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## Iford Shoot Appeal Hearing - National Park let down the local community?

(Commercial shooting on the South Downs near Lewes, - Re: Iford Farm enforcement notice appeal ref. APP/Y9507/C/18/3209964)

*A Report by the Friends of the South Downs (South Downs Society) – 16<sup>th</sup> April 2020*

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## National Park let down the local community?

The South Downs National Park Authority appeared to make no efforts to support their case of enforcement against commercial game shooting on the South Downs near Lewes. Whilst the Iford Estate [J.& H. Robinson (Iford Farms) Limited] had legal counsel (a barrister) and a planning consultant present. In all, The Iford Estate were represented by a team of 6. The National Park had no matching legal representative nor any senior planning officers present. Sadly, they left the defence of their case up to the local enforcement officer from the Lewes District Council (LDC) who said very little during the hearing and a South Downs National Park officer who did put forward some points in favour of the enforcement case. It is puzzling as to why the South Downs Ranger was not called as there were

a number of matters relating to rare species, SSSI and the South Downs Way. Equally it is odd that the Rights of Way dept of ESCC were never involved as there were concerns raised that the Iford Shoot was causing problems with the public exercising their right to use the public paths and bridleways.

Fortunately, Mr & Mrs Hall of Breaky Bottom Vineyard engaged a barrister who was a key figure in putting the alternative case to the inspector against the expansion of shooting beyond the 28 days legal limit.

The Friends of the South Downs (South Downs Society) were represented by one of their local volunteer District Officers, Brian Davies, who spoke at the hearing giving evidence against the expansion of commercial shooting.

## Background

The appeal concerned land, mostly in the parish of Iford, on the South Downs either side of the South Downs Way. The Estate's appeal was effectively against a refusal to issue a Certificate of Lawful Use for their extended commercial shooting restricting them to the normal arrangements in the shooting season which runs from the 1st October – 1st February where the number of days allowed for shooting within this period of 28. The previous applications and this appeal were made so that game shooting could take place more frequently than the 28 days in any calendar year permitted by Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Since 2010 reports indicated that Iford Estate had greatly exceeded this number of days and an enforcement notice had been applied by Lewes District Council on behalf of the National Park. Iford Estate were appealing against this enforcement notice - to be allowed to carry on with up to 62 days (though they admit to shooting up to 74 days a season) commercial shooting during the season of September to January. The area is adjacent to the Breaky Bottom Vineyard and the South Downs Way.

Before 2010, there was very limited shooting at Iford. Shooting in earnest began in 2010 when the shooting rights were sold commercially by the Appellant to Craig Dennis who specialises in commercial shoots and established Iford Shoot Ltd. Since that time, intensive numbers of pheasants and partridges have been brought onto the land and released, associated infrastructure has been constructed, and regular shooting has taken place as a "successful commercial enterprise" in its own right.

Local residents noticed the adverse change to this part of the South Downs and complained about it. The first formal opportunity for the public to object to the activities after 2010 came when the Council refused Mr Dennis' 2014 application (ref. SDNP/14/06320/FUL) to use a building connected with shooting on 6, rather than 2, days a week. Permission for that was granted on appeal, but as the Inspector emphasised:

"In terms of the intensification of the proposed use and its effect on the wider area, including the SDNP and SSSI designated areas, it is important to be clear in that the proposal and original permission do not seek the use of land for shooting activities."

## The Hearing Notice:

Apparently, the Lewes District Council initiated an email (or letter?) to one of the main objectors on 25th October 2019, but it was never received. It said all representations must be received by 3rd December 2019. Then on 4th December 2019 the council emailed this same objector saying the hearing was scheduled for 7th January 2020 commencing at 10:00am. Peter Hall observed, - "We were only informed yesterday that the date was 7<sup>th</sup> January 2020 and that the date for submitting

comments had already passed on 3<sup>rd</sup> December! Last night I learnt from the chairs of Rodmell Parish Council and Iford & Swanborough Council that they had not been informed either”.

Our Society checked with other objectors and it seems they didn't receive any notification by the Lewes District Council.

Later on, in December Christopher Baker, the Chairman of Iford Parish Meeting took the matter up and as a result the hearing was postponed. There was then some delay in getting hold of the appellant's (the shooting organisation) statement documents.

