PART 1. ISSUES OF PRINCIPLE AND ADMINISTRATION

GENERAL INTRODUCTION

1.1 The Secretary of State’s terms of reference for the inquiry provided participants with the opportunity to address non-boundary related matters such as:

(a) whether designation as a National Park is the appropriate response to the natural beauty and open-air recreational opportunities of the New Forest and

(b) whether, if designation occurs, it should be accompanied by the establishment of a standard National Park Authority (NPA), or by the making of some other administrative arrangements for management of the area.

1.2 The responses to the Designation Order – including those made to the Countryside Agency’s advice to Government on special arrangements for a New Forest National Park Authority (NFNPA), as set out in CD102 – produced a diversity of responses on these non-boundary related matters. These ranged from positions of opposition to any change in the current management arrangements for the area covered by the Order to those wholly in favour of every aspect of the Agency’s proposals. Between these two positions there is a very wide spectrum of views on non-boundary related matters.

1.3 Some of the major stakeholders favour more protection and resource-input for the area but are generally opposed to a standard National Park/NPA. These bodies took the opportunity to indicate their preferred ways for achieving a ‘tailor-made’ solution (eg the New Forest Verderers supported by the New Forest Commoners Defence Association, Hampshire County Council, New Forest District Council, and the New Forest Committee). Two local MPs – Desmond Swayne (211) and Julian Lewis (383) expressed views similar to those of the Verderers on the need for a tailor-made authority. Some bodies strongly against National Park designation (eg Minstead Parish Council) have indicated a preferred fall-back position if some form of designation is confirmed while others warmly enthusiastic about designation (eg the Council for National Parks) have pointed to changes which they would wish to see in the Agency’s advice on administrative arrangements.

1.4 In all there were about 160 responses from organisations and individuals stating that they (a) oppose designation in principle or (b) see no benefit in it, or (c), are agnostic about it or (d) cannot support a standard NPA. Such responses in themselves cover a wide range of views from a desire for no change from the present circumstances to acceptance that the right kind of tailor-made change could be beneficial. Among the organisations generally most strongly opposed to the whole principle of a New Forest National Park (NFNP) are Denny Lodge Parish Council (72), Boldre Parish Council (121), Minstead Parish Council (171), Minstead Manor Commoners (179), the New Forest Village Shops Association (197), the Commoning
Animals Protection Society (201), East Boldre Parish Council (221), Burley Parish Council (225), the New Forest Pony Breeding and Cattle Association (244), and Romsey Extra Parish Council (245). The individuals expressing this view include Christopher Chope MP (330) and 87 members of the New Forest Commoners Defence Association who submitted more or less identical objections.

1.5 About 55 persons and organisations were registered as outright ‘supporters’ of the Order. However, in addition, very many of those registered as ‘objectors’ because of their views on various boundary related issues or matters of detailed governance were not opposed to (or supported) the principle of designation of an appropriately defined area and expressed support for the concepts of an NFNP and an appropriately formed NFNPA.

1.6 Among the organisations expressing support or enthusiasm for designation of the National Park (albeit sometimes with qualifications about certain matters) are Wiltshire County Council (139), New Forest Friends of the Earth (150), Hants & IOW Wildlife Trust (166), Salisbury District Council (172), Test Valley Borough Council (175), English Nature (194), the RSPB (203), the YHA (218), the Ramblers Association (226), the National Trust (228), the Council for National Parks (354), Southampton Borough Council (355), the CPRE (357) and Ashbury & Colbury Parish Council (369).

SUMMARY OF THE CASES CONCERNING THE PRINCIPLE OF DESIGNATION AND THE ESTABLISHMENT OF AN NPA

Main themes of opposition to an NFNP and NFNPA

1.7 Briefly summarised, the main themes of opposition to the principle of an NFNP are that National Park designation would:

(1) duplicate or result in too much overlap and conflict with the strong constellation of existing institutions and powers now managing the New Forest which (although complex and untidy) is experienced, reasonably well in balance, long-established, locally-based and largely effective and which – by meeting local New Forest needs – also meet national needs

(2) create a confusing additional tier of remote bureaucracy, thus wasting resources, blurring responsibilities and increasing complexity without any clearly identifiable benefit; a better alternative would be to retain the powers and build up the resources of existing statutory organisations such as the Forestry Commission and the Verderers, give more support to commoners and assist the co-ordinating role of the New Forest Committee

(3) not be ‘especially desirable’ within the terms of S5 of the Act

(4) be unnecessary, in that whereas the 1949 Act was about obtaining access to open country for urban dwellers, public admittance to the New Forest was permitted as long ago as 1698; it has effectively served as a National Park since
then and many of its millions of annual visitors assume that it already has this status

(5) be a politically motivated imposition by Central Government, blatantly disregarding the recent advice of the former Countryside Commission (and successive expressions of advice before that) without any attempt to obtain a demonstrable mandate in the form of clearly expressed public demand, since it has been made clear throughout the staged and inadequate ‘consultation process’ that the principle of a National Park was non-negotiable

(6) place too much power in the hands of inadequately accountable NPA members with predominantly urban or suburban based knowledge and experience, and lacking adequate understanding of what is required to conserve the Forest and make it work

(7) remove planning powers from the hands of democratically elected local authorities

(8) materially prejudice the vested rights, working practices and benefits of commoners

(9) weaken the protection of the commonable lands and undermine the powers of the Verderers

(10) place too much emphasis on recreation and not enough on conservation of the New Forest’s internationally and nationally recognised habitats

(11) create a further marketing impetus for tourism, intensifying already excessive levels of recreational pressures arising from the area’s proximity to London and the South Coast cities and attracting too many additional visitors, vehicles, litter and fire risks, all putting more pressure on threatened and fragile Forest habitats and species

(12) exacerbate the trend towards regimentation, organisation and control, and lead to ‘prettification’, commercialisation and increased ‘themed’ use of the Forest, at the expense of its natural charms, mysteries and organic nature

(13) harm the appearance of the Park by bringing more intrusive and commercial tourism-related developments and their accompanying signage

(14) spur an increase in property prices, fuelling existing housing problems for those working in and maintaining the Forest

(15) attract and concentrate increased development pressures in areas just outside the Forest, especially areas to the north-east which may be sandwiched between the New Forest and South Downs National Parks

(16) be the smallest of England’s National Parks (at 670sq.km) and have the highest population (at 85,000 according to the Agency), and thus have a population
density about 4 times greater than the most densely populated existing National
Park (see comparative figures at CD14 app K)

(17) extend too widely beyond the undoubtedly outstanding natural beauty and fine
recreational opportunities found within the perambulation into highly populated
areas and ‘ordinary’ countryside and thus water down the true identity and
integrity of the real New Forest; unless these wider areas can be used to relieve
visitor pressures there is no point in their being designated

(18) require too many resources to be expended on urban-related matters, including
processing the increased number of small householder planning applications
resulting from the less generous GPDO rights applying in National Parks.

The Agency’s response to the main themes of objection to an NFNP and NFNPA

1.8 The general case is set out in Position Papers 2 and 3 (CD156 and CD162).

1.9 In brief, designation of the NFNP and the creation of a NFNPA would:

(1) establish a boundary encompassing all the land meeting the statutory criteria
which would not be subject to regular review through the local plan process as
has been the case with the New Forest Heritage Area (NFHA).

(2) ensure that the whole area has recognised national and international status,
protection, and exchequer funding to address the statutory National Park
purposes

(3) bring integrated management across the whole area for conservation and public
enjoyment and understanding in a way that cannot be achieved by present
arrangements

(4) create a new body (the NPA) with a specific duty, commensurate powers and
permanent resources to conserve and enhance the designated area in an
integrated way, so providing opportunities for people to enjoy and understand
the special qualities of the area

(5) ensure preparation of a statutory management plan for the designated area to
achieve National Park purposes, and

(6) place a statutory duty on all public bodies to have due regard to National Park
purposes.

1.10 Existing organisations and means of protection have done much over the years
to conserve the special character of the New Forest and will continue to do so.
However, as a result of the strong pressures upon it today the New Forest as a whole
has conservation, enhancement and recreational management needs which require the
intervention of a body with specific powers and resources to address these pressures.
The NPA would work collaboratively by partnership and persuasion rather than by
regulation. It would not start from scratch, abandoning or duplicating the work of existing agencies or ignoring their achievements. It would encourage an integrated approach to strategic plans and programmes, allowing resources to be pooled, linked and supplemented across the whole of the designated area.

1.11 Consultation document CD111 gave the opportunity for alternatives to be expressed, but after considering those responses (see CD110) the Agency concluded that the area met the designation criteria and that it was especially desirable to establish an NPA.

1.12 There is no existing body with the purposes, powers and resources to be able to deliver the National Park purposes and to address the full range of conservation and visitor management issues needed across the whole of the New Forest. This can only be achieved by establishing an NPA. This makes the designation of the National Park ‘especially desirable’, as further detailed in Position Paper 3 (CD162).

1.13 CD115 explains the process by which the Agency moved from the position taken by the Countryside Commission in 1998 to the current proposals. At an early stage concern was focused on the statutory overlap with the New Forest Acts (see CD111, p23, issue 3) but there has been no real conflict identified other than a small degree of overlap with the Verderers’ powers. Special legislation is not now considered necessary to deal with that. The proposed close 3-way working relationship between the NPA, the Forestry Commission and the Verderers should provide for the resolution of any conflict. As indicated in CD119, para 21, the Agency’s officers ‘understand and share some of the concerns which have prompted calls for new legislation. The key question is whether new legislation is necessary to address such concerns. Having carried out the analysis summarised above we do not believe that it is.’

1.14 On the issue of lands beyond the perambulation, the boundary includes all of the land meeting the statutory criteria within an area of search which describes the New Forest as a topographic, geological, historical and cultural entity. The perambulation and the surrounding farmland are interdependent. Historically, settled communities on the fertile farmlands shared the heath and woodland resources of the less fertile plateau areas at the heart of the Forest.

The views of supporters of an NFNP and NFNPA

1.15 The main themes raised by supporters of designation were:

(1) agreement with the Agency’s views on the statutory criteria and the need for/benefits of designation

(2) desire to move on urgently to designation following a long process of consultation since 1999 and many years of delay before that

(3) concerns about existing and future pressures on the unique nature of the New Forest and support for the role of designation and the NPA in bringing additional powers and resources to achieve National Park purposes, particularly conservation
(4) concerns about development threats to the natural beauty and habitats of the New Forest and support for the role of National Park status in bringing strong permanent protection.

SUGGESTED ALTERNATIVES TO THE PROPOSED NFNP and NFNPA

General overview and introduction

1.16 As previously described, alternatives to National Park designation and an NPA were expressed both by objectors to the Order and supporters of it. The suggested alternative options range widely. At one end of the spectrum are various proposals to create a special tailor-made body to administer the area. At the other, some objectors would be content with very minor changes of wording to the Agency’s advice to the Secretary of State on special arrangements for a New Forest National Park Authority (CD102).

1.17 Views on tailor-making an authority were expressed by bodies (among others) such as the New Forest Consultative Panel (89), Hampshire Field Club (92), New Forest District Council (106), the New Forest Verderers (107), the New Forest Equestrian Association (108), the National Farmers Union (109), the New Forest Commoners Defence Association (110), Hampshire County Council (119), Boldre Parish Council (121), Dorset County Council (189), Christchurch Borough Council (202), the New Forest Village Shops Association (197), East Boldre Parish Council (221), Bramshaw Parish Council (321), and the New Forest Committee (387).

1.18 A considerable number of individuals, including Col P Sweet (1), Desmond Swayne MP (211), Julian Lewis MP (383) also expressed the view that any authority created to assist in the management of the New Forest area should be tailor-made. The generally held view was that an appropriate tailor-made body could make improvements to the management of the New Forest without major bureaucratisation and loss of local sensitivity and democracy.

1.19 Julian Lewis MP (383) said that in his time as MP he had received some representations in favour of the status quo, many in favour of a tailor-made solution but very few indeed in favour of a standard NPA. In his view this indicates a strong local feeling that a National Park is being forced onto a community which does not want it and finds it insufficiently responsive to the needs of a working forest which is much more than just a ‘Park’ of any description. While the New Forest probably passes the tests to be a National Park, that does not mean that the concept of a standard National Park passes the tests necessary for securing the best future for the New Forest. On the other hand, if a National Park is imposed Ministers need to pay attention (as they have promised to do) to finding ways in which a standard NPA can be slimmed down and made more flexible and sensitive to the local needs and circumstances which – as almost everybody admits – render the New Forest different from any other National Park.
1.20 While he is ‘agnostic’ as to whether there is a need for change in the present consensual and interactive approach to National Park governance, Julian Lewis considers the standard NPA model inappropriate. In his view a satisfactory conceptual model for a tailor-made body would have about one-third of its membership taken from local authorities, one-third from commoning interests and one-third from scientific and national interests.

1.21 Those seeking a tailor-made solution commonly refer to the view of the former Countryside Commission as set out in ‘Protecting our Finest Countryside: Advice to Government’, published in 1998 by the Countryside Commission (CCP532). This concluded that the unique qualities and circumstances of the New Forest, particularly the existing management arrangements for the core area of the perambulation, dictate that ‘the New Forest would be most efficiently managed through tailor-made arrangements secured through special legislation. This would better respect the special local circumstances and reduce the scope for conflict.’ Such objectors feel that the Countryside Commission’s cogently-stated objections to a standard NPA model (as expressed in CCP532) still hold true. They are unconvinced by the reasons given by the Agency for its change of opinion. In their view this is based only on pragmatic recognition of the Government statement that Parliamentary time cannot be found to enact special legislation. Reference is also commonly made to the Government consultation of 1992, which proposed a statutory version of the New Forest Committee as the favoured tailor-made solution (106/4/1 app3).

1.22 Those in favour of a tailor-made solution commonly observed that legislation will be required to implement some of the recommendations in the Review of English National Park Authorities (CD14) and that the Action Plan on the outcome of the review envisages a need for legislative changes. This encouraged objectors to outline the kind of legislative changes that would be required to provide their preferred version of an administrative body for the New Forest.

1.23 Many objectors, whether putting forward specific ideas for legislative change or not, expressed little faith that the Agency’s advice could give long-term security of the kind essential to protect the National Park if it is only recorded by Circular or some other form of New Forest-specific mandate, directive or advice. Even if it could be put into an acceptable form now its content could be too easily changed at will by a future Minister. Therefore it is important to make time for the right legislative changes, even at the expense of a certain time-lag before designation. In the meantime the existing methods of management can continue.

