THE SECOND STATUTORY CRITERION – OPPORTUNITIES FOR OPEN-AIR RECREATION

INTRODUCTION – SUMMARY OF THE AGENCY’S APPROACH

1. An ‘audit trail’ document drawn up for the inquiry ‘The statutory National Park criteria, their interpretation and application’ (CD301) describes at paragraph 39 the material used by the Agency to guide their identification of land meeting the recreational criterion. The quoted material is:

- Section 5(2) of the Act – ‘opportunities (afforded) for open-air recreation, having regard both to their character and to their position in relation to centres of population’;

- Section 5(1) of the Act with regard to the statutory purposes of National Parks – ‘promoting opportunities for the understanding and enjoyment of the special qualities of the (designated) areas by the public’

- The Sandford report of 1974 which noted (page 9) that people are attracted to National Parks by the quality of their natural beauty and concluded (p112) that there is a need to ‘….cater for visitors with diverse inclinations by providing opportunities and facilities for differing kinds of public enjoyment in different parts of each park....’ It also referred to ‘developing the capacity of suitable areas to absorb greater numbers of...visitors.’

- The Edwards report of 1991 which, at p9, ‘endorsed the view that the public’s enjoyment of national parks is, and should be, derived from the special qualities of the parks. This means...promoting only the quiet enjoyment of the parks, and particularly those activities which depend upon the special qualities and natural resources of these areas’.

- The Government view of recreation in National Parks as stated in Circular 12/96:

  - ‘the attraction of the special qualities of National Parks has long been recognised and is demonstrated by the numbers of visitors who seek the enjoyment of these beautiful areas and the opportunities they offer for open-air recreation’ (para 10) and

  - ‘...the special qualities (of individual Parks) will be determined within the context of (their) natural beauty, wildlife and cultural heritage and the national purposes of the Parks to conserve and enhance them. Particular emphasis should be placed on identifying those qualities associated with their wide open spaces, and the wildness and tranquillity which are to be found within them’ (para 11) and
National Park Authorities should continue to promote the widest range of opportunities for recreation to reflect the variety of ways in which the Parks can be enjoyed. But the conservation values which the Parks represent and which have led to so many appreciating their special qualities must be fully respected. NPAs will need to take into account the Parks’ limited environmental capacity’ (para 13).

2. Taking account of the above matters the Agency set out their approach to deciding whether an extensive tract of country is providing or capable of providing sufficient opportunities for open-air recreation in CD114 as follows:

‘We consider that the area needs to have characteristics that mark it out as different from the bulk of ‘normal countryside’; so it needs more than simply a network of rights of way. It should contain qualities that might merit investment to deliver a markedly superior recreational experience. While the countryside does not need to be rugged and open, a sense of relative wilderness would be important.’

3. This approach was codified into an ‘interpretation of statutory criteria’ as set out at Table 1 of CD104. The Agency encapsulates the open-air recreation criterion into 5 bullet points as follows:

- ‘The National Park should provide an extensive tract of countryside, of sufficient size to offer opportunities for open-air recreation for large numbers of people;

- There should be (existing and/or potential) scope to provide a markedly superior recreational experience, of national importance;

- Opportunities for understanding and enjoying the area’s special qualities (ie its landscape character and quality) are particularly relevant.

- Land within the National Park should be suitable for quiet enjoyment, particularly walking (therefore open access and public rights of way are relevant) and other appropriate activities eg riding, boating;

- General accessibility, catchment area, ease of travel (especially by public transport) should be taken into account, as well as openness and remoteness where appropriate.’

4. Table 2 of CD104 also gives guidance on the weight to be afforded to recreational considerations in defining the precise boundaries of a National Park once a sweep of broadly-qualifying land has been identified. Footnote 2(c) states that ‘Recreation means quiet countryside recreation related to the character of the area; that which allows people to enjoy and understand the special qualities of the Park without damaging it or conflicting with its purposes or spoiling the enjoyment of it by others. This definition can encompass a number of different activities’.

