

South Downs National Park Public Inquiry
(Re-opened)

Implications
of
NERC Act 2006 and
Meyrick Judgments
for
Inclusion of Lewes and the
Ouse Valley to the North

Proof of Evidence

by



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(Annexes – these are all contained in a separate document no. #1147/3/2)

1 Introduction

- 1.1 The South Downs Campaign (SDC) submits the following proof of evidence on the implications of the Natural Environment and Rural Communities Act 2006 (NERC Act) and the Meyrick Judgments for the inclusion of the town of Lewes and the Ouse Valley to the north in the South Downs National Park. This is in response to the interim proposal that Lewes be removed from the proposed South Downs National Park as shown as deletion 9 on Map 8 of the large maps.
- 1.2 This proof of evidence should be read in conjunction with the SDC's main proof on the implications of the NERC Act and Meyrick Judgments for the South Downs National Park and the Inspector's provisional recommendations¹.
- 1.3 The SDC is a network of organisations working for the best possible South Downs National Park, representing over 130 national, regional and local groups and organisations².

¹ SDC Proof of Evidence: Implications of NERC Act 2006 and Meyrick Judgments for South Downs National Park (jointly produced with CPRE) – Inquiry Document No. #1147/1/1

² SDC Updated Biography – Inquiry Document No: #1147/0/1

2 Biographies of Principal Witnesses

2.1 Paul Millmore

- 2.1.1 Is currently a freelance conservation consultant. He gained a Combined Honours BA in Geography and Economics at Exeter University in 1971 interspersed with a planning internship in rural Connecticut. After graduating he worked in Zimbabwe, first as a rural planner in Mashonoland and then as economist in the forward planning team for Harare. On his return to the UK he took up a post with East Sussex County Council as an Assistant Planner and helped write an interim rural development strategy for villages prior to the preparation of the County Structure Plan.
- 2.1.2 In 1974, he became the first Heritage Coast Officer in the UK. Later he became South Downs Conservation Officer for East Sussex and then Countryside Manager for East Sussex, pioneering new initiatives in rights of way management, interpretation, marine conservation, guided walks, dew-pond restoration, eyesore removal and countryside management.
- 2.1.3 He set up the Volunteer Ranger Service and was involved in improving the rights of way in the East Sussex Downs and lobbying successfully for the South Downs to become one of the first Environmentally Sensitive Areas. The establishment of the Sussex Downs Conservation Board, the High Weald AONB Project, the Rye Bay Project and the Seven Sisters Voluntary Marine Conservation Area are examples of some of the countryside conservation he has had a major hand in. In his spare time he managed to fit in writing the National Trail Guide to the South Downs Way. He left East Sussex County Council in 1995.
- 2.1.4 He is one of the Vice-Chairmen of the South Downs Campaign and is a longstanding Natural England appointed member of the South Downs Joint Committee (Chairman of its planning committee). He sits on the Executive Committee of The Friends of Lewes, and is a volunteer Flood Warden for Lewes.

2.2 Robert Cheesman

- 2.2.1 A retired civil servant who has been Chairman of the civic society in Lewes since 1994. During his career he managed the Department of Trade and Industry's office in Cumbria and had experience of the Lake District National Park. From 2001 he has been a member of the South Downs Campaign's Executive Committee. He has taken a particular interest in cultural heritage and is currently a member of the cultural heritage panel of the South Downs Forum. In 2007 he was elected to the committee of the South Downs Society.
- 2.2.2 His leisure activities have always included walking and he was a founder member of Lewes Footpaths Group in 1964. He is familiar with rights of way legislation having been a Local Footpaths Secretary for the Ramblers Association and more recently an Area Access Officer for the South Downs Society. For many years he was an active leader in the Scout Association but currently his role is that of County Chairman in East Sussex.
- 2.2.3 His experience includes participating in public inquiries and other legal proceedings in addition to briefing Ministers and representing them at relevant meetings, including Community meetings in Brussels and trade policy meetings in Geneva.

3 Summary of reasons given for possibly excluding Lewes and the Ouse Valley to the north

3.1 General comments on settlements

3.1.1 When discussing the principle of whether settlements should be included in a National Park, the Inspector lays out the approach that should be taken for larger settlements³:

3.1.2 *“It seems to me that the cautionary comments regarding the inclusion of sizeable settlements in a National Park are well founded. Even so, I am not convinced that towns or other settlements above a certain size or population threshold should be automatically excluded from the [proposed South Downs National Park] PSDNP or, indeed, any other National Park. To adopt such a simplistic approach could lead to a “hole” within a tract of land that satisfies the designation criteria and in the PSDNP could result in a National Park pepper-potted with “holes”. Bearing this in mind it seems to me that if a settlement lies within a sweep of countryside that clearly meets the designation criteria, its inclusion probably would be justified. East Dean is an obvious example of a settlement that fits this description. This conclusion is subject to the rider that I consider that the assessment of whether the sweep of countryside meets the designation criteria should itself take account of the influence of the settlement on the land in question; not least the extent to which adverse or intrusive built development impacts on adjoining landscapes. The degree to which countryside penetrates a settlement and the strength of any visual or other associations would be additional considerations.*

