

12<sup>th</sup> November 2009

Dear Sir/Madam

## **SOUTH DOWNS NATIONAL PARK**

### **Introduction**

1. Following the Secretary of State's decision letter of 31<sup>st</sup> March 2009, the Secretary of State has now considered with care the latest report of the Inspector, Mr Robert Parry BA DIPTP MRTPI ("the Inspector"). The Inspector's latest report follows two earlier public inquiries. The Inspector held a public local inquiry under Part I of the First Schedule to the National Parks and Access to the Countryside Act 1949 ("NPACA 1949"), paragraph 2(3)(b). The inquiry was extended to hear the separate but related issue under section 63 of the Environment Act 1995 of the establishment of a South Downs National Park authority.

2. The first phase of the inquiry ran from 10 November 2003 to 18 March 2005. The Inspector submitted the report of his first inquiry on 31 March 2006 (referred to in this letter as "IR1"). There was a further period of public consultation between August and September 2007. The public inquiry was then re-opened and ran from 12 February 2008 to 28 May 2008. The Inspector submitted the report of his re-opened inquiry to the Secretary of State on 28 November 2008 ("IR2"). The Inspector also produced some answers to a number of requests for clarification which were made by the Secretary of State dated 11 March 2009 together with a short Addendum/Corrigendum Report dated 21 March 2009 ("IR3"), which clarifies a number of aspects of IR2 and also provides some helpful points of additional clarification.

3. In the Secretary of State's earlier decision letter a number of additional areas of land were recommended for inclusion in the South Downs National Park ("SDNP"). Since these additional areas had not been through the consultation process required by paragraph 2(3) of Schedule 1 to the NPACA 1949 a further period of consultation took place. The consultation took place from 20<sup>th</sup> April to 13<sup>th</sup> July 2009 to consider objections/representations relating to the potential inclusion of six additional areas of land. As a result of that consultation a hearing was held on the 18<sup>th</sup> August 2009 ("the Hearing") to consider objections/representations to the potential additional areas. Since it also appeared that there may have been some confusion over the Inspector's intentions regarding part of Green Ridge, and a mistake in respect of an objection concerning Gote Farm, the Hearing also heard representations on those matters.

4. The Inspector submitted his report (“IR4”) to the Secretary of State on 28<sup>th</sup> August 2009. That report is now being made available on the Defra website alongside this decision letter on the National Parks pages at <http://www.defra.gov.uk/rural/national-parks/south-downs/key-docs.htm>.

5. The Inspector made the following recommendations, and the Secretary of State makes the following decisions in respect of them:

### **ADDITIONAL AREAS**

5.1 **Alice Holt Forest.** In IR1 the Inspector recommended that this not be added whilst recommending that – the land to which it could have adjoined - the northern portion of the Binstead peninsula, should be omitted (see paragraphs 7.78–7.81 and in particular 7.80). However in IR2 the Inspector recommended that all of the Binstead peninsula should be included (see paragraphs 7.114-7.120). In IR3 the Inspector stated that, despite his change of position as regards the Binstead peninsula, he remained of the view that Alice Holt Forest should not form part of the SDNP (paragraph 3). This was primarily because he was not satisfied that all of Alice Holt Forest satisfied the natural beauty criterion due to the adverse impact of roads and other built development.

In the light of the Inspector’s change of position as regards the Binstead peninsula, the Secretary of State gave careful consideration to the related issue of Alice Holt Forest. The Secretary of State made a personal visit to the area and compared its qualities to those of other, included, areas he had himself visited. He considered that it was worthy of inclusion in the SDNP on the basis that it is an area of natural beauty which meets the statutory criteria in section 5 of the NPACA 1949. Thus the Secretary of State put Alice Holt Forest forward as a prospective new addition to the SDNP.

The proposal was supported by Hampshire County Council and others, and no objections were received (although both Hampshire County Council and the South Downs Campaign promoted variations to the boundary). The matter was considered at the Hearing and in IR4 (para 1.6) the Inspector recommends including the land, subject to the boundary being drawn to follow the fence that separates Rowledge School from the wider forest. He did not find it surprising that Alice Holt Forest was a tract of land now deemed to pass the statutory tests and warrant National Park status. In addition he also recommends the exclusion of Birdworld Zoo and the adjoining garden centre since they contain a significant amount of built development as well as extensive areas set aside for car parking. The Secretary of State agrees with the Inspector’s recommendations.