5. Finally, Appendix E of CD104 provides some information about open-air recreation of the New Forest and public enjoyment of the area.
MAIN THEMES OF REPRESENTATIONS ABOUT THE RECREATION CRITERION

6. On the whole those making representations about the Agency’s proposals did not take great exception to the general content of Tables 1 & 2 in CD104 insofar as they relate to the open-air recreation criterion. Objectors mainly confined their cases to site-specific issues, suggesting that a particular tract of land included in the Order did not meet the criterion to a sufficient extent (or that an area of excluded land did achieve the necessary standard).

7. However, two common threads occurred from time to time, from which certain general issues emerge. I consider these in turn.

(1) How far can ‘potential opportunities’ be taken into account in areas currently without major areas of current open access or substantial networks of rights of way?

8. This issue was raised by, among others, Associated British Ports (350) and the Hinton & Avon Tyrrell Estates (118 and 162).

9. It seems to me inherent in the term ‘opportunities for open-air recreation’ that consideration needs to be given not only to existing conditions but also to appropriate assessment of the potential of land with qualifying natural beauty to provide for additional forms of recreation in the future. I therefore have no difficulty in agreeing with the Agency’s boundary setting criterion 2c that areas should be included if they ‘provide or are capable of providing a markedly superior recreational experience’. The issue is what factors need to be considered in making a judgement about an area’s ‘capability’ to do so.

10. The Agency’s general view is that there is a direct relationship between the outstanding landscape resource and the recreational experience. In other words, an existing or potential markedly superior recreational experience flows from the degree to which the area offers the ability to gain enjoyment and understanding of the character and special qualities of the nationally-important landscape setting. While this must be so, it does assist very far in determining what is required to demonstrate that an area does in fact offer, or is capable of offering, a markedly superior recreational experience.

11. My attention was drawn by ABP to material produced on behalf of the Agency relating to the area of search for the South Downs National Park (3504/6). This states (p9) that;

‘... potential markedly superior recreational experience might be achieved through improved accessibility to a highly attractive and diverse landscape, or a change to a landscape arising from restoration of downland, heathland or woodland, as a result of the work of an NPA.

However, future possibilities or ‘potential’ for markedly superior recreational experience has not been assessed to the point where potential provision of recreation becomes speculative, unrealistic or impractical.’ [ABP’s emphasis]
12. The same document goes on (also p9) to provide a helpful list of 13 factors that were used to assess opportunities for a markedly superior recreational experience in the various landscape character areas of the South Downs. Factors 12 and 13 are:

12. Current use of area and future recreational capacity

13. Potential for improving recreation provision with possible changing land uses

13. The view of Hinton and Avon Tyrrell Estates was that while consideration can be given to realistic potential facilities, vague or unrealistic aspirations will not suffice. However, at times some objectors appeared to adopt a very narrow approach, for example to rule out any facilities not already programmed for implementation, or not specifically identified by the Agency as likely candidates for adoption by a future NPA.

14. I consider this an unrealistic and excessively conservative approach. The Concise Oxford dictionary defines ‘opportunity’ as ‘a chance or opening offered by circumstances’. It does not require one to be too ‘speculative’ to recognise that the circumstances surrounding the realisation of recreational potential can and do change, but that some forms of change are more likely to occur than others, having regard to particular local conditions.

15. So in my view the following question needs to be posed in relation to ‘potential opportunities’:

Is it feasible to conclude that the area’s potential scope to provide a markedly superior recreational experience (based upon and complementing the landscape character and quality of the area) could be achieved within a reasonable time-scale after designation, without the application of unrealistic levels of resources, and without interfering excessively with other competing interests?

16. In other words, a broad, practical and common sense conclusion is needed about the ways that an NPA (or independent landowners in a designated National Park) might act within the circumstances of the particular tract of land.

17. The particular circumstances of the New Forest give an added dimension to this issue. The New Forest Committee’s Draft Strategy for the New Forest (CD215) states at paragraph 1.7 that its ‘remit has been extended beyond the New Forest Heritage Area to include the National Park boundary as shown in the...designation order.’ The strategy (which represents the joint view of the 9 bodies listed at 1.12) therefore presents a prototype of a National Park Management Plan which is to be ‘handed on to a National Park Authority...if such a body is set up for the Forest.’

