



POSITION STATEMENT of the South Downs National Park Authority

MATTER 7 – Landscape, Design and Special Qualities

- a. The balance of Landscape-led and Ecosystem approaches with the wider purpose of planning,
- b. The level of landscape protection in terms of ‘conserve and enhance’,
- c. The limiting provisions of Policy SD31 for extensions to existing dwellings

DATE: November 2018

KEY DOCUMENTS for cross-reference:

- Natural England Guidance for assessing landscapes for designation of National Park (LP 08)
- Inspector’s Report for National Park Designation Inquiry 2005 Vol I (LP 09)
- Inspector’s Report for Park Designation re-opened inquiry 2 : 2008 (LP 13)
- Navitus Wind Farm Report (New Forest National Park Authority, 2015) (Core 15)
- A Green Future: Our 25 Year Plan to Improve the Environment (DEFRA, 2018) (Nat 05)
- Housing and Economic Development Needs Assessment (HEDNA) (TSF 08)

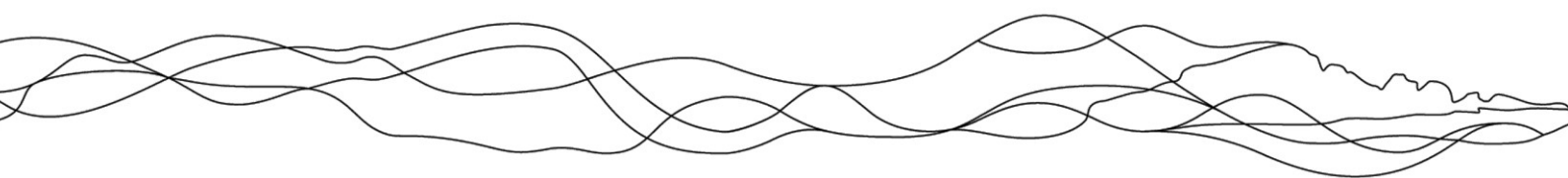
I. Introduction

- I.1 This position statement has been prepared by the South Downs National Park Authority (SDNPA) and responds to the Inspector’s invitation to submit a statement in relation to matters to be discussed at hearing sessions. In the case of landscape, design and the special qualities, reliance is chiefly placed on the core documents, background papers and responses to Regulation 19 representations. Further detail is provided below in response to the particular issues set out in INSP.4 under Matter 7 and duplicated below.

2. Issue a. – the balance of landscape-led and Ecosystem approaches with the wider purposes of planning

Introduction

- 2.1 Paragraph 109 of the National Planning Policy Framework (NPPF) states that the planning system should protect and enhance valued landscapes and recognise the wider benefits of ecosystem services. In that context, taking a landscape-led approach which incorporates the delivery of ecosystem services is an entirely appropriate approach in the protected landscape of a national park.

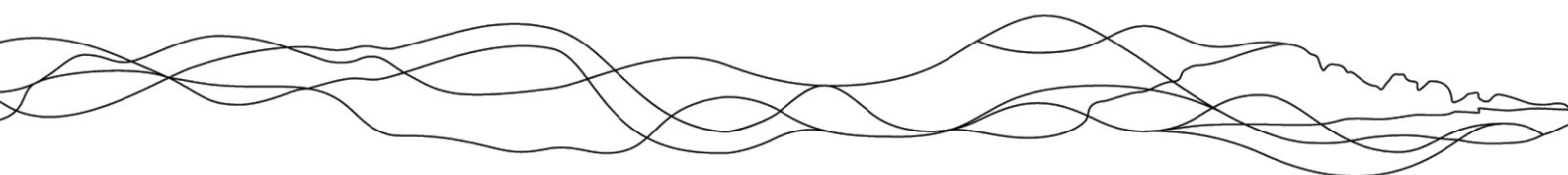


Definition of landscape and a landscape-led approach

- 2.2 The SDNPA follows the European Landscape Convention (ELC) definition of landscape, which is set out in the glossary of the Submitted South Downs Local Plan on page 538. This states that landscape is the result of the action and interaction of natural and/or human factors. Importantly, landscape is not just rolling green fields and all things perceived to be 'natural', but includes all elements of landscape such as our buildings, roads, towns, villages, hamlets and farms. These are all legitimate elements of a cultural landscape such as the South Downs National Park. A landscape-led approach responds to an understanding of the landscape and this is essential to achieve sustainable development in a nationally protected landscape. This is explained in figure 5.3 of the Local Plan.