5.2 **Plumpton.** In IR1 the Inspector recommended including land at the eastern edge of the area identified by the Parish Council (see paragraph 7.340). Save in respect of that small change, the Inspector recommended no change to the boundary at this point. The Secretary of State sought clarification from the Inspector due to the fact that the maps attached to both IR1 and IR2 showed this as a proposed deletion and not an addition. The Inspector confirmed, in paragraph 8 of IR3, that the maps were in error in this regard and should have shown an addition rather than a deletion. On that basis the Secretary of State agreed with the proposed

addition and the reasons for it as stated in IR1, and duly put it forward for consultation. No “in principle” objections were received, and, in IR4 (para 2.3), the Inspector reiterates his recommendation that the land be included in the SDNP. The Secretary of State agrees with the Inspector’s recommendation.

**5.3 Roedean Crescent.** In IR2 the Inspector recommended a new addition to include a sliver of land which runs along the rear garden boundaries of the dwellings in Roedean Crescent (see IR2 7.192-7.193). This recommendation was made following representations from Brighton City Council to the effect that the SDNP boundary to the rear of the Crescent was largely unrelated to any physical features on the ground. The Secretary of State’s provisional view was that he agreed with that recommendation for the reasons given by the Inspector, and the land was put forward as a prospective new addition. No objections were received, and in IR4 (para 3.3) the Inspector recommends that the additional land be included in the SDNP. He found that the land in question had a cover of chalk grassland and as such is a relatively rare commodity of high intrinsic merit. In the Inspector’s opinion its inclusion in the new National Park was wholly appropriate. The Secretary of State agrees with the Inspector’s recommendations.

**5.4 Patcham Recreation Ground.** At paragraph 7.191 of IR2 the Inspector suggested an addition to the boundary in this location in order to overcome a “technical deficiency”, namely that a more obvious and clearer boundary would be the A23 which runs along the eastern edge of the site. This amendment would have the effect of bringing the Patcham Recreation Ground into the SDNP. The Secretary of State’s provisional view was that he agreed with that recommendation. He considered that there was a need for a clearer boundary and that, in any event, the recreation ground did form an attractive foreground to the wooded hillside to the west of it. On that basis the Secretary of State proposed including this as a new addition. There were no objections, and in IR4 (para 4.2), the Inspector found no reason to alter his previous recommendation that the land in question be included in the SDNP. He considered that the A23 represents a very clear physical boundary and the recreation ground itself formed attractive foreground to a wooded hillside. Hence he recommends that the additional land be included in the SDNP. The Secretary of State agrees with the Inspector’s recommendation.

**5.5 A27 embankments.** In IR1, paragraph 7.453, the Inspector said that a series of verges/embankments alongside the A27 at Brighton should be included in the SDNP. The Secretary of State agreed to these being put forward as prospective additions, and no objections were received. In IR4 the Inspector recommends that the A27 embankments be included in the SDNP subject to a variation at Southwick Tunnel to ensure that the boundary at this point is easily identifiable on the ground. The Secretary of State agrees with the Inspector’s recommendations.

**5.6 Castle Goring and land east of Titnore Lane.** There are two parts to this area of land. The first part, the land immediately east of Titnore Lane, was inside the Designation Order boundary (i.e. the boundary proposed by the Countryside Agency (as predecessor body to Natural England) in the South Downs National Park (Designation) Order 2002 (“the Designation Order”)); however some objectors sought to have it excluded. The second part is the adjoining land, at Castle Goring, which Natural England (“NE”) placed outside the Designation Order boundary; but other objectors sought to have it included. In IR1 the Inspector concluded that both

parts of the land in question should be treated as one and that both should be excluded from the National Park (which led to his proposed deletion 16) (see IR1 at 7.797-7.802). However in IR2, the Inspector reached a different conclusion, recommending that both parts of the land should be included (see IR2 7.161-7.167) (which led to the abandonment of deletion 16 and a prospective new addition). The Secretary of State's earlier decision letter gave careful consideration to the reasoning of the Inspector as expressed in IR2 and concluded that there was a meritorious case for the inclusion of both areas in the SDNP. On that basis the Secretary of State proposed this (Castle Goring) as a new addition to the SDNP and it was duly consulted upon.

