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**DEADLINE 9 30th January 2024 (23:59)
including CCB's response to the ExA's Rule 17 letter of 25th January 2024
(PINS reference TRO 20001).**

**London Luton Airport Way Luton
AONB Special Qualities Study 2nd Draft (Deadline 9)
CCB's Interested Party reference: 20040739**

My Ref.: F: Planning\Development Management\Luton.

Application by London Luton Airport Limited for an Order Granting Development Consent for the London Luton Airport Expansion project. Notification of decision to accept an application for Examination for an Order Granting Development Consent.

Thank you for your letter of 25th January 2024 seeking further information and clarification on the applicants (Luton Rising) Chilterns Area of Outstanding Natural Beauty Special Qualities Assessment (SQA) [REP7-046].

1.0. CCB's Introduction and Background

- 1.1. The Chilterns Conservation Board (CCB) has prepared a response, as requested, with reference to the Rule 17 letter's paragraph 7 on the suitability of the SQA Assessment findings. In this, we comment on some of the issues we previously raised at Deadline 7 (9th January 2024). For ease of reference, we include the executive summary of that response at the end of these representations.
- 1.2. In the SQA 2nd draft at Table 1.1, the applicant helpfully includes a summary response to our Deadline 7 comments. To confirm, these CCB comments are up to date as we submitted an early draft to the applicants on 23rd December 2023. To assist the ExA we have concluded that the applicant offers, at times, a different professional view to the CCB but does not challenge the veracity of our reporting of the background papers. We hope this will assist the ExA when considering these stated differences of opinion.
- 1.3. We also comment on Rule 17 letter's paragraph 8 at this opportunity for ease of reference.

2.0. Rule 17 letter for the Applicant

1. Paragraph 5.3.4 of the SQA states that “It is beyond the scope of this assessment to describe and evaluate in detail where contributors to and detractors from relative tranquillity are present or absent within the Study Area. It is evident however that relative tranquillity with the Study Area varies.” To provide understanding of the existing baseline condition of relative tranquillity and the information in Figures 6.7 to 6.10 (tranquillity mapping) and Figures 6.11 to 6.14 (dark skies), submit further written information of the areas and/ or receptors that most experience tranquillity and areas of darkness. If this cannot be provided, explain why.

2. Aside from physical impact, confirm whether the experience of people enjoying the Special Qualities of the dramatic chalk escarpment; over 2000ha of common land and 3700ha of open access land; distinctive buildings and attractive places to live and archaeological landscape could be affected by the increase in overflights from the Proposed Development and, if they would be, why these were scoped out of the SQA?

3. Explain:

a. whether the increase in 50 overflights per day over areas such as Dagnall and Ivinghoe Beacon and 100-200 overflights over areas such as Gaddesden Row and Jockey End, as shown on Figures 6.5 and 6.6, has been factored into the assessment of ‘very low adverse’ magnitude of impact and if so, reasons for concluding that the increase in overflights would be small against the existing baseline;

b. what consideration has been given to the proportion of increase in overflights in areas where it is stated that relative tranquillity is already impacted due to the current level of overflights;

c. which receptors would experience fleeting views of aircraft landing lights and whether the impact on increase in overflights on panoramic viewpoints for relatively dark skies has been assessed. If not, why not?

4. Paragraph 6.3.24 of the SQA appears to provide an assessment of effects for Phase 2b compared to Phase 2a rather than against the baseline. Provide an assessment of effects for Phase 2b against the baseline or explain why this is not required.

5. The overflight information provided in Table 6.1 and Figures 6.3 to 6.6 is for the period 07:00-23:00. Noting that an increase in the number of flights is proposed during the shoulder period (06:00-07:00 and 23:00-23:30), explain why the overflight figures during this period have not been included in the SQA. If the shoulder period was included, explain whether this would result in any change to the assessment findings.

6. Section 7 of the SQA seeks to explain the difference in findings between the effects on ‘AONB Special Qualities’ and ‘Effects on AONB’. Clearly explain the difference between the two assessments and the different conclusions reached. Provide a more detailed description of the factors that make up the ‘aesthetic and perceptual qualities of the AONB’, expanding on the information presented in section 7.1 of the SQA and paragraphs 14.7.42 to 14.7.46 of ES Chapter 14 [AS-079].

3.0. Rule 17 letter for All Relevant Planning Authorities, CCB and NE

7. Please provide your comments on the suitability of the SQA assessment findings, taking into account the Applicant's response to D7 submissions.