The relevance of the statutory purposes underlying national park designation

- 2.3 The statutory purposes underlying national park designation are those set out in s. 5(1) of the 1949 National Parks and Access to the Countryside Act, as amended. These are:
- (a) To conserve and enhance natural beauty, wildlife and cultural heritage of the area
 - (b) To promote opportunities for the understanding and enjoyment of the special qualities of the national park by the public.
- 2.4 It should be noted that s. 99 of the Natural Environment and Rural Communities Act 2006 provides that the fact that an area: (a) land used for agriculture or woodlands, (b) land used as a park, or (c) any other area whose flora, fauna or physiographical features are partly the produce of human intervention in the landscape does not prevent it from being treated as an area of natural beauty.
- 2.5 S. 11A(1) of the 1949 Act, as amended provides that in pursuing the purposes identified in s. 5(1) a national park authority 'shall seek to foster the economic and social well-being of local communities within the national park'. This is the statutory socio-economic duty to be given effect to in pursuing the purposes set out in s. 5(1) above.
- 2.6 S. 11A(2) provides that in exercising or performing any functions in relation to a national park, such as development control and plan-making, all relevant authorities shall have regard to purposes in s. 5(1). This is not just the national park authority but also Inspectors and the Secretary of State (see s. 11A(3)).
- 2.7 Thus the requirement imposed by the statute on all relevant authorities is to have regard to these purposes. Ss. 5(1) and 11A(1) of the 1949 Act, as amended do not dictate the result of the exercise or performance of any functions including planning functions. They do not, for example, dictate that planning permission must be refused in any particular case or that a plan have any particular content. The statutory purposes are material considerations – very important ones – to which regard must be had. That is how these purposes bite in planning. This fits with the NPPF which says that 'great weight' must be given to conserving and enhancing landscape and scenic beauty in national parks. The statute, of course, sits above the NPPF. But in any event the NPPF is, as one would expect, consistent with the statute in terms of the protection afforded to national parks.
- 2.8 S. 11A(2) also says if conflict between the purposes in s. 5(1) itself then greater weight is to be given to conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the national park. This gives rise to several points:

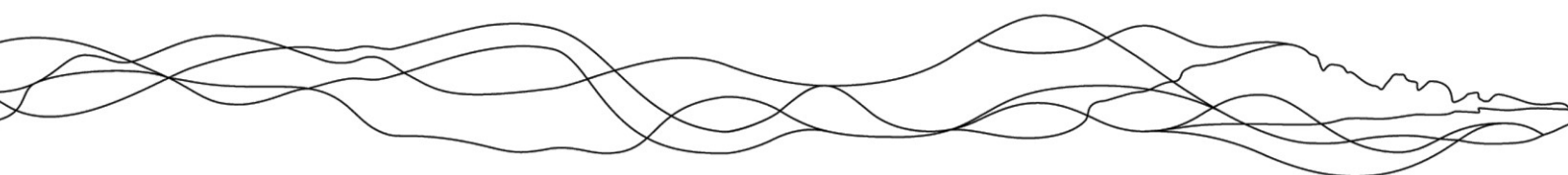


- a) This gives statutory effect to the so-called “Sandford principle” (defined in the Local Plan Glossary) or at least part of that principle;
- b) The statutory provision itself is confined to where there is conflict between (i) conserving and enhancing natural beauty, wildlife and cultural heritage of the national park; and (ii) promoting opportunities for the understanding and enjoyment of the special qualities of the national park. It is not directly concerned with a conflict between the duty to foster the economic and social-well-being of local communities and the national park purposes of conserving and enhancing natural beauty. It is, however, a marker of the importance that should be attached to conserving and enhancing natural beauty;
- c) S. 11A (2) states that greater weight should be given to conserving and enhancing natural beauty. However, it does not dictate the overall outcome. Therefore, a decision maker in planning having firstly given great weight to conserving and enhancing natural beauty may still grant planning permission for a development that caused some harm to the natural beauty of a national park.

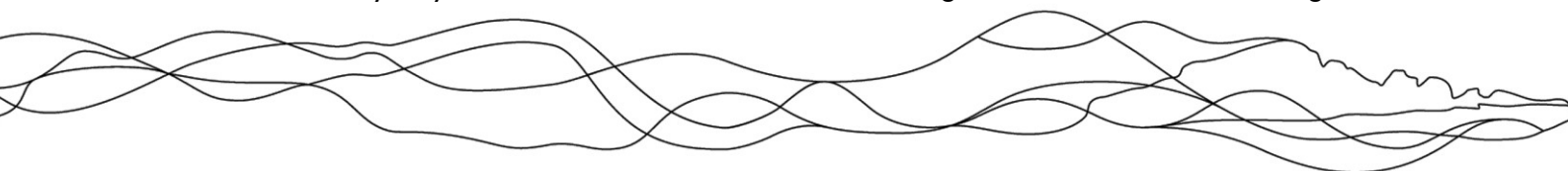
2.9 Accordingly, the purpose in the 1949 Act, as amended to conserve and enhance natural beauty is a very important material consideration to which great weight must be given. However, it does not dictate results in planning.