Objections were received from the West Durrington Consortium ("the Consortium") and members of the Somerset family, representing the owners of much of the land in dispute. The Consortium objected because they doubted whether the land met the statutory criteria. Mr Somerset objected because he considered that the land had been wrongly included on the assumption that it was parkland associated with the house – which, he argued, was an incorrect assumption. Mr Somerset also stated that claims that Castle Goring and land to the south of it were readily visible from Highdown Hill and elsewhere were also incorrect. In IR4 (para 6.7) the Inspector was in no doubt that the land satisfied the natural beauty test. The Inspector recognised that satisfaction of the recreational test was more problematic since there was no direct public access to the site – nor any evidence that the public would be able to access the site in the future. However, he observed again (para 6.8) (as he had in IR 2 7.164) that the Meyrick judgement recognised that a National Park could "wash over" land even though public access was absent. The Inspector highlighted (para 6.9) that there was a well used footpath running along the eastern boundary which allowed striking views of the parkland landscape and the woodland beyond. In the final analysis the oral and written evidence did not persuade the Inspector that the land failed the recreational opportunities test (para 6.10), and he thus continued to rely upon his finding in IR2 (7.166) that "on balance ... the recreational opportunities test is met." Thus the Inspector recommends including the land subject to a variation to exclude built development at Forest Farm (para 6.13). The Secretary of State agrees with his recommendation.

## **OTHER NAMED AREAS**

**5.7 Green Ridge.** In IR1 the Inspector stated that if the Toads Hole Valley, which he was proposing as an addition at that stage, was not included in the SDNP, there should be a consequential change to the boundary at Green Ridge (see paragraph 7.684). In IR2 the Inspector recommended that Toads Hole Valley should not be included in the SDNP, however he overlooked the need for a consequential change to the boundary at Green Ridge (see IR2 4.80-4.93). The map at Annex A to IR3 addressed this discrepancy and confirmed his recommendation that the [western part of]<sup>1</sup> Green Ridge should be excluded (save for the embankment adjacent to the A27). In the light of that clarification, the Secretary of State agreed with and adopted the Inspector's recommendation and reasoning in respect of the exclusion of Toads Hole Valley and the western part of Green Ridge (the open space). Following the

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<sup>1</sup> The above reference to the western part of Green Ridge relates to the area referred to in the Inspector's report IR4 (paras 7.1 – 7.6). Green Ridge open space appears to comprise land to both the east and west of the Patcham windmill. It is only that finger of land to the west that has been in issue.

announcement that a SDNP would be created and the release of IR2 it became apparent that there may have been some confusion over the Inspector's intentions regarding Green Ridge (due to the use of the phrase "land North of Green Ridge", where the "Green Ridge" referred to here was in fact the adjacent road by that name). It was therefore announced that the Inspector would also consider representations on this issue. In IR4 (para 7.6), the Inspector recommends that all of Green Ridge should be part of the SDNP, thus dropping his earlier recommended exclusion of the western part of it. The Inspector was in no doubt that the land should be included in the SDNP and that it satisfied both the natural beauty and recreational opportunities tests. The Secretary of State agrees with his recommendation.

**5.8 Gote Farm, Ringmer.** In IR1 (para 7.396 – 7.399) the Inspector stated that the land was situated immediately north of the escarpment, much closer than many other parts of the Low Weald that are included in the proposed SDNP largely because of the visual influence of the steep scarp slope. The Inspector considered that the land could reasonably be included in the SDNP as it "reads" as a continuation of the core downland landscapes. The Inspector therefore recommended that the designation order boundary be amended to include land extending as far as Potato Lane and east to the rear of properties on Neaves lane. In IR2 (para 4.33) the Inspector stated that the Trustees of the Glyndebourne Estate had submitted an objection to the inclusion of area 9 but that this was later withdrawn. The Inspector considered that the new material in respect of cultural heritage put to the inquiry strengthened the case for the inclusion of the land apart from a few residential properties identified by the Parish Council. He therefore recommended that the land be included in the SDNP but adjusted to exclude residential properties at the boundary. Following the announcement that a SDNP would be created and the release of IR2, it became apparent that the Inspector's report contained a mistake in relation to an objection concerning Gote Farm since the objection had only been partially withdrawn. Hence it was announced that the Inspector would also consider representations on this issue. In IR4 (paras 8.2 - 8.6), the Inspector highlights that he had revisited Gote Farm and sees no reason to alter his recommendation. In his view the land in dispute is part of a wider tract of largely unspoilt agricultural land that satisfied that statutory tests. The Secretary of State agrees with his recommendation.