Applicant, all Relevant Planning Authorities, CCB and NE

Please see our comments, as set out below.

3.1. To assist the ExA and in the interests of both brevity and the progression of the SQA, the CCB would offer the following comments on the suitability of the SQA assessment findings, referenced against the SQA **Appendix Table 1.1 and its ID numbering**.

ID 1 and then **20** to **24** (CCB's point regarding the SQs as impacted).

There is a professional disagreement on the SQs impacted by this proposal. The applicant's landscape team do not accept the CCB's inclusion of an archaeological landscape and the dramatic chalk escarpment. Without repeating our previous evidence, we would respectfully draw attention to a plan submitted at Deadline 7 denoting archaeology from a (then) English Heritage study around Ivinghoe and Pitstone. This is also in the executive summary from Deadline 7 and at the end of this letter.

ID 2 (Methodology and the AONB boundary review).

The applicant's contention that 'no weight' should be given to the boundary review is not a conclusion we share. The discussion at ISH 8 on 29th November 2023 drew a broad consensus amongst all the parties that some, albeit limited, weight could be given.

ID3 (landing lights turned on).

It is useful to confirm this, i.e., landing lights are turned on at or around 10,000 feet. Therefore, in any assessment of tranquillity, an aircraft visible at 7,000 feet will include the impacts of lighting and its visibility.

ID4 (variance between conclusions in the SQA and EA).

The applicant accepts the accuracy of our summary conclusions on the SQA and EA when dealing with the relative tranquillity of the Chilterns. We agree that weight is a matter for the decision-maker. At this juncture, we would restate the point that such variance between the SQA and EA findings does not assist the decision-maker. Ultimately, however, with the EA/EIA methodology derived from secondary legislation (statutory instrument), then, this must carry greater authority.

ID8 (Rochdale Envelope).

The applicant's team contend that the Rochdale Envelope methodology (worst-case scenario) does not apply to this assessment. The National Infrastructure Planning Advice Note 9: Rochdale Envelope (v3, July 2018) states at 6.1 (conclusions), *'The Rochdale Envelope assessment approach is an acknowledged way of assessing a Proposed Development comprising EIA development where uncertainty exists and necessary flexibility is sought'*.

The Chilterns boundary extension impacts land to the east of the existing airport. The ExA and the Secretary of State's deliberations will parallel the anticipated public consultation on the boundary extension.

This is a project led by Natural England. The latest information we have, as reported on our website on 18th January 2024, is *'Steps to identify the proposed boundary changes will start in February 2024. The statutory consultation, which will take place in spring/summer 2024, will be open to everyone and give all stakeholders an opportunity to have their say on the proposed boundary changes'*. (<https://www.chilternsaonb.org/news/chilterns-aonb-boundary-review-project-update>)

The National Infrastructure Planning Advice Note 9 states in its 1.2 that *'The 'Rochdale Envelope' approach is employed where the nature of the Proposed Development means that some details of the whole project have not been confirmed (for instance the precise dimensions of structures) when the application is submitted, and flexibility is sought to address uncertainty'*.

We would say that the flexibility and uncertainty tests apply to address the uncertainty of the boundary review and the longevity of the phased implementation of this DCO.

ID 34 (Impacts from overflying).

It is helpful that the applicant acknowledges there will be an impact from the increase in the number of overflying aircraft. They state that *'The effects of the Proposed Development on this SQ relate solely to the increase in the number of aircraft movements over the AONB. The increase in the number of aircraft movements will vary depending on the location within the AONB'*.

The applicant's response then states, *'It is beyond the scope of the Assessment to determine the extent to which traffic noise from individual roads affects tranquillity within the Study Area. However, it can be reasonably assumed that traffic noise from busy road corridors such as the M1 substantially affects existing levels of tranquillity in the study area'*.

No evidence at all is put forward to support this claim. The M1 is set from the AONB and does not impact its tranquillity.

ID 35 (to avoid overflying altogether)

The applicants cross-refer to their REP4 – 070. In that representation, they report, *'The departure route maps are provided at Figure 6.28 of the Need Case [AS-125]. In the westerly direction, avoiding the AONB would require aircraft to make a tighter turn off the end of the runway and head either north or south to converge to the required track. This would result in aircraft overflying the western edge of Luton and Dunstable, and Harpenden, whereas the current tracks have been identified having regard to minimising the number of people affected by aircraft noise. It should be noted that airspace change is a separate process and is being coordinated across the South East of England through the FASI-S programme as explained in the Relationship between the Development Consent Order Process and the Airspace Change Process [REPI-028]'*.