3.1.3 *“Where a sizeable settlement lies at or very close to the boundary, its exclusion is more likely to be appropriate. I say that even if, say, it contains a wealth of important historic buildings and other cultural assets. In the PSDNP this point assumes especial relevance for the following reasons. Firstly, because many of the larger settlements are located in landscapes that do not form part of the core Downs, there is a greater likelihood that the surrounding countryside will not be able to satisfy the statutory criteria. Secondly, because the chalk outcrop is generally narrow and elongated in shape, inevitably many of the larger settlements lie at or close to the PSDNP boundary.*

3.1.4 *“It seems to me, therefore, that the inclusion or otherwise of individual settlements in the PSDNP has to be assessed in the light of their landscape context and their individual circumstances. It is not simply a matter of size. While the Agency’s approach to the inclusion or otherwise of settlements in the PSDNP relies on a seemingly complex appraisal matrix, CD70 clarifies that the fundamental issue is the relationship of a settlement to the wider landscape. Whatever its intrinsic qualities, a settlement should not be included in the PSDNP unless it is fully situated within a valued landscape. I am of the same opinion. This stance also broadly reflects the approach applied to this issue in the New Forest. There it led to the inclusion of some settlements and the exclusion of others...”*

³ Paragraphs 3.2 – 3.4, pages 39 – 40, Part 2 Report, CD #3

3.1.5 On the whole the SDC does not take issue with this approach except for the statement that where: *“settlements are located in landscapes that do not form part of the core Downs, there is a greater likelihood that the surrounding countryside will not be able to satisfy the statutory criteria”*⁴. The SDC is not convinced that such a statement can be made and instead believes that it is the quality of the landscape in which a settlement lies which should be the key determinant. It is worth noting that even if this issue were to be a valid consideration it does not apply to Lewes in any case, which sits both on the chalk hillsides and in the valley where the whole of the underlying geology is chalk.

3.1.6 Other than the above point, the SDC’s concerns centre on the application of this approach, not least because of the fact that all sizeable settlements were eventually proposed to be excluded from the boundary, with the claim that none of them were able to meet the Inspector’s tests.

3.2 Specific Comments on Lewes

3.2.1 In support of including Lewes, the Inspector stated that: *“...I do not accept that it is possible to rule out a settlement the size of Lewes simply because it exceeds a certain population threshold...”* (paragraph 7.370, CD #3).

3.2.2 *“Lewes is a large market town containing a significant amount of built development. It is the best part of 3kms from its northern edge to the A27 and a similar distance from east to west...”* (paragraph 7.371, CD #3).

3.2.3 *“...Lewes is well placed to serve a gateway role and can offer a range of facilities for those wishing to visit the area. It has an extensive high quality historic core that remains largely intact notwithstanding some more modern development. It also has a strong sense of place and situated at the point where the River Ouse breaks through the chalk hills it has strong visual links to the rising downland immediately to the west and, more particularly perhaps, to Cliffe Hill to the east...”* (paragraph 7.372, CD #3).

3.2.4 However in making the case against Lewes the Inspector stated: *“...On the other hand it is fair to note that from vantage points within the surrounding countryside, Lewes reads as a significant urban intrusion into an otherwise pastoral scene. It is simply too large to be subsumed in the wider landscape.”* (paragraph 7.372, CD #3)

3.2.5 *“The Agency’s approach requires large settlements to be set within high quality landscapes if they are to be included in the PSDNP. Lewes is not within the AONB and neither is the Ouse floodplain to the north of the town. Other than the relatively limited area extending up to Hamsey, the Agency is not convinced that the floodplain meets the designation criteria. My overall assessment of the floodplain is much the same. Indeed, I have reservations regarding the quality of the land south of Hamsey. While the land alongside the river has some scenic attraction and displays rather more distinctive Low Weald characteristics than the land further north, I am not convinced that it satisfies the designation criteria. Certainly the southern part of the*

⁴ Paragraph 3.3, page 40, Part 2 Report – CD #3

upper Ouse Valley is less remote and tranquil than the non-designated land beyond Hamsey and is closer to the built development at the northern edge of the town. Because of my doubts regarding this area, I am not convinced that Lewes can be said to be deeply embedded in a landscape of National Park quality. Indeed I am doubtful if the words “deeply embedded” are appropriate even if this narrow strip of land to the north of the town is deemed to meet the designation criteria. To my mind rather more of the valley would have to be included to meet that description. On balance, therefore, and notwithstanding that Lewes District Council and many others support the Agency on this matter, I consider that Lewes should be excluded from the PSDNP.” (paragraph 7.373, CD #3)

3.2.6 In addition, the Inspector goes on to state that: *“For completeness I would add that while this conclusion is by reference to the statutory criteria, I separately harbour doubts about the desirability of an in-coming [National Park Authority] NPA having planning responsibility for such a large and significant settlement given the complexity and range of its other planning and management responsibilities.” (paragraph 7.374, CD #3)*

3.2.7 In summary therefore the principal arguments for the proposed exclusion of Lewes from the South Downs National Park are based on two simple premises:

- a) That the Town is not embedded in the core chalk area of the South Downs and is simply too large to be subsumed in the wider landscape; and,
- b) That the area of Ouse Valley to the north that the Countryside Agency (now Natural England) included in its designated boundary does not meet the natural beauty criterion.