1.24 Suggestions for the precise form of a tailor-made solution differ substantially. I therefore deal with these very varied alternatives by first setting out the views of certain parties who expressed detailed views on a number of alternative models as follows:

- The New Forest Verderers
- Hampshire County Council
- New Forest District Council and the New Forest Committee
- National Farmers Union
- Minstead Parish Council and Minstead Manor Commoners
- Lymington Harbour Commissioners

1.25 I then summarise additional comments made by other parties based around the main subheadings of the Agency’s advice as follows:

- Membership of a New Forest National Park Authority (paragraphs 18-20)
- Relationship between a New Forest National Park Authority, the New Forest Verderers and the Forestry Commission (paragraphs 21-23)
- Planning (paragraphs 24-25)
- Land management (paragraphs 26-27)
- Visitor management (paragraph 28)
- Involving local expertise and working in partnership (paragraph 29)

**MAIN SUGGESTIONS FOR A TAILOR-MADE BODY**

**The case for the New Forest Verderers**

1.26 The Verderers support the need for measures to give the New Forest permanent protection and offer no objection to the boundary identified in the Order. However, in their view a standard NPA would not reflect the culture that has contributed so much to the long history of the Forest. They believe that a tailor-made solution would be preferable. Consequently they object to the Order.

1.27 The Verderers of the New Forest are a statutory body deriving powers from the New Forest Acts. Apart from their regulation of the agricultural use of the forest by commoners, the functions of the Verderers’ Court include control over almost all forms of development that may be proposed upon the commonable lands managed by the Forestry Commission. In relation to recreational activities, the precise items and activities over which such control is exercised is codified in a memorandum of understanding between the Commissioners and the Verderers (107/3/3).

1.28 There is no appeal against decisions of the Verderers’ Court except in relation to road construction, in which cases the highway authority may refer the reasonableness of the Verderers’ decisions to arbitration. However, it is a measure of the strength of the Verderers’ position that no referrals have taken place since the provisions were enacted more than 50 years ago. In the case of the proposed Lyndhurst Bypass the Highway Authority promoted a Private Bill in an attempt to circumvent the Verderers’ Court but this was rejected by Parliament after inquiries before Select Committees.
1.29 The Court exercises its power of veto responsibly and has approved over 100 car parks and extensive camping facilities over the past 30 years. However, in recent years it has concluded that the New Forest is exceeding its capacity to absorb recreational demands without damage. It has therefore been resisting new demands and working with the Forestry Commission to reduce existing pressures by closing some car parks and camp sites and reducing certain forms of organised recreation. The Verderers’ control has also kept the commonable lands relatively free from other forms of development such as mobile phone masts, pipelines and various types of public utility works.

1.30 The Verderers’ sole responsibility is to the Forest and its traditional character and culture. They do not have to reflect social and economic matters and have no obligation to provide for recreation. By carrying out their duties under the New Forest Act to have regard to the desirability of conserving flora, fauna and geological and physiographical features of special interest and taking account of the responsibilities of European conservation designations, they act as a restraining influence on the Forestry Commission’s desire to enhance recreational facilities.

1.31 The Forestry Commission and Verderers’ Court therefore have to work together in a system of dual control. This system of management of the commonable lands (ie the area generally perceived by the public as the New Forest) works well. The Verderers’ concern is that under a National Park Authority the balance of interests and loyalties could swing away from this state of equilibrium and afford too much weight to inappropriate decision makers and interests.

1.32 The Agency has not demonstrated that the system is flawed or justified its statement that “doing nothing is not an option”. However, if the designation order is to be confirmed, the Verderers seek enactment of the measures described beneath. If these safeguards were to be set in place this would represent an appropriate ‘tailor-made’ arrangement.

1.33 First, the NPA must not be dominated by local authority members. Only a tiny minority of the local electorate and local authority members are drawn from rural backgrounds or have any longstanding links with the Forest. Most are urban or suburban minded and expect their councillors to provide more and better recreational facilities for the large urban populations surrounding the Forest. Even if a local authority member were to have appropriate rural knowledge he/she would have little statistical chance of being selected as a member of the NPA. Because of this urban mindset local authorities have shown a tendency over many years to promote development which would damage the Forest such as:

- Rockford Common – HCC supported destruction of about 30 acres for gravel extraction in the 1960s;

- Hythe Bypass – Promoted by HCC and secured against the Verderers’ wishes on the threat that the perambulation would not be gridded – 1960s;
- Refuse tips at Setley, Longdown and Ocknell – wartime encroachments operated by NFDC which the Verderers forced to close in the 1970s;

- Burley Bypass – Proposed by HCC on Forest land along former railway but rejected by the Verderers and withdrawn at early stage – 1970s;

- Blackhamsley Refuse Tip – proposed by the local authority and refused by the Verderers – 1970s;

- Stoney Cross Junction (A31) – Major land take and traffic threat proposed by the Highways Agency and supported by HCC and NFDC – fought through public inquiry but abandoned because the Verderers would not grant land – 1980s;

- Oil drilling by Shell – Supported by HCC until half way through public inquiry – opposed by the Verderers and the Forestry Commission. Rejected 1980s.

- Traffic diversion A31 to Fordingbridge Road – HCC promoted scheme to divert traffic through important grazing and recreation area but abandoned after Verderers’ opposition – 1990s;

- West Wellow Bypass – Southern option suggested by Dept of Transport withdrawn at an early stage in the face of opposition from the Verderers and the National Trust

1.34 Schedule 7 of the Environment Act 1995 should therefore be amended because, under a standard NPA, commoners and rural interests would be likely to be relegated to just a tiny fraction of the NPA membership. Local authority members, including Parish Council representatives, should not exceed 50% of the membership of the NPA. Local people, foresters and Verderers should feature prominently in the Secretary of State appointees and the pool from which such appointments can be made should be restricted to persons with rural expertise, not including business and tourism. This would bring about a better balance of interests. In addition, the total number of NPA members should be limited to 20, as suggested in the DEFRA review. The advice should state that the 10 Secretary of State appointments should exclude those with urban and suburban interests as these would be adequately represented by the Council representatives. The SOS appointees should include 3 commoners, 1 Verderer, 1 representative from English Nature, 1 representative of the Forestry Commission, 2 representatives of scientific interests and 2 representatives of farming interests.

1.35 Secondly, the Verderers’ Court should be granted powers over NPA activities on the Crown commonable lands similar to those applying in respect of Forestry Commission activities. This is necessary in order to prevent significant erosion of the Verderers’ veto over development on such land. The veto over NPA development should be safeguarded by means of amendments to S65 of the Environment Act 1995 and backed up by an express injunction in the Secretary of State’s guidance against circumvention of the Verderers’ powers.
1.36 This is important because an NPA has considerable powers to promote recreational development under legislation other than the New Forest Acts. For example, S12 of the 1949 Act, read with S68(4) of the 1995 Act, expressly confers powers on an NPA, exercising the powers of an LPA, to provide buildings and works for accommodation, camp sites and parking places. S9 and 47 and Schedule 2 of the Countryside Act 1968 give an NPA acting as a local planning authority power to provide recreational facilities on common land and, importantly, land where previous common land status has been removed.

1.37 S65 of the 1995 Act makes it an express purpose of an NPA to 'promote opportunities...for the public' and empowers the NPA to 'do anything which in the opinion of the NPA is conducive to accomplishing its purposes'.

1.38 The Agency’s Position Paper 3 (para 7) demonstrates the new impetus which NPA designation will give towards development: 'It should contain qualities that might merit investment to deliver a markedly superior recreational experience'. However, it is difficult to see how such 'investment' could take place without involving buildings and works. Concern about the possible future activities of an NPA is sharpened by comments in the DEFRA review, such as: 'The Park Authorities should invest in facilities...designed to help visitors enjoy the parks... A proactive approach to less traditional forms of recreation could help rekindle interest'.

1.39 An NPA operating under such objectives would have the power and incentive to promote and find land for all the types of development in the Forestry Commission/Verderers memorandum of understanding as well as other more urban and intrusive types of development. Thus if an NPA were to be confirmed, the Forest would be subject to an authority with new powers of recreational development coupled with express legislative encouragement, yet not subject to the existing veto.

1.40 These new powers could be exercised in defiance of the Verderers on Crown commonable land. Compulsory purchase would be a means of changing the status of the land or, perhaps more likely, the land could merely be passed over from the Crown to the NPA (in the same way that the Forestry Commission has formerly sold land which has later been developed). Correspondence between the Parliamentary Under Secretary of State and Desmond Swayne MP dated 15th August, 7th September, 18th September, 1st November and 13th November 2000 (CD12) establishes that the Minister considers it inconceivable that the Secretary of State would give consent to an NPA exercising its compulsory purchase powers to override the Verderers’ veto, but does not deny that it would be possible. The fact that a particular Minister finds something inconceivable provides no guarantee that such action will not become conceivable and take place at some time in the future. It is not unlikely that such methods would be resorted to if it became clear that the Verderers would continue to resist the introduction of intrusive innovative recreational developments out of character in the New Forest. The fact that this situation has not arisen in other National Parks merely reflects the fact that powers such as those exercised by the Verderers do not exist elsewhere.

1.41 Safeguards quoted by the Agency such as the Sandford principle and the Habitats Directive are no substitute for straightforward power of veto. For example,
regulation 49 of the Habitats Directive allows development to go ahead if ‘there are imperative reasons of socio-economic public interest’. If it is agreed that it is unacceptable to bypass the Verderers’ veto through compulsory purchase, there can be no objection to legislative amendments being made and guidance written so that the inconceivable would also be legally impossible.

1.42 However, the danger of the loss of veto may not be limited to cases in which Crown land has been compulsorily purchased. It is possible that the NPA could enter into licences or leases or even informal arrangements with the Commission or the Minister so that the NPA could carry out development without the consent of the Verderers. The NPA would not need to obtain consent under the New Forest Acts because its powers stem from other legislation. The Acts’ significance could therefore dwindle if a new power is created not subject to the Verderers’ traditional control.

1.43 While legislation would be required for a departure from a standard NPA it is clear that legislation would also be necessary to implement a number of the recommendations of the DEFRA review. Hence there is less force in the position taken in 1999 that there is no parliamentary time to deal with this important issue. Provision of the correct administration for the New Forest is a subject of national importance justifying Parliamentary time. If it cannot be found, this merely reinforces the Verderers’ primary position that a new NPA is inappropriate. If the legislation is not amended the necessary permanent protection of the Verderers’ position needs to be made through some form of concordat or strongly worded advice included in a future Circular including any Circular replacing 12/96.

1.44 As a consequence of the above the Verderers seek alterations of S65 of the Environment Act to add the following subsections:

‘65(8) In relation to the land to which section 1 of the New Forest Act 1970 applied on 24th January 2002, a National Park Authority shall not exercise its powers in such a manner as to provide, arrange for or assist in the provision of tourist, recreational or sporting facilities or any equipment facilities or works ancillary thereto (including, without prejudice to that generality, accommodation for visitors, camping sites and caravan sites, places for meals and refreshments, picnic places, places for enjoying views, parking places, routes for nature study and footpaths, information and display centres, shops in connection with any of the aforesaid facilities and public conveniences) except with the agreement of the New Forest Verderers.

65(9) In relation to the land to which section 18 of the New Forest Act 1949 applied on 24th January 2002 a National Park Authority shall not, except with the agreement of the New Forest Verderers, exercise its powers in such a manner as to licence any activity referred to in section 18(1)(b)to(e) inclusive.’
1.45 In addition, a new paragraph should be inserted into the Agency’s advice as set out beneath. This would give a safeguard without taking up Parliamentary time and would go quite a long way to meeting the Verderers’ concerns.

‘23A Commoning is important to the cultural heritage of the New Forest and as a means of preserving the open land which is a distinctive feature of the area. As a means of safeguarding these interests section 18 of the New Forest Act 1949 and section 1 of the New Forest Act 1970 require the agreement of the New Forest Verderers before any recreational or tourist development of the commonable Crown Land in the New Forest can take place. Development contrary to the wishes of the Verderers which involves compulsory purchase of commonable Crown Land or which has the intention or effect of extinguishing rights of common or circumventing the existing powers of the Verderers should not be permitted.’

Other objectors generally supporting the Verderers

1.46 The issues raised by the Verderers were echoed by a number of other objectors including the Earl of Radnor (61), the New Forest Commoners Defence Association (110), Col P Sweet (1), D Hill (135), Mrs G Vivian Hill (140), Mrs O Collins (168), the Commoning Animals Protection Society (201), and Desmond Swayne MP (211).

1.47 The New Forest Commoners Defence Association (110), the Commoning Animals Protection Society (201) and others would ideally wish to see long-term statutory protection of commoning. Suggestions included making it a third statutory purpose of the NFNP or giving it a status comparable with that of crofting, particularly on issues such as protection of commonable lands, protection of commoners’ holdings including affordable dwellings and back-up grazing lands, and specially devised LEADER schemes.

The response for the Agency

1.48 The general case is set out in Position Paper 2 (CD156).

1.49 The powers of the Verderers under the New Forest Acts will not be amended by the designation of a National Park and the legislative changes sought by the Verderers are not considered necessary. The extent of the National Park is greater than the areas within the perambulation which are subject to commoning rights. There is a need for a body with powers and resources to work across the whole of the area to conserve it and address visitor management issues. The New Forest Acts do not conflict with National Park legislation but the Agency agrees that there is a particular need for close working between the Verderers, the Forestry Commission and the NPA as advocated in the Agency’s advice. Designation would give both the Verderers and the Commission a new statutory duty under S62 of the Environment Act to take account of National Park purposes when making decisions or carrying out their responsibilities within the National Park.
1.50 With regard to the issue of compulsory purchase by the NPA of commonable Crown Land, the Minister has given assurance that he cannot see any situation in which consent would be given for this. NPAs do not normally acquire land and existing NPAs own only small amounts. They work primarily as enablers and influencers. Land is normally acquired only as a means of last resort, eg to prevent threatened damage to National Park purposes, for research and experiment, to provide examples of good practice, and in cases where it is passed to them by an owner.

1.51 As for the legislative changes sought by the Verderers, it would be unsatisfactory to equip the NPA with powers relating to specific statutory purposes but then significantly erode their ability to achieve them.

1.52 NPAs do not have a duty to promote recreation and they are not tourist authorities. The New Forest is already a very well visited area subject to considerable development pressure. There is a need to manage issues across the whole of the Park, including visitor pressure, traffic growth, difficulties in the farming community, socio-economic and community development and pressure on the traditional commoning system. These issues cannot be adequately addressed by the existing measures. National Park designation would bring stronger planning protection, the creation of a statutory NPA and management plan and additional central government funding for the area, all of which would help to address these issues.

1.53 Turning to restricting the pool of membership of the NPA, the authority needs to encompass expertise across the full range of its statutory powers and duties. In addition to conservation of the natural beauty, wildlife and cultural heritage of the Park these powers and responsibilities include the promotion of opportunities for public enjoyment and understanding and a duty to foster the social and economic well-being of their local communities. The NPA therefore needs a balanced body, not one made up of representatives of a catalogue of interest groups.

1.54 As for the importance of commoning, this is already sufficiently acknowledged and highlighted in the Agency’s advice. Difficulties would be created by the suggested new paragraph 23A because there remains the theoretical possibility that compulsory purchase of commonable Crown Lands could be justified in a particular unusual instance and the Secretary of State cannot give advice contrary to primary legislation.

