use of landscape character types. He did **not** use these as 'a rigid framework for judgements on inclusion or exclusion' (*AF para 40*). He cannot have done so – he recommends a boundary running **through** the 'Scarp Foothills' area. He, like all landscape assessors following the CA's current (2002) Guidance, reviews what the character of the area is, as described in published assessments, and makes judgements based on those areas and his own site inspections. Ms Farmer's own analysis is based on the same principle (*CD#10, Section 2.3 and boundary tables at Section 3.2*).
- 2.4.4 Ms Farmer claims that judgements relying on landscape character have no basis in statute or policy (*AF para 41*). This is incorrect. The statutory criteria for NPs require that the area has natural beauty of a **character** that provides opportunities for open air recreation. CA/NE Guidance draws an 'important distinction between two stages: ... **characterization** [and] the subsequent making of **judgements** based on knowledge of landscape character. The judgements made can then contribute to **informing** the decision making process' (*CD57, para 2.7; CA emphasis*). The 'judgements based on landscape character' include 'Attaching status to landscapes', including 'natural beauty ... in defining ... National Parks in England' (*CD57 para 7.21*).
- 2.4.5 Indeed, the Alison Farmer Associates work on designation in the North-West of England sets out 'the approved approach to assessing landscapes for natural beauty', as being:
- Stage 1: Characterisation
 - Stage 2: Evaluation
- The assessment of natural beauty emerges from that process (*CD#36 paras 3.2-3.5*). Judgements relying on landscape character should be at the heart of the assessment of natural beauty, according to the CA/NE Guidance and current practice.
- 2.4.6 **'Visual and other associations':** (*AF 44-48*): Ms Farmer's 'difficulties' also appear to have arisen from further misunderstandings of the Inspector and Assessor's recommendations. Having clearly set out that they both consider the Downs to meet the NP criteria and the Weald not to do so, they then address the 'links' claimed by the CA.

One of those is 'visual links' (*IR Part 2, 2.51-2.53*), Ms Farmer interpreted their findings as a 'clear recommendation' that areas with visual associations should be included. She then gets worried that this means areas of inappropriate character would be included, or heathlands and wildlife designations split (*AF paras 46, 47*). The result is her identifying 'an inconsistent and unsatisfactory boundary' (*AF para 47*).

2.4.7 My response to this is:

- i) The Inspector and Assessor did not intend all areas with visual associations to be included. They were, in fact, cautious about such links. The Assessor stated: '**But views of the chalk escarpment alone are insufficient reason to include land within the proposed Park**' (*IR Annex A, 6.139*); '... land should be included ... for visual reasons where it is of high quality, contiguous ... and where visual links ... [are] dominant' (*IR Annex A, 6.149*); the Inspector is 'of the same opinion' but harbours '... serious reservations about the inclusion of extensive non-chalk landscapes ... on the strength of unifying links ... the land in question would still need to satisfy the statutory criteria' (*IR, Part 2, 2.51-2.53*). That is, links, including visual links, are secondary issues.
- ii) If an area is transitional, then the boundary should be on the high quality side. So, if an area such as a wildlife designation is only being included because of visual links, which themselves do not apply across that whole area, then the whole area fails and should be excluded;
- iii) Visual links alone do not meet the statutory criteria;
- iv) A landscape assessment must have integrity. If the assessor is coming up with an 'inconsistent and unsatisfactory' result, then the assumptions and instructions need to be reviewed.

2.4.8 '**Interim conclusions**': (*AF 51-54*): I am surprised that this evidence states that 'the resultant boundary is an unsatisfactory one'. The AFA Report seeks to identify 'a boundary that is practical, consistent and well-reasoned' (*CD#10, para 2.512*). It is of absolutely no assistance to the Inspector or the Secretary of State if the author of that boundary report subsequently finds her own assessment to be 'unsatisfactory'. I consider that, if such a result seems likely during the assessment process, the assessor should report those concerns to the client and either withdraw from the project or change assumptions, such that a satisfactory line can be identified. It is perfectly reasonable to find, professionally, that the Inspector's 'indicative line' does not fully follow his own or the Assessor's principles when followed on the ground, and find a line that does meet those principles.

2.4.9 It is clear that Ms Farmer is following the NE line in supporting the inclusion of the Weald (*AE para 53*). I find it difficult to understand how a landscape architect can work on an assessment where they cannot support the basic premise of the assessment – in this case, a good boundary line that draws a clear distinction between a South Downs National Park and a Wealden AONB.

- 2.4.10 Ms Farmer returns to the statutory criteria at para 53. I have set out above that the Inspector and Assessor's findings were soundly based on the statutory criteria, guidance, precedent and judgement. Ms Farmer implies that the Assessor's criticisms of the CA approach should not be taken into account. The NFNP Assessor was robust in her critique of the Agency's approach and its application '**... I agree that the ... material provided by the CA ... was sometimes inadequate ... This approach also appears to fall short of the recommended practice [in SDNP CD57] for making judgements about landscape quality**' (CD204, Appendix 1, paras 3.21, 3.27, 3.6, 3.862). The Secretary of State '**accepted the reasons [of] the Landscape Assessor**' for NFNP designation and designated areas; and tended to support the Assessor's view on areas for inclusion/exclusion where they differed from those of the Inspector (CD203, Defra letter, paras 6; 13-21).
- 2.4.11 '**Recent developments**': Ms Farmer sets out 'Recent developments that influence judgements on the inclusion of land in the SDNP' (AF 55-64). All of the 'recent developments' scheduled are by the CA or NE. The CA/NE approach and its application were found wanting to varying degrees by the NFNP Inspector and Assessor. Their concerns about the CA's recommended PNFNP area were sufficient for them to recommend exclusion of large areas found not to meet the statutory criteria. Those exclusions were endorsed by the Secretary of State.
- 2.4.12 The CA/NE recent history of recommended National Park areas has not been wholeheartedly supported by independent Inspectors. The 'Recent developments' set out by Ms Farmer have not, as far as I am aware, yet been subject to any similar sort of public or independent scrutiny.
- 2.4.13 The documents referred to in this section by Ms Farmer (CDs#34, #36, #37) are the equivalent, for the North West, of the PSDNP 'Area of Search' (CD36), and a similar 'Area of Search' document for the PNFNP. Each of those documents was prepared for CA/NE, and said to be using relevant guidance, policy and law. The NFNP Inspector and Secretary of State did not entirely agree with the NFNP Area of Search report; the SDNP Inspector and Assessor do not entirely agree with the PSDNP Area of Search report. The North-West studies equally need independent scrutiny before their validity is proven.
- 2.4.14 I note, for example, that the North-West 'tests' or 'factors' for natural beauty (CD#34, Table 2; CD#37, para 3.5.8) omit the CA Guidance criterion of 'representativeness' (CD57, para 7.22) and entirely omit any reference to the confirmation by the Secretary of State of the characteristic natural beauty of the only National Park to be designated in the 21st Century – the New Forest.

- 2.4.15 Ms Farmer claims that CDs #34, 36 and 37 are superior to the CA Guidance (CD57) (*AF para 59*). I disagree. CD57 was prepared after wide consultation within the profession; it specifically covers England; the whole of the second half relates to landscape evaluation and application; and it specifically refers to the application of character assessment in the designation of National Parks in England.
- 2.4.16 Ms Farmer claims that the SDNP Inspector's findings on 'characteristic natural beauty' and 'traditional NP qualities' are not supported by current best practice, in CDs#34, 36 and 37. The Inspector's findings that Wealden AONB areas have natural beauty but do not meet the NP criteria are based on a wide range of issues. The fundamental difference he found is that NPs need natural beauty of a character that provides opportunities for a superior open air recreational experience. That emerges from NP qualities such as relative wildness and tranquility as well as scenic quality. Those are the key reasons for exclusion of the Weald.
- 2.4.17 Ms Farmers 'current best practice' tests for natural beauty, endorsed by NE, include 'characteristic landscape', 'distinctive sense of place', 'relative wildness', 'remoteness', 'openness', and 'tranquillity' (*my para 2.2.10 above*). It seems to me that Ms Farmer's references to 'recent developments' confirm the SDNP Assessor and Inspector's approach to the assessment of natural beauty and traditional NP qualities.
- 2.4.18 Ms Farmer sets out her 'good practice principles' (*AF para 62*). Those key principles have been applied in the SDNP designation process:
- **Two stage process:** PSDNP Area of Search and boundary-setting;
 - **Tests and indicators:** Established landscape assessment criteria were used by the CA and by other witnesses, including myself, to the SDNP Inquiry;
 - **Landscape character:** The basis of all the assessments, including the correlation between natural beauty and distinctive character, as in CA Guidance (*CD57*) and NP designation precedent;
 - **Scale of assessment:** Including Area of Search, national, regional and county-scale character types and areas;
 - **Weight of evidence:** The Inspector is aware of the weight of evidence before him for SDNP designation. He has fully weighed the evidence related to natural beauty and recreation, and their interrelationship;
 - **Desirability:** This has also been thoroughly aired for the PSDNP;
 - **Areas requiring scrutiny:** These were identified at PSDNP Area of Search stage, and in my 'Downs area' evidence (*1881/2698/1/7; Plans 18-20*);
 - **Drawing a detailed boundary:** An exercise carried out for the PSDNP by the CA; amended by further evidence during the original Inquiry and in this current stage.
- 2.4.19 **New information:** (*AF paras 63-64*): I refer to the two 'South Downs' documents in section 3 below. Of the other documents:

- **Tranquillity Mapping:** CPRE tranquillity maps were before the Inspector at the original Inquiry (1881/2698/1/2, App F). They demonstrate that the Downs are the most continuously tranquil part of West Sussex (also at my Appendix A).
- **Community landscape character assessments:** Liss and Buriton are both in Hampshire and not part of my detailed boundary-setting assessment. However, I can see nothing in these assessments that changes the fundamental distinction between the landscapes of the Downs and the Weald.
- **The Serpent Trail Guide:** The purpose of this route is to 'highlight the outstanding landscape of the greensand hills' (CD#43, introduction). The trail runs from the greensand heaths of the Surrey Hills AONB into the greensand heaths of the Sussex AONB. It appears to me to demonstrate my case, supported by the Assessor, that the Wealden parts of the PSDNP have more in common with the Surrey Hills than with the Downs.

2.4.20 **Natural England's response to criticisms:** (AF paras 65-99): Broadly, I agree with the Inspector's concerns about the CA approach, as set out in my original evidence. The NFNP Assessor and Inspector had similar concerns (my para 2.4.10, above).

2.4.21 **Inclusion of the Weald in the Area of Search:** (AF 71-75): Ms Farmer is wrong in stating that the starting point of the two AONBs reflects the designation history or 'modern consensus' (AF para 72):

- **Dower** (AF para 73 and Annex 2) did not include the Hampshire Downs, Hindhead and the South Downs as 'a single tract'. He distinguished between 'Hampshire Downs and Hindhead' and 'South Downs' (AF Annex 2, schedule). Dower mapped the South Downs as the Downs – he did not include the western Weald as a candidate National Park (AF Annex 2, map). Dower's map and schedule support my case and the Inspector's recommendation, not NE.
- **Hobhouse** (AF para 73 and Annex 3). Hobhouse also means the Downs to be the Downs. He excludes almost all of the Wealden Greensand and Low Weald parts of the PSDNP (Hobhouse on HDA/OS plans at 1881/2698/1/7, Appendix U, Plan HDA18; 1007/849/2/2, Appendix C, Plans 18C, 18X). Hobhouse's 'Conservation Areas', such as Hindhead, have subsequently largely become AONBs. Hobhouse, like myself and the SDNP Assessor and Inspector, identified the qualitative difference between the candidate NP of the Downs and the candidate AONB of the Weald.

2.4.22 Ms Farmer has produced no evidence that the 'designation history' has included the Wealden areas conjoined with the Downs as a candidate NP (AF para 75). Nor is there 'modern consensus' that the Weald should be part of the NP – this is a recent construct of the later CA, between 1998 and 2000 (1881/2698/1/1 paras 7.5.1 and 7.3.8).

2.4.23 **NP/AONB natural beauty:** Ms Farmer states that there is no difference in the natural beauty required for NPs and AONBs (AF para 77). Previously, Dower, Hobhouse, the Edwards Committee and Circular 12/96 identified the difference. More recently, Defra has confirmed this distinction: '**the essence of national parks**' is the '**striking quality and remoteness of much of their scenery ... and the opportunities it affords for suitable forms of recreation**'; compared with the '**more intensively farmed nature**' of AONBs, which '**did not offer the same opportunities for public recreation**' (CD#21,

Hansard, Columns 51, 52). The Government clearly intends this distinction in the natural beauty of NPs and AONBs to remain. PPS7 confirms that, in planning terms, NPs and AONBs have the same weight, once designated. This is not the same as having the same natural beauty.

- 2.4.24 **Tranquillity, openness, sense of (relative) wildness and remoteness:** (AF 84-87): Ms Farmer states that these are not part of the statutory criteria. However, as every party has identified, natural beauty is not defined in statute – its application relies on precedent, guidance and judgement. The AFA reports for the North-West include in their evaluation of natural beauty: ‘tranquillity’, ‘relative wildness’, ‘remoteness’, ‘lack of human influence,’ ‘scenic quality’, ‘views’ and ‘dramatic topography’ (CD#26, para 4.3.2; CD#37, para 3.5.8). NE endorses these, and the use of ‘openness’ (CD#34, Table 2; CD#1, para 15).
- 2.4.25 All rural landscapes have some degree of ‘relative’ wildness, remoteness and tranquillity (AF para 87). The Tranquil Areas map of West Sussex (*my Appendix A*) identifies that the Downs have greater continuity of tranquillity; the Wealden areas are more fragmented. The OS plans, aerial photographs and site visits confirm that the Downs are more remote, with fewer villages or roads (*see, for example, my Topic 3 boundary evidence: 1007/849/2/2, Appendix C HAD 101C, 102C, 101D, 102D*).
- 2.4.26 **Characteristic natural beauty:** (AF 88-91): I have addressed this above (*my paras 2.3.2 to 2.3.16*). Ms Farmer again refers to ‘legislation’, but none of her own natural beauty ‘tests’ are referred to in legislation (CD#37, para 3.5.8). As the Council’s Topics 1 and 2 submission identified, the Government had the opportunity, with NERC, of omitting ‘characteristic natural beauty’ as it had been applied and confirmed by the Secretary of State in the New Forest decision (1007/1/1, paras 59-69). There was no such omission – the Dartmoor and New Forest decisions stand as substantial recent precedent on the application of characteristic natural beauty.
- 2.4.27 **Unifying links:** (AF 92-95): Ms Farmer is incorrect in stating that the CA approach was that ‘the core of the PSDNP was the chalk and western Weald taken together’ (AF para 94). The CA always argued that the ‘core’ landscape was the chalk downs, and that the Wealden landscapes were justified for inclusion because of unifying links (CA case summarized at IR Annex A, para 6.135-6.141). Ms Farmer’s para 94 entirely misrepresents the CA’s previous case.
- 2.4.28 **Rother Valley/Boundary Section E to H:** (AF 96-143): The Council’s evidence on maintaining AONB, not NP, in the excluded Weald is set out in Topic 5; and on Boundary E to H in Topic 3.