We have assumed the answer is that such overflying cannot be avoided.

4.0. S 17 letter for All Relevant Planning Authorities, CCB and NE

8. The ExA requests comments at D10 regarding the compliance of the Proposed Development with both national and development plan AONB policies and any comments on the legislative provisions in Section 85 of the Countryside and Rights of Way Act 2000.

4.1. The CCB is content to offer these comments at Deadline 9, for ease of reference. To assist the ExA, we set out a brief methodology to deploy when assessing planning and associated environmental matters within the Chilterns.

(a – starting point). The starting point for assessing AONB national and local policy and AONB legislation rests with the special qualities of the AONB, as set out in the Management Plan. This essential foundation is the best platform for assessing planning or other environmental matters. The ExA will now have the SQA report (2nd draft) before them. This sets out these special qualities, albeit there is disagreement between the applicant and the CCB regarding which ones apply.

(b – Development Plans and NPPF). The Development Plan for areas overflowed (such as North Herts Local Plan NE3 Chilterns AONB and Vale of Aylesbury Local Plan, also NE3 Chilterns AONB and its setting) are especially relevant. These Local Plans chime with the NPPF AONB policy tests now at 182 and 183, whereby ‘Great weight’ should be given to conserving and enhancing landscape and scenic beauty.

(c – AONB Management Plan). The AONB Management Plan 2019-2024 explores the components of this landscape and scenic beauty, as set out in the NPPF. Scenic beauty is sometimes referred to as natural beauty. Natural England’s guidance is useful.

(d - Natural England’s (NE’s) guidance for assessing landscapes for designation as a National Park or Area of Outstanding Natural Beauty in England (2011))

This includes the following components - Landscape quality, Scenic quality, Relative wildness, Relative tranquillity, Natural Heritage Features and Cultural Heritage.

(e – Application of the CROW Act, as amended by the LURA, as below).

4.2. The CROW Act as amended by the LURA elevates the principal legal duty that applies when considering a planning or related environmental proposal which impacts an AONB. It is appropriate to note the Levelling Up and Regeneration Act 2023 provisions on AONBs and its amendment of section 85 of the CROW Act 2000.

Section 245(6) of the LURA 2023 states,

(5) The Countryside and Rights of Way Act 2000 is amended in accordance with subsections (6) to (10).

(6) In section 85 (general duty of public bodies etc)—

(a) before subsection (1), insert—

“(A1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

(A2) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a devolved Welsh authority must have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”;

(our emphasis).

5.0. CCB principal conclusions.

5.1. The information provided by the applicant points to an increase in overflying of the AONB, and harm is identified in the papers (please see Chapter 14 Landscape and Visual of the ES AS-079). This distils the point that the conservation and enhancement of the AONB cannot be delivered. Turning to the new duty in the CROW Act, as amended by the LURA, this proposal demonstrably cannot ‘further the purpose’ of conserving and enhancing natural beauty/scenic beauty. To apply this legal test to the case merits, the diminution of relative tranquillity by dint of increased activity harms this special quality and does not further the purpose.

5.2. The CCB acknowledged at ISH 8 on 29th November 2023 that the current and ongoing Natural England AONB boundary extension project can only be given limited weight. We have put in the public domain our own assessment of the land to the east of the airport, promoting this as suitable for AONB protection which we deem consistent with several of the Natural England’s criteria for designation.

5.3. The CCB would respectfully ask that when the ExA determines the merits of this proposed DCO, the acknowledged harm to the existing AONB is given great weight in the balancing of issues. As currently exists, this harm cannot be deemed to *‘further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty’*. Increasing movements over the AONB would further distance this proposed expansion from the intentions of Parliament when enacting the CROW revisions in the 2023 LURA amendments. Any boundary review designation to the east would exacerbate this failure to further the purpose.

For ease of reference, we repeat below our executive summary from Deadline 7 as previously submitted. We are grateful for the applicant’s response to this (at Deadline 8). They do not question the veracity of what we say but differ in several professional judgments.

Chilterns AONB Special Qualities Assessment (2nd draft) 7th January 2023.

Executive Summary of the Special Qualities (SQ) Second draft (CCB Comments)

The CCB fully acknowledges the detailed care and attention given to our comments submitted on the first draft (at Deadline 6).

Disagreements do exist. However, to assist the ExA