1.55 With regard to the views of the New Forest Commoners’ Defence Committee, the crucial cultural and management role of commoning in the New Forest has been recognised at all stages of the designation process and is re-emphasised in paragraphs 17, 18 and 26 of the Agency’s advice. It is difficult to know what more can be done.

1.56 The fear of conflict between conservation and recreation arising from the work of the NPA is a common theme arising from objectors’ views, but conservation interest and recreational pressures are already strong and sometimes in conflict. The need to strengthen mechanisms for managing current visitor pressures and avoiding these conflicts is therefore a factor that strengthens, rather than works against, the need for the National Park and the NPA. Elsewhere, NPAs are already heavily involved in such conflict-avoidance activities.
The case for Hampshire County Council

1.57 The County Council has long recognised the outstanding diverse landscapes of the New Forest and has worked to conserve them by participating in the New Forest Committee and other ventures. It welcomes the recognition of the area inherent in the proposal to designate it as a National Park and supports the need for an appropriate administrative solution giving permanent protection to the area defined in the Designation Order.

1.58 However, the special circumstances of the New Forest (its acknowledged international importance, the extent of the Crown land, and the role of the Forestry Commission and the Verderers as set out in the various New Forest Acts) warrant primary legislation in order to establish an effective mechanism. Since it is recognised that Parliamentary time is unlikely to be available the Council seeks amendments to the Agency's advice and its incorporation in a government circular dealing specifically with the circumstances of the New Forest.

1.59 The County Council has 2 primary concerns. Firstly, the NPA would have a democratic deficit in that it would take management of the New Forest further away from the local people who have previously sustained it. The advice should be refined to provide for more use of an electoral college system to ensure that the necessary knowledge and skills are obtained in a transparent way, but still working within the 1995 Act. Parish Council representatives could be drawn from members directly elected by the 3 local Associations of Parish Councils. Other appointees should be drawn from an electoral college comprising, for example,

- a member elected by Southampton City councillors (since a large proportion of New Forest visitors come from the City);
- a member elected by members of the Court of Verderers;
- a member representing the farming communities, elected by the Farming and Rural Issues Group;
- a member of the environmental and land management professions, elected from among their local branches;
- a member elected by the local County Wildlife Trusts;
- a member elected by the local Chambers of Commerce.

1.60 Combined with the local authority appointees such representatives would secure both national interests and the economic, social and environmental well-being of the NFNP.

1.61 The County Council does not consider that modernisation of NPA membership requires a reduction in the number of members. This can be achieved by cabinet-style government. Nor does it support an increase in the proportion of SOS appointments which would imply that local government cannot be trusted to look after national interests.

1.62 The second main concern is that the public is likely to be confused by the overlap between the Forestry Commission (which will manage some 40% of the land within the Designation Order) and the NPA. The former has very effectively
managed the Crown Lands on a long-term basis and has successfully integrated
conservation and recreation into its forestry activities. The introduction of an NPA
would result in two bodies seeking to secure conservation and recreation. The public
will not understand this relationship, nor the way in which the NPA’s powers (over
the 55% of its area within the perambulation) are constrained by those of the Forestry
Commission and the Verderers.

1.63 This overlap is bound to create a duplication of functions and associated
administrative costs and there will be scope for conflict and disagreement since the
NPA will have little influence over the Commission. These arrangements will not
maximise the benefits gained from scarce public funds and the operational and
regulatory roles of the organisations will be made more complex.

1.64 In contrast to that situation the New Forest Committee has been a very
successful non-statutory consortium of organisations all committed to working
together in the interests of the New Forest, the people who live and work in it, and
those who visit it. A great deal has been achieved with limited funds and a small
number of very high quality staff. An example is the recent Strategy for the New
Forest (CD215). However, an NPA is not necessarily going to deliver anything
different. For example, while the continued exercising of commoning rights is crucial
to the New Forest, DEFRA’s agricultural support systems provide scope to introduce
tailored schemes to encourage this. The existence of an NPA is not a necessary pre-
condition to such action by DEFRA and the NPA would have no powers of control
over it.

1.65 The terms of the Agency’s advice do not secure any certainty that the Forestry
Commission will continue to expend resources on conservation and recreation at
anything like the current level, ie about 60% of the Commission’s budget for the New
Forest of more than £5m (CD260-262). If a new administration with funds of its own
is set up to deliver activities similar to those already provided by the Forestry
Commission the latter may decide to scale down its local spending and redirect
financial resources for conservation and recreation away from the New Forest.
Removal of funds from the New Forest at that level would represent a major depletion
of resources.

1.66 The Commission has been quite open with the County Council about the fact
that about half of its New Forest expenditure is funded from the national forestry fund
rather than locally, eg by the sale and leasing of land used for timber production in
other parts of the country. This high level of investment in the New Forest has not
been popular with other District Managers within the Forestry Commission since £5m
represents 20% of the organisation’s entire annual national forestry investment.

1.67 Consequently the Agency’s advice at paragraph 22 should be amended as set
out beneath. This would celebrate the achievements of the Forestry Commission and
build upon its structure and resources. If necessary appropriate duties beholden upon
the Commission under the New Forest Acts could be passed to the NPA through
minor amendments to the Local Government Acts.
“Guidance should:

(a) ensure that the relevant parts of the National Park management plan are jointly prepared by the NPA, DEFRA and its agents, and the local authorities to ensure that all government bodies work in accordance with national park purposes by complying with the management plan in the delivery of policies, strategies and programmes.

(b) encourage the transfer of all functions, staff, budgets, accommodation and land from the Forestry Commission to form the basis of the new NFNPA.”

Response for the Agency

1.68 Many of the points raised by the County Council were considered by the Agency at earlier stages in the evolution of its advice (see, for example, CD110 and CD119). Moreover, specific issues about how the NPA would be set up and operate under the provisions of the Environment Act are matters for DEFRA rather than the Agency.

1.69 On the issue of membership, Parish Council nominees for some National Park Authorities are already chosen by the County Council’s suggested electoral college method. It would be for the Associations of Parish Councils to decide how to do this.

1.70 As for other Secretary of State appointees, Circular 12/96 and the ANPA’s publication ‘The National Park Authority: A guide for members’ explain the steps by which nominations are sought from a wide variety of conservation, recreation, cultural, volunteer and business groups. Opportunities are publicly advertised and appointments must follow the Nolan principles governing standards in public life. The bodies and interest groups set out in paragraph 18 of the advice seek to identify the kinds of people likely to have the personal qualities and experience, preferably in a combination of fields, to contribute to preserving the New Forest’s unique qualities. Nothing prevents such bodies from holding elections as a means of identifying nominees for the SOS to consider for appointment.

1.71 Turning to the suggestion that the Forestry Commission and the NPA should be brought together as a single body based on the present resources of the former, the Agency has acknowledged (CD111, p21) that although the powers of the Commission, the Verderers and the NPA do not conflict, there may be some small areas of overlap, resulting in a need for close working. Having considered all the responses to the consultations on special arrangements (CD110 and CD119) the Agency considers that any issues can be addressed through the measures set out, backed by the statutory requirement for the Commission to have regard to National Park purposes.

1.72 Since the Commission is a national body the County Council’s suggested merging of its New Forest activities with the NPA would require major legislation. It would also go far beyond the role of an NPA for it to be responsible for the
commercial production of timber. In addition, the Commission exercises its duties over a smaller area than that covered by the designation order.

1.73 Experience in other National Parks shows that NPAs and the Commission can, and do, work together. In 1993 the ANPA and the Commission signed an agreement on Native Woodlands in National Parks. In 2002 a renewed accord was signed providing a framework for the two organisations to work together, including a national umbrella for the development of local accords (some of which are already in operation) reflecting the distinctive nature of each National Park.

1.74 Creation of a NFNPA would not be a backward step. It would be a new statutory body with statutory powers and resources focused on conservation and public enjoyment and understanding and working mainly by partnership and persuasion rather than regulation.

1.75 It is accepted that there is some potential for public confusion between the roles of the NPA and the Commission but this is not insurmountable. For instance, the handling of wardening and ranger services would be a key aspect in this. The Recreation and Tourism Technical Working Party report (CD200) discusses the need for the NPA not to duplicate or seek to replace the systems operated by the Commission or by other bodies in their particular spheres. Rather, it would give leadership in the development of a unified (not uniform) wardening strategy for the Park in accordance with the recreation and conservation priorities developed in the management plan. The NPA would concentrate on filling gaps, thus adding value across the whole of the Park.

1.76 With regard to funding, paragraph 17 of the advice states that the unique qualities of the New Forest “should also be reflected in Government funding for the National Park Authority”. There is no reason to suppose that the Commission will scale down its input as it rightly regards the New Forest as a jewel in its crown.

1.77 Existing organisations have done much to preserve and protect the special character of the New Forest and will continue to do so. Such bodies include the New Forest Committee but, unlike an NPA, that body is a voluntary grouping of individual organisations with different interests and priorities. It has no statutory powers or executive authority and no central government funding to implement its strategy. As a result of today’s pressures the New Forest as a whole has conservation, enhancement and recreation management needs which need the intervention of a body with specific powers and resources. No other body has the purposes and powers to do this.

The cases for New Forest District Council (106) and the New Forest Committee (NFC) (378)

1.78 The Council has long sought to secure long-term protection for the New Forest, as demonstrated by its initiative to establish the NFHA in the absence of Government action. It therefore supports NFNPA designation but has always considered that a tailor-made New Forest Authority would be preferable to a standard
NPA. Those who have studied and made recommendations about the New Forest have consistently taken that view. For example:

- Dower (1945) and Hobhouse (1947) identified the New Forest but designation did not occur because of the special management arrangements provided by the Forestry Commission and the Verderers.

- The South Hampshire Coast AONB was designated (1967) to include part of the New Forest Perambulation but exclude the Crown Land managed by the Forestry Commission.

- In the 1970s the Countryside Commission considered designation but took no action because of the special management circumstances.

- In 1983 the Countryside Commission confirmed that designation was merited but required special administrative arrangements.

- In 1991 the Edwards Report recommended formal recognition as a National Park but with special legislation, like the Broads, to provide a tailor-made constitution. The Countryside Commission’s advice to Government endorsed this approach.

- The Government’s response to the Edwards Report in 1992 proposed designation with special administrative arrangements. Consultation began on the process of legislating for special administrative arrangements, developing the New Forest Committee into a statutory co-ordinating body (106/4/1 app3).

- In 1998 the Countryside Commission recommended designation under the 1949 Act but with tailor-made arrangements secured by legislation to better reflect special local circumstances (see the detailed Commission paper at CD115 Annex 1).

1.79 It was not until 1999 that the Countryside Agency decided to explore the extent to which designation could take place accompanied by special arrangements made without new legislation. However, the management circumstances of the New Forest have not changed, so the current approach is one of expediency, reacting to Ministerial statements that there is no time for legislation but that ‘doing nothing is not an option’.

1.80 The Council and the NFC support the principle of designation as soon as possible to provide immediate and long-term certainty about the status and protection of the area but do not consider there to be any over-riding need to establish an NPA immediately. The New Forest is not devoid of administration. The principal statutory and other bodies with responsibilities in and for the Forest have been meeting regularly for 10 years to co-ordinate the management of the area within the framework provided by the voluntary arrangements of the NFC. For some years action has been co-ordinated through the Strategy for the New Forest which is currently being reviewed (CD215). The NFC has observer status on the ANPA and the CNP and is supported by the New Forest Consultative Panel representing more
than 70 organisations with a wide-ranging spectrum of opinion and knowledge on Forest matters.

1.81 These arrangements do not need to be superseded immediately, especially as the prospects for legislative time for National Park matters appear to have changed with the publication of the implementation plan for the DEFRA review of English National Park Authorities.

1.82 The intention of the changes made to NPAs through the 1995 Act was to make them autonomous independent special purpose bodies which (albeit acting within their limited range of functions and powers) are at the heart of the administration of the National Park which they serve. While partnership working is an important aspect of their activities, NPAs are seen by other organisations and the public to be the principal bodies for promoting National Park purposes, particularly through the preparation of a National Park Management Plan. The recommendations of the DEFRA review seek to strengthen this central role in various ways.

1.83 However, it is unlikely that a New Forest NPA would be able to fulfil that role. The Forestry Commission has a position that is unlike that found in other National Parks. In addition to its forestry activities the Commission manages the Crown Lands, including their recreational use, in accordance with the New Forest Acts and the Minister’s specific New Forest Mandate which gives priority to conserving the natural and cultural heritage. In combination these powers and duties give the Commission a role very much like that of an NPA for 40% of the area within the Designation Order, including much of the core area within the Perambulation which is the area most readily identified by the public as the New Forest.

1.84 This role is very visible and well-established and is reinforced in the perceptions of residents and visitors by the common presence of Commission vehicles, uniformed staff, car park and camp site signs, and a wealth of printed material.

1.85 In drafting its advice the Agency has been mindful of the model for a New Forest Authority preferred by the District Council and the NFC (and previously by the Countryside Commission). In seeking to adapt a standard NPA within the constraints of the very limited opportunities afforded by the legislation the resulting advice does not offer a strong and well-identified new authority as the principal body charged with administration of the area. Nor does it provide a co-ordinating body whose purpose is to work through the powers and responsibilities of other organisations.

1.86 Introducing an NPA as proposed would create a relatively costly additional authority in a situation where there are already well established statutory, voluntary and other bodies charged with aspects of New Forest management operating within a special legislative framework. The fundamental issues of duplication, public identity and ultimate responsibility are not addressed by the advice. If anything they are compounded.

1.87 The District Council and the NFC support the model for a New Forest Authority drawn up by the New Forest Committee (106/4/1 app2), broadly as
consulted upon by the Government in 1992 (106/4/1 app3, part 4). This would be a statutory co-ordinating body with membership drawn from (and appointed by) all the key bodies with responsibilities for the New Forest, such as the local authorities, the Forestry Commission, the Verderers, English Nature and the Countryside Agency coming together on a basis of equal partnership. Appointments made in this way would bring a greater sense of commitment on the part of participating bodies. Ministerial appointees would form a limited bottom slice of the membership. Such an authority would avoid duplication, be relatively efficient in terms of the costs of its operation, and build upon the well-established local framework.

1.88 The key points are that:

- the proposed authority would be relatively smaller, cheaper and more cost-effective, more culturally acceptable and positively received, and would hold a narrow statutory brief to deliver NFNP purposes through the shared responsibility of its participants to prepare a strategic New Forest Management Plan;

- it would pour strong glue into the existing system, with one body preparing the over-arching management plan and giving a public focus;

- the participating bodies would come to the table as equal partners together responsible for the whole of the Forest with no loss of momentum or commitment to existing programmes and reduced likelihood of hierarchical tensions;

- the importance of commoning and the New Forest Acts would be fully integrated by the involvement of the Verderers and commoners on the new authority and by making support for commoning a statutory purpose;

- the overlapping role and responsibilities of the Forestry Commission would be fully integrated within the new authority;

- the authority would join up the whole range of expertise and functions necessary to carry out the core functions including a requirement for all organisations to have regard to the New Forest statutory purposes, akin to that imposed by S62 of the Environment Act 1995;

- the need to have extensive liaison arrangements (as would be required by a standard NPA) would be avoided;

- funding would come directly from central government as proposed in the DEFRA review.