On the 17th January the LDC advised the chair of Iford the new date for the appeal hearing has been scheduled for Tuesday 10 March 2020 at 10am. Further delays were incurred as one of the main objectors did not receive the appellant's case documents until 4th February 2020.

Still then residents complained that they had failed to locate the appeal documents on the South Downs National Park planning portal web. One said “I am accustomed to using the public access to the planning system and have tried searching for the specific number, Iford Estate and Iford Farm. None of these gives me access to the substance of the appeal/application.

## The Appeal Hearing

(Inspector: Maisie Milton-Newland)

There were about 20 to 25 interested members of the public present in addition to the Appellant's team of 6 and the 2 Lewes District Council officers. In our judgement all members of the public present opposed expansion of shooting. Contributions were heard from many local residents from the villages in the Ouse Valley giving evidence about the disturbance to tranquillity in the area. Our Society's District Officer also made arguments to that effect.

## The Appellant's Case

The Iford Estate's main evidence is 217 pages long, so we have only highlighted some key points in this report. They contended

- That Iford shoot is like shooting on the North York Moors and Exmoor National Park. (North York Moors covers an area of 554 square miles). There is no comparison since these are in sparsely populated and relatively 'wild' parts of the UK, and much larger areas of land. The South Downs National Park is in the densely populated SE England. The area of land under the Inspector's ruling following the Hearing of 10 March is 1,050 acres, a small, finite piece of land which until 2010 had no history of shooting.
- Other shoots are similar – Swanborough, Glyndebourne, Piddinghoe etc. These shoots are long-established and have existed for way beyond the 10-year rule, a rule which the Iford Shoot have repeatedly failed to convince the Inspector were valid at earlier hearings.
- The public had grown to accept shooting on the land and an increase to 70 plus days a year would be acceptable to them ie. just more of the same thing. In our opinion the Estate have not engaged with the public to seek their views.

The barrister for Iford Estate skilfully tried to undermine every argument against the appeal, trying to insist on very specific details - times, durations, frequency etc. He even claimed that, because there were shoots at nearby Swanborough and Telscombe, there should be no objection to another similar size one at Iford. He often spoke quietly and directly to the inspector which made it difficult for

everybody else in the room to hear what he had said. There were calls from the public to 'speak up' and he temporarily raised his voice and then quietened again. Was this a ploy to avoid him being challenged by people in the audience? We will never know. The Estate gave verbal evidence, - talked about 'small-scale' 'low intensity' shooting but in their written evidence it was clear the income from the shooting was a major part of the estate income. The Estate emphasised the benefits which flow from the 'shoot' in terms of local employment, more wild birds, the ecosystem benefitting etc. A picture of 'painted perfection'.

### Local residents raise their concerns

Local Parish Council had made representations to the Planning Inspectorate and previously over the years to the planning authority.

One local resident commented: "*the hopelessly confused and ineffectual way in which LDC handled the build-up to the hearing. This included not informing people what was happening in good time and failing to inform some interested parties at all. This meant that many people were unable to respond within the time limit, ....*" and "*...many of us who have followed this saga over the years would say that it was not untypical of the way LDC has handled the whole thing*". Also "*The barrister, [appearing on behalf of the Iford Shoot] made every effort to talk as much as possible, browbeat the Assessor and patronise everyone else*".

Another member of the public said she had stopped walking on the public footpath in the general area of the shoot, as she did not feel comfortable there with the frequency of shooting. She mentioned caged birds, which raised eyebrows. She highlighted the point that since 2010, the general feel of the area had changed from peace and tranquillity and natural beauty to one of disappointment at the lack of positive action from the council to limit the shoot to its 28-day obligation.

At least two members of the public spoke about the threat to the wart-biter cricket including a volunteer from the Sussex Wildlife Trust and a retired High Court Judge (who also spoke about the effect on the downland environment). The cricket is one of the UK's most endangered insects and one of its main habitats is the open landscape of the South Downs. See: <https://www.southdowns.gov.uk/turning-the-tide-on-loss/>

Mr & Mrs Hall of Breaky Bottom who own and operate the vineyard in the Downs adjacent to the area of land which is used by the commercial shooting gave evidence pointing out the "*The development is contrary to SDNP Policies SD1, SD7 and SD9, Core Policy 10 of the Lewes District Joint Core Strategy, policies in the Partnership Management Plan and national guidance. The appeal site is simply not appropriate for the nature and scale of the shoot carried on. The Enforcement Notice should be upheld*"