3.3 Error in calculating the size of Lewes

3.3.1 In paragraph 3.371 (CD #3) a mistake is made in describing the size of Lewes. In the text, Lewes is described as being *“...the best part of 3kms from its northern edge to the A27 and a similar distance from east to west...”* This implies that Lewes covers an area of around 9 square kilometres.

3.3.2 However, in reality Lewes is only around 2km from its northern edge to the A27 and closer to 2.5km from east to west apart from at its southern edge. This gives Lewes a footprint (including the significant fingers of high quality countryside that reach into the town) of some 5 square kilometres, which is significantly different to the impression given in the report (CD #3).

4 Summary Implications of Meyrick Judgments and NERC Act 2006

- 4.1 The SDC, having reviewed carefully the recently amended 1949 Act, and taken legal advice on certain aspects, considers it reinforces the way in which the criteria for designation were applied by the Countryside Agency in its work leading up to the Designation Order. This would suggest that Lewes and the Ouse Valley to the north should be included in the South Downs National Park. This is the SDC's preferred outcome.
- 4.2 However, should the Inspector confirm his provisional recommendation that the market town of Lewes should be excluded, the SDC draws his attention to its serious concerns over the proposed new boundary, including a number of instances where land currently in the AONB has been proposed to be excluded without justification (see map in annex 1 for the extent of AONB land at risk). The SDC's concerns regarding these deletions are set out in part 6 of this proof of evidence.
- 4.3 The changes made in the NERC Act clarify that cultural heritage and wildlife are factors that may be taken into account when determining if an area has sufficient "natural beauty" to be considered for inclusion in a National Park. These factors are both significant in the context of Lewes and the Ouse Valley north of the town and should therefore be reconsidered.

5 Implications of NERC Act

5.1 Landscape

Geology

- 5.1.1 Whilst the SDC strongly disagrees with the provisional findings regarding a “core chalk national park”, it notes nevertheless that evidence from the Ordnance Survey Geological Survey clearly shows that Lewes lies on the chalk and is surrounded by the chalk landscape (see annex 2). The solid geological boundary of the chalk crosses the river Ouse close to Hamsey Weir which is over 4km upstream of the Cliffe Bridge in Lewes.
- 5.1.2 The Town has clear historical links with people who discovered the importance of geology in understanding the process of evolution. Gideon Mantell, one of the early palaeontologists, lived in Lewes and often visited the surrounding countryside – whilst Amon Wilds (18th C Architect) probably recognised the historical importance of these discoveries by Mantell in the use of ammonites as the capitals on a house in Lewes he designed for the geologist. The provisional recommendations also specifically eliminate a number of designated geological Sites of Special Scientific Interest (SSSIs) and Regionally Important Geological Sites (RIGS) sites which lie within Southerham Grey Pit, Southerham Works Pit and Machine Bottom Pit (see section 6.9). This is inconsistent with the approach taken elsewhere.

Boundary setting criteria

- 5.1.3 The Countryside Agency’s approach to designation required large settlements to be set, i.e. ‘embedded’, within a high quality landscape if they are to be included in the National Park. Lewes is a gap town lying on the slopes of the Downs where the river Ouse cuts through them. As it is surrounded on three sides by downland landscape that the Inspector considered met all the requirements of a National Park, Lewes can reasonably be described as being deeply embedded in the Downs. However the Inspector goes on to say: *“I am not convinced that Lewes can be said to be deeply embedded in a landscape of National Park quality. Indeed I am doubtful if the words ‘deeply embedded’ are appropriate...”*⁵
- 5.1.4 Thus it seems that the inclusion or exclusion of Lewes hinges on what is meant by ‘deeply embedded’. The Oxford English Dictionary defines ‘embed’ as ‘to fix firmly in a surrounding mass of material’. In order to tease out where this might lead we could use an analogy. Thus a knife plunged into the body of a person would be deemed to be embedded, but even then the hilt would protrude. If Lewes is taken to be that knife, then it is the SDC’s contention that being surrounded on at least three sides by landscapes that meet the natural beauty criterion then the town must be ‘de-facto’ deeply embedded. To try and argue otherwise would in the SDC’s view be stretching the English language a little too far. No one who lives in Lewes or knows the town well would think it to be anything but ‘fixed firmly’ or ‘embedded’ in the landscape of the Downs.

⁵ Paragraph 7.373, page 153, Part 2 Report – CD #3

- 5.1.5 The SDC has provided photographs from various surrounding viewpoints (see annex 3) which clearly show the town to be embedded in the Downs.