Designation of the National Park

- 2.10 National parks are extensive tracts of land that meets the statutory criteria for designation. The first test for designation relates to the first purpose of national parks namely natural beauty, wildlife and cultural heritage. The second test relates to the second purpose, namely opportunities for access and recreation and enjoyment and understanding of their special qualities that they offer close to centres of population. A national park provides a greenspace function to the population of the wider sub-region to experience its special qualities
- 2.11 There is a consideration about whether ‘by reason of the area’s natural beauty’ or the ‘opportunities it affords for open-air recreation, having regard both to its character and to its position in relation to centres of population’ it is ‘especially desirable’ that the area be set aside for the ‘purposes of designation’. Section 5(2) of the 1949 Act does not ask merely whether land is naturally beautiful and provides recreational opportunity. Instead it asks whether it is ‘especially desirable’ that the land should be designated as a National Park so that measures can be taken to achieve National Park purposes. Designation does not automatically follow simply because land is able to satisfy the natural beauty and recreational opportunities criteria. The ‘especially desirable test’ was debated at great length at the second part of the South Downs National Park designation inquiry and is summed up in paragraph 7.68 of the report (LPI3).
- 2.12 In defining the extensive tract of land it is not necessary for all areas to meet all parts of the test equally or to the highest degree.
- 2.13 The boundary of the South Downs National Park was drawn by applying well established and tested boundary setting criteria. It was also subject to rigorous examination through Public Inquiry (2005/06) and a further hearing in 2008. It is not for the National Park Authority to defend the boundary setting process as it does not have powers or duties to change or vary its boundary; that is a matter for Natural England.



- 2.14 A key element of these boundary setting criteria that is relevant to representations on the South Downs Local Plan relates to the need for the boundary to be drawn within an area of transition at the edge of the extensive tract of land, which satisfies the designation criteria (LP8 Appendix 4). The Inspector for the 2002 Designation Order sets this out as follows: *'Parcels of lower quality land can be 'washed over' if they are part of a wider high quality tract but I am not convinced that this discretion should be exercised where land is at the margin'* (LPI3 para 4.87). Indeed, the Inspector refers to *'there being more scope for excluding areas of land that do not satisfy the criteria where they are located close to the boundary'* (LP8 Para 1.7). Therefore if land has been included in the boundary at the edge, then it has met the stringent test of being of sufficient quality as the 'wash over' principle would not apply.
- 2.15 The criteria requires that the boundary be drawn to bring in the high quality areas, whilst being delineated by a clear feature on the ground, which is often no more than a fence or hedge. In the case of the South Downs this has resulted in several instances of the National Park boundary running along an urban edge. Land at the urban edge of the National Park is often more sensitive to impact and change through developmental and recreational pressure, which is sometimes referred to as the risk of 'death by a thousand cuts'.
- 2.16 The South Downs National Park uniquely includes larger settlements, such as the market towns of Lewes, Midhurst, Petworth and Petersfield. These settlements were included, after significant debate at the lengthy Public Inquiry, on the basis of the contribution they made to landscape quality in their own right. In addition, they sat within the extensive tract of qualifying land.
3. Issue b. – the level of landscape protection in terms of 'conserve and enhance'
- 3.1 A number of policies in the South Downs Local Plan require development proposals to both conserve and enhance, for example, Policy SD4: Landscape Character requires development proposals to conserve and enhance landscape character. These policies relate to the first purpose of the National Park, namely landscape, biodiversity and historic environment. The implication of seeking to only conserve the landscape would result in the SDNPA failing to meet the test in the NPPF for planning authorities to give 'great weight' to conserving and enhancing landscape and scenic beauty (paragraph 115 of the NPPF 2012 and paragraph 172 of the NPPF 2018). Seeking only to conserve would also not be consistent with the Government 25 Year Environment Plan policy of embedding environmental net-gain principle for development or paragraph 130 of the 2018 NPPF which says 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'.
- 3.2 The statutory purposes of designation apply to all areas of a national park equally as stated in the Navitus Wind Farm Report (Core 15). This can be an issue around the boundary of a designated landscape, which may be perceived by some to be of a lower landscape value. The areas close to the boundary are still situated within the designated area of the National Park and are subject to the same statutory purposes.
4. Issue c. – the limiting provisions of Policy SD31 for extensions to existing dwellings
- 4.4 The purpose of Policy SD31 part 1(a) is twofold. The key driver, which relates to the statutory duty of National Park Authorities, is the strategic need to maintain the existing



stock of small and medium sized dwellings in the National Park. This reflects the view expressed by communities that the lack of such smaller dwellings is proving detrimental to the sustainability of their settlements. The Housing and Economic Development Needs Assessment (HEDNA) (TSF 08) provides in section 8 (pp80-89) strong evidence that the greatest need throughout the Plan period will be for smaller dwellings.