1.89 An analogy can be drawn with the specially formulated Broads Authority where the water spaces (which form the dominant core attraction) can be compared with the Perambulation and the Crown Lands in the New Forest.

1.90 In the absence of new legislation guidance should be issued in the form of a Government Circular specific to the New Forest. In addition to other points this should deal with the need to integrate the management of the Crown Land and
surrounding parts of the designated area and manage the intense pressures for
development in and around the New Forest including traffic management issues.

1.91 [Specific points relating to individual paragraphs of the Agency’s advice are
reported under the relevant sub-headings below.]

Other objectors generally supporting the District Council and the New Forest
Committee

1.92 A number of other objectors advocated generally similar solutions for building
upon the New Forest Committee. For example, R Phelps (40) considered that the
Committee’s management strategy for the NFHA should be adopted as supplementary
planning guidance and integrated with other policies for the area provided by existing
organisations, thus avoiding the need for an NFNPA.

Response by the Agency

1.93 Many of the points raised by the Council and the NFC were considered by the
Agency at earlier stages in the evolution of its advice (see, for example, CD110 and
CD119). Moreover, specific issues about how the NPA would be set up and operate
under the provisions of the Environment Act are matters for DEFRA rather than the
Agency.

1.94 It is agreed that existing organisations have done much over the years to
conserve the special qualities of the New Forest, and will continue to do so. The
Agency has supported the NFC since its inception, but the committee has no statutory
powers of executive authority and no central government funding to implement its
strategy. It relies on voluntary co-operation and action by others to take work
forward.

1.95 It is unclear what would be achieved by turning the NFC into a statutory co-
ordinating New Forest Authority. This could work to the same statutory purposes as
an NPA but its proposed statutory powers and responsibilities would not give it a
sufficient ethos and integrity of its own. Also, with appointments so heavily weighted
towards those made by individual organisations (who might regard themselves as
representatives of their parent organisations rather than broader park-wide interests)
the overall representation might not result in a sufficiently wide overall expertise.

1.96 Each of the existing statutory bodies has its own powers, responsibilities and
priorities but they do not, individually or together, have an NPA’s powers and duties
focused on conservation and on public enjoyment and understanding across the whole
of the designated area. Nor would the proposed New Forest Authority have the same
security of resources focused on National Park purposes compared with an NPA.
Although the NFC envisages the new body relying on ‘an appropriate balance of
national and local contributions’ it is unclear which bodies would contribute funds or
how such contributions would be agreed.
1.97 As a result of today’s pressures the designated area has conservation, enhancement and recreation needs requiring the intervention of a body with specific powers and responsibilities to address them. This can only be achieved by an NPA consistently exercising its own planning powers, preparing a broadly focused park-wide management plan and provided with its own resources to do so. By contrast, the proposed authority could be more focused on local interests and more dependent on unreliable funding from a diverse range of sources.

1.98 When the Government asked the Agency to consider designation of the New Forest under the 1949 Act the Board accepted that the preferred tailor-made option of the former Countryside Commission (as described at CD115 Annexes 1&2) was not available. It agreed that further work was necessary to consider appropriate administrative arrangements and noted (CD115, para 9) that ‘consideration…. has led officers to believe that particular administrative arrangements for a New Forest National Park could go some way to addressing these difficulties, which are in the main procedural and administrative rather than policy/legislation-based.’

The case for the National Farmers Union (109)

1.99 The New Forest has such a particular and unique character that it merits a management regime tailored specifically to those needs as in the case of The Broads. There is concern that the capacity of the Verderers to safeguard rights of common would be constrained by the powers vested in the NPA and that urban-dominated interests would prevail. It is a matter of concern that the Secretary of State’s advice to regional offices on SOS appointments (109/1/2) states at Annex 1b paragraph 6 that ‘farming/land owning interests…….are not a high priority for Secretary of State appointees’. Any NPA for the New Forest should have a very significant proportion of its membership drawn from those with understanding of local land management. The composition of the South Downs Conservation Board has often included only two active farmers.

1.100 Following the Policy Commission’s report on the Future of Farming and Food there is every reason to think that an appropriately tailored agri-environmental scheme will become available to commoners and farmers in the New Forest. The possibilities for such schemes are reinforced by the EU Commission’s proposals for the mid-term review of the CAP and the greater importance of linkage to ecological objectives. In such circumstances many of the main roles of an NPA would be rendered redundant while the more peripheral ones could be left to other existing agencies. Indeed there is a danger that the NPA bureaucracy could absorb public funds in such a way as to act against optimum funding of suitable agri-environmental schemes.

Response for the Agency

1.101 The New Forest certainly has unique features requiring bespoke administrative arrangements, but these can be met within existing legislation by applying the proposed advice to the SOS.
1.102 It is agreed that membership must not be urban-dominated. This is why the advice refers to the Verderers, the commoners, farming expertise and so on as well as to other considerations specific to the New Forest, not all of which relate to farming. It is necessary to achieve a balanced membership relevant to National Park purposes and local circumstances. Concerning the advice to regional offices, the quote is a partial one. The full text indicates that ‘There may already be coverage of farming/land owning interests from among the local authority and parish council members…….’ Nonetheless it is accepted that the New Forest advice should perhaps state that SOS appointments will be made in the light of prior knowledge of the local authority and parish members of the NPA so that the benefit of any desirable balancing of interests, skills and experience can be maximised.

1.103 Schemes resulting from the Curry report and other agricultural reforms may well assist the achievement of some National Park purposes but are not a substitute for the advantages gained by the establishment of an NPA in terms of broader conservation, enhancement and recreation management.

The cases for Minstead Parish Council (171) and Minstead Manor Commoners (179)

1.104 The organisations object to the concept of a National Park and consider that the need has never been clearly established. Public demand has never been properly examined or established by popular vote or face to face discussion and the terms of reference for the inquiry have been set out in a way calculated to make people think that it does not cover the principle of whether or not a National Park is necessary.

1.105 The Agency’s consultation process consisted of well-staged selling of a fixed model to cherry picked consultees and orchestrated committees and working parties. There was never any open and proper study of alternatives. Local authority members may have been bullied into accepting designation as the price to pay for having their planning powers delegated back to them.

1.106 The Deputy Prime Minister’s party political speech promising the National Park as a present to the nation to commemorate 50 years since the first Labour Government was populist claptrap and failed to recognise that the public have been permitted to use the New Forest since 1698.

1.107 It is not ‘especially desirable’ to set up an NPA, particularly one with such a democratic deficit in which, as many admit, the members selected for or appointed to the NPA will not have the expertise, knowledge or experience to run the New Forest. Those with experience of the area know that the current system with its checks and balances provides a safety net and that the Forest is not a showcase, museum or urban playground, but a unique and ancient working unit.

1.108 National Parkism is an unnecessary clog and fetter on a management system which has stood the test of time. Alternatives to an NPA have never been properly considered, but a more appropriate and less costly option would be to designate the New Forest as an Area of Outstanding Natural Beauty with a Conservation Board
established under Section 86 of the Countryside and Rights of Way Act (CROW),
charged with the responsibility of preparing a park-wide management plan. As an
AONB the designated area would have the same level of protection as a National Park
in planning terms. The AONB route was one of the options considered by the
Countryside Commission in 1998 but the option has never been revisited or seriously
investigated in the present designation process even though the CROW Act had
already begun to emerge when the consultation was under way and the Agency were
involved in the evolution of the new Act.

1.109 While a Conservation Board would not have its own planning powers the
Agency’s advice includes the concept of delegating many powers back to the District
Council, so this is not a major disadvantage. In addition, since the designated area
would contain an unusually dense population including large towns and densely
developed areas this would be distracting for an NPA. Moreover, since national
policy is that the threatened landscapes of AONBs are to have a standard of protection
equal to that of National Parks (though achieved by normal local authority control)
the simple logic is that a Conservation Board would be cheaper, involve the
employment of fewer staff, and be more effective.

1.110 In terms of funding generally, the SOS can make money available to a
Conservation Board, so if the Government considers that the New Forest needs more
resources it can make them available equally well whether the recipient is an NPA or
a Conservation Board.

1.111 The recreational powers of Conservation Boards are also similar to those of an
NPA since Section 87(1) of the CROW Act makes it the duty of a Board to have
regard to the purpose of increasing the understanding and enjoyment by the public of
the special qualities of the AONB. Section 87(4) also gives the Board the power to do
anything calculated to facilitate or be conducive to the accomplishment of this
recreational purpose. In fact, however, there is nothing deficient about recreation in
the New Forest, except that there is already too much of it. Thus an NPA regime with
its recreational emphasis would be at odds with the Forestry Commission and the
Verderers who are taking steps to slow down the recreational impetus.

1.112 Section 87(3) applies the same duties as apply in National Parks in relation to
agriculture and forestry. As to highways and traffic, because of the flexibility of
S86(3) of the CROW Act (which as a whole was aimed at setting up tailor-made
authorities) a Conservation Board is more suitable than a NPA. There is also
flexibility of membership.

1.113 In short, an NPA carries no advantages over a Conservation Board as far as
powers and duties are concerned. The CROW Act is a modern one designed and
drafted to enable the establishment of flexible tailor-made authorities and there is
obvious advantage in its use.

1.114 The organisations therefore ask for the designation order not to be confirmed.
If it is confirmed the SOS should (a) ensure that it comprises members who know
what they are doing and (b) delay designation until such time as Parliamentary time is
available to deal with the New Forest’s unique features. As the Forest was founded
more than 900 years ago there is no rush. Alternatively, a Conservation Board should be established as discussed above and a boundary revision undertaken so that all land considered worthy of designation by the inquiry can be taken into the Hampshire County and New Forest District areas. Whatever form of governance and administration is imposed the powers of the Verderers Court should be held intact and established as a statutory consultee in all town and country planning matters touching on commoning, whether on commonable or other lands.

1.115 [Col P Sweet (1) also advocates the Conservation Board approach.]

Response for the Agency

1.116 The land in the order meets the two statutory criteria and (in order to address the two statutory purposes) designation as a National Park is ‘especially desirable’, as explained in Position Paper 3 (CD162).

1.117 Designation, accompanied by the creation of an NPA, would have all the advantages set out in paragraph 1.9 above.

1.118 On the issue of inadequate consultation, a wide process was undertaken on both designation and administration, as explained in Position Paper 1 (paras 80-85 and 91-105).

1.119 On lack of expertise on the NPA, 75% are locally elected county, district and parish councillors. The 25% comprising appointees are people with special expertise and experience relevant to local circumstances combined wherever possible with a local association. The Agency’s advice to the SOS is designed to indicate the particular areas of expertise and experience that are necessary in the New Forest context.

1.120 On the suggested need for a boundary review, there is no reason why National Parks cannot include land from more than one local authority area and most do.

1.121 Turning to the proposed AONB/Conservation Board approach, if land meets the criteria for a National Park it should be designated as such and it would be ultra vires to follow the AONB route. AONBs are not designated for their opportunities for open air recreation although in management terms Conservation Boards need to have regard to the Section 87 duty to have regard to the purpose of increasing the understanding and enjoyment by the public of the special qualities of the AONB. The option of designating the New Forest as an AONB was considered and rejected by the Countryside Commission in 1998.

1.122 A Conservation Board would not have the duties, powers or resources of the NFNPA including, importantly, its own planning powers. As for funding, while Boards could be funded directly by DEFRA it is currently proposed that they will be funded by the Countryside Agency at a rate of 75% for core costs and up to 50% for project costs whereas NPAs receive 75% of their approved annual budget directly from Central Government and 25% from local authorities (which in turn is recovered by grant from Central Government).
The case for Lymington Harbour Commissioners (184)

1.123 The Commissioners make a number of suggestions as to how various details of the Agency’s advice could be amended to take better account of their interests concerning the harbour, if it were to be included in the NFNP.

1.124 These changes are set out in detail at 184/1/3 (para 7). Broadly, they request the inclusion in paragraphs 17, 18, 21, 22, 24, and 27-29 of specific references to the Lymington Harbour Commissioners and their role. The Commissioners also consider it important for the Department of Transport to have a role in finalising the content of any published advice.

Response for the Agency

1.125 The NPA would work collaboratively and expect to include joint working where relevant with bodies responsible for ‘coastal management and recreation’ [para 18 (d) of the advice].

MEMBERSHIP OF A NEW FOREST NPA (paragraphs 18-20 of the Agency’s advice)

Views of objectors

1.126 A considerable number of objectors take up the theme (already referred to in a number of the objections described above) that the membership composition of a standard NPA would not adequately provide the mix required to give best protection to the uniqueness of the New Forest.

1.127 However, there is a wide range of suggested different membership mixes with the two main themes pointing in opposite directions. A first group of objectors feel that local authority members and electorates come from overwhelmingly urban and suburban backgrounds, viewpoints and mindsets. In their view such people have little understanding and experience of the factors underlying the uniqueness of the New Forest and needing to be protected to conserve its special qualities. For example, only one of the County Council members representing the New Forest (and two of the District Council members) were considered by one objector to be New Foresters with knowledge of commoning. In contrast, a second group of objectors believes that SOS appointments would result in a democratic deficit that should be redressed. A number of specific suggestions are made for doing so.

1.128 Those within the first group tend to suggest that the proportion of Secretary of State appointments should be increased beyond the standard level of 25% or that the Agency’s advice should be amended to provide for dedicated representation of certain bodies or interest groups such as the commoners and the Verderers. However, there is
also a view, represented by Minstead Parish Council (171), that this should apply not only to local authority appointed members but also to Secretary of State appointees.

1.129 Typical of the first group, the New Forest Commoners Defence Association (110) is concerned that the crucial activity of commoning (along with the Forestry Commission and English Nature) is not guaranteed direct representation on the NPA, whereas that would have been the case under the model for a statutory New Forest Committee consulted upon by Government in 1992. Representation of commoning via Parish Council members is not acceptable to the Association, and they consider it unsatisfactory that Dorset Authorities would be represented (even though they oppose inclusion in the Park) whereas those who are the architects of the Park’s continuing existence may not. In the Association’s view participation in the NPA via working groups and committees is no substitute for representation.

1.130 Other objectors with similar views are the New Forest Association (111) and East Boldre Parish Council (221) who consider that the Verderers should be guaranteed representation on the NPA as of right. The Parish Council also believes that the commoners should be similarly represented.

1.131 The Country Landowners and Business Association (229) considers that commoners, farmers, land owners and private foresters should all have membership as of right.