- 2.4.29 **Wealden landscapes north of the Rother valley:** (AF 146-156): The Council agrees that the Wealden areas of the PSDNP meet the natural beauty criterion for AONBs. They do not, however, have natural beauty of a character providing opportunities for an exceptional recreation experience of national quality. This case is set out in the Council's previous evidence (1881/2698/1/1 and 1881/2698/1/6). The natural beauty and recreational experiences described by Ms Farmer are likely to apply equally to the adjoining Surrey Hills AONB and nearby High Weald AONB – walks through a very pretty landscape of heaths, woods and farmland, with frequent villages, farmsteads and country lanes. The AFA report for the North-West sets out that: **'A judgement has to be made as to whether the recreational experience found in a character area is not only high quality, but is also the type expected from a NP'** (CD#36, para 4.3.7).
- 2.4.30 **Response to representations on the alternative boundary** (AF 157-188): I find it difficult to relate Ms Farmer's defence of the 'alternative boundary' with her earlier statement that the AFA boundary is 'unsatisfactory' (AF para 52).
- 2.4.31 I will address this section of Ms Farmer's evidence in the Topic 3 part of the Inquiry.
- 2.4.32 **AONB:** The Council agrees with Ms Farmer's final paragraph (para 200): the AONB areas excluded from the SDNP should remain AONB.
- 2.5 NE rebuttal of WSCC/CDC Topics 3 and 6**
(Alison Farmer; 1330/2/3)
- 2.5.1 Some of Ms Farmer's rebuttal evidence relates to the detailed boundary. This will be discussed in the Topic 3 session. However, in part, she criticizes my overall approach, which is relevant to Topic 6, and discussed below.
- 2.5.2 **'Ms Hankinson's overall approach':** (AF paras 2-10): In this section, I clarify the distinction between the wider NP assessment exercise and the boundary setting exercise, and address Ms Farmer's Wealden concerns.
- 2.5.3 The basic thesis of Ms Farmer's rebuttal is incorrect. Whilst I argued that cultural heritage was not relevant to an assessment of natural beauty under the legislation which applied at the time, I nonetheless followed the CA approach to assess its implications and this included a consideration of cultural heritage. My previous evidence took cultural heritage into account (1007/1/2, evidence, paras 2.2.5 – 2.3.4): 'I assessed ... the South Downs, the Weald, the Coastal Lowlands ... That assessment ... took into account wildlife and cultural interests' (1007/1/2, para 2.2.7). 'All landscape assessments take into account such human uses of the land. My evidence ... took the effect of those uses into account when assessing natural beauty' (1007/1/2, para 2.3.3). When I wrote that I

'explicitly' took account of the NERC features, (so by implication, not 'explicitly' cultural heritage), I mean that I did not carry out a specific assessment of cultural heritage – it was intrinsic to, and threaded throughout, my evidence: 'I did consider cultural interests and elements ... because these are within the CA criteria' (1007/1/2, 2.4.4).

- 2.5.4 I clearly set out that, because of the CA criteria, the nature of the land and normal practice, I did describe all of these elements; and I considered whether NP designation could be justified on the CA's criteria, which included cultural heritage (1007/1/2, paras 2.2.5, 2.3.3, 2.4.4).
- 2.5.5 The Inspector and Assessor therefore had structured information on the cultural heritage of the whole PSDNP. The Inspector took cultural heritage into account (*IR Part 1, para 3.30, Part 2 paras 2.28, 2.50, 3.3*).
- 2.5.6 In relation to recreation (*AF para 5*); I clearly linked the qualities of the landscape with the recreational experience. These are intrinsic to the landscape, so without a significant difference when 'potential' is also taken into account. The Inspector was informed by the CA about recreational potential and took it into account (*IR Part 1, para 3.53; Part 2, 2.38*).
- 2.5.7 Ms Farmer might consider my approach 'flawed' (*AF para 6*), but it was the approach recommended by the CA in their Guidance; based on the CA national character studies; used by the NFNP and SDNP Assessors; and coming to the same conclusions as the NFNP Inspector, Secretary of State and SDNP Inspector. This is more endorsement than the CA's approach has had to date.
- 2.5.8 Ms Farmer's legalistic hierarchy (*AF para 7*) has a flawed assumption. Whilst I argued that cultural heritage was not relevant to an assessment of natural beauty under the legislation which applied at the time, I nonetheless followed the CA approach to assess its implications and this included a consideration of cultural heritage (*my para 2.5.2 above*). Hence, the whole of this other cascade of assertions is unfounded.
- 2.5.9 Ms Farmer misinterprets my evidence, and the Inspector and Assessor's similar conclusions (*AF para 8*). The non-chalk landscapes were not rejected because they are not chalk, or solely because they do not have Downs character. My evidence and the Assessor's and the Inspector's reports looked at the whole PSDNP and reviewed how natural beauty has been applied in other National Parks, there being no statutory definition of natural beauty. The question we asked is: What makes a National Park?

- 2.5.10 The Downs were found to have NP qualities because the chalk has given rise to a very distinctive landscape of outstanding natural beauty, the character of which provides opportunities for open air recreation of NP quality. Those characteristics include high dramatic topography, large-scale, open landscapes, iconic features, remoteness, relative tranquillity and wildness and a sense of getting away from it all. These are all elements most recently endorsed by the NE in the North-West assessments (*CD#34, Table 2*).
- 2.5.11 The western Weald is beautiful, worthy of AONB status, but has a less distinctive character, which continues across the whole Weald; it has less dramatic topography, with smaller-scale, more enclosed landscapes and few icons; there are settlements, roads and a sense of being in an established, comfortable, quintessentially English landscape of farms and villages, with paths through pretty countryside.
- 2.5.12 I addressed the distinction between the natural beauty of National Parks and AONBs above (*para 2.4.23*).
- 2.5.13 As the Inspector and Assessor have identified, natural beauty is not statutorily defined (*AF para 10*). They, like decision-makers before them, have to rely on guidance, precedent and their own judgement. The CA's own tests of natural beauty in relation to the two 21st century NPs included 'the presence of key characteristics' (*CD 36, p9 para 2a*) and 'a sense of relative wildness' (*CD83, CA letter to the Minister*). The CA's suggested criteria for assessing natural beauty include 'representativeness'; 'wildness' and 'tranquility' (*CD 57, p 57 paras 7.22, 7.23*); and the NE criteria for the North-West include 'characteristic landscape', 'relative wildness' and 'tranquillity' (*CD#34, Table 2*).
- 2.5.14 **'MH proposed NP boundary'** (*AF 11-17*): I will address Ms Farmer's critique of my 'boundary-setting' exercise in the Topic 3 section of the Inquiry. My criteria were not solely 'character' based.

3 HAMPSHIRE COUNTY COUNCIL EVIDENCE

3.1 Introduction

- 3.1.1 Hampshire County Council's Topics 1 and 2 evidence and their rebuttals include several sections that will now form part of Topic 6. This section addresses those aspects, and the HCC submission on the western Weald.

3.2 HCC western Weald submissions (1969/2/1)

- 3.2.1 **HCC issue (b):** HCC claim that the Assessor's conclusion on 'characteristic natural beauty' relied on the Dartmoor report (*1969/2/1, para 7*). This concept is much wider and deeper – it emerges from Dower, from the combination of the two NP statutory criteria,

from Dartmoor and from the NFNP. In the last two cases, the concept was endorsed by the Secretary of State and has not been changed by NERC or Meyrick.

3.2.2 **HCC issue (c):** HCC also claim that 'wildness' is contrary to current law. As all parties have demonstrated, natural beauty is not defined in statute. NE evidence at this reopened Inquiry sets out what they consider to be the current interpretation of natural beauty, following NERC and Meyrick. That includes 'relative wildness' (*CD#34, Table 2; CD#37 para 3.5.8; endorsed by NE at CD#1 para 15*). NERC and Meyrick are silent on 'wildness'. NERC says only that human intervention does not preclude an area from meeting the statutory criteria. Clearly, NE, post-NE, consider 'Relative wildness' to be relevant to National Park designation (*CD#34, Table 2*).

3.2.3 The HCC reference to 'variety of countryside character' is also unrelated to Section 99 of NERC, which is silent on this matter.

3.2.4 **HCC issue (d):** I review the 'new evidence' below (*Sections 3.24-3.27*). I do not consider that any of this evidence supports the inclusion of the Weald in the SDNP.

3.2.5 **HCC issue (f):** The WSCC evidence to the first stage of this Inquiry fully addressed distinctive character, wildness and recreation in relation to the Downs and the Weald. I do not recall rebuttal evidence on this being submitted by HCC, nor did HCC challenge the WSCC evidence at the Inquiry. That evidence was public and was thoroughly examined at the Inquiry.

3.3 **HCC evidence on Topics 1 and 2: David Carman (1969/1/1)**

3.3.1 In this section, I consider the aspects of HCC's evidence that lead towards their conclusion that the western Weald should be reinstated in the SDNP.

3.4 **Hants CC summary (HCC 1969/1/1, Section 2)**

3.4.1 HCC state: '**... the principal rationale behind the landscape assessor's advice with respect to the recommended boundary is flawed in matters of principle and detail. It is the landscape assessor's advice which has informed the Inspector's recommendations**'. (*HCC para 2.2*).

3.4.2 In response to this:

i) I do not consider that the NERC changes make any substantive difference to the landscape assessor's advice (*WSCC responses on NERC 1007/1/1*);

ii) The Inspector clearly made his own judgement on the character of the landscape that provides opportunities for open-air recreation of NP quality; largely the relative wildness and iconic nature of the Downs, as compared with the Wealden AONB landscapes to the north. The Inspector agreed with the Assessor, but his fundamental principles were his own.

