

# ENVIRONMENT CABINET MEMBER MEETING

## Agenda Item 150

Brighton & Hove City Council

|                         |  |  |                     |
|-------------------------|--|--|---------------------|
| <b>Subject:</b>         | <b>Omission of Green Ridge from the Intended South Downs National Park</b> |  |                     |
| <b>Date of Meeting:</b> | <b>7 May 2009</b>  |  |                     |
| <b>Report of:</b>       | <b>Director of Environment</b>   |  |                     |
| <b>Contact Officer:</b> | <b>Name:</b>   | <b>Rob Fraser</b>                      | <b>Tel:</b> 29-2380 |
|                         | <b>E-mail:</b>   | <b>rob.fraser@brighton-hove.gov.uk</b> |                     |
| <b>Key Decision:</b>    | <b>No</b>  |  |                     |
| <b>Wards Affected:</b>  | <b>Withdean, Patcham</b>   |  |                     |

### FOR GENERAL RELEASE

The Cabinet Member for Environment has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency.

The special circumstances for non-compliance with Council Procedure Rule 23, Access to Information Rule 5 and Section 100B(4) of the Local Government Act as amended (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) are that the decision of the Secretary of State to publish the intended boundary of the South Downs National Park was only made on 31<sup>st</sup> March 2009. It is hoped that by urgently drawing the attention of the Secretary of State to the omission (which may be a clerical error) it may be possible to avoid the area of Green Ridge being omitted from the subsequent designation and avoid any need for recourse to more formal measures of objection or challenge.

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To seek approval for requesting that the Secretary of State reconsiders the proposed boundary of the SDNP at Green Ridge and amends the boundary to include land at Green Ridge.
- 1.2 Green Ridge has been excluded without the Secretary of State clearly setting out his reasons for its exclusion and contrary to the boundary setting criteria for the South Downs National Park

#### 2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member for Environment:
  - (1) Agrees that strong representations should be made to the Secretary of State to raise concerns that he has not clearly set out the reasons for excluding Green ridge;
  - (2) Requests that he set out his reasoning for proposing to exclude part of the Green Ridge SNCI which meets the boundary setting criteria for the South Downs National Park together with the western part of the road

embankments along Mill Road from the intended South Downs National Park;

- (3) Request that the Secretary of State redraws the boundary of the South Downs National Park further west along the junction between Green Ridge and the Devil's Dyke Road, thereby including the land at Green Ridge in the proposed South Downs National Park.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The Council's attention has already been drawn to the omission of Green Ridge and the error in the Secretary of State's decision letter 31st March 2009 when it was incorrectly stated that Green Ridge formed part of 'addition 23' which actually only included Toads' Hole Valley and the embankments along Mill road, north of Green Ridge. Officers believe that the exclusion of Green Ridge itself may well be the result of an error rather than an intent. The exclusion of Green Ridge has probably arisen from the complex history of the proposed inclusions and exclusions of embankments in the area, set out in appendix one.
- 3.2 Green Ridge meets the criteria for inclusion in the intended South Downs National Park because:
  - (a) the land at Green Ridge is in the AONB and there is no claim that its natural beauty has been shown to have been degraded, indeed it is managed as downland grass;
  - (b) it forms public open space in recreational use;
  - (c) it has special status being part of the larger Site of Nature Conservation Importance that would be split in two by this decision
  - (d) Green Ridge is culturally important in that an ancient boundary hedge, reflecting a Saxon land boundary runs through it
  - (e) together with Coney Hill, it forms part of a more extensive area of Downland to the east;
  - (f) the roads – both the A27 and Mill Road are in cuttings and when viewed from north or south this land reads as part of the South Downs.
- 3.3 The Secretary of State has already altered the boundary of the 'Addition 23' land by including the embankments to the north of the A27 in the SDNP. Therefore the redrawn boundary line could just as easily have been drawn to include all the embankments at the western end of Mill Road to match the boundary at the eastern end of Mill Road. The National Park Boundary could be drawn at the clearly defined line of the Dyke Road Junction.

### **4. CONSULTATION**

- 4.1 The South Downs National Park Boundary has been the subject of wide consultation and two inquiries. Neither the City, nor local residents have sought the exclusion of Green Ridge.

## 5. FINANCIAL & OTHER IMPLICATIONS

### Financial Implications:

- 5.1 Mounting a legal challenge to the exclusion of Green Ridge could incur costs, the order of which is not known

*Finance Officer consulted: Patrick Rice Date: 30/04/09*

### Legal Implications:

- 5.2 The South Downs National Park will ultimately be designated and confirmed as such under the provisions of the National Parks and Access to the Countryside Act 1949 as amended by the Natural Environment and Rural Communities Act 2006. The 1949 Act provides that should any person wish to challenge the validity of the designation order this must be done within 6 weeks of publication of notice of confirmation of that order. A legal challenge can be directed at the reasoning in the Inspector's Report. As stated in this Report to Cabinet, it is the opinion of your officers that the exclusion of Green Ridge may have been unintentional and unwitting and that the reasons for the exclusion have not been made out.

Insofar as a designation order for the South Downs National Park has not yet been made or confirmed any challenge through the Courts would be premature. However, it is incumbent on the Secretary of State to set out clearly his reasons for coming to his decisions and hence it is appropriate at this stage to make the representations and requests as recommended in this Report.

It is not considered that any adverse human rights implications arise from this Report.

*Lawyer consulted: Hilary Woodward Date: 30/04/09*

### Equalities Implications:

- 5.3 The land at Green Ridge is accessible without requiring lengthy car journeys and offers a low cost gateway into the intended South Downs National Park for people living in this part of the City.

### Sustainability Implications:

- 5.4 Promoting walking access into the SDNP offers a more sustainable alternative for people living in this part of the City.

### Crime and Disorder Implications:

- 5.5 Leaving this small area out of the intended SDNP may reduce its supervision and attract anti social activities.

Risk and Opportunity Management Implications:

- 5.6 The key risk is financial regarding the cost of any legal challenge if the Secretary of State does not revise the boundary and staff resource issues.

Corporate / Citywide Implications:

- 5.7 The proximity of the SDNP to the City offers business opportunities in terms of catering for walkers and tourists.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The alternative options are to:
- accept the Secretary of State's decision to exclude part of the Green Ridge SNCI;
  - to mount a legal challenge to the decision; or
  - as proposed above request the redrawing of the boundary and the re advertisement of the boundary at Green Ridge because it meets the criteria for inclusion

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 To seek the re-inclusion of Green Ridge in the intended SDNP.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. History of consultations on proposed boundary changes
2. Maps of the proposed boundary 2009,.

**Documents in Members' Rooms**

None

**Background Documents**

1. Inspector's First Report
2. Inspector's second Report and Addendum
3. Letter from the Secretary of State
4. Maps of the proposed boundary 2009, 2003, 2002 and 2001.