Landscape character

- 5.1.6 In his main report the Landscape Assessor recommends that any South Downs National Park should be made up of landscapes that embody ‘South Downs characteristics’ predominately of chalk. The SDC believes this approach to be fundamentally wrong. Nevertheless it notes that the Ouse valley as far north as Hamsey Church has such ‘South Downs characteristics’ given that the solid geological boundary of the chalk extends this far north (see annex 2).
- 5.1.7 The South Downs Integrated Character Assessment Technical Report, which has not previously been considered by this Inquiry, places Hamsey Church within the major river floodplains character area and specifically the Ouse Valley Floodplain⁶. In contrast, it places the village of Hamsey in the scarp footslopes where it describes the underlying geology as ‘complex’⁷. However, in annex 2 it can be seen that in this area, the chalk extends beyond the railway line right up to the edge of village.
- 5.1.8 Indeed, Hamsey is lying on what effectively forms the lower slopes of Offham Hill to the south and Mount Harry to the west. As such, the SDC considers that it forms a continuation or extension of the downland landscapes that form the core of the PSDNP. This is identical to the argument used by the Inspector in recommending the addition of Ryngmer Park (addition 8)⁸. In addition, the historic landscape map for the scarp footslopes shows that between Offham and Hamsey the landscape dates from the 15th – 17th century⁹ and remains remarkably intact, adding weight to the case for its inclusion.
- 5.1.9 The village of Offham also lies within the same character area as Hamsey and receives specific mention as one of the string of springline villages in the Adur to Ouse Scarp Footslopes¹⁰, all of which are included in their entirety in the National Park apart from Offham. While Offham lies within the Designation Order boundary, it is split by the proposed new boundary excluding Lewes and the Ouse Valley to the north.

5.2 Cultural Heritage

- 5.2.1 Whilst recognising that cultural heritage was considered as part of the assessment of Lewes, the SDC is unsure as to the weight that was given to this aspect of “natural

⁶ See map in Section F (Major River Floodplains), South Downs Integrated Landscape Assessment – Technical Report; Land Use Consultants; December 2005 (CD #14)

⁷ Paragraphs 1.1 & 12.1, Section I (Scarp Footslopes), South Downs Integrated Landscape Assessment – Technical Report; Land Use Consultants; December 2005 (CD #14)

⁸ Paragraph 7.391, page 158, Part 2 Report – CD #3

⁹ See also paragraph 1.14, Section I (Scarp Footslopes), South Downs Integrated Landscape Assessment – Technical Report; Land Use Consultants; December 2005 (CD #14)

¹⁰ Paragraphs 12.1 & 12.12, Section I (Scarp Footslopes), South Downs Integrated Landscape Assessment – Technical Report; Land Use Consultants; December 2005 (CD #14)

beauty”. It is also clear that the cultural heritage of Lewes was not properly examined at the inquiry as there was little or no debate on it. The SDC therefore wishes to draw attention to specific aspects of cultural heritage relevant to Lewes and the Ouse valley as well as new information that have become available since that earlier Inquiry.

Ouse Valley North of Lewes

- 5.2.2 The line drawn for the proposed deletion of Lewes from the National Park along the Offham road (A275) severs part of the downland landscape and splits a key historic cultural site (Offham Chalk Pit) from its context. This chalk pit contains the remains of one of the earliest funicular railways in the world which ran beneath the road in twin tunnels and then down to the Ouse levels (see diagrams and relevant articles in annex 4). During the industrial revolution this railway took chalk from the pit down to barges on the canal system below so that it could be transported for both agricultural improvement and lime mortar production. There are very few remnants of the 18th and 19th Century Industrial Revolution on the South Downs and this is perhaps the most important. It is worth noting that the historic coach road passes within a few feet of the base of the funicular railway embankment at the foot of the scarp slope and thus there are ideal opportunities for improved interpretation of this historic feature if included within the National Park as originally proposed. The coach road is one of the key public rights of way out of the town and links with the surrounding downland paths at Offham. The natural beauty of this site was recognised when the AONB boundary was designated at the base of the scarp slope.
- 5.2.3 Within the Ouse Valley area recommended for exclusion lies one of the earliest remains of the lock gates (south of Hamsey) that aided in the canalization of the river during the industrial revolution.
- 5.2.4 More important in cultural heritage terms is the first settlement on the flood plain of the Ouse of which there is any written record – the monastery and deanery (or college) at Malling. A 13th century copy of the monastery foundation charter puts its establishment around 765 and it would thus be one of the earliest Christian outposts in the region. Unfortunately the original charter was destroyed in a fire and the later copy seems to raise a number of queries relating to the precise site and date of the foundation. Brigid Chapman in her ‘The Chronicles of the Cliffe and South Malling 688-2003 AD’ (see annex 5) states that: “*The Reverend Edward Turner, writing in the Sussex Archaeological Collections of 1852, places the monastery ‘rather more than half a mile to the north of the town of Lewes, on a verdant eminence, gently rising above the banks of the River Ouse’. This site [which is Grade II listed] – occupied since the sixteenth century by Old Malling Farmhouse – and the South Malling site of the college at the time of the Dissolution, are both on the line of a Roman road and both once had river crossings.*”
- 5.2.5 The Conservation Area Appraisal for the Malling area which Lewes District Council aims to have completed in 2009 will hopefully resolve these outstanding archaeological and historic issues. Nevertheless, despite the problems of its precise location, there is no doubt that there are the remains of two important early Christian foundations close to the banks of the river Ouse at Malling.

- 5.2.6 The recent work of the Hamsey and Barcombe Project (funded by English Heritage) has shown that there is significant evidence of Mesolithic occupation, and possibly settlement, in the Hamsey area. The siting of Hamsey Church, Grade I listed, and Hamsey Place Farmhouse, Grade II listed, on a chalk projection around which the river flows illustrates perfectly the medieval use of the word ‘Hamm’ to describe such a position in the naming of the village.
- 5.2.7 Whilst some of these key cultural heritage sites may be presently unmanaged and in some cases neglected this in no way diminishes their national importance and we consider that the Countryside Agency was quite correct in including this ‘naturally beautiful’ landscape with the National Park. Additionally, the proper management, conservation and interpretation of these special cultural heritage features make it ‘especially desirable’ that they should be included within the National Park.