- 4.5 Policy SD27: Mix of Homes reflects the findings of the HEDNA in expecting new homes to provide a mix of unit sizes, which is skewed towards provision of 2- and 3-bedroom homes. The SDNPA considers it would be illogical, and internally inconsistent, for the Local Plan not to include a policy mechanism which seeks to retain the existing stock of small and medium-size dwellings whilst seeking to increase their provision via new build.
- 4.6 The secondary driver relates to the need for appropriately designed extensions that do not unduly alter the character of the national park at the local level, and potentially in wider views of buildings and settlements. The SDNPA considers that applying a limit to the size of extensions, in proportion to the main housing, is an effective, pragmatic and appropriate way of ensuring subsidiarity of physical form.
- 4.7 The policy will also counter inappropriate densification of a settlement. Such effects may not be an issue apparent when looking at an individual building or plot. The cumulative impact of building extensions or outhouses on multiple plots is likely, however, over time, to significantly alter local landscape or townscape character.
- 4.8 The principle has recently been supported in a householder appeal relating to a single storey extension to a house in East Dean, Eastbourne (within the SDNP). Referring to Policy SD31 1(a), the Inspector said in paragraph 41:

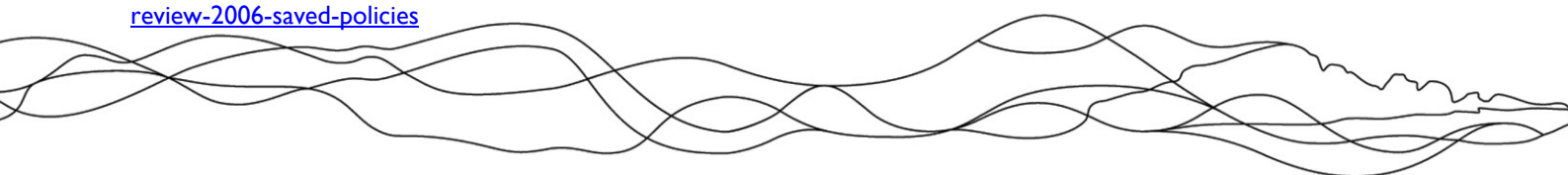
“Although there are opinions both for and against this part of Policy SD31 in the consultation responses on the Pre-Submission document, I consider that it should be given at least some weight, not least because the principle of such restraint on domestic extensions is a well-established instrument of policy in other National Parks.”

- 4.9 Quantified limits to extension sizes are not uncommon in other local plans. The extant New Forest National Park Local Plan includes Policy DPI 1: Extensions to Dwellings, which sets a 30% limit on extensions, other than in exceptional circumstances.² A further example is saved Policy H16 of the East Hampshire Local Plan Second Review (Saved Policies)³, which sets a limit of up to 50% extension to the original dwelling, applicable to dwellings between 67 and 266 sqm GIA; this policy is still operating in the National Park and will be replaced by SD31 on adoption of the South Downs Local Plan.
- 4.10 The SDNPA considers that a limit of approximately 30%, which is subject to reasonable exceptions and uses the relatively recent base date of 2002, is appropriate for achieving the two main aims of the policy. The wording of Policy SD31 and its supporting text in paragraph 7.94 makes clear that some flexibility may be applied, to take account of material considerations relevant to specific case circumstances.

¹ See <https://acp.planninginspectorate.gov.uk/ViewCase.aspx?Caseid=3205511&CoID=0>

² New Forest National Park Core Strategy and Development Management Policies DPD (Adopted December 2010) (page 44) See https://www.newforestonpa.gov.uk/app/uploads/2018/03/finalCoreStrategyDec2010_TOWEB_1.pdf

³ The Local Plan Second Review 2006 (Saved policies). See <http://www.easthants.gov.uk/local-plan-second-review-2006-saved-policies>



5 Summary

- 5.4 The three sections of this Position Statement explain how the landscape-led approach of the South Downs Local Plan is consistent with both statute and the NPPF. Seeking to both conserve and enhance the South Downs through Local Plan policies is also consistent with both statute and the NPPF. Finally, the purpose of the limiting provisions in Policy SD31 is twofold, namely to protect the stock of small homes in the National Park and protect the landscape from excessively large extensions.

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