1.132 The New Forest Association (111) objects to the fact that the Minister responsible for the Forestry Commission will approach that body for advice about the appointment of a suitable forestry expert. In their view any such appointment should be seen to be totally independent.

1.133 Mr R Spurr (367) considers that the Verderers should represent the interests of commoning since individual commoners often disagree with each other, few are true practising commoners rather than middle-class hobby farmers, and the Association is not representative of all. Bodies such as English Nature, the National Trust. The RSPB and the Wildlife Trusts should have strong representation.

1.134 Objectors from the fishing industry – Southern Sea Fisheries District (41), Stanswood Bay Oystermen (89), and Keyhaven Fishermen’s Association and others (195) – consider that if the National Park covers their area of interest below MHW the industry should be guaranteed representation among the appointed members. At the very least the reference to ‘coastal management’ in paragraph 18(d) of the advice should refer more specifically to the industry.

1.135 Turning to the second group of objectors, J Beaumont (12), J Wingham (209) and Mr and Mrs Lowndes (325) are representative of the view that there would be too many SOS appointees on the NPA, resulting in a ‘democratic deficit’ insofar as decisions made by the NPA would not be properly accountable to the local electorate.

1.136 The New Forest Equestrian Association (108) represents a view that the system of Secretary of State appointments cannot be relied upon to ensure that the rural population, landowners and other stakeholders in the Forest proper are properly
represented even if the Agency’s advice is followed to the letter. Their suggestion for overcoming this is a tailor-made solution comprising a mix of direct elections to the NPA by an electorate restricted to those living within the boundary of the Park with some national appointments.

1.137 Boldre Parish Council (121) takes the view that all members should be drawn from those who live or work within the designated area.

1.138 Mrs O Collins (168) believes that a standard NPA membership mix could contravene her right to free elections under the Human Rights Act 1998, First Protocol Article 3(e). She would prefer a hybrid model comprising a majority of members directly elected by residents living within the Park boundary complemented by others elected by the Verderers and the commoners respectively. As an alternative, she suggests two administrative bodies, one similar to an NPA ‘taking on the role of the local authorities’ and another based on existing bodies responsible for the overall management of the area within the perambulation.

1.139 M Byrne (205) considers that the democratic deficit would make it difficult for local people to remove appointed members who were not performing well. The existing system of managing the New Forest is better than this standard model with insufficient democracy. In his view there should be a referendum about the move to NPA status, especially as the Ministerial statement on the recommendations of the DEFRA review accepts that one size may not fit all and that Parks have different characteristics and cultures.

1.140 R Phelps (40) considers that the inclusion in NPA decision-making (eg on planning matters) of representatives of special interest groups such as the Verderers would be contrary to Nolan principles.

1.141 Dorset County Council (189) and Christchurch Borough Council (202) see it as an advantage to the NPA in membership terms if all parts of Dorset are omitted from the NFNP. The organisation would be streamlined by the omission of the relevant District Councillors and the proportionate scaling down of Parish Council and SOS appointed members. However, if the order is confirmed on the present boundaries there should be 2 Dorset County Council representatives and one each from Christchurch Borough and East Dorset District. There should also be at least one nomination from Dorset Parish Councils.

Response for the Agency

1.142 The present membership mix within a standard NPA is what Parliament has decided is necessary to provide an appropriate body to manage a National Park, which is a national resource as well as a local one. If all members were elected there could be no certainty that an appropriate mix of national and local experience and other skills would be achieved.

1.143 The advice at paragraphs 18-20 is intended to provide a framework within which both the Secretary of State and the local authorities can exercise their responsibilities in the best way to achieve the right mix of membership for the
NFNPA. Other aspects of the advice stress that the choice for organisations is not between membership of the NPA on the one hand and exclusion from its thinking and working on the other. NPAs work in collaborative ways and there are mechanisms for ensuring that the Authority draws on the full range of available expertise.

1.144 As indicated at paragraph 35 of Circular 12/96, individuals will be selected by the Secretary of State for ‘their personal qualities and experience and not as delegates or representatives of specific groups or organisations’. Those selected should have the capacity to contribute wider experience in a combination of fields with direct relevance to the character of the National Park. Preference is to be given to those who combine these qualities with local association to the Park.

1.145 The Secretary of State’s appointment of Parish Council members enables a further balancing between national interests and the truly local concerns of those living and working in the Park. Like all NPA members, parish members are appointed to represent the wider Park view and are not delegates of the parish groups who nominate them.

1.146 With regard to the preponderance of urban and suburban interests, the whole thrust of the statutory framework and purposes within which the NPA has to operate (eg Section 5 of the 1949 Act, Section 62 of the Environment Act 1995 and Section 37 of the Countryside Act) is the conservation of the natural beauty of the open countryside rather than attention to the interests of built-up areas.


**Views of objectors**

1.147 Most of the points raised by objectors under this heading reiterate matters of concern already reported. Chief among these is the lack of any guarantee within the terms of the Agency’s advice that the NPA membership would include even one Verderer or commoner and fears that the powers and roles of the Verderers and the Commission will be challenged and diluted, rather than complemented, by the advent of the NPA.

1.148 New Forest District Council (106) considers it necessary for the SOS to issue a statement making explicit the ongoing validity of the New Forest Acts and their relationship with National Park legislation. The Council supports the changes sought by the Verderers concerning the need to secure retention of their powers to block inappropriate recreational development.

1.149 Fundamentally, in the Council's view, the difficulties posed by the duplication of management responsibilities caused by the introduction of an NPA cannot be overcome by means of advice from the SOS. Preparation of the National Park management plan should involve the Forestry Commission, but the plan could not
formally be a joint document. The advice should reaffirm the S62 duty and stress the importance that must be given to the management plan as the overarching document for the management of the whole of the designated area. It will be difficult for the NPA to maintain its proper role as an autonomous body while also achieving balanced joint working where appropriate. The SOS should therefore not be specific about the number or composition of any joint committees.

1.150 The New Forest Association (111) considers that recreation and forestry issues ‘do not make easy bedfellows’. In their view action should be taken to separate the Forestry Commission’s twin powers for forestry and recreation in the Crown Lands, or remove the Commission’s need to use recreation as a source of funds.

Response for the Agency

1.151 The important roles of the Commission and the Verderers have been carefully considered by the Agency in its work in devising the special arrangements (CD110, CD111, CD119). The Agency acknowledges at CD111, page 21, that although these powers do not conflict there may be some overlap between the powers of these organisations (eg in making byelaws) and that there is a need for close working as described in paragraphs 21-23 of the advice.

PLANNING (paragraphs 24-25 of the Agency’s advice)

Structure Plans

Introduction

1.152 All participants recognised the uncertainty attached to this issue given the evolving state of the Government’s proposals for reform of the development plan system through the Planning and Compulsory Purchase Bill together with possible changes to regional government.

Views of objectors

1.153 The Council for National Parks (354) and the Ramblers Association (226) consider that the NFNP needs a strong voice at the regional level where policies will increasingly be set and decisions made. The Planning Minister’s confirmation that NPAs will be statutory consultees on Regional Spatial Strategies (RSS) is not enough. The new Planning Policy Statement on Regional Planning (PPS11) should specifically encourage the South East and South West Regional Planning Bodies to involve the NFNPA (through an agency agreement) as an equal and active partner in the preparation, monitoring and review of the RSS, not just as a consultee. This is important because the joint structure plan working between the County Council and the NFNP should not be replaced with a system that offers a reduced role to the NPA. This requirement should not just be prescribed in PPS11 but also on the face of the Act.
1.154 Dorset County Council (189) and Christchurch Borough Council (202) point out that the area of Dorset included within the designation order is very small in strategic terms but will create administrative complexities without benefit for Dorset residents, especially as these very small areas are in the South West Region.

1.155 The South West of England Regional Development Agency (326) and the CNP (354) note that the inclusion of any part of Dorset within the NFNP would cause the National Park to overlap the areas of two regions, two sets of regional planning guidance and two sets of regional economic strategies. The implications of this are not acknowledged in the Agency’s special advice. Some means needs to be found to ensure consideration and resolution of inter-regional issues such as the increasing role of Bournemouth Airport as against the protection to be afforded to areas within the Designation Order only a short distance away from the airport.

Response of the Agency and its supporters

1.156 With regard to the regional planning dimension, PPG11 advises that where National Parks cross regional boundaries any planning issues should be dealt with entirely by one RPG. This makes sense both under the RPG and RSS systems. The Technical Advisory Group on planning (CD203) considered that this should be the South East Region. This should not cause insuperable difficulties because this situation already exists in other National Parks. Also, part of the South West region is already included in the NFHA (ie parts of Wiltshire) and the County Council and Salisbury District Council have supported the inclusion of further parts of Wiltshire within the NFNP.

1.157 The NFNP would be a strategic authority and should contribute positively to spatial planning as an equal partner. The Agency’s advice to the SOS does not alter the fact that ultimate responsibility for all planning within an NFNP would rest with the NPA. If the proposed arrangements require an agency agreement that would be supported but the duty placed on all public bodies by the 1995 Act to have regard to National Park purposes would also assist that approach.

1.158 The CRPE (357) considers that the joint structure plan working arrangements should ensure that the National Park is set within an appropriate wider setting and give the NFNP a voice within the wider region.

Local Plans

Introduction

1.159 All participants recognised the uncertainty attached to this issue given the evolving state of the Government’s proposals for reform of the development plan system through the Planning and Compulsory Purchase Bill.

Views of objectors

1.160 Dorset County Council (189), Christchurch Borough Council (202), the Ramblers Association (226) and the Council for National Parks (354) oppose the
concept of “a joint local plan for the National Park, prepared by the NFNPA with New Forest District Council, with an advisory role for the other District Councils with land which falls within the National Park”.

1.161 The Dorset Authorities are concerned that a joint NPA/NFDC approach would sever the linkages between the urban and rural parts of Christchurch Borough and weaken its ability to plan effectively for about 40% of its rural area. The Borough’s local plan already minimises impacts on the New Forest and the Green Belt and it is unclear how the Agency’s preferred approach would be any more beneficial. The National Park would be unusually close to major coastal urban areas and designation could intensify development pressures and increase negative impacts within the excluded parts of the Borough, especially if the NFNPA’s local plan were to direct visitor oriented developments towards less sensitive parts of an NFNP expanded beyond the NFHA. The Borough Council is unclear what role it would play in the local plan process, but the balance of the NPA membership pattern would not favour the positive involvement of a Christchurch member in decision making. If any part of the Borough were to be included in the Park the responsibilities for the planning function should be transferred to the Borough Council.

1.162 Turning to minerals and waste local plans, the separation within the NFNP area of Dorset’s integrated community-supported waste planning and waste management approach would prejudice the high standards achieved in Dorset which is the best performing county in terms of recycling. Similarly, passing responsibility to the NFNPA would make it more difficult to sustain the joint working between Hampshire and Dorset on aggregates reserves assessments and could hinder careful exploitation of valuable reserves near the NFNP boundary. Complexities would also increase in transport planning and local transport plans.

1.164 The CNP (354) and the Ramblers Association (226) consider that National Park purposes would best be served by the NFNPA solely preparing a park-wide local plan or Local Development Framework (LDF). This view is based on practical experience of joint working in the Pembrokeshire Coast National Park where the NPA has tried to agree a joint UDP with the County Council. This has exposed the difficulties in agreeing points of detail. While joint planning on strategic policies has worked reasonably well it has proved much more difficult to achieve agreement for detailed policies, land allocations and settlement maps. This has diluted some of the key policies and led to public confusion about which policies apply in the National Park, which apply outside it, and which are joint.

1.165 Since the NFNPA would no longer have structure planning responsibilities and may have uncertain anchorage in the RSS the LDF will be the principal mechanism to ensure that National Park purposes are enshrined in the planning policy framework. It is therefore essential that the NFNPA’s means of asserting National Park purposes in the Development Plan is fully effective. A plan prepared in such a way would not be ‘isolated’ because all the other stakeholding authorities would be both represented on the NPA itself and fully consulted on its contents, as happens in existing National Parks.
1.166 The CNP also has concerns about joint NPA/District Council working stemming from observation of the policy approach to the NFHA adopted by Council members in making the First Alteration to the District Local Plan.

1.167 These concerns also apply to the concept of joint NPA/Hampshire County Council minerals and waste local plans. This would be a departure from the existing approach in other National Parks without satisfactory justification. It is doubtful whether the County Council could follow an objective approach when setting long-term priorities for sand and gravel issues in relation to the New Forest because of the possible wider consequences for other areas outside the Park. For example, the County Council has already tried to weaken the policy approach to mineral extraction in National Parks through its comments on the revision of MPG6. The most appropriate place to review and consider strategic minerals policies would be the Regional Aggregates Working Parties, not a joint County Council/NFNPA minerals plan.

1.168 As with other types of local plans, relevant County and District Authorities with territory in the NFNP would be both represented on the NPA and full consultees.

1.169 Like others, the CNP drew attention to recommendation 11 of the DEFRA review of English National Park Authorities (CD14) that:

‘National Park Authorities’ statutory planning responsibilities should remain unchanged’

and to second and third following paragraphs which state that:

‘....a substantial number of respondents, including National Park Authorities and conservation interests, believe that achievement of National Park purposes would be far more difficult if they did not have responsibility for local plans or development control. They argue that without one Park-wide authority responsible for planning policy and development control, it would not be possible to guarantee effective environmental protection and consistency of decisions.

That is particularly true where a Park covers part, or all, of several different local authority areas. In the case of the Broads, where District Councils undertake development control processing, concern has been expressed along these lines. The arguments for retaining Park-wide planning powers are strong, particularly in relation to the production of Park-wide plans.’

1.170 While the CPRE (357) formerly campaigned for and supported the 1995 Act’s change to NPAs as planning authorities preparing park-wide plans it recognises that the circumstances of the New Forest make the proposed joint working the best solution. However, it considers that joint minerals and waste plans prepared with the County Council could result in conflicts with National Park purposes unless the NPA is given a veto on potentially damaging proposals or these matters are included within the wider joint local plan prepared with the District Council.
Response for the Agency and its supporters

1.171 As explained in CD111 (p22-26), the joint plan-making approach would ensure proper linkages between the Park and its surrounding area. It would also make the link between town and country planning and other local authority community planning functions, and enable the NFNPA to influence policies for neighbouring areas which may have an impact on the Park. For example, waterside settlements such as Marchwood and Hythe should not be isolated from the forest hinterland in planning terms. The same issues hold true for LDFs.

1.172 Because of the size of the NFNP in relation to the area of New Forest District Council the latter would be left with only a very small LDF area which would not make sense on its own. A joint local plan or LDF therefore offers added benefits in those terms.

1.173 Turning to minerals and waste matters, the planning working group advised (see CD203) that the scale and type of casework on these issues would be too small and too specialist in nature to justify separate handling by the NPA. The Agency accepted this and concluded that a joint plan would ensure that the approach was effective and efficient. Involvement of the NPA would ensure that National Park purposes remained uppermost while avoiding the need to replicate the specialist team.