3.5 **NERC: 'The implications of Section 59 of the Natural Environment and Rural Communities (NERC) Act 2006, which states that when considering the natural beauty of land, Natural England may take into account its wildlife and cultural heritage'** (HCC 1969/1/1, Section 3, paras 3.1-3.3).

3.5.1 The HCC evidence has a fundamental misconception. It seems to assume that because the words 'cultural heritage', 'wildlife'; and various forms of 'human intervention' now appear in legislation, the presence of those elements in themselves confer NP status on the landscape. This is wrong. All of England has those elements to some degree; and NERC requires only that some of those are 'taken into account' and that others should not preclude the finding of natural beauty. HCC have carried out a mechanistic tick-box exercise: the land has historic farmhouses: ✓: it must be a National Park; it has historic landscapes: ✓: it must be a National Park.

3.5.2 HCC state:

'There is no part of the proposed South Downs National Park that is not man-made or cultural, but there are many examples of cultural features and elements both within and outside the Inspector's recommended boundary that make a particular contribution to natural beauty. These include historic landscapes from different periods, historic parks and gardens, settlements and buildings. These cultural influences also extend to the cultural relationships between places on either side of the Inspector's recommended boundary'. (HCC para 3.3).

These sentences apply equally to the whole of South-East England, including the Wealden parts of the current AONB; the Surrey Hills AONB to the north, and undesignated countryside to the north-east of the PSDNP. All of these areas have cultural features which, in the case of the AONBs, contribute to their natural beauty. The landscapes of all of these areas emerge from a long history of habitation and cultivation; include historic parks and gardens, settlements and buildings; and have cultural relationships that cross different character areas. The occurrence of such features does not give these areas natural beauty in NP terms.

3.5.3 Indeed, Lord Bach for Defra, in promoting the NERC changes in Parliament, identified that **'no landscape in the United Kingdom has escaped human influence'** (CD#21, Hansard 20th Mar 2006, Column 53, first para). It clearly was not the intention of the Government that this should mean that the whole of the United Kingdom met the natural beauty criterion for National Parks. It means the opposite – that an area found to have natural beauty does not fail the criterion because it is partly man-made. An example would be a moorland landscape, with more sheltered valleys containing fields with stone walls. The occurrence of the stone walls, as cultural features, would not prevent the area being found to have natural beauty.

3.5.4 In relation to 'settlements and buildings' (HCC para 3.3), the Inspector considered the particular qualities of National Parks to include relative wildness and remoteness – a sense of 'getting away from it all' (IR Part 1 3.41, 3.50). It is those qualities that

distinguish National Parks from AONBs, in terms of the character that provides opportunities for an exceptional open-air recreational experience. The more frequent occurrence of settlements and buildings is contrary to those essential National Park qualities – hence the distinction between the open, remote downlands, with few buildings or settlements, and the settled Weald. Defra finds the same distinction (*Hansard, CD#21, my para 2.4.23 above*).

3.6 'The cultural links between the Downs and the Weald' (HCC 1969/1/1, paras 3.4-3.7)

3.6.1 HCC refer to 'unifying links', such as droveways and the historic north-south commercial axis. Such links occur throughout England, wherever there are contrasting areas, such as grazed uplands and settled lowlands. They certainly occur between both the North and South Downs and the Weald, and are far from unique to the particular part of the Weald that was included in the original PSDNP.

3.6.2 The 'substantial cultural heritage links' claimed by HCC (*para 3.7*) exist both here and elsewhere. NERC does not state that everywhere with 'cultural heritage', nor with 'unifying links' between areas with different natural resources, has natural beauty. This would then apply to the whole of the UK.

3.7 'The cultural characteristics of the excluded areas' (HCC 1969/1/1, paras 3.8-3.12)

3.7.1 '**Extent and connectivity of historic landscapes**' (*HCC para 3.9*): HCC set out 'historic landscape character assessment' (CD#14). The evidence appears to be based on the assumption that older historic landscape types must inherently have natural beauty of National Park quality. This is an incorrect assumption. NERC requires cultural heritage to be taken into account, but does not state that any area with cultural heritage must have natural beauty. An area must first have natural beauty; the occurrence of, for example, wooded assart landscapes, does not, of itself, meet the natural beauty criterion.

3.7.2 For example HCC Figure 1 illustrates the occurrence of 'post-1800 Expansion Settlement', in red. The 'Main Excluded area', the western Weald, has a much higher incidence of such settlements than do the Downs to its immediate west and south. Settlements and their related activity are characteristic of the AONB Weald; lack of larger settlements are characteristics of the more remote, tranquil Downs.

3.7.3 HCC evidence makes no comparison of 'the extent and connectivity of historic landscapes' within and beyond the PSDNP area boundary (*HCC 1969/1/1, Figures 1, 2*). All historic landscape assessments, within and beyond the PSDNP area, will identify depths of history and intactness of landscapes. HCC's plans extend only as far as the original PSDNP boundary (*HCC 1969/1/1, Figures 1 and 8*). There is no new evidence as to what lies beyond. It is equally likely that the identical Wealden landscapes of the

Surrey Hills AONB, of the undesignated Weald and of the High Weald AONB to the east will have intact historic landscapes. All of those AONB areas have recognized natural beauty, but their depth of history or cultural links with the Downs still does not give them the essential qualities that distinguish AONBs from National Parks; nor does it give the undesignated Weald natural beauty of either AONB or NP quality.

3.8 'The historic park and garden resource' (HCC 1969/1/1, para 3.10)

3.8.1 Similarly, whilst historic parks and gardens are part of cultural heritage, so should be taken into account, their occurrence does not, per se, confer National Park natural beauty on the landscape in which they lie. Historic parks and gardens occur throughout England: any survey of any sizeable area is likely to include a spread of such features, often of national importance.

3.8.2 Again, the HCC plans cover only the PSDNP area (*HCC Figures 2A, 2B*). Again, there is no evidence as to why the qualities, number or characteristics of the historic parks within the PSDNP give that area 'natural beauty' as compared with the area beyond.

3.9 'The farmstead resource' (HCC 1969/1/1, paras 3.11 and 3.12)

3.9.1 The case on 'the farmstead resource' is the same: farmsteads are part of cultural heritage; that needs to be taken into account, but the frequency or age of farmsteads does not create natural beauty of National Park quality.

3.9.2 In this case, the HCC survey area does extend beyond the PSDNP boundary area (*HCC 1969/1/1, Figure 3*). It exactly confirms my point. There is no correlation between a greater occurrence of pre-1600 farmsteads and the PSDNP boundary.

3.9.3 Two interesting correlations, however, are apparent on HCC Figure 3:

1. The very high incidence of pre-1600 farmsteads in the Low Weald and High Weald (Areas 121 and 122).

Neither of these areas were in the PSDNP; the Low Weald is ordinary countryside; the High Weald is AONB (*Plan HDA4 from 1881/2698/1/3; copied for convenience at my Appendix B*). Hence, such farmsteads are likely to be highly characteristic of the Weald, and such landscapes may or may not have outstanding natural beauty.

2. The correlation between 'all farmsteads' and existing/ recommended National Parks.

Two areas stand out on HCC Figure 3 as having a marked lack of farmsteads – the New Forest (*Area 131*) and the SDNP Inspector's recommended SDNP area (*Areas 125/130*). A lack of farmsteads means a lack of fertile farmland in the past and a lack of human habitation. These areas – the New Forest and the South Downs – were historically extensive grazing lands, with few farmsteads or villages. This is entirely consistent with the NF and SD Inspectors' finding that the new lowland national parks still need CA's

'relative wildness' and the Edwards' sense of remoteness, tranquillity and 'getting away from it all'. This was also Defra's distinction, in revising NERC, between the natural beauty required for national parks and for AONBs (*Lord Bach, para 2.4.23 above*). In contrast with the relatively empty Downs and New Forest there is a much greater density of farmsteads in the Weald and the Coastal Lowlands (*Areas 120, 121, 122, 126, 128 on HCC Figure 3*). Farmsteads are associated with more settlements, more people, more roads and Lord Bach's more intensively-farmed land – areas without the National Park qualities of natural beauty, related to the recreational experience.