## **DEFECTIVE BOUNDARIES**

**5.9 Little Bramlands Farm, near Woods Mill Centre** The Inspector's latest report IR4 referred to a representation from a Mr D McCormick which, whilst falling outside the terms of the recent consultative exercise, was raised since it identified a technical defect in the proposed National Park boundary. More precisely, in IR1 (paragraph 7.285) the Inspector recommended that additional land in the vicinity of the Woods Mill Countryside Centre be included in the SDNP. Paragraph 4.24 in IR2 confirmed that recommendation. It now transpires that the Ordnance base used to define the additional area is out of date and the boundary shown to the rear of Little Bramlands Farm is not identifiable on the ground. The boundary at this point is therefore at odds with Natural England's boundary setting guidelines. It was suggested that the defect could be addressed by varying the boundary slightly to run along Bramlands Lane. This would bring the house and its outbuildings into the new National Park. Whilst the Inspector saw merit in the arrangement the Inspector on balance considered that the boundary should be left unaltered as the change

effectively enlarges the proposed National Park, giving National Park status to land that has not hitherto been subject to any public consultation. Rather than delay the decision and incur the expense of a further round of notices and representations the Secretary of State agrees with the Inspector's recommendation. However he also requests that Natural England look to rectify the boundary should a suitable opportunity arise.

**5.10 Boundary at Offham, near Lewes** In paragraph 7.149 of IR2 the Inspector stated that the "proposed SDNP boundary be drawn to exclude only that portion of the Conyboro Estate that lies to the east of the railway line and north of the road known as The Drove." However, that comment was not fully reflected in the subsequent recommendation set out in paragraph 7.150. The recommendation simply mentioned that part of the Conoboro Estate to the north of The Drove be excluded. The map listed as Deletion 9 in the accompanying mapping volume reflected the way the recommendation was worded rather than the Inspector's intention as set out in paragraph 7.149. As a result the SDNP boundary would split the settlement of Offham as well as the defined conservation area contrary to Natural England's boundary setting guidelines. This would not apply if the boundary reflects the comment in 7.149. The Inspector's latest report addresses this point by recommending a revised boundary (map 5) that excludes land to the north of The Drove and east of the railway line. The Secretary of State agrees with the Inspector's recommendation.

### **National Park Boundary Map**

6. The Secretary of State's final boundary will be shown on a map on the National Parks pages at <http://www.defra.gov.uk/rural/national-parks/south-downs/index.htm>.

### **Corrections to the March Decision Letter**

7. The Decision Letter of 31<sup>st</sup> March 2009 contained a number of typographical errors that we use this opportunity to correct. Namely:

7.1 The last sentence of para 67 should have read:

*"For those reasons, in addition to those given by the Inspector, the Secretary of State accepts that the **hospital** should be included". [rather than school]*

7.2 In addition we note that in the following places Roedean was misspelt as Rodean:

*The 2<sup>nd</sup> sentence of Para 67, the 5<sup>th</sup> sentence of para 67, the Heading, 1<sup>st</sup> sentence of Para 75 and Section P in para 83.*

### **Overall Decisions**

This letter and that of 31<sup>st</sup> March should be taken together to constitute the Secretary of State's decisions on all the relevant matters. The Designation Order and Variation Order (being the South Downs National Park (Designation) Variation Order 2004) are confirmed, with the modifications comprised in these letters, to take

effect on 31<sup>st</sup> March 2010 so that the Park will come into being on that date. The East Hampshire and Sussex Downs AONB Revocation Orders are confirmed, also to take effect on that date. An establishment order for a new South Downs National Park authority is being prepared, and will be laid before Parliament in the spring, with the intention that the South Downs National Park authority will be brought into being on 1<sup>st</sup> April 2010 and that it will be operational from 1<sup>st</sup> April 2011.

### **Challenges**

8. Under Part III of the First Schedule to the NPACA 1949, any person wishing to question the validity of the confirmed Designation and Variation Orders on the ground that the making or confirmation were not within the powers of the Act, or on the ground that any requirement of the Act or any regulation made under it has not been complied with may make an application to the High Court within six weeks after the date of publication of notice of the confirmation of the Designation and Variation Orders.

### **Copies of this letter**

9. This letter has been sent to local Members of Parliament and to the relevant Local Authorities. It will also be made publicly available on the Defra website.

Yours faithfully



Kim Gunningham  
National Parks Team

**For any queries contact Defra Helpline** Tel: 08459 33 55 77 Mon-Fri: 8am to 6pm  
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