1.174 Concern about the past actions of Hampshire County Council should not be taken as evidence about how they would act in future. At present they have no statutory duty to have regard to National Park purposes and are not working jointly with an NPA. As for the Regional Aggregates Working Parties, there is no reason why the NPA should not be fully involved in that important process.

1.175 Salisbury District Council (172) supports the preparation of a joint local plan prepared by the NFNPA and the New Forest District Council provided that the District Council is consulted.

1.176 The Country Land and Business Association (229) supports the joint structure plan solution on grounds of cost reduction and avoidance of duplication.

1.177 Bramshaw Parish Council (321) welcomes the proposal to involve the NFNPA in the local transport plan.

1.178 New Forest District Council (106) and the New Forest Committee (378) support the Agency’s suggestions for joint plan making. In the Council’s view there would be difficulties in preparing a sensible local plan for the small fragmented parts of the District that would remain outside the NFNP if the latter is defined on broad boundaries.
**Development Control**

**Views of objectors**

1.179 A number of bodies oppose the NFNPA delegating ‘planning decisions with no overall impact on National Park purposes’ to the local authorities with the NFNPA ‘taking decisions on significant cases and retaining overall responsibility’. This view is taken by the Ramblers Association (226), the National Trust (228), Bramshaw Parish Council (321), the Council for National Parks (354), the Association of National Park Authorities (356), and the CPRE (357).

1.180 These bodies point out that planning is one of the core functions of an NPA and an important means of delivering the statutory purposes. In their view delegation arrangements would be open to too much interpretation, especially (as here) where a number of different local authorities is involved. The proposed approach would not ensure the maintenance of the necessary consistency and high standards across the whole of the NFNP and may not maintain the integrity of the plan-led system.

1.181 The National Trust (228) refers to its experience as a landowner in a number of AONBs where planning powers are retained by local authorities and examples have been found of inconsistent approaches from one authority to another within a single AONB.

1.182 A mixed development control system is considered to be wasteful and confusing to the public and other users of the system (a view endorsed by the Edwards Report on National Parks in 1991) and contrary to the Government’s current aim of simplifying planning procedures. Operation of the delegation agreement could also give rise to potential unfortunate disputes and conflicts between the NPA and the local authorities.

1.183 The National Trust (228) and the CNP (354) point to experience in the Broads where a scheme of delegation to District Councils has led to concerns about lack of consistency, confusion about which body is making decisions, dilution of the statutory purposes, and difficulty in identifying and addressing cumulative effects. Moreover, the Broads has fewer applications than the New Forest and they are generally less contentious. A current best-value review is likely to result in the discontinuance of these arrangements.

1.184 Suggested advantages of delegation (such as making best use of staff resources and accessibility to customers) are overstated in the New Forest context. If there are instances where the necessary skills and experience are in short supply, such as minerals planning, this could be overcome by using County staff on a consultancy or service level agreement basis, as has been done in other National Parks, or through working parties or staff secondment.

1.185 The organisations refer to the paragraphs following Recommendation 11 of the DEFRA review in which the review team concluded that all aspects of planning should rest with NPAs and a following paragraph in which they were not convinced that delegation of development control ‘would deliver consistent decision-making and
support integrated management of Parks. It would also mean [NPAs] being seen as a negative influence in planning. In the absence of authoritative evidence to the contrary, responsibility for both local planning policy and development control should remain with NPAs.’

1.186 R F Giddings & Co (148) is concerned that retired members would dominate the NFNPA and that planning decisions by such people would be inherently unlikely to give enough emphasis to any kind of industry for fear that this would damage their recreational enjoyment of the Forest. In the company’s view planning powers should stay with the local authorities. J Wingham (209) also shares this view.

1.187 Mr R Spurr (367) objects to delegation to New Forest District Council on the grounds that its decisions show it to be incapable of delivering National Park standards.

1.188 Dorset County Council (189) and Christchurch Borough Council (202) regard delegated development control as ‘the lesser of two evils’. Development control carried out wholly by the NPA is seen as the worse option as it would entirely split the planning and building control functions which would be confusing and geographically inconvenient to users of the two systems. However, delegated development control would also be problematic in that the same issue would arise with the more contentious applications decided by the NPA. In addition, a District Council could find itself having to enforce policies with which its members and its community disagreed, with officers having to field criticisms of the NPA by disaffected parties.

**Response for the Agency and its supporters**

1.189 No matter which authority takes the development control decisions they will have to be taken in the context of the development plans or LDFs prepared by the NPA. Thus, provided the scheme of delegation is clear there should be no issue of inconsistency or danger to National Park purposes.

1.190 The NFNP will include larger towns and settlements than is the case in other National Parks so its casework will be more urban in nature and more suitable for delegation to the District Council who will be well versed in dealing with such proposals.

1.191 The system should not result in greater confusion to the public since, whatever administration is adopted, there will be policies applying within the NFNP boundary and others applying outside it. Any disadvantages of the system will be outweighed by the benefits – accessibility to users, the relationship of the NFNP to the remaining area of New Forest DC, and the ability to engage with and build upon the experience of existing District Council members and staff. These individuals would not be easy to replace since they have local knowledge and have been operating policies for the NFHA (equivalent to a National Park) since 1994. The key aim should be to design a workable delegation agreement rather than attach too much weight to what may have been an individually dysfunctional arrangement in the Broads where priorities may not have been sufficiently carefully prescribed.
1.192 Salisbury District Council (172) supports the concept of a clear scheme for delegating non-strategic decisions to the existing local planning authorities.

1.193 The Country Land and Business Association (229) supports the delegation option on the grounds that it would involve least duplication, reduce costs and make use of existing technical expertise. The CPRE (357) also supports delegation as long as it is supported by very strong guidance from the NFNPA and that the latter maintains an overview of the incremental effects of small-scale developments.

1.194 New Forest District Council (106) and the New Forest Committee (378) endorse the Agency’s proposals for development control and consider that a significant level of delegation may be appropriate to avoid NPA members becoming over-dominated by development control.

LAND MANAGEMENT (paragraphs 26-27 of the Agency’s advice)

Views of objectors

1.195 Lymington Harbour Commissioners (184) are concerned that no reference is made to the need for advice to be available on harbour and coastal management.

1.196 Associated British Ports (350) is concerned that none of the Agency’s documents acknowledge the existence of the statutory Port of Southampton or ABP’s statutory functions as Harbour Authority (350/1/10). Nor has the company ever been invited to participate in the consultations that took place about the proposed administrative arrangements.

1.197 In the correspondence between the Agency’s Chief Executive and the Lymington Harbour Commissioners (184/0/7) the former states that ‘investigation of this detailed matter (the powers and responsibilities of coastal organisations in the New Forest Area and any potential overlap with an NPA) has taken some time’. The resulting ‘notes’ indicate that the Agency has a limited appreciation of harbours in general and the Solent and Southampton Water in particular.

1.198 Firstly, it makes no reference to the Port of Southampton despite the fact that the NFNP boundary would include water areas of the Port managed by the Southampton Harbour Authority. These are by far the most commercially important areas covered by the Order. Secondly, it is incorrect – in relation to the Port of Southampton – to say that MHW and MLW coincide or nearly do so. The Harbour Authority manages extensive intertidal areas on the New Forest side of the Test and Southampton Water which require to be managed by the Harbour Authority in the exercise of its functions.

1.199 The Agency’s note indicates that there are areas of overlap, but remarks that most of the areas of potential conflict between a Harbour Authority and a National Park require proposed action to be approved by the Secretary of State, who would act
as arbiter. This is not satisfactory. The nature of harbour management requires a Harbour Authority to make decisions swiftly through the kind of forums listed at 350/1/10 app 1 rather than through formal procedures.

1.200 The Agency’s advice makes no mention of the fact that the NFNP includes areas of offshore water, nor on how such areas should be managed in the context of the objectives of the 1949 Act. Yet there is an obvious need to manage such water areas independently for a wide range of purposes most of which, such as commercial shipping and defence, are outside the scope of the 1949 Act.

1.201 Dorset County Council (189) and Christchurch Borough Council (202) do not consider that the included parts of Dorset have land and visitor management issues requiring the leadership and strategic direction of an NPA. A large part of the included area is intensively farmed while the remaining areas are fundamentally different from the core of the Forest in landscape, ecology, history and usage. Commoning issues are of limited relevance to these areas and they require different forms of land and visitor management which are being effectively provided already by the programmes, partnerships and funding put in place by the County Council. Management coherence would not be assisted by addition of an NFNPA.

1.202 The authorities also see community planning as an issue. If the NPA has to engage actively in the community planning processes of up to 8 Districts this will put too much pressure on its resources. Exclusion of the Dorset areas would therefore help to make the NPA more efficient and effective in that regard.

1.203 The Councils ask, specifically, that any advice or guidance from the Secretary of State should provide for ‘clear and effective arrangements for collaboration and consultation between the NPA and the relevant local authorities covering, in addition to land use planning, local transport plans, land and visitor management and community planning’.

1.204 The Country Land and Business Association (229) considers it necessary for the NPA to set up action-oriented joint working forums to coordinate land management bodies.

1.205 Bramshaw Parish Council (321) wishes to see specific reference to the National Trust.

Other organisations

1.206 New Forest District Council and the New Forest Committee support the advice that particular priority should be given to commoning through emphasis on filling gaps and building on existing structures and expertise, especially issues outside the remit of the Verderers.

Response for the Agency

1.207 Paragraph 18(d) makes reference to coastal management and recreation.
1.208 Other points were not specifically responded to except in terms that the absence of reference in the advice to many detailed matters does not mean that the NPA will not work collaboratively with all relevant interests.

VISITOR MANAGEMENT (paragraph 28 of the Agency’s advice)

Views of objectors

1.209 New Forest District Council (106) and the New Forest Committee consider that (as recommended generally by the DEFRA review) there may be advantages in giving the NFNPA statutory responsibility for Rights of Way because access responsibilities would otherwise be fragmented.

1.210 New Forest Commoners Defence Association (110) supports the concept of providing adequate longer term protection for the area and wishes to see protection for the cultural heritage and the tranquillity of the New Forest. However, there must be no retreat from the Section 62 Sandford principle in an effort to bring greater bias towards recreation and tourism whether in a series of small steps or a few large ones.

1.211 Lymington Harbour Commissioners note the absence of reference to access to the sea and intertidal areas and would be concerned if the NPA became active in the management of access by visitors to Lymington Harbour.

1.212 Christchurch Borough Council (202) is concerned that participation of the NFNPA would have consequences for the continued coordinated practices applied within the Dorset Nature Reserves and is concerned that the voice of the Dorset Authorities will not carry sufficient weight.

1.213 The Country Land and Business Association (229) raises points about provision of funds by the NPA for waymarking etc.

1.214 Bramshaw Parish Council (321) considers that there should be specific mention of the need to work with the National Trust, the Forestry Commission and tourism bodies.

1.215 Mrs F Mason (363) is concerned that the NFNPA’s access and rights of way plan could lead to restriction of access.

Response by the Agency

1.216 Although the proposed system for managing rights of way (at paragraph 28a) is different from that applying in most other National Parks the nature of the rights of way system within the designated area points to this as the more efficient and effective solution.

1.217 As for Mrs Mason’s concern about access restrictions, the NPA would not have the power to restrict access on Crown Lands, other public land or private land.
1.218 As for the NFCDA’s concerns, there cannot be a retreat from the principle since it is a Section 62 duty upon all public bodies.

IN INVOLVING LOCAL EXPERTISE AND WORKING IN PARTNERSHIP (paragraph 29 of the Agency’s advice)

1.219 There were no particular objections raised about the content of this paragraph.

INSPECTOR’S CONCLUSIONS

1.220 I set out my conclusions under the following headings:

(1) Does the New Forest meet the statutory criteria for designation as a National Park?

(2) Is some form of National Park Authority the best vehicle for administering a designated area in the New Forest?

(3) How should a National Park Authority be ‘tailor-made’?

(4) Should changes be made to the terms of the Agency’s advice to the Secretary of State?

(1) Does the New Forest meet the statutory criteria for designation as a National Park?

1.221 I can deal with this question very briefly. From Dower onwards, those asked by Central Government to consider the issue have consistently recognised the merits of the New Forest in this respect, although this is the first time that the current level of detailed consideration has been given to precisely what land may fulfil both of the statutory designation criteria. Few suggest that there is no core of land meeting the criteria although there has been plenty of disagreement about the extent of the qualifying ‘extensive tract’. That issue is dealt with in detail in parts 2-6 of this report. I do not consider it further here.

(2) Is some form of National Park Authority the best vehicle for administering a designated area in the New Forest?

1.222 Some accept that an area meeting the statutory criteria can be identified and that there is a need to protect and enhance agriculture (especially commoning) and local wildlife, to support sustainable levels and forms of recreation, and to bring relief from pressures resulting from inadequate powers and resources and conflicts between
competing interests. However, they see designation of an NFNP as a potential impediment to those objectives. They would prefer the Forestry Commission, the Verderers (complemented by the actions of the commoners), the Local Authorities, and other statutory agencies such as English Nature to continue to act as now, perhaps with more resources diverted to them using funds that would otherwise be devoted to the NPA.

1.223 A factor of importance here is the range of perceptions about a number of matters. I found that many views expressed at the inquiry and in writing echo the perceptions and misperceptions identified at paragraphs 12-14 of the analysis of the public consultation responses to the Agency’s draft advice to the Secretary of State (CD110). Matters identified in that document include the perceived ‘remoteness’ of an NPA, and ideas that it would set out to encourage too many visitors, be too expensive, and duplicate local bodies.

1.224 In some cases these perceptions are based on misunderstandings. For example, some incorrectly assumed that the NPA would act like a tourism authority with a duty to encourage and provide for as many new visitors (and new forms of mass tourism) as possible, regardless of the effects on the primary statutory purpose (conservation).

1.225 Other misunderstandings centred on the powers and responsibilities of an NPA and their interaction with those exercised by existing bodies. Some believed that an NPA would take over many or even all of the functions of the District Council rather than the narrow range provided for in the legislation. Others feared that there would be a major conflict of powers between an NPA and the Forestry Commission and the Verderers, or that the powers of the existing bodies would be usurped. However, the content of Appendix VI of CD111, laying out the duties, functions and powers of the 3 bodies, demonstrates that this is not the case.

1.226 Although some appeared to assume that the standard NPA model would lead to competition, disputes and friction between the Authority, the Forestry Commission and the Verderers, it does not appear to me that it would lead inexorably to the creation of irreconcilable problems. The three bodies will certainly require to work closely on some issues but in my view the establishment of an NPA would create a positive opportunity to tackle issues touching on the individual roles and responsibilities of the bodies by making use of the additional skills, powers and resources brought by the Authority. Both the Commission and the Verderers will be bound up in the process of preparing the NFNP Management Plan, which will provide them with the opportunity of ensuring that it furthers their interests rather than competing with them.