Mr & Mrs Hall of Breaky Bottom also submitted evidence written by Dave Goulson, Professor Biology at Sussex University (and renowned entomologist who founded the Bumblebee Conservation Trust), about the impact of releasing game birds in the South Downs. He commented as follows (and authorised us to refer to this in our statement):

"It is absurd to suggest that a pheasant or partridge shoot would have a 'beneficial effect on the natural wildlife'. Mass-release of birds into the environment undoubtedly has a negative impact, particularly on ground dwelling insects such as grasshoppers, crickets and caterpillars, and also on small amphibians that pheasants and partridges consume. Mass-reared pheasants and partridge also often suffer from diseases that can spread to wild birds."

The Halls quoted Dame Kiri Te Kanawa's evidence:

"From my point of view, the frequency and intensity of shooting days, coupled with the volume of noise and disturbance to the natural environment that was here prior to 2010 now causes disruption and disharmony. It has reached the point where I feel depressed at the prospect of five months of noise pollution and interference, especially when I was delighted at the designation of a National Park in 2010 ...".

Other important matter which considered at the hearing:

## The South Downs National Park's Partnership Management Plan

The Appellant (Shooting operator) refers to the Partnership Management Plan trying to make out that it is in support of game shooting. The barrister appearing for Mr & Mrs Hall thankfully pointed out that the description in the plan where it says "large areas of the National Park are managed intensively for game" does not provide policy support for the significant expansion of shooting activities.

## South Downs National Park Whole Estate Plans (WEP)

The appellant also referred to the endorsement by the National Park of the Iford estate WEP. Sadly, one can only say that they were perfectly within their rights to do so but our society believes that the National Park should never have publicised the fact on their website that they believe they should be taken into account when making planning decisions. One can only hope that the inspector will find out that WEPs are not subject to public consultation and scrutiny as is the National Park Local Plan.

Thankfully, as Mr & Mrs Hall's barrister pointed out the detail on the Iford Downs Shoot is brief in the document and the reader is not told of the scale of the shoot and the total number of birds released over the whole season.

However, the WEP may sway the inspector. After all it was approved by the National Park. On page 19 a Mr Jamie Horner (Gamekeeper and RSPB Project Officer with the Peak District Birds of Prey Initiative) attempts to justify why game shooting and wildlife sit happily together. Indeed, the inference is the natural habitats and wildlife are enhanced by the presence of game shooting! There is no verification for his statement by local wildlife trusts or even RSPB Sussex. No other qualifications for bird identification are mentioned in the WEP. There are no dates or photos of sightings. It appears that he was/is Project Officer for the Peak District Birds of Prey initiative set up in 2011 and at the time RSPB were one of several conservation organisations that supported the initiative. At the beginning 2020 the RSPB withdrew its support for this scheme! One wonders why the Iford Estate had to transport an 'expert' from the Peak District to Sussex to help justify the existence of game shooting? Maybe the clue is in his opening statement - "I've been involved with shooting and conservation since the age of 12 in my home county of Yorkshire. To many people's surprise, both activities work hand-in-hand together perfectly".

The WEP then turns to 'Tranquil and unspoilt places' saying "*The Estate makes an important contribution to dark night skies and is a particularly tranquil place. Many people are drawn to the Estate because it is relatively unaffected by modern development*". It's astounding that this section, covering game shooting, was approved by the National Park. When the very frequent shoots are underway the Downs echo with the sound of gunfire more akin to a wartime battle zone! How can tranquillity and shooting be associated? They are opposites! The plan below is an extract from the appellant's appeal document:

See next page:

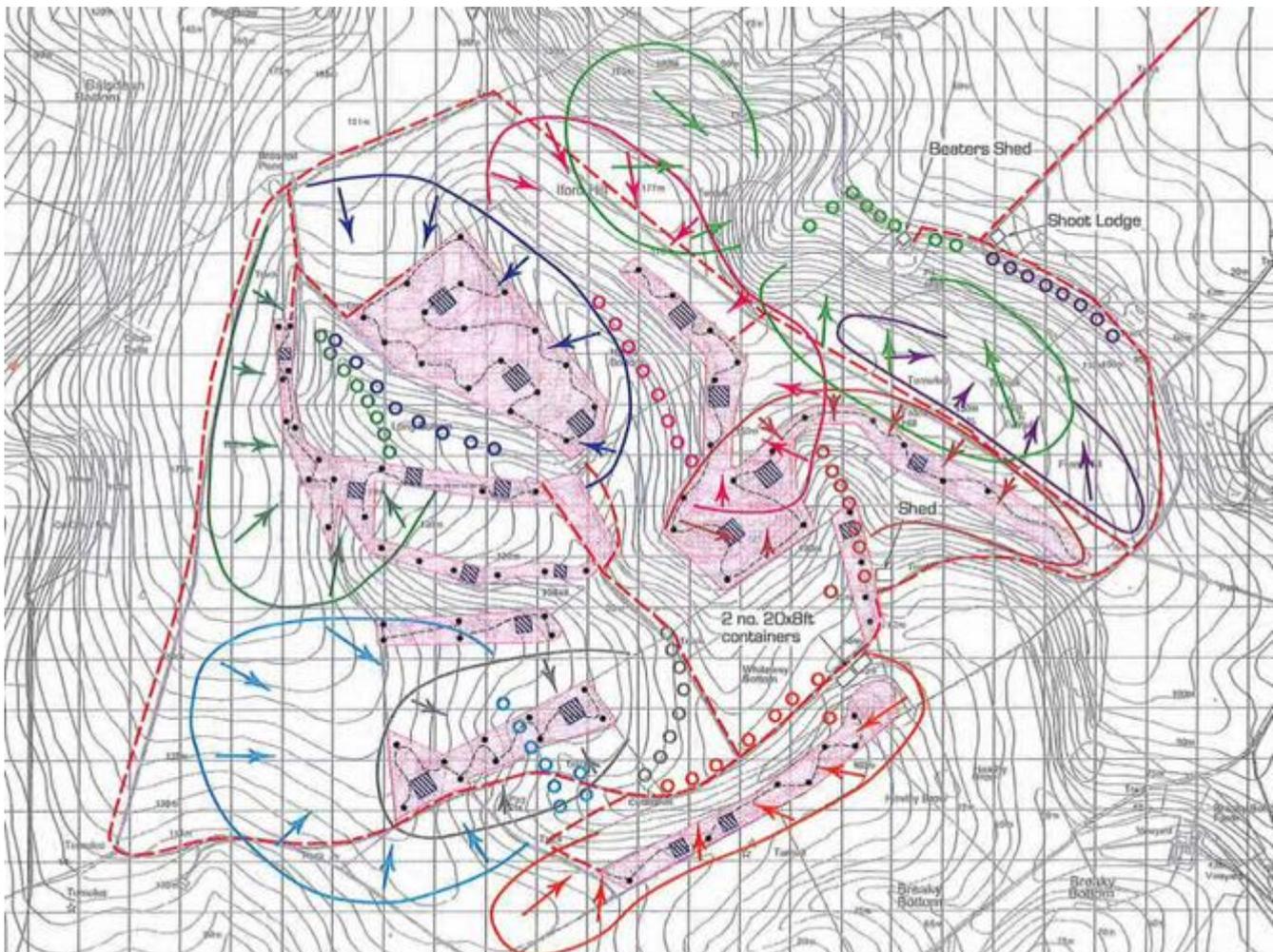


Figure 1 Extract from the appellant's submission showing the shooting plan

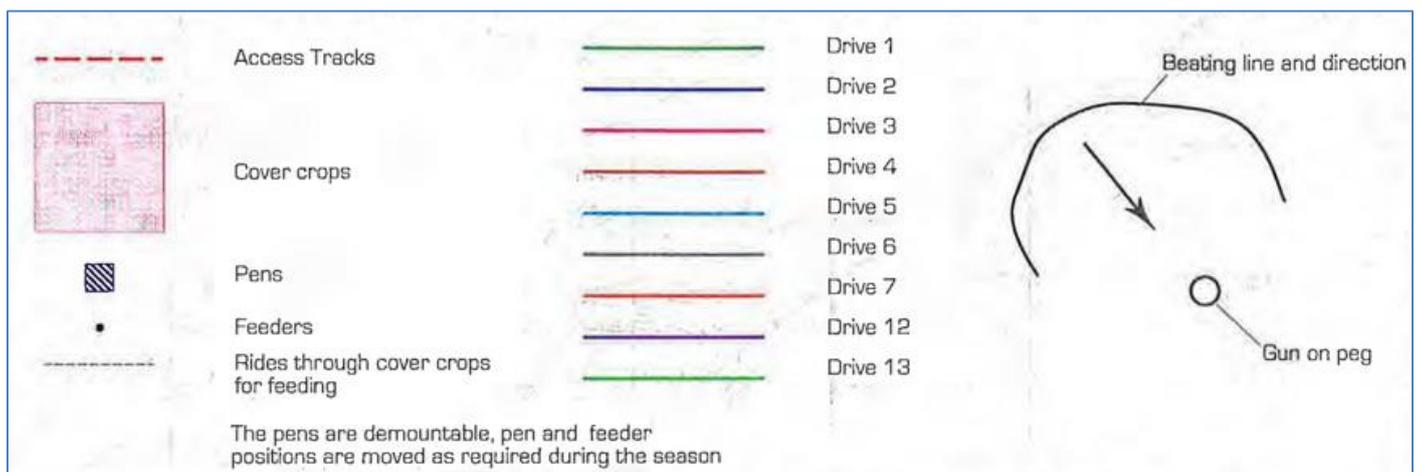


Figure 2 Legend for the above:

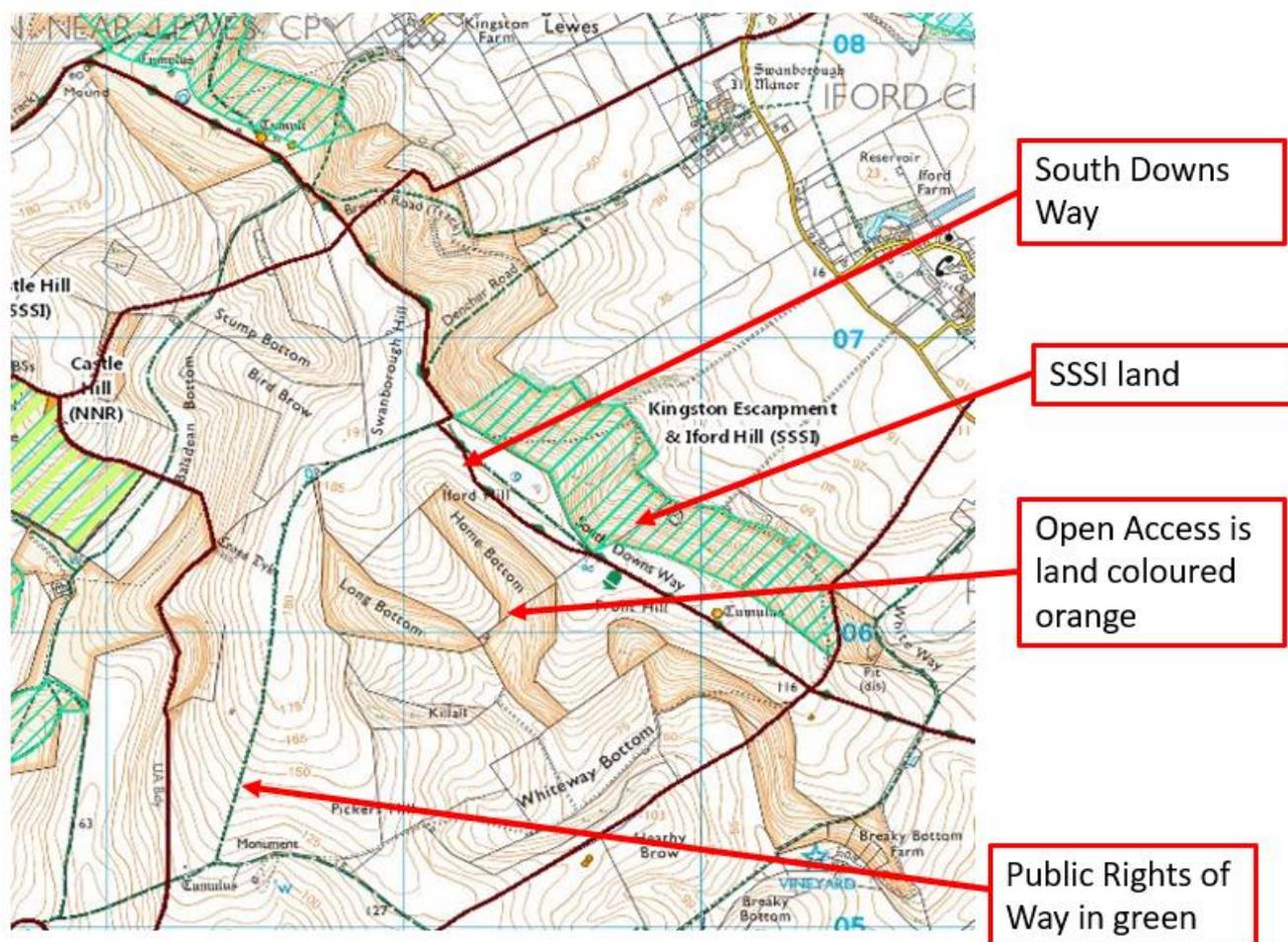
The WEP goes on to say that "Iford Downs and Swanborough Shoots – these shoots, let to tenants, offer some of the best partridge shooting in the South East, as well as providing some of the key habitats across the Estate" under the heading 'Great opportunities for recreational activities and learning experiences' We believe that when the South Downs National Park reviewed the WEP they should have challenged this statement.

