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**Response on behalf of Tarmac  
(Southern) Limited to 1147/1/2 South  
Downs Campaign document: The  
Demise of the Concept of  
Characteristic Natural Beauty**

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**MILLS & REEVE**

In this response we use the headings employed by SDC in their document and make comments on some of their submissions. Overall their document does not affect the proper approach to characteristic natural beauty, that it is and always has been inherent in the statutory test. The changes in legislation following the New Forest decision have not affected the Characteristic Natural Beauty element at all. They were directed at a different issue.

## **1 Introduction**

- 1.1 SDC 1.2-1.5 The role of the Secretary of State in the designation process is to scrutinise and if necessary to amend<sup>1</sup> what the designating authority has proposed. At the New Forest Inquiry the Secretary of State endorsed the application of the correct statutory test for characteristic natural beauty – the Inspector there commented that “few suggest that there is no core of land meeting the criteria”<sup>2</sup>. He goes on to identify that core – and the Secretary of State went on to confirm it.
- 1.2 SDC 1.2 and 1.6 This is wrong. The changes to the legislation have not changed the test on natural beauty at all.

## **2 The Sandford Review (CD86)**

- 2.1 SDC refer to The Sandford Review and the Government’s response to that review in some detail. But they quote selectively from that report.
- 2.2 SDC try to say that Sandford does not rule out different characteristic natural beauties. However all they can say (para .2.2.1 and 2.2.3) is that national parks contain an aggregation of landscapes of high scenic quality and that they are not confined to a single characteristic landscape. This is to misunderstand the question. Of course there are different landscapes – the passage from Sandford they quote at 2.2.1 says that. And there may well be more than one characteristic landscape<sup>3</sup>. But the question is “what is the characteristic natural beauty?”

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<sup>1</sup> 1949 Act Sch 1 para 2

<sup>2</sup> Para number 1.221

<sup>3</sup> See also para 2.7 of 762/1/2 –supplementary proof of of David Jarvis which accepts that

- 2.3 Paragraph 1.3 of Sandford first reminds us of the Dower Report's definition of a National Park

*"a National Park is an extensive area of beautiful and relatively wild country in which, for the nation's benefit and by appropriate national decision and action, (a) the characteristic landscape beauty is strictly preserved ..."*

- 2.4 That definition was the one accepted by the Hobhouse Committee. It has not hitherto so far as Tarmac is aware been argued at this inquiry that this supports the argument that the area designated should have characteristic natural beauty. However it does in fact do so. It would be odd to designate an area and then seek to find its characteristic natural beauty which is what those who criticise Dartmoor maintain. Rather, the area to be designated must have characteristic natural beauty which is then preserved.

- 2.5 Sandford goes on at paragraph 1.6 to quote section 5 of the 1949 Act, presaging the quote with the remark that the 1949 Act *"translated the concepts of the time into the more formal language of statute ..."*. What were the concepts of the time being referred to here? Clearly they were the Dower and Hobhouse reports – reports which required the preservation of characteristic landscape beauty (Dower) and laid out a boundary for (inter alia) the South Downs National Park (Hobhouse) which at Binstead closely matches that being advanced by the Inspector and Tarmac. The meaning of natural beauty was never an issue in the context of the South Downs but nor has it changed since Hobhouse/the 1949 Act. This interpretation is confirmed by paragraph 2.1 of Sandford which states that,

*"The dual purposes stated in the 1949 Act – the preservation and enhancement of natural beauty, and the promotion of enjoyment by the public - correspond closely with the two dominant purposes of Dower, but his wording is more illuminating than the formal language of the statute. His first aim was that, "the characteristic beauty of the landscape shall be strictly preserved"*

### **3 The Dartmoor Inspector's Report**

- 3.1 SDC 2.5.3 SDC say that Sandford and circular 4/76 ruled out having more than one characteristic landscape type. However that is not what their quotations say. The quotes simply say that extensions into different landscape types had not been

considered. Of course there can be more than one landscape type in a national park. The question is, what is the characteristic natural beauty? The statutory test requires *characteristic natural beauty* and it always has done. The issue is not one characteristic landscape type or several. The issue is does the park have characteristic natural beauty?

#### **4 The New Forest**

4.1 At para 3.1 SDC say that the New Forest Assessor failed to mention Sandford or Circular 4/76 in setting the context. However she listed Sandford at para 1.4 as key material. She cannot have failed to have regard to it.

4.2 SDC suggest (paras 3.1-3.3) that the New Forest Assessor just relied on Dartmoor. However she discusses the subject at her paras 3.1-3.22 and at 3.6 says

4.2.1 I support the notion (as did the CA in Table 1 of CD104 and in many of their responses to objectors) that the key primary consideration of natural beauty is the presence of outstanding landscape quality through the presence of intact and distinctive New Forest landscape character, with an absence of atypical or incongruous features.”

**Mills & Reeve LLP**

**for Tarmac (Southern) Limited**

**21<sup>st</sup> May 2008**