18. One of the strategy’s primary aims in terms of managing recreation is to seek ways of relieving pressures on remote areas and fragile habitats within the Crown Lands and locating visitor facilities in more robust and less sensitive locations with easy access from main roads. Other aims are to improve, integrate, and extend
cycling routes and footpaths, especially links between the open forest and nearby towns.

19. These pressures and general aims are recognised in the ERM boundary study for the NFNP (CD126) at p34-36. The final paragraph states that:

‘The area’s future potential for recreation will depend on both improved management of existing recreational resources, and the development of new opportunities for open-air recreation. To optimise this potential – and to protect the Forest’s traditional quiet, pastoral character – the Forest core, the coast and the peripheral landscapes of the Forest need to be managed as a whole. The inclusion of marginal areas within the National Park offers new scope to alleviate pressures on the Forest core and at the same time to meet additional recreational needs, especially those of local residents and day visitors, in a sustainable way.’

20. [Some objectors asked whether use of the terms ‘peripheral’ and ‘marginal’ in this context meant that the statutory criteria were being stretched to include areas not qualifying on natural beauty grounds for the sake of furthering recreational objectives. However, the Agency’s response was that the references were to land beyond the core of the perambulation but still qualifying on both grounds.]

21. It would be inconsistent with the Act to stretch the NFNP to include areas which do not comply with the second criterion in an effort to further the kind of aims set out in the strategy, however laudable. On the other hand, I consider that it would be perverse to ignore the general concepts within the strategy (when assessing the ‘potential scope’ of an area to contribute to open-air recreation) because they help in arriving at broad common sense conclusions to the question posed above.

(2) How far should ‘general accessibility (of an area of land) be taken into account as well as openness and remoteness where appropriate’ (5th bullet point in table 1 of CD 104 in relation to the recreation criterion)

22. The Hinton and Avon Tyrrell Estates (118 and 162) argued that open and exposed uplands form the heart of the National Park concept, so ‘accessibility’ should only be counted a benefit if it relates to such areas. In their view accessibility as a concept in its own right (ie to land not possessing openness, wildness, remoteness, tranquillity or other attributes essential to a National Park) is irrelevant to designation.

23. It seems to me that the significance of bullet point 5 has to be considered in the context of Section 5 of the 1949 Act. In recreational terms the qualifying areas have to be [S5(2)] ‘extensive tracts of country...which...by reason of...the opportunities they afford for open-air recreation, having regard both to their character and to their position in relation to centres of population, it is especially desirable that the necessary measures be taken for... [S5(1)] promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public’.
24. The National Parks found to qualify under this criterion in the postwar period were for the most part remote upland areas. While parts of some parks were relatively near to large industrial cities others were quite far from large centres of population by the standards of the time. The prevailing ethic was to encourage the urban population to venture out from poor and polluted environments (usually by train and bus) to take part in recreational pursuits previously available only to the privileged few.

25. In today’s very different circumstances any area of land in England possessing natural beauty of National Park standard can be reached by millions of urban residents in a relatively short space of time. This is particularly true of the New Forest because of its proximity to London, Southampton and the Bournemouth-Poole area. Because of the perceived excessive recreational pressures in parts of some Parks, conservation has been given the greater statutory priority and ‘promoting opportunities for understanding and enjoyment of the special qualities’ of Parks has increasingly focused on measures for visitor management and containment.

26. In these circumstances ‘General accessibility, catchment area, (and) ease of travel, especially by public transport’ (bullet point 5) would be important aspects for an NFNPA to consider in management terms post-designation (eg by promoting access by sustainable transport and seeking to ensure that those without private transport are not excluded from the Park). It is perhaps less clear that these are very useful concepts in determining for designation purposes which areas afford a markedly superior recreational experience. As indicated above in relation to issue (1), such attributes could occasionally (in the New Forest context) add weight to the potential scope of an area with the requisite natural beauty to attract the necessary investment to deliver a markedly superior recreational experience. On the other hand great accessibility or proximity (say, to a neighbouring town) may already have had an adverse effect on the area’s ability to qualify on natural beauty grounds (eg by removing any sense of tranquillity or remoteness and giving the area in question more of the typical characteristics of an urban fringe).

GENERAL CONCLUSIONS

27. I carry forward the above remarks on these two issues into my consideration of the individual areas in contention, as discussed in parts 2-6 of my report.