1.227 Another problem of perception is that the term ‘New Forest’ clearly means very different things to different people in different contexts. The perceived geographical extent of the New Forest can range successively outwards from (a) the Crown Lands to (b) land within the perambulation, to (c) land within some version of the NFHA, to (d) land within some version of a wider ‘historic dispersed pastoral system’ and (e) in some cases even beyond that. Many of those suggesting the ‘little or no change’ option restrict their consideration of the New Forest to the lands within
the perambulation (or even just the Crown Lands). This is understandable because the perambulation represents the extent of the New Forest in the eyes of many local people and visitors. However, the area of land meeting the designation criteria goes wider than this (albeit in my view considerably less widely than the area included in the Designation Order).

1.228 If this wider area is worthy of designation it must be capable of being managed in a coherent way capable of meeting the statutory purposes of designation across its whole area, ie conservation and the appropriate provision and management of opportunities for open-air recreation. In my view this is unlikely to be achieved without the creation of some form of dedicated, area-wide body which has the resources to act effectively in matters of development planning and land management. I consider these in turn.

Planning arrangements

1.229 It seems to me that most respondents wish in some way to hold onto the ‘National Park-equivalent’ status currently afforded to the NFHA in planning terms because this is seen as affording protection from undesirable development pressures threatening the New Forest, however this is defined.

1.230 Retaining National Park-equivalent status for development control purposes could be achieved without designation by continuing with the NFHA and the South Hampshire Coast AONB which has the same status as a National Park for planning control purposes. If necessary a differently defined extent of land could be recognised in a future development plan as having this type of protection. However, some, including the Agency, see the potential for regular review of the extent of the NFHA via the statutory development plan/local development framework as a destabilising factor which introduces too much uncertainty into the system. This is an understandable view which I support. Certainly, it would be an uncomfortable mix to continue with a regularly-reviewed NFHA and an AONB which has not been reviewed since designation in 1967. However, if the Secretary of State were to prefer the NFHA-type option to National Park designation, it would probably be necessary to confirm the South Hampshire Coast AONB Revocation Order and allow a differently-defined equivalent of the NFHA to be identified through the development plan and afforded National Park-equivalent status.

1.231 I recognise that New Forest District Council has undertaken important planning initiatives to recognise and protect the value of the NFHA, supported by the other local planning authorities, parts of whose areas overlap it. However, continuing with a Heritage Area would not provide a single-tier local planning authority focused on achieving the statutory National Park purposes (and subject to the duties introduced by Section 62 of the 1995 Act). In my view a full National Park planning regime is much to be preferred as a means of providing the level and quality of protection sought by most organisations and individuals expressing views to the inquiry. Even with ‘National Park-equivalent’ protection the NFHA delivers a dispersed, incomplete National Park planning system, in that development control is administered by a number of authorities, including at present the County Councils for minerals and waste matters. Development plan matters are covered by parts of 3
District-wide plans plus the County Councils’ structure plans and minerals and waste local plans. Thus from the planning standpoint I consider that full designation is the most appropriate option.

**Land management**

1.232 A New Forest National Park would be unique in having such a large percentage of its core occupied by an area with the character of the perambulation, so long managed for farming, forestry and recreation under the interlocking powers of the Forestry Commission and the Verderers. The perambulation occupies 55% of the land in the designation order (as made by the Agency), while the Crown Lands within the perambulation occupy 40%. Those percentages would increase quite significantly if the area of the National Park is reduced in accordance with my recommendations.

1.233 With regard to recreation, those opposing the principle of designation express strong fears that a National Park would exacerbate the harmful effects of too much visitor activity and the development pressures that this can bring. I accept that the existing bodies have done much to encourage responsible use (and discourage irresponsible exploitation) of the New Forest. However, neither the Forestry Commission nor the Verderers have any role in the management of conservation and recreation outside the mostly highly vulnerable habitats of the Crown Lands (ie on private or other publicly owned land within or without the perambulation). These bodies cannot act across the whole of the area meeting the designation criteria and can only seek to combat the more negative impacts of recreation by acting within what are generally the most fragile and sensitive areas in conservation terms.

1.234 Wider approaches, taking in the whole of the NFHA, have been introduced though the efforts of the member bodies of the New Forest Committee. These have resulted in some important initiatives and increased integration of effort. A major example is the Strategy for the New Forest, a form of management plan setting out ways in which the member organisations will work together on a voluntary basis to achieve shared aims. However, valuable as it is, this form of co-operative working does not bring the additional resources and powers that would be attached to a National Park. For instance the budget of the New Forest Committee in 2002/03 was about £183,000 (CD 176) whereas the Agency indicated to the inquiry that the annual budget for the NFNP would probably be in the region of £2-3m.

1.235 The conservation and recreation pressures on this relatively small, fragile, but highly accessible area have increased immeasurably in the 50 years or so since the New Forest was first considered for designation and they continue to do so. In my view there is now an important need to introduce the additional ingredient of an NPA. This will enable the twin statutory purposes to be addressed throughout the area as a whole through the preparation of a well-resourced statutory management plan by a properly empowered authority. It will also impose the Section 62 (1995 Act) duties on all public bodies in the area.
The Conservation Board proposal

1.236 As described earlier, the proposal by Minstead Parish Council and Minstead Manor Commoners is that an AONB be designated, covering whatever area is considered to qualify on natural beauty grounds, and that the area be managed by a Conservation Board under the CROW Act. However, a Board would not have its own planning powers whereas I have indicated above that I consider it necessary for a full National Park planning regime to be introduced, provided by a single-tier local planning authority focused on achieving the statutory National Park purposes. Having regard to the national budget for AONBs it would also not have access to the same level of Central Government resources dedicated to the achievement of the two National Park purposes, including recreation. In the circumstances of the New Forest, where recreation pressures are in need of more positive management across the whole of the designated area, this proposal would not serve the area well.

Conclusion

1.237 I conclude that a National Park Authority is the appropriate organisation for administering a designated NFNP and so turn to consider the views expressed about the appropriate form of such a body.

How should a National Park Authority be ‘tailor-made’?

1.238 From Dower onwards those reporting to Government on the New Forest as a possible National Park have consistently recommended that it is, in effect, ‘especially desirable that the necessary measures be taken’ to uphold the statutory purposes of a National Park. The major reason why designation has never followed any of these reports has been the equally consistent conclusion that the special circumstances of the area (the statutory responsibilities of the Verderers and the Forestry Commission, the importance of commoning, the area’s very high nature conservation interest, and the large areas of Crown Land managed by the Commission) require non-standard, tailor-made administrative arrangements to be devised rather than the establishment of a standard National Park Authority.

1.239 Until the Agency’s current proposals it has always been concluded that this would require legislation. However, as described by the Agency at p34-51 of Position Paper 2 (CD156), it now considers that appropriate tailoring to New Forest circumstances can be achieved by means of the advice to the Secretary of State.

Suggested models for a tailor-made authority for the NFNP

1.240 The evidence to the inquiry demonstrated the wide variety of views held by various organisations and individuals about the way in which a New Forest National Park Authority should be formed. Many of the suggestions for tailor-made models centre on membership issues. I deal with these separately below. First, I deal with alternative bodies proposed by some objectors.
1.241 The tailor-made authority suggested by New Forest District Council draws considerably on the model consulted upon by Government in 1992 when a statutory form of New Forest Committee was proposed. Like the body suggested at that time, the model now put forward by the District Council would be a body whose executive functions would largely be limited to preparing a statutory park-wide management plan.

1.242 The Council’s representative said that a New Forest Authority of this kind would ‘pour strong glue’ into the gaps between the existing bodies serving the Forest, providing a common focus to their individual programmes and activities. However, since the body would not be an NPA under Section 63 of the Environment Act 1995 it would lack the powers and resources attached to such a body. Although ‘economy’ was said to be one of the advantages of the Council’s proposal it seems to me a weakness that the body would be able to do little more than co-ordinate the efforts of others without bringing more resources to the issues to be tackled by the Park management plan. Importantly, the Council’s proposal would also leave the new authority without the necessary dedicated full planning powers discussed at 1.229 to 1.231 above.

1.243 Hampshire County Council has two main suggestions. The first is that DEFRA and its agents should commit themselves to joint working with the NPA on preparation and implementation of aspects of the National Park Management Plan. It is a matter for the SOS whether or not it is necessary to make such a statement within the Circular suggested by the Agency. In my view the NPA could reasonably expect all public bodies with responsibilities in this area to work with it on relevant aspects of the management plan if invited to do so.

1.244 The Council’s second suggestion (that all Forestry Commission functions, staff, budgets, accommodation and land should be transferred to the NFNPA to form the basis of its operation) is much more radical. It seems to me somewhat unlikely that amputation of an important part of the Commission and its activities could be achieved by minor amendments to the Local Government Acts as suggested. In any case, an NPA does not seem to be a suitable organisation to engage in forestry on this scale. Such activities are not consistent with the statutory purposes of an NPA and could unbalance its work and divert attention from its primary purposes. Clearly, the Commission and the NPA would have to work together very closely on matters concerning recreation on the Crown Lands and both would need to have regard to their S62 duties (1995 Act) concerning the recreational purpose. However, overall, it could be beneficial to both parties and the area as a whole for the two bodies to tackle recreational and other issues across the whole Park in a complementary way.

1.245 I agree with the County Council that there would be justifiable concern if the advent of an NPA were to be taken as an opportunity for the Commission to reduce its commitment to funding of recreation provision and management in the Crown Lands. This would significantly limit the purpose and potential of designation. However, the Commission would still be bound by the terms of the Minister’s mandate, which would no doubt be amended if there were matters that the Crown wished the Commission to handle differently in its relationship with the NPA. It is for the SOS
to consider whether the Council’s concern needs to be met by some form of commitment in the Circular. I do not make any recommendation on this matter.

1.246 The Verderers’ suggestions for a tailor-made solution revolve around (i) the perceived loss of their veto on inappropriate recreational development on the Crown Lands and (ii) membership issues. I cover the second matter below. As far as the veto is concerned, the Verderers have provided an amendment to Section 65 of the Environment Act 1995 that would satisfy their concerns. Alternatively, they provide an amendment to paragraph 23 of the advice to the Secretary of State that ‘would go quite a long way’ towards meeting them. A number of other objectors, such as the New Forest Commoners Defence Association and Desmond Swayne MP, associate themselves with these views.

1.247 In the light of the view expressed by the Minister in the correspondence referred to at paragraph 1.40 above it may be possible to give more reassurance to the Verderers and other parties than is currently given by the Agency’s advice. However, I accept that this is a difficult matter and that (as the Agency pointed out) the SOS would have difficulty in giving advice appearing to fetter her powers under primary legislation. I have recommended one possible form of wording which is slightly different from that submitted by the Verderers and indicates that such development ‘will not be permitted unless there is demonstrated to be a very exceptional case for doing so’. This is intended to pose a stronger test than that set for confirmation of a CPO, which requires a ‘compelling case in the public interest’. I am less convinced by the need to amend Section 65 to provide specifically for what may be a very unlikely eventuality simply because one could not necessarily be certain that in all circumstances and for all time a very exceptional case would not occur.

**An additional statutory purpose concerning commoning**

1.248 As indicated at paragraph 1.48, some suggested that commoning is of such importance to the New Forest that special legislation is required to make ‘protection of commoning’ a third statutory purpose for the NFNP. I am not convinced that this is necessary. In my view the references to commoning in the Agency’s advice to the Secretary of State leave no room for doubt about the special importance of this activity.

1.249 Some objectors pressed the point further, suggesting that commoning should be given statutory protection similar to that enjoyed by crofting. This is a very wide issue going beyond the scope of designation issues and I do not comment upon it.

**NPA membership issues**

1.250 The membership composition of a standard NPA gave rise to the greatest single area of concern among objectors. However, suggestions on tailor-making the membership mix of the NFNPA cover a wide range. There is no clear preference among objectors for any particular departure from the standard arrangements.

1.251 At one extreme is a suggestion to institute 100% direct election of members by an electorate confined to those living (and/or working) within the boundaries of the
designated area. At the other are suggestions that Section 7 of the 1995 Act should be amended to increase the proportion of Secretary of State (non Parish Council) appointees from the standard 25% to 40%, as recommended in the DEFRA review, or even to 50% as suggested by the Verderers and the New Forest Committee. The underlying motive of all these suggestions (from both extremes) is to reduce the influence of members seen to be in some way ‘remote’ and lacking familiarity with the needs of the Forest. Those seeking a higher proportion of directly elected members seek to overcome this ‘remoteness’ by eliminating or diminishing the number of appointees (who are seen as detached and democratically unaccountable). Those wishing to increase the proportion of appointees see this as the best way of counterbalancing the excessive influence of councillors lacking sufficient knowledge of Forest requirements and answerable to electorates with largely urban and suburban mindsets.

1.252 I note that similar themes about the relative merits of local versus national appointments emerge in discussion about the size and mix of membership in the report of the DEFRA review of NPAs. This includes the comment that ‘...there is little consensus about what changes should be made.’

1.253 The DEFRA review comments that the hybrid status of NPAs as special purpose statutory authorities ‘brings advantages by providing a genuine mix of people with different experience and skills and legitimately different views. Where the combination works well there is rounded and balanced decision-making. But, crucially, it depends to a large degree on the goodwill and constructive working relationships between.....members’

1.254 It also observes that ‘In most parks the current mix of members seems to be working reasonably well’ and that ‘It is perhaps inevitable that there is sometimes tension between those members who see themselves as promoting local interests and those appointed by the Secretary of State to represent national interests’.

1.255 These comments (and the guidelines on membership appointments set out in paragraphs 33-41 of Circular 12/96) reflect the need for NPA members, however they are appointed, to act together with good will in the best interests of the Park and its statutory purposes. Local authority appointees are to be chosen with regard to the ‘desirability of appointing members who represent divisions or wards situated wholly or partly within the Park’. Secretary of State appointees should have a capacity to present a wider national viewpoint and experience with direct relevance to the character and responsibilities of the particular National Park preferably combined with local associations. Moreover, they are to be ‘selected for their personal qualities and experience and not as representatives of specific groups or organisations’.

1.256 The membership of any New Forest NPA clearly needs to be tailored to the unusual circumstances of the Park. It is of central importance that Secretary of State appointees can (together) bring a thorough understanding of the roles of the Forestry Commission, the Verderers, the commoning community, and a range of other interests of vital relevance to the area. In my view the advice to the Secretary of State sets out all the relevant areas of expertise in a straightforward and unambiguous way. However, although many organisations and interest groups seek representation as of
right on behalf of themselves or others I do not consider it appropriate to provide for that, either through specific legislation or amendments to the advice. To do so would be contrary to the approach in the Circular that Secretary of State appointments are made in recognition of the individual’s own personal qualities and experience rather than as representatives of particular organisations. I note from CD110 (para 77) that the Forestry Commission does not itself seek membership of the NPA.