3.10 'The cultural importance of Petersfield and its relationship with the Downs'

(HCC paras 3.13-3.19)

3.10.1 The Council makes no detailed submissions on Petersfield, which is outwith the authority area. However, the principle set out by HCC, of the historic links between Wealden towns and the Downs is not properly correlated with the natural beauty criterion:

i) The designated area must itself have natural beauty, taking account of, but not exclusively created by, its cultural heritage. As both the NF and SD Inspectors have identified, towns of any size have not been found to have NP natural beauty, throughout the country. Their recommendations, and the Secretary of State's decision on the NFNP, are consistent with that precedent.

ii) HCC again fail to identify how towns within the PSDNP, such as Petersfield, have any unique relationship with the Downs. All of the nearby Wealden and Coastal Lowland towns are likely to originate from historic cores and to have relied on the resources of the Downs, such as wool, for their trade. This does not make all of these towns naturally beautiful or candidate National Parks.

3.11 HCC 'significance' assessment: 'The implications of Section 99 of the Natural Environment and Rural Communities (NERC) Act 2006 – natural beauty in the countryside' (HCC 1969/1/1 Section 4)

3.11.1 In Section 4, HCC assess the 'significance of the cultural resource'. I do not dispute that there are likely to be landscapes of cultural and historic significance both within and beyond the Inspector's recommended boundary. Again, however, HCC fail to demonstrate that these do not also occur in the land beyond the original PSDNP boundary. Nor does HCC demonstrate how these landscapes differ from those of the Surrey Hills AONB, nor how these landscapes have the essential NP attributes.

3.12 'The intactness and condition of the historic landscape' (HCC 1969/1/1 para 4.2-4.3)

3.12.1 HCC refer to the intactness of the historic landscape (*para 4.2*). Whilst 'intactness' ('landscape quality') is one of the CA/SNH criteria for assessing natural beauty (*CD57 para 7.22*), it does not necessarily equate with other criteria, such as scenic quality or wildness. Indeed, in the case of the PSDNP, the area that all parties have agreed as being the core landscape – the South Downs themselves – have very high scenic quality,

with expansive horizons, exhilarating views, iconic landscapes and a sense of escape. However, as the HCC evidence shows, those beautiful landscapes are the least 'intact' and have the lowest historic significance of all the PSDNP area landscapes, and are of 'low' historic significance (*HCC Figure 8*).

3.12.2 HCC identify that 'modern fields' have 'low' importance and significance (*tables at HCC para 4.3*); but few would agree with the HCC assessment that the 'modern fields' across the great sweeping rolls of the Downs also have 'low' amenity value.

3.12.3 HCC Figure 8 demonstrates that, if the historic landscape resource is taken into account, it would be of little assistance to the Inspector. If anything, it supports the Councils' 'in principle' case – the traditional land use pattern of the Downs themselves has been significantly eroded by late C20th cultivation. Natural beauty must primarily be perceived by people now and not rely on complex research (*NFNP Assessor: CD204, App 1, para 3.5*). What is clearly perceptible about the South Downs now is their dramatic landform, large scale, relative remoteness and tranquillity and iconic features. The relative depth of history of the Downs and Weald is not perceptible to anyone but specialists.

3.12.4 The HCC 'significance' assessment fails on at least 3 counts:

- no comparable significance assessment beyond the PSDNP;
- an assumption that historic significance in itself creates natural beauty;
- minimal correlation between the visible quality of the South Downs landscapes and their historic significance.

3.13 'The significance and quality of historic parks and gardens' (*HCC 1969/1/1, para 4.4*)

3.13.1 My comments on 'significance' are the same as on the historic parks resource (*paras 3.8.1, 3.8.2 above*).

3.14 'The significance of the farmhouse resource' (*HCC 1969/1/1 para 4.5*)

3.14.1 The same principles apply to the farmstead resource. Even '**an exceptional lowland landscape of international importance**' in historic terms (*HCC para 4.5*), appears to extend across much of the Weald, well beyond the original PSDNP (*HCC Figure 3*). Whatever its historic value, such a landscape still has to have NP attributes. The Wealden landscapes are too settled, the numerous farmsteads (however historic), villages and interconnecting roads all detract from the sense of wildness that creates the recreational experience.

3.15 'The extent and significance of semi-natural habitats' (*HCC paras 4.7-4.11*)

3.15.1 If the occurrence of areas of rich heathland qualified a landscape for NP status, then the international Special Protection Area of the Thames Valley Heaths, partly in Hampshire, would also qualify. Again, HCC has provided no evidence that similar habitats do not

occur in the Surrey Hills AONB Wealden areas to the north. Most critically, HCC seems to assume that habitats of high value in themselves meet the NP natural beauty criterion. This is wrong. NERC states that wildlife can be taken into account when considering natural beauty. The occurrence of separate areas of heathland does not give those areas either the characteristic natural beauty of the Downs, nor their inclusion in an extensive tract of countryside of NP quality.

3.15.2 Nor do the purported links of these habitats with the Downs (*HCC para 4.10*) support their inclusion. The whole anticline of the Weald and North and South Downs has a diversity of downland, heathland, woodland and meadow habitats, likely to be of BAP value. This does not give this whole area, nor the western Weald part of it, NP natural beauty.

3.15.3 HCC evidence refers to The Management Plan for the South Downs (*as at HCC para 4.10*) and the Integrated Landscape Character Assessment. I refer to these below (*Sections 3.24, 3.25*).

3.16 'The physiographical importance of the excluded area' (*HCC para 4.12-4.13*)

3.16.1 Section 99 of NERC states that the fact that an area whose flora, fauna or physiographical features are partly the product of human intervention in the landscape, does not prevent it from being treated as an area of natural beauty. HCC have used this phrase to reopen the 'geology' debate. The geology of the Wealden anticline is not the result of human intervention, so this reopening is erroneous. I reiterate my original evidence – the greensand/chalk relationship is not unique to the PSDNP area. Greensand occurs at the foot of the North and South Downs and the Chilterns, and stretching across into Bedfordshire and Cambridgeshire (*Plan HDA1 from 1881/2698/1/3, copied at my Appendix B*). There are areas of geological importance throughout the UK. They are designated for that reason only. The NERC amendments have no bearing on geological interests.

3.16.2 Similarly, hydrology and hydrological relationships occur throughout the UK (*HCC para 4.13*). It is a purpose of the Environment Agency to protect the integrity of water resources, not a reason for National Park designation. All the chalk areas of Britain are porous, so the water passes through them and appears in the adjacent areas as springs and rivers. The relevance of hydrology to National Park designation is that the lack of surface water in the Downs has traditionally made them unsuited to settlement, so farmsteads, towns and villages are instead located on the Wealden and coastal areas to the north and south of the Downs (*as seen in HCC Figure 3*). This absence of settlement in the Downs means a relative lack of roads, houses and industry, and their associated noise and movement. This distinguishes the relative remoteness, relative wildness and tranquillity of the Downs from the busier landscapes of the Weald.

3.16.3 The geology and hydrology of the Downs have also made them historically suited to extensive sheep-grazing; more recently converted to very large-scale arable fields, with wide views and a sense of openness. This contrasts markedly with the much smaller-scale hedged fields, frequent copses and sense of enclosure of the more fertile and moist Weald. These very different landscapes can easily be identified on the OS 1:25000 maps and aerial photographs and on the ground (*My Topic 3 evidence: 1007/849/2/2; e.g. Figures HDA 101C, 102C; 101D, 102D*). It is those marked differences in the scale, character, appearance, remoteness and views of the Downs that provides the character more suited to exceptional recreation. The Weald, in contrast, generally provides pretty walks through attractive villages and around hedged fields – an AONB experience.

3.17 HCC evidence on recreation (HCC 1969/1/1 Section 5)

'Implications of Section 59 of the Natural Environment and Rural Communities (NERC) Act 2006 on opportunities for open-air recreation' (HCC paras 5.1-5.4)

3.17.1 HCC set out the NERC recreation change, allowing potential opportunities to be taken into account in NP designation. It should be noted that such opportunities are for **'the understanding and enjoyment of an area's special qualities by the public'** (*NERC Section 5(2A)(b); at HCC para 5.1*). That is, there is a clear link between the natural beauty and recreational criteria. The area first has to have the **'special qualities'** of a National Park; the recreational opportunities rely on those special qualities. This correlation of the two criteria is endorsed by NE (*my paras 2.3.13-14 above*).