## Public Rights of Way & the South Downs Way

In evidence many members of the public voiced concerns about the fears that they had of using the South Downs Way and public rights of way on the Downs.

Thankfully Mr Mrs Hall's barrister clearly pointed out to the inspector that the South Downs Way and an adjoining bridleway run through the shooting area. Also, that the area includes areas of open access land, and a SSSI (site of special scientific interest). Unfortunately, the conflicts between shooting and public access and rights of way is not make clear in the plan submitted (Fig 1 above) by the shooting organisation:

Our society believes that the baseline form maps in this appeal should have included all information about pathways and Open Access land:



## Code of Good Shooting Practice

Thankfully the barrister for the Halls also pointed out that the Code of Good Shooting Practice recognises the potential impacts of shooting causing danger or alarm to users of public rights of way, the impact on horse riders and the sensitivity of nature conservation sites. He said "The scope for conflict with others seeking to walk, ride or cycle on the South Downs is therefore particularly high.

## Impact on enjoyment of the National Park

The barrister went on to say:

The impact of large numbers of men driving, shooting and beating on the appeal site for regular all-day meetings is plain. It disturbs the peace, alters the character and puts people off enjoying the South Downs. As can be seen from the Appellant's plans shooting drives (plans/maps) take place immediately adjacent to the bridleway, over open access land and across the line of the South Downs Way. It is not simply an issue of noise, although the noise of shotguns is obvious; it is also a question of disturbance from the appellant's activities and of risk to safety, or perceived risk to safety, by those who would otherwise use the appeal site, including children. Overall, it is submitted that the appellant's use of the appeal site has a very substantial impact on people's use and enjoyment of the South Downs, including of the South Downs Way.

## Impact on tranquillity

Continuing he said:

Tranquillity is an essential special quality of the South Downs. Policy SD7 of the 2019 South Downs Local Plan ("SDLP") provides that development will only be permitted where it conserves and enhances relative tranquillity, having particular regard to the "experience of users of the PRoW network and other publicly accessible areas". The appeal site is in an area of "intermediate tranquillity" which should not be harmed. SDLP para.5.46 refers to the National Park's 2017 Tranquillity Study 42 and endorses the approach that:

"Development proposals in areas of intermediate tranquillity are the areas which are most vulnerable to change and should avoid further harm to relative tranquillity and take every opportunity to enhance it."

This appeal took all day and the appeal inspector visited the site later in the day.

## Background notes:

Lewes District Council issued an enforcement notice on 14 August 2018 because Iford Estate has not confined game shooting to the permitted 28 days or fewer. Lewes District Council stated in its enforcement notice that it considers that the activity:

*"causes noise and disturbance and is at odds with the enjoyment of the natural beauty and special qualities of the national park by the public. The activity is therefore contrary to the provision of the National Planning Policy Framework (para115), Core policy 10 of the Lewes DC Joint Core Strategy and emerging policies SD1 (Sustainable Development) and SD7 (Relative Tranquillity) of the South Downs Local Plan. (The Enforcement notice option)."*

Iford Estate lodged its appeal against the enforcement notice on three of the seven possible grounds, viz:

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;*
- (e) that copies of the enforcement notice were not served as required by section 172; and*
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.*