1.257 I do not know if Secretary of State appointments are made after the receipt of information about local authority appointments (and therefore in full knowledge of the skills and experience of those members). If this is the case I consider that it would be beneficial to indicate in the Circular that SOS appointments will be made with a view to completing the best overall balance of experience across the membership as a whole by concentrating on filling any perceived gaps in experience and skills. The Agency indicated that it would agree with this.

1.258 Turning to the percentage of SOS non-Parish Council appointees required to give the right membership balance for an NFNPA, if the NPA had about 26 members (a typical number among the smaller English National Parks) there would be about 7 national appointees. If, in the longer term, Recommendation 22 of the DEFRA review is implemented the number could rise to about 8-10 (i.e. 40% of some 20-25 members). This may be a more comfortable number to give good representation of the wide spread of areas of national interest needing to be reflected in an NFNPA. However, I do not consider that 7 would be too few to do so or that designation should await legislative changes of this nature. Consequently I am not convinced that any departure from the standard NPA membership pattern is required. In my view sufficient provision for ‘tailoring’ of membership can be achieved through the Agency’s advice.

Conclusion

1.259 My overall conclusion is that the circumstances of the New Forest, though unique, can be adequately addressed through a standard NPA complemented by appropriate New Forest-specific advice issued by the Secretary of State. This would enable the long-awaited designation of the NFNP to take place and provide suitable advice for the establishment of an NPA.

1.260 I am not convinced by the suggestions that designation should await a future legislative opportunity so that a more ‘tailor made’ NPA can be put in place adopting some of the preferences put forward at the inquiry. There has not been any great consensus about how such a body would differ from the standard model and I am not confident that it would be possible to achieve such consensus, so this option would probably be a recipe for yet more delay. In general it seems to me that the various alternatives put forward would be less well-equipped in terms of their powers and resources to tackle the needs of the area worthy of designation.

1.260 I have reported that some are concerned that advice issued in the form of a Circular can too easily be changed by an individual Government or Secretary of State, whereas tailor-made proposals expressed in terms of legislation are likely to carry a greater guarantee of commitment and longevity. However, both legislation and
circumstances. In my view the advice generally contains good sound common sense reflecting the current needs and circumstances of the New Forest and nothing would be gained by taking an alternative route, especially when there is so little consensus about what that should be.

Should changes be made to the terms of the Agency’s advice on special measures for the establishment and administration of a New Forest National Park Authority?

1.261 I do not consider it necessary for me to comment on paragraphs 1-15 of CD102 which contain introductory background material. Nor do I need to comment further on paragraph 16, with which I have agreed. My comments are therefore confined to paragraphs 17-29 which address matters that would be covered in the Secretary of State’s guidance.

Special guidance (Paragraph 17)

1.262 It was generally assumed at the inquiry that this would take the form of a Circular specific to the New Forest National Park. I have no comments to make on this content of this paragraph except that, to stress Government-wide responsibilities, I would suggest adding at the end of the second sentence ‘....authority and other government-funded bodies with S11A (2) [1949 Act] duties towards the New Forest National Park.’ Alternatively, this matter could be addressed within the advice at paragraph 23.

Membership of a New Forest National Park Authority (Paragraphs 18-20)

1.263 I have discussed membership issues at paragraphs 1.250 to 1.258 above and have no comment to make upon paragraphs 18-20 of the advice, which I endorse.

1.264 I have taken it that the reference, in paragraph 19, to a ‘statement’ by the Secretary of State refers to coverage in the Circular of matters relating to SOS appointments to the NPA.

Relationship between a New Forest National Park Authority, the New Forest Verderers and the Forestry Commission (Paragraphs 21-23)

1.265 Again, I have taken it that mention of a ‘statement’, in paragraph 21, is a reference to the Circular.

1.266 I am recommending that, after paragraph 23, an additional paragraph be inserted concerning the Verderers’ veto on inappropriate development on the commonable Crown Lands, as discussed at paragraph 1.247 above.
1.267 I also suggest that the factual information on the respective statutory powers of the 3 bodies (set out in Appendix VI of CD111) be appended to the Circular.

1.268 Otherwise, I consider that the advice sets out clear guidance on the relationships that will have to be forged between the bodies concerned.

**Planning arrangements (Paragraphs 24 and 25)**

1.269 The Review of English National Park Authorities (CD14) has recently considered the statutory planning responsibilities of NPAs under the Environment Act 1995, concluding that the arguments for retaining Park-wide planning powers are strong, and recommending that the present position should remain unchanged. I have not heard any convincing arguments for departing from that arrangement in the New Forest for both the development plan and development control functions. Effective consultation will be required with neighbouring authorities about matters of cross-border interest, but that is not unique to the NFNP and applies in the case of every National Park. Like those carrying out the DEFRA review of NPAs, I was informed about the example of The Broads, where delegated development control has not always proved satisfactory. It seems to me highly desirable that the NPA should retain the ability to make consistent decisions on all applications within its area and be plainly recognised as doing so without the complication of delegation arrangements which are likely to confuse the public and potentially produce inconsistent decisions. If the NPA encounters occasional issues requiring specialist input I consider that such matters would be better dealt with by staff secondment or service agreements rather than delegating the actual decision. In the case of minerals and waste planning I recognise that it could make for economy to prepare a joint local plan with Hampshire County Council, but in my view this is a decision best left to the future NPA and does not need to be covered by advice from the Secretary of State.

1.270 Of course I recognise that no system of organisation involving National Parks will avoid a certain amount of confusion to the public about which body is responsible for decisions about particular matters (including, for example, the split between bodies dealing with planning control and building control). The geographical circumstances here can be seen as adding to the difficulty of this issue because the NPA would assume planning powers over an extensive rural area in the centre of New Forest District leaving the District Council to administer such powers over a surrounding ring of urban, suburban and rural areas. However, my recommendations with respect to the NFNP boundaries would remove some areas from the National Park, including the towns of Lymington and Ringwood and the sizeable village of Bransgore. This would increase the area left with the District Council for planning purposes and relieve the NPA of the financial and professional burden of dealing with the planning issues of urban and suburban areas unconnected with National Park purposes and together containing a population of over 32,000. Much of this work would involve relatively minor proposals of no significance to the NFNP of the kind that the Agency’s proposal for delegation was designed to cater for. A benefit of omitting these areas would be to avoid the additional development control workload otherwise arising from the need for planning permission to be sought for very small developments under the more restricted GPDO rights applying within the National Park.
In short, if National Park-level planning protection is to be afforded to the designated area, I agree with the Agency, objectors such as the CNP, and the DEFRA Review of English National Park Authorities that the model of a dedicated local planning authority provided by the Environment Act 1995 is the most appropriate for the New Forest. However I do not support the concept of delegating decision making to the District Councils.

I therefore consider that the terms of the special advice relating to planning can be simplified and the opportunity taken to bring it up to date with the Planning and Compulsory Purchase Bill. I recommend accordingly.

Land management (paragraphs 26-27); Visitor management (paragraph 28); and Involving local expertise and working in partnership (paragraph 29)

In general I see no requirement for change to these paragraphs. However, I recommend one change to point up the importance of the NPA developing close working relationships with the Port of Southampton and the Lymington Harbour Commissioners. My boundary recommendations greatly reduce the areas of these ports included in the NFNP although small areas of both are still retained within it. Nonetheless, there is still a need for greater recognition of the particular issues raised by the harbour authorities than is accorded by the existing advice.

RECOMMENDATIONS

I recommend:

(1) That the New Forest National Park (Designation) Order 2002 be confirmed, with modifications to the boundary as indicated on the series of maps (numbers INSP 1-20) found at the end of Parts 2-6 of this report and described beneath (and that detailed inset maps be prepared at certain points as also detailed beneath);

(2) That the South Hampshire Coast Area of Outstanding Natural Beauty (Revocation) Order 2002 order be confirmed;

(3) That a New Forest National Park Authority be established under the provisions of section 63 of the Environment Act 1995.

(4) That the Countryside Agency’s advice to the Secretary of State on the issue of special guidance to the National Park Authority be considered by her as if it were subject to the following amendments:

Para 17 Add at the end of the second sentence ‘…..authority and other government-funded bodies with S11A (2) [1949 Act] duties towards the New Forest National Park.’ Alternatively, this matter could be addressed within the advice at paragraph 23.
Paras 18-20 [No change]

Paras 21-23 Add an additional paragraph as follows:

‘23A Commoning is important to the cultural heritage of the New Forest and the preservation of its open access land. As a means of safeguarding these interests Section 18 of the New Forest Act 1949 and section 1 of the New Forest Act 1970 require the agreement of the New Forest Verderers before any recreational or tourist development can take place on the commonable Crown Land in the New Forest. Development contrary to the wishes of the Verderers which involves compulsory purchase of commonable Crown Land or which has the intention or effect of extinguishing rights of common or circumventing the existing powers of the Verderers will not be permitted unless there are demonstrated to be very exceptional grounds for doing so.’

Append information to the Circular on the respective statutory powers and responsibilities of the 3 bodies (as set out in Appendix VI of CD111).

Paras 24-25 Replace as follows:

‘The NFNPA will be the sole planning authority for its area, responsible for carrying out all statutory plan-making and development control functions under Section 4A of the Town and Country Planning Act 1990 as provided for by Section 67 of the Environment Act 1995 (or any succeeding legislation). The NPA will not be expected to delegate any powers of decision making to other authorities but is advised to establish clear, efficient and effective consultation arrangements with neighbouring local planning authorities over matters of mutual interest.

Guidance should also advise the NFNPA to work with other relevant authorities on preparing (a) a local transport plan and (b) community strategies, relevant outcomes of which should be reflected in the National Park Management Plan.’

Paras 26-29 Add a reference as follows:

‘Guidance should advise the NFNPA to work closely with the Harbour Authority of the Port of Southampton and the Lymington Harbour Commissioners to identify any areas of technically overlapping powers and devise codes of conduct to ensure that the overall efficiency, safety and economy of the ports is not impaired, while paying appropriate regard to the S62 duty.’
Description of the boundary of the National Park, as recommended for modification

From the Ower roundabout at the meeting of the A36, A36(T) and A3090 the recommended boundary runs southwards along the western edge of the A36 to its junction with the A326. It then continues along the western edge of the A326 to a point just north of the Hardley roundabout. From there it follows the boundary shown in the Designation Order around Holbury and Blackfield as far as Roughdown Lane. The recommended boundary then follows Roughdown Lane to the edge of the perambulation and follows the latter until it meets the boundary in the Designation Order at Kings Copse Road. It then continues along the boundary in the Designation Order as far as the objection site known as The Ruffs, omitting that land together with the small area of open space associated with the housing estate to the south. The recommended boundary then follows that shown in the Designation Order around the Blackfield and Fawley urban areas as far as the A326.

From the A326 the recommended boundary follows that of the New Forest Heritage Area as far as the car park west of Ashlett Mill. It then follows Ashlett Creek to the MLW mark where it turns to follow the Designation Order boundary south to the end of Calshot Spit. The island of excluded land at Fawley Power Station is reduced at its north-west end so that it follows the outer (northern) edge of the planted tree-screen to the north-west of the power station buildings.

From the end of Calshot Spit the recommended boundary follows the Designation Order boundary as far as the landward end of Hurst Castle Spit. From here it turns east along the MHW mark as far as a point near Salt Grass Cottages. The recommended boundary is then drawn tightly around the village of Keyhaven (as described in more detail in the third descriptive section of paragraph 4.141 of this report). After this it follows the ditch running northwards to the west of the Avon Water, before crossing the river and returning south down the ditch to the east of the river. The recommended boundary then includes a triangle of restored land before following the byway eastwards to the end of Lower Pennington Lane. From here it follows Lower Pennington Lane as far as the AONB boundary and a footpath going north-west from Sadlers Farm. Just north of here it turns east, following another path which crosses Lower Pennington Lane and continues to Ridgeway Farm. The recommended boundary then follows Poles Lane to the junction with Normandy Lane before following the boundary of the built-up area of the town along Viney Road to Delaware House, turning east along All Saints Road and then following Westfield Road. From the end of Westfield Road it follows bunds and footpaths passing around the marina before crossing the river to the NFHA boundary.

The recommended boundary then follows the NFHA boundary around the eastern, northern and western sides of Lymington as far as the A337. It then returns up the western side of the valley, still following the NFHA boundary as far as a point south of Broadmead where it then continues up the north-south track as far as Silver Street. The recommended boundary then follows Silver Street as far as the built-up edge of Hordle. From here it again follows the NFHA boundary for a considerable distance past New Milton, Beckley, Hinton and Hinton Admiral Station. West of the station it follows the NFHA northwards around Burton Common but near Waterditch it extends
slightly further west than the NFHA, following a small north-south running stream marking the county boundary to a point near Waterhouse Farm.

The recommended boundary then excludes the whole of the built-up area of Bransgore as defined in the Local Plan together with the playing fields and public open spaces associated with the village. North-west of Bransgore it follows the NFHA boundary as far as Ripley Wood. The recommended boundary then turns west to include the Bisterne Manor parkland, meeting the B3347 near Lower Bisterne Farm. It then crosses the road skirting woodland including Lower Side Copse and Alder Bed Copse before returning in an easterly direction to the B3347 via the minor road. The recommended boundary then skirts the north side of the Bisterne Manor parklands, excluding an extensive arable area south of Dragon Lane, before rejoining the NFHA boundary and following this northwards as far as Cross Lanes at the north-east edge of the Blashford Lakes complex.

The recommended boundary then follows a line defined around and to the west of the linear settlements of South and North Gorley to the Hungerford T-junction. It then follows the NFHA boundary through Stuckton to the B3078 near Criddlestyle. From here it continues to follow the NFHA boundary along the east bank of the Avon to Lower Burgateon the A338 where it joins the Designation Order boundary for a short distance to Burgate Cross. The recommended boundary then departs from the Designation Order boundary to follow the raised embankment of the disused railway line to a point north of Breamore where it again joins the Designation Order boundary south of South Charford Farm and continues across the floodplain to a point opposite Searchfield Farm.

From here the recommended boundary continues to follow the Designation Order to Redlynch except that a small excluded woodland area south of Searchfield Farm is taken into the National Park. From Redlynch it follows the Designation Order boundary via Grove Lane and Moor Lane nearly as far as Newton. From a point opposite the southern end of Lowdens Copse the recommended boundary leaves Moor Lane to turn east following a footpath to the A36, but departs from the Designation Order boundary to take in a small nib of land within a mire lying about half way along the footpath and exclude a north-pointing triangle of land at the eastern end bounded by two paths and the A36. The recommended boundary then follows the A36 back to Ower.

**Inspector’s further recommendation concerning the boundary referred to above**

In my view the scale of the Designation Order maps can make it difficult to draw (and then decipher) the exact line of the National Park boundary in certain places, especially where it skirts the edges of some built-up areas and villages – in particular at Upper Pennington, Keyhaven, Bransgore and North and South Gorley. It would be helpful for those who will have to use the Designation Order if it included more detailed inset maps at these locations. I therefore recommend that such maps be prepared for formal inclusion in the Order.