3.17.2 HCC quote Mr Meacher's letter to the CA, relating to not limiting NP management to 'open and rugged' areas (*HCC para 5.2*). That change of emphasis was taken into account in the CA's NP policy review (*CD83*), and in the SDNP Inspector's report (*SDNP IR Part 1, paras 3.37-3.42; Part 2, paras 2.18-2.19*). The CA/NE and the Inspector consider that the essential qualities of a National Park still require a degree of 'relative wildness' across an extensive tract. The Inspector considers that a sense of remoteness and 'getting away from it all' within an iconic landscape remain key to the experience of a National Park (*SDNP IR Part 1, paras 3.29, 3.35, 3.50*). He considers that such attributes occur only in the Downs – the Weald is too busy, insufficiently remote and lacking in distinctive icons (*IR Part 2, paras 2.19, 2.20, 2.39, 2.40*).

3.17.3 The NERC amendments make no difference to those conclusions. The potential must still rely on that remoteness, wildness and sense of escape, across an extensive tract of land. These are qualities that rarely occur in the Wealden landscapes.

3.17.4 Importantly, the Inspector most specifically took account of potential recreational opportunities (*SDNP IR Part 1, para 3.53*). This principle has now been formalized with

NERC. It has already been taken into account in the Inspector's recommendations. The HCC evidence is, therefore, erroneous.

3.18 'Public rights of way and Open access' (HCC paras 5.5-5.6)

3.18.1 HCC map rights of way and open access land (HCC paras 5.3 to 5.12 and Figures 10 and 11). This evidence is not new. The Councils put similar information before the first part of the inquiry (1881/2698/1/3, Appendix P chart and plans; Appendix Q: Table and Plan HDA6) and the Inspector took both issues into account (IR Part 1, paras 3.45-3.48). However I address HCC's points below.

3.19 'Public Rights of Way' (HCC Table and paras 5.7-5.11)

3.19.1 The HCC assessment fails on the same basis as the rest of their case. They have looked only at the PRoW network within the PSDNP. The whole of lowland England has PRoW networks, linking areas of population and rural areas, and related, of course, to historic land management, market towns and economic links. Those networks occur throughout the Weald and North and South Downs.

3.19.2 The CA's original Area of Search report assessed footpath densities (CD36, Plan 1384LP/R9; copied as HDA 16 in 1881/2698/1/3; HDA 16 copied in my Appendix B). This included areas outside the PSDNP. As can be seen on HDA 16, there are areas of low, medium and high density footpaths within and beyond the PSDNP. Footpath density provides no distinction between the recreational opportunities in the AONBs, proposed NP and ordinary countryside. It certainly provides no case for including the Wealden area, as claimed by HCC.

3.19.3 HCC claim that inclusion of the Wealden areas would give a NP with more footpaths than any other NP (HCC para 5.10). This is unsurprising, because, as the Council identified in previous evidence, National Parks, including the New Forest, tend to be characterized by extensive areas of Open Access land. There is no need for footpaths if there is open access, so NPs have been characterized by a low PRoW density. In contrast, AONBs are, as Defra identified, characterised by more intensive farmland (para 2.4.23 above), associated with higher PRoW densities (1881/2698/1/3 Appendix P, HDA Chart 2, Plans HDA 8-11; Appendix Q HDA Table 2). The Inspector took this into account (IR Part 1 paras 3.46-3.48).

3.19.4 The HCC evidence demonstrates that the Weald has AONB recreational characteristics – a walk in attractive countryside. The CA (now NE) and Inspector linked the natural beauty and recreational criteria: it is the character of the land – open, relatively wild and remote – that provides the exceptional recreational qualities (IR Part 1 para 3.50; Part 2, paras 2.38-2.39).

3.20 Open access (HCC 1969/1/1 para 5.12, 5.13 and Table)

3.20.1 HCC demonstrate that the PSDNP Wealden areas have marginally more open access land than the Downs. However, HCC have, again, not extended beyond the PSDNP. My original evidence demonstrated that the Surrey Hills AONB, adjoining the PSDNP to the north, has more open access land than does the PSDNP (1881/2698/1/3; Appendix Q, HDA Table 2).

3.20.2 However, the Inspector considered that recreational experience cannot be assessed simply by reference to statistics. He shared the CA/NE view that it is the quality of the recreational experience that matters (IR Part 1, 3.50). The HCC statistics make no reference to that conclusion.

3.21 'Accessibility for all' (HCC 1969/1/1 5.14-5.19)

3.21.1 The HCC consideration of '**Accessibility for all**' ignores the NP 'extensive tract' and 'natural beauty' criteria. HCC refer to areas such as '**a gateway town**', '**the presence of many minor roads and small settlements ...breaks up the landscape**', '**urban fringes and the infrastructure associated with more intensively farmed areas**', and '**road crossings**'. These are not NP features.

3.21.2 HCC are seeking 'diversity' in the recreational experience, and the inclusion of buffer areas that will take pressure off the downland landscapes. Whatever the attraction of such principles, the areas included must meet the NP criteria, the characteristics referred to by HCC do not. In terms of pressure on a sensitive landscape, it was part of the Council's 'in principle' objection that the current AONB already has much higher visitor pressure than existing National Parks: 32 million visitors to the PSDNP area; 1.4 million and 3.84 million to Exmoor and Dartmoor (1881/2698/1/3, Appendix Q, HDA Table 2). Making this a NP, with its recreational purpose, would exacerbate that problem. Retaining the current AONB status would allow the recreational uses to be managed within the sole purpose of protection of the natural beauty of the area.

3.22 HCC Conclusion (HCC 7.1-7.3)

3.22.1 I do not consider that the HCC proof provides any new evidence that the Inspector's recommendations should change as a result of the NERC or Meyrick legislative changes.

3.22.2 In relation to taking into account, or not excluding, cultural heritage, wildlife and areas affected by man, the HCC evidence has not made any comparison of historic landscapes, parks and gardens or semi-natural habitats extending beyond the PSDNP area. There is no evidence that these aspects are in any way different from, or superior to, those in the adjacent Surrey Hills AONB or undesignated Weald. The evidence on farmsteads

demonstrates that the High Weald AONB is superior in those terms; and confirms the Inspector's view that the Downs areas have much more of the National Park characteristics of relative wildness, remoteness and lack of human habitation.

3.22.3 The HCC evidence seems predicated on the assumption that the presence of the features, of itself, gives qualities of natural beauty to the areas. This is a wrong premise. The areas must first have natural beauty – based on a long history of the application of that criterion; and closely linked to the recreational criterion. Those other elements must then, either be taken into account, or not preclude that the area has natural beauty. HCC have not applied the NERC Act properly.

3.22.4 The HCC technical evidence (1969/1/1) goes, item-by-item, through NERC: cultural heritage, wildlife, physiographic features resulting from human intervention, recreational potential. There is no analysis of the occurrence of wildness or characteristic natural beauty, because those concepts have not been addressed positively or negatively by NERC. HCC have provided no evidence to support their submissions that 'characteristic natural beauty' and 'wildness' are now contrary to the law since March 2005 (1969/2/1, paras 3(b), (c); 7, 8).

3.22.5 In terms of recreation, HCC have again not demonstrated whether the Wealden areas are in any way superior to, for example, the Surrey Hills AONB. They have not introduced any topics that were not taken into account by the Assessor or Inspector. They have not identified the NERC 'potential' in their evidence – only further detailed the existing PRoW and Open Access evidence. They have not at all considered the Inspector's strong conclusions that the statutory criteria are that the land should have a character that provides the recreational opportunities: a character of great natural beauty, relative wildness, remoteness, tranquillity and distinction.

3.23 'New Evidence'

3.23.1 HCC refer to four new documents (1969/2/1, para 10):

- i) South Downs Integrated Landscape Character Assessment.
- ii) Revised Management Plan for the South Downs.
- iii) A Living Landscape for the South East.
- iv) An Assessment of the Excluded Areas.

3.23.2 I have seen no evidence that sets out why HCC consider that these documents now justify inclusion of the Weald. Document (iv) was not available at the time of writing.

3.24 South Downs Integrated Landscape Character Assessment (CD#14)

3.24.1 The SDILCA covers the whole of the PSDNP area (CD#14 para 1.2 and plans). It should be noted that similar documents were produced for the Proposed New Forest National Park, in the comparable period prior to the Inspector's Report. Those NF documents covered the whole of the CA's PNFNP. They made no difference to the Assessor's or Inspector's recommendations, nor to the Secretary of State's confirmation that the area with NP qualities excluded substantial areas promoted by the CA and included in the NF Management Plan and Character Assessment.

3.24.2 Including the whole PSDNP within published documents is, effectively, pre-judging the Inspector's recommendations and Secretary of State's decision. A political decision to include all of that area in documents does not give the area so included NP natural beauty.

3.24.3 I do not dispute the general factual content of the SDILCA – these are descriptions similar to those in other character assessments and addressed in my previous evidence. Nor do I dispute the character types and areas defined. I have not read every description (the SDILCA is about 500 pages long), but the character types and areas are much the same as in previous characterizations. The distinction between the Downland and Wealden landscapes is clear (*West Sheet copied at my Appendix C*).

3.24.4 The SDILCA summary descriptions of the landscapes north of the Downs include:

- **The Greensand Terrace** (Type J) has 'A strong sense of rural tranquillity resulting from the absence of overt human impact and a low density of settlement' (*SDILCA, p 285, 'Description', bullet 9; p 286 para J8*). This zone is similar to the 'Scarp Footslopes', through which the Assessor considered the boundary should run;
- **'Mixed farmland and woodland vale'** (Type K) (the Rother valley) has 'a high density of dispersed settlements', roads and railways, 'which affect tranquillity' (*SDILCA p 301, bullets 8, 11*);
- **'Wealden Farmland and Heathland Mosaic'** (Type L) (*p 317*) is a 'flat or gently undulating lowland plateau landscape', with 'small to medium fields;', 'isolated farmsteads' and 'squatter settlements', with 'views limited by dense woodland';
- **Sandy Arable Farmland** (Type M) is a 'gently undulating', 'simple, open arable landscape', with 'small nucleated villages', and 'a convenient route for road infrastructure'.

These, to me, are largely descriptions of the more rural of the English lowland landscape types – landscapes much more typical of AONBs than of National Parks.

3.24.5 I consider that the SDILCA supports the principle that the Downs and the Weald have very different landscapes; the Downs having many more of the NP characteristics; the Weald having AONB characteristics. The SDILCA does not address recreational opportunities.

3.25 The South Downs Management Plan (CD#26)

3.25.1 CD#26 similarly covers the whole PSDNP, as it was prior to the Inspector's Report (CD#26 p 27 footnote 1). As with the SDILCA, inclusion of this draft area before the Inspector or Secretary of State have confirmed its extent does not validate this area.

3.25.2 CD#26 proposes comprehensive management of this whole area. Again, that is premature. The similar PNFNP Management Plan will have been rapidly redundant once the NP Authority was established, responsible for a smaller area.

3.25.3 Describing the whole area as 'The South Downs' or proposing to manage it, and areas beyond (CD#26, A2.10) makes no difference as to the compliance or otherwise of areas covered by the Plan with the statutory criteria for the designation of NPs.

3.26 'A Living Landscape for the South East' (Reference not known)

3.26.1 This document was produced by six Wildlife Trusts, covering all of South-East England. Its 16 pages set out a principle for this wide area. That principle is 'Ecological Networks' – a proposal to identify clusters of habitats of value and scale and to create networks, buffers and links between them. This will increase the value and adaptability of the habitats, and enrich the Region's wildlife resource.

3.26.2 The proposed 'Ecological Networks' are mapped (p 12). They cover the whole South East, and include areas within the Downs, the excluded Weald, other Wealden areas, the North Downs, New Forest and Chilterns.

3.26.3 I support these principles. I can see no reason why defining Ecological Networks within the Weald should give those areas the natural beauty or recreational value of a NP, nor does this document make any such claim.

3.27 Hants CC rebuttal on WSCC Topics 1 and 2 (1969/1/6)

3.27.1 **NERC:** HCC state that the 'NERC' factors, such as wildlife and cultural heritage **'can now be ... presented with confidence that they are contributors to natural beauty'** (1969/1/6, para 5, end bullet). That is not correct. NERC has those factors 'taken into account' in assessing natural beauty. That does not mean that they necessarily 'contribute' to natural beauty.

3.27.2 The WSCC conclusion in our 'in principle' evidence was not 'that the PSDNP did not meet the tests of characteristic natural beauty or recreational opportunity', as claimed by HCC (1969/1/6, para 6). The natural beauty test in my 'in principle' evidence was largely based on remoteness and wildness (1881/2698/1/1, Section 2.9).

- 3.27.3 **New evidence:** HCC claim that the WSCC/HDA evidence has been overtaken by developments in landscape assessments, which they schedule (*HCC para 7*).
- 3.27.4 I have reviewed the new evidence submitted by HCC (*HCC paras 7-11, my sections 3.24-3.26 above*). As I identify in the sections above, none of this makes any difference to the landscapes of the Downs, the AONB Weald and the areas beyond the PSDNP boundary. 'Complex data and GIS' do not change the landscape itself, and non-specialist visitors need to be able easily to recognise a National Park when they see one, not have to rely on complex data (*CD204: NFNP IR Appendix 1, para 3.5*).
- 3.27.5 Neither the HCLA nor the 'new integrated LCA' provide any substantiation of the case that the Weald has qualities beyond those of an AONB. These are both landscape assessments, so do not include any assessment of recreational opportunities. They cannot, therefore, be used to distinguish the differences between AONBs and NPs, a difference largely reliant on the quality of the recreational experience, related to the character of the landscape.
- 3.27.6 My use of the Sussex Downs LCA in my 'boundary' evidence was deliberate – it was the same basis as the Assessor's work, and used the same character type/areas, such as 'Scarp Foothills', for consistency. The 'new integrated LCA' confirms my assessment, and that of the Assessor and Inspector, that the Downs and Weald are quite different.
- 3.27.7 I took cultural heritage into account (*HCC para 12; my para 2.5.2 above*).
- 3.27.8 **Characteristic natural beauty:** I address 'characteristic natural beauty' above (*HCC para 13, my paras 2.2.18-20, 2.3.2-16; 2.4.26*). My assessments were not reliant on 'characteristic natural beauty' alone. They were seeking to identify distinctive landscapes of outstanding natural beauty, the character of which provides opportunities for open air recreation of NP quality.
- 3.27.9 **Recreational opportunity:** (*HCC 14, 15*). I refer to Mr Meacher's letter above. CA/NE consider experiences related to relative wildness, tranquillity, and remoteness to be tests or factors of natural beauty and recreational opportunity (*my paras 3.17.2; 2.2.10 above*). The Government agrees that qualities such as '**remoteness**' remain '**the essence of national parks**' (*Hansard CD#21, column 51; my para 2.4.23 above*).
- 3.27.10 HCC criticise me for a 20th century approach. My assessments took full account of up to date information, including my own and NE's 21st Century PSDNP assessments. The 'new evidence' does not change my assessment conclusions. Myself, the Assessor and

Inspector also took full account of the only 21st Century English National Park – the New Forest – which HCC and NE evidence has notably failed to acknowledge.

3.27.11 HCC have not demonstrated that the western Weald has recreational qualities any better than ordinary countryside or other AONBs. The NFNP Assessor found that visitors should not have to read a complex thesis in order to understand the landscape (*HCC para 15; CD204, NF IR App 1, para 3.5*).

3.28 Hants CC rebuttal on MH/WSCC/CCC T3 boundary (1969/1/9)

3.28.1 I have dealt with all of the issues raised by HCC in this rebuttal evidence. Boundary details will be addressed in the Topic 3 session.

4 SOUTH DOWNS CAMPAIGN EVIDENCE

4.1 SDC submissions on Topics 1 and 2 (1147/0/1)

4.1.1 I have previously addressed almost all of the issues raised by SDC's submissions.

4.1.2 My additional comments are:

1. SDC claim that an area failing the 'landscape quality' test can be tipped into qualifying on cultural heritage and wildlife. I disagree – I find it difficult to envisage that an area that failed 'natural beauty' on the basis of its appearance could, just by 'taking into account' other factors, meet the 'natural beauty' criterion. Beauty means beauty (*SDC 'wildlife and cultural heritage', 3rd para*).
2. It is not accepted that an area meeting the natural beauty criterion will 'rarely fail' the recreation test (*SDC 'Opportunities for open-air recreation, 1st para*). The Government distinguishes between NPs and AONBs on this basis (*statutory criteria and Hansard CD#21, Columns 51, 52, at my para 2.4.23 above*).

4.2 SDC evidence: Topics 1 and 2 (1147/1/1)

4.2.1 Again, I have set out the basis of my disagreement with SDC's case in my responses to NE and HCC.

5 SUMMARY AND CONCLUSIONS

5.1 NE approach and policy

5.1.1 NE reiterate their previous approach and policy. They continue to use the same approach and policy for the North-West designation work.

5.1.2 That approach and policy have been criticised by the NFNP and SDNP Inspectors; those criticisms were endorsed for the NFNP by the Secretary of State.

5.1.3 NE state that their judgements on designation should not be second-guessed. However the whole purpose of legislation is for the NE approach to be tested and as the Agency accepted, neither the Inspector nor the Secretary of State is bound by their policy or any of their views. The NE approach amounts to saying, wrongly, that it should be beyond challenge.

5.2 NERC and Meyrick

5.2.1 NE, HCC and SDC imply or state that NERC and Meyrick have removed the consideration of the characteristic natural beauty of a National Park, and its relative wildness, remoteness and tranquillity from the designation process. They conclude that the Weald should therefore be reintroduced to the SDNP.

5.2.2 NERC has not changed the consideration of these aspects of the NP criteria. The substantial precedent of Dower, Dartmoor and the NFNP, confirmed by the Secretaries of State, stands. The Government has, in taking NERC through Parliament, confirmed the qualities of NPs that distinguish them from AONBs. NE is, in its post-NERC North-West designation work, taking characteristic landscape elements, distinctive sense of place and relative wildness into account in assessing natural beauty and recreation.

5.2.3 I took cultural heritage into account in my previous evidence, contrary to claims by others.

5.3 AONB/NP natural beauty

5.3.1 NE and others state that there is no difference in the natural beauty required for NPs and AONBs.

5.3.2 Previously, Dower, Hobhouse, Edwards and Circular 12/96 identified the difference. The Government, in taking NERC through Parliament, has recently confirmed that such a distinction is important.

5.4 Characteristic natural beauty

5.4.1 The Council's previous evidence did not rely in its entirety, as others claim, on 'characteristic natural beauty'. My evidence carefully reviewed the statutory criteria for National Parks, precedence, designation history and the landscapes of the PSDNP.

5.4.2 I concluded that the whole PSDNP failed to meet the statutory criteria, largely because the cultivation of the Downs, their fragmentation by roads, and the frequency of settlements and roads across the Weald meant that none of these areas had NP qualities.

5.4.3 The Council's secondary case was that, if anywhere had NP qualities, it was the Downs: they have a highly distinctive landscape, of relative wildness and remoteness. The Weald is less distinctive and much more settled – it has AONB qualities.

5.4.4 NERC and Meyrick are silent on characteristic natural beauty. The law has not changed in that respect.

5.5 Chalk and non-chalk

5.5.1 The western Weald has not been excluded because it is not chalk. It has been excluded because, whilst this area has AONB qualities, it fails to meet the NP statutory criteria.

5.6 Relative wildness, tranquillity, remoteness

5.6.1 NE and others claim that factors such as 'relative wildness' are not in the wording of the statutory criteria and/or have been superceded by the Meacher letter and/or by NERC.

5.6.2 Natural beauty is not defined in statute. The finding that a relatively wild character is important to NPs has substantial precedent. It remains part of CA/NE current policy on NP designation; it has recently been confirmed by Defra, in taking NERC through Parliament, and is being used by NE in current designation work.

5.6.3 NERC makes no difference to the assessment of 'relative wildness'. All English landscapes have some degree of human intervention, as Defra identified in Parliament. The Government is still seeking to designate as National Parks areas of striking quality and remoteness, to which we can escape.

5.7 Conjoined criteria

5.7.1 NE reject the conjoining of the two NP criteria by the SDNP Assessor. There is a link between the two criteria. Even the CA acknowledged a link when stating that the recreational experience of a National Park is derived from the landscape within it. The important point is that the recreation opportunities in a National Park are derived from its character and these opportunities help to differentiate a National Park from an AONB. This has clearly caused the qualities of remoteness, openness, relative wildness and the ability to get away from it all to offer recreation which distinguishes land within National Parks from the beautiful land within AONBs that does not share those hallmark qualities. This in turn must affect the approach to the application of the natural beauty criterion, thus establishing a link between the two criteria.

5.8 New evidence

5.8.1 I have reviewed the new evidence introduced by NE and HCC. This includes:

- **NE Draft landscape policy (CD#41)**

- **Designation work in the North-West** (CDs#34, 36, 37)
- **South Downs Integrated LCA** (CD#14)
- **Community Landscape Statements** (CD#47 and another)
- **The Serpent Trail Official Guide** (CD#43)
- **Tranquillity Mapping** (my Appendix A)
- **A Living Landscape for the South East** (referred to by HCC).

5.8.2 I do not consider that any of these documents materially change the distinctive difference between the landscapes of the Downs and the Weald, or provide any reason for the Inspector to change his recommendation that the Downs be designated NP and the Weald remains AONB.

5.8.3 If anything, the North-West reports, in their 'tests' for natural beauty and recreation, and their joint approach to the two NP criteria in the light of NERC, support the SDNP Assessor and Inspector's judgements.

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5.8.4 I am, however, surprised that NE and their consultants have, in the North-West work, entirely ignored the NFNP Assessor, Inspector and Secretary of State findings on natural beauty and recreation; together with those of the SDNP Assessor and Inspector. I consider that the designation process for the two 21st century English National Parks is of critical relevance to any further designations and should not be ignored by the Government's statutory adviser on protected landscapes.

5.9 HCC evidence

5.9.1 I do not consider that the HCC evidence provides any new evidence that the Inspector's recommendations should change as a result of the NERC or Meyrick legislative changes.

5.9.2 In relation to taking into account, or not excluding, cultural heritage, wildlife and areas affected by man, the HCC evidence has not made any comparison of historic landscapes, parks and gardens or semi-natural habitats extending beyond the PSDNP area. There is no evidence that these aspects are in any way different from, or superior to, those in the adjacent Surrey Hills AONB or undesignated Weald. The evidence on farmsteads demonstrates that the High Weald AONB is superior in those terms; and confirms the Inspector's view that the Downs areas have much more of the National Park characteristics of relative wildness, remoteness and lack of human habitation.

5.9.3 The HCC evidence seems predicated on the assumption that the presence of the features, of itself, gives qualities of natural beauty to the areas. This is a wrong premise. The areas must first have natural beauty – based on a long history of the application of that criterion; and closely linked to the recreational criterion. Those other elements must

then, either, be taken into account, or, not preclude that the area has natural beauty. HCC have not applied the NERC Act properly.

5.9.4 The HCC technical evidence goes, item-by-item, through NERC: cultural heritage, wildlife, physiographic features resulting from human intervention, recreational potential. There is no analysis of the occurrence of wildness or characteristic natural beauty, because those concepts are not changed by NERC. HCC have provided no evidence to support their submissions that 'characteristic natural beauty' and 'wildness' are now contrary to the law since March 2005.

5.9.5 In terms of recreation, HCC have again not demonstrated whether the Wealden areas are in any way superior to, for example, the Surrey Hills AONB. They have not introduced any topics that were not taken into account by the Assessor or Inspector. They have not identified the NERC 'potential' in their evidence – only further detailed the existing PRoW and Open Access evidence. They have not at all considered the Inspector's strong conclusions that the statutory criteria are that the land should have a character that provides the recreational opportunities: a character of great natural beauty, relative wildness, remoteness, tranquillity and distinction.

5.10 Overall conclusions: Topic 6

5.10.1 The Inspector found that the Downs have NP qualities because the chalk has given rise to a very distinctive landscape of outstanding natural beauty, the character of which provides opportunities for open air recreation of NP quality. Those characteristics include high dramatic topography, large-scale, open landscapes, iconic features, remoteness, relative tranquillity and wildness and a sense of getting away from it all.

5.10.2 The western Weald is beautiful, worthy of AONB status, but has a less distinctive character, which continues across the whole Weald; it has less dramatic topography, with smaller-scale, more enclosed landscapes and few icons; there are settlements, roads and a sense of being in an established, comfortable, quintessentially English landscape of farms and villages, with paths through pretty countryside. The western Weald should remain AONB.