Lewes

- 5.2.8 Whilst the SDC’s submission on the Market Towns of the South Downs (CD 260) emphasised the cultural importance of Lewes the SDC believes that this aspect of natural beauty may not have been given sufficient weight in the Inspector’s provisional findings. Moreover two new reports have become available since the closure of the first part of the Inquiry which emphasise the national importance of the cultural heritage of this architecturally important town and its relevance to any consideration of the natural beauty of the South Downs.
- 5.2.9 The two new documents that highlight the importance of the cultural heritage of Lewes are:
- a) Lewes - Historic Character Assessment Report by Dr Roland B Harris – dated March 2005 but published in 2007. This is one of a series of extensive urban surveys in East and West Sussex that were funded by English Heritage (as part of a national programme)¹¹.
 - b) A ‘Lewes Conservation Area Character Appraisal’ has been produced by Lewes District Council in April 2007 and published on its web site in late December 2007¹².
- 5.2.10 In summary the purpose of document a) is to “...*deliver a unique and flexible tool to aid the understanding, exploration and management of the historic qualities of one of the most significant towns in Sussex with a view to:*
- *Archaeological and historic environment research and management;*
 - *Informing strategic and local policy;*

¹¹ Lewes - Historic Character Assessment Report by Dr Roland B Harris (dated March 2005 but published in 2007) – CD #24

¹² Lewes Conservation Area Character Appraisal, Lewes District Council (April 2007) – CD #25

- *Underpinning urban historic land and buildings management and interpretation;*
- *Encouraging the integration of urban historic characterization into the wider process of protecting and enhancing urban character.”*

5.2.11 The purpose of document b) is to underpin the production of a Conservation Area Management Plan which when combined with document a) will make it far easier for the relevant authority to plan and manage this key downland historic environment.

5.2.12 Both these documents reinforce and add significant weight to the Natural England viewpoint that Lewes should be included in the South Downs National Park.

5.2.13 As these documents were not available previously there is a compelling case for the inclusion of Lewes in the National Park to be re-visited. This applies equally to all those towns/large villages within the proposed South Downs National Park where English Heritage has funded the production of Historic Character Assessment Reports or the relevant District Council has produced Conservation Area appraisals.

5.2.14 It is particularly noteworthy that both the reports produced for the town of Lewes are extremely erudite and comprehensive and, by giving clear guidance on the relative importance of ‘cultural heritage’, would make the job of the National Park Authority in conserving and enhancing this environment far easier than the Inspector previously anticipated. Furthermore those documents would make the job of promoting the understanding of the special qualities of the place – and dealing with planning applications and producing a Local Development Framework – much simpler.

5.2.15 Since spending on these key conservation functions is currently given low priority by the relevant authorities it is therefore ‘especially desirable’, that Lewes be included within the South Downs National Park.

Other ‘Cultural Heritage’ considerations

5.2.16 There are several other aspects of nationally/internationally important ‘cultural heritage’ relevant to the town of Lewes which are not covered in any depth by the two documents mentioned previously and which reflect its distinctive character. Details of them are given in annex 6. The opportunity to interpret and manage them and show their relationship with the downland surrounding Lewes would be lost if they were separated from the National Park by an artificial boundary.

5.3 Wildlife

5.3.1 The NERC Act also states that ‘wildlife’ should be taken into account when considering ‘natural beauty’. Given that the SSSI at Offham Marshes (see annex 7) lies adjacent to the proposed new boundary around Lewes, with respect to the boundary setting criteria (see section 6 on Meyrick) and the NERC Act, the SDC cannot understand how this area does not meet the National Park criteria and warrant inclusion.

5.4 Recreational Opportunities and Proximity to Centres of Population

- 5.4.1 One of the key general principles for the establishment of a National Park is that it should be close to centres of population and should offer recreational opportunities for people from all social and economic backgrounds – including the disabled.
- 5.4.2 Since the first part of this Inquiry closed the national policy framework has reinforced the proximity principle through emphasis on sustainability and green infrastructure and the consequences of climate change.
- 5.4.3 It is the SDC's contention that Lewes, as a key gateway town for the PSDNP, should be within the boundary to ensure that strategic planning and other policies involving, for example, transport, can be led by the NPA to ensure an integrated approach to fulfil national park purposes. It is also noteworthy in this context that section 62 of the NERC Act removes the prohibition on national park authorities incurring significant expenditure in support of their socio-economic duty contained in section 11A(1) of the 1949 Act.
- 5.4.4 The inclusion of the Ouse Valley north to Hamsey, with both its level footpaths and river linkages to the town and the latter's railway/bus services, would in our view, reinforce the ability of the South Downs NPA to achieve its social inclusion remit.
- 5.4.5 Section 72 of the NERC Act gives NPAs power under the Road Traffic Regulation Act 1984 to make traffic regulation orders and other traffic-related orders in relation to byways, footpaths or bridleways in the National Park. These powers would thus enable the NPA to further improve links from the Town to the wider Downs were Lewes to be included within the National Park.

5.5 A Special NERC Act Consideration

- 5.5.1 Section 65 of the NERC Act gives NPAs the ability to apply to a fund for emergency assistance following a natural disaster. It is worth noting that Lewes has suffered from three such natural disasters since 1959.
- 5.5.2 If Lewes and the Ouse Valley to the north were included within the National Park then, in the event of a future natural disaster, the NPA would be able to apply for such emergency funds to help re-instate key elements of both the historic fabric and surrounding landscape. This might not receive the same attention if the area was excluded from the National Park.

6 Implications of the Meyrick Judgments for the Proposed New Boundary

6.1 General Implications for the Proposed New Boundary

- 6.1.1 In the Meyrick case, one of the points made by Judge Sullivan and reinforced by the Appeal Court is very relevant to the proposed deletion of Lewes. This was the criticism of the New Forest National Park Inspector that in reaching his conclusions regarding the Hinton Estate the Inspector was judged not to have “clearly explained” why the area met the designation criteria¹³.
- 6.1.2 The SDC would like the proposed new boundaries to be examined during the inquiry. The proposed new boundaries in many instances, have not been clearly explained, particularly when the choice of a boundary has led to substantial areas of land currently designated as AONB being proposed to be removed from the National Park. This will lead them to losing all national landscape protection if this proposed new boundary is confirmed.
- 6.1.3 Given that there have been few significant developments since the Sussex Downs AONB was confirmed, aside from the A27 Lewes bypass, it is somewhat surprising that many of these areas of AONB are proposed to be excluded. In fact there has been at least one significant development which has improved the wider landscape which was the demolition of the Lewes Cement Works (site of the current landscaped Cliffe industrial estate).
- 6.1.4 There are also instances where Natural England’s boundary setting criteria appear not to have been followed, with little or no reasoning given why a particular line was chosen.
- 6.1.5 It is worth noting the following extract from the Inspector’s Report (paragraph 7.377):
- 6.1.6 *“None of those who criticise the inclusion of Lewes in the PSDNP provide an alternative boundary to illustrate how the boundary should be drawn around the town. In this instance, however, and with the assistance of the Landscape Assessor, I have identified a boundary to reflect my conclusion that Lewes should be excluded from the PSDNP.”*
- 6.1.7 It is clear from this that the Inspector has relied on the advice of his Landscape Assessor in producing the boundary. As with the Western Weald, and while not party to the exact detail of the above advice, the SDC has concerns about its soundness and the absence of a clear explanation of the proposed new boundary.
- 6.1.8 In order to avoid the pitfalls clearly highlighted by Meyrick, the SDC believes that these issues need to be thoroughly explored at the inquiry in order that the Secretary of State is fully apprised of all the relevant issues. If, and only if, the market town of Lewes is to be excluded from the National Park, the SDC’s preferred boundary is shown in annex 8.

¹³ Paragraph 74, Meyrick Judgment (High Court) – CD #9
Paragraphs 21, 44 and 47, Meyrick Judgment (Court of Appeal) – CD #20

6.1.9 The cases where the SDC consider that the proposed new boundary is flawed, are listed below. The sections listed refer to the areas shown on the boundary map in annex 8.

6.2 Village of Offham (Sections A & B)

6.2.1 By drawing a boundary along the A275 the village of Offham is split. This is inconsistent with the general approach to communities within the National Park and contrary to Natural England's boundary setting criteria¹⁴. No explanation was given as to why it would be especially desirable to set aside this boundary setting criterion and the SDC believes that this section of the boundary is therefore flawed.

6.3 Land to the north of Offham (Section A)

6.3.1 There is approximately 0.5 square kilometres of land, currently designated AONB, which lies to the north of Offham up to Cooksbridge and to the west of the railway line. This is proposed to be excluded from the National Park yet it is naturally beautiful, largely chalk, overlooked from the surrounding downland, and has direct access by public footpath from its northern end, thereby satisfying the designation criteria. It also has a clear boundary with the railway line.

6.4 Offham Marshes SSSI (Section B)

6.4.1 This SSSI, details of which are shown in annex 7, is immediately adjacent to the proposed revised national park boundary, running from the A275, down the wooded steep chalk slope, across the marshes to just beyond the railway line (see also annex 9). The boundary setting criteria state that "*features of scientific, historic or architectural value which are situated on the margins of a National Park should be included where practicable*"¹⁵. Therefore it is surprising that this SSSI is not contained within the National Park.

6.4.2 In any case, the area is an attractive landscape in its own right, with the western fringe being the wooded chalk slopes of Offham Hill, the main bulk of which is inside the boundary.

6.4.3 The SDC believes that the Offham Marshes area fully meets the natural beauty criterion, has good public access, as well as being heavily overlooked from the surrounding areas so that it reads as part of the South Downs landscape.

6.4.4 Divorcing this SSSI from the wider downland will potentially make a holistic approach to the management of this key wildlife area more difficult. The proposed new boundary currently splits the Offham Marshes SSSI (outside the National Park) from the Clayton to Offham Escarpment SSSI (inside the National Park). A reason for designation of the Offham Marshes SSSI is its large population of breeding toads. However, whilst toads breed in the marshes, outside the breeding season they forage

¹⁴ Paragraph 2.2, page 8 – CD 33

¹⁵ Boundary setting criteria j, Paragraph 2.2, page 8 – CD 33

in the Clayton to Offham Escarpment SSSI. Thus it could be argued that there is an actual ecological link as well as a landscape link between the two SSSIs. They are virtually contiguous wildlife assets and would benefit from both being included within the South Downs National Park as proposed in the Designation Order.

6.5 West of Lewes – Reservoir (Section C)

- 6.5.1 The boundary around the housing estate near Landport Bottom quite sensibly follows the urban edge as this is a clearer boundary on the ground than that of the present AONB. However, towards the south, to the west of the hospital and the prison, there is a small grass covered reservoir which is proposed to be excluded without any clear justification.
- 6.5.2 The reservoir is in a sweep of landscape that contains the Lewes Racecourse Site of Nature Conservation Importance (SNCI) (L32, annex 9) and is in itself within the AONB. Most of this SNCI lies within the designated National Park apart from the small area corresponding to the covered reservoir. Covered reservoirs are generally barely visible as landscape features yet can be important for nature conservation. The thin, chalky soil that overlays them often provides good conditions for chalk-loving plants for which the South Downs are noted. There are examples of covered reservoirs on the South Downs that are identified as SNCIs because of their wildlife interest. For instance Mill Hill SNCI, near Shoreham, contains two covered reservoirs, both are rich in plant life and one contains the uncommon plants autumn-ladies tresses and autumn gentian. Given that the NERC Act amendments clearly allow for wildlife to be a consideration when assessing natural beauty, this is just such a case.
- 6.5.3 The SDC believes that there is no sound basis for proposing to exclude this part of the Lewes Racecourse SNCI from the National Park, particularly when the urban fringe would make a clearer boundary.

6.6 West of Lewes – Along the A27 (Section D)

- 6.6.1 The SDC appreciates that with the upgrading of the A27 since AONB designation some boundaries might warrant being altered. However, it is concerned that the proposed boundary west of Lewes along the A27, extends well beyond the town for no clear reason. The SDC believes that if, and only if, Lewes is excluded, the boundary should follow the existing AONB boundary leaving in land which is important in the setting of the surrounding landscape.
- 6.6.2 In addition, this area proposed for exclusion from the National Park contains the source of the Lewes Winterbourne, a chalk stream which is a key characteristic of the South Downs and at its very western end the toll house, a grade II listed building south of the A27.
- 6.6.3 Should Lewes be excluded, the SDC's preference is for the AONB boundary to be used in this area. However, if this is no longer felt to be appropriate, then the SDC would suggest that the dotted line on the map in annex 8 should form the new boundary. This line is drawn tightly around the A277, Ashcombe roundabout and the

A27. It would result in the listed toll house and land important in the setting of the surrounding landscape being included in the National Park.

6.7 South of Lewes - Towards Kingston (Sections E & F)

- 6.7.1 South of the railway and A27 there is a small tongue of development along the Kingston Road, extending south-east towards Kingston village which is somewhat divorced from Lewes. Currently the whole of this area south of the railway (and the A27) is designated as part of the Sussex Downs AONB. While there is an obvious need to avoid splitting Lewes if it is to be excluded, the proposed boundary also excludes AONB land either side of this built development with no clear reasoning being given for this. The proposal is also inconsistent with the way that the boundary has been determined around other urban areas, where it comes right up to the urban fringe. Again no clear reasoning has been given as to why it is necessary to vary the approach in this instance.
- 6.7.2 North-west of the tongue of development is high quality land, some with ancient chalk grassland and the well-used recreational route of the Jugg's Road. East of the development, the land, while lower-lying, is important in the landscape and the setting of Lewes and is served by a footpath and cycleway around its outer edge. Both parcels of land clearly meet the National Park criteria and should be part of the National Park, even if Lewes is excluded.

6.8 South of Lewes – North of the A27 (Section G)

- 6.8.1 This medium sized piece of land lies within the current AONB but north of the A27. Despite this it maintains its connectivity with the wider downland and includes two important Scheduled Ancient Monuments. These include one of international significance (Lewes Cluniac Priory) and the enigmatic Calvary Mount (see annex 10). Colin Brent in his book, 'Historic Lewes and its buildings' (1975) (see annex 11) says of this feature, "*was the Mount a Neolithic harvest/fertility hill, a Norman motte or a Cluniac Calvary, before becoming a Prospect Mount for the Sackville's at the Lord's Place*"?
- 6.8.2 Given the importance of this area and its continued linkage with the wider downland despite the construction of the A27 bypass, no clear reasoning has been given for its proposed deletion. The SDC firmly believes that this area should be reinstated and if Lewes is to be excluded, the old AONB boundary used instead here.
- 6.8.3 It is also worth noting that the proposed new boundary in this area, which when close to the A27, follows a line along the bottom of embankments or at the top of cuttings. This is inconsistent with the boundary approach from Shoreham to Falmer. In this instance, the Inspector recommends in paragraph 7.452 (CD #3) that the boundary should follow the northern edge of the A27, rather than "*...the much more complicated PSDNP boundary that in many places somewhat pointlessly seeks to exclude cuttings and embankments.*"

6.9 South-East of Lewes – The Pits (Section H)

- 6.9.1 This area is home to three geological SSSIs (Southerham Grey Pit, Southerham Works Pit and Machine Bottom Pit.) which are also Regionally Important Geological Sites (RIGS) (see annex 12). No clear reason has been given for proposing to remove these areas from the National Park when all of them are currently designated as part of the AONB.
- 6.9.2 In addition, all three SSSIs lie immediately adjacent to the proposed new boundary and in accordance with Natural England's boundary setting criteria should be included within the National Park, whether or not Lewes is included¹⁶.

6.10 South-East Lewes – Lewes Railway Land (Section I)

- 6.10.1 The proposed deletion of Lewes results in a boundary that runs just to the east of two SNCIs, Lewes Railway Land (L33, annex 9) and Railway Land Meadows (L80, annex 9), excluding both from the National Park. Both SNCIs are very valuable from a wildlife perspective and are the focus for a major community project that delivers a superior visitor experience. Indeed the Railway Land Wildlife Trust has been active for many years on this site and is in the process of developing a major environment centre project. These SNCIs are a major feature of both natural beauty and provide an exceptional opportunity for open air recreation. If and only if Lewes is excluded it is recommended that the boundary be amended to include these two SNCIs.

6.11 Ouse Valley north of Lewes (Section J)

- 6.11.1 As outlined in section 5 of this proof, the SDC believes that the Ouse Valley north of Lewes meets both the natural beauty and recreational criteria for National Park designation. While the SDC acknowledges that there is some visual impact on the area from the urban fringe, this is localised in nature and the overall feeling when in this area is of being within a high quality chalk valley landscape overlooked by the Downs on either side. The SDC believes that the proposed deletion of this area has not been fully justified. Therefore the SDC believes that this area should be included even if it is ultimately decided not to include the market town of Lewes.
- 6.11.2 Given that it is not desirable to create 'holes' in a National Park, this boundary is only preferred if Lewes is to be excluded. It is for that reason alone that a small area on the eastern side of the valley has been omitted from this section for inclusion in the National Park.

¹⁶ Boundary setting criteria j, Paragraph 2.2, page 8 – CD 33

7 Conclusions

7.1 The SDC considers that the Countryside Agency was correct in its assessment of the ‘natural beauty’ of the landscape in Lewes and the Ouse Valley north of Lewes as far as Hamsey. There are significant examples of important features of ‘cultural heritage’ within both the town and the Ouse valley to the north that need to be taken into account as a result of the NERC Act and reinforce the case for including these areas in the National Park. The underlying chalk geology of the area highlights the area’s direct link with the Downs. Moreover the town’s location principally on chalk spurs results in it having a very strong downland character as well as an intimate and integrated relationship with the surrounding sweep of naturally beautiful downland landscape. Lewes is therefore clearly set or embedded in the Downs and does not subsume them from any vantage point.

7.2 The inclusion of these areas within the National Park is supported by both Lewes Town Council (which is a member of the SDC) and Lewes District Council which summarises its position and the qualities of the town as follows (see annex 1): *“The District Council has consistently supported the inclusion of the town of Lewes in the proposed national Park for the following reasons:*

- *Lewes is surrounded by high quality downland landscape, which meets the statutory criteria for NP designation (This is notwithstanding the conclusions drawn by the Inspector in paragraphs 7.370 to 7.378 of his Report).*
- *The town is strongly related visually, historically, socially and economically to the surrounding downland.*
- *Lewes has an extensive and well preserved historic core which reflects its longstanding role as a military, ecclesiastical, trading, social and administrative centre for the surrounding area.*
- *The historic character of the core is not compromised by the scale, visual impact or intrusiveness of the more modern development which surrounds it.*
- *Lewes is able to make a strong contribution to the purposes of the National Park by providing visitor facilities and a transport gateway to The Downs, by road, public transport and rights of way.”*

7.3 These points are reinforced in the recently published book ‘The Future of the South Downs’, in which Dr Peter Brandon, a leading historian on the South Downs, states¹⁷:

7.4 *“The river valleys by which the South Downs are divided were integrated into the sheep-and-corn farms on their flanks because they offered rich summer pastures. There are few more beautiful places in England than these valleys.”* and,

¹⁷ Pages 12 & 13, Chapter 1, ‘The Future of the South Downs’ (Gerald Smart & Peter Brandon, Editors; Packard Publishing Ltd. 2007) – CD #18

- 7.5 *“If the special place of the South Downs in our culture lies in its recognition as a ‘quintessentially English landscape’ then Lewes is a quintessential English town (Plate23), with its castle, former markets, a coaching inn and merchants’ houses in their superb downland setting. In many respects it can be regarded as ‘the capital of the South Downs’. It is not a town just like any other. The New Economics Foundation considers that it has not been ‘cloned’ by the relentless spread of chain-stores as have most larger towns, and thus the degree of loss of aesthetic, architectural and civic diversity is small.”*
- 7.6 Overall, given the wealth of evidence about the quality of the landscape and the location of the town, wedged between the chalk hills, the SDC firmly believes that Lewes and the Ouse Valley to the north should be confirmed within the South Downs National Park. If this position is not supported, then the SDC would propose that the National Park boundary around Lewes should be the one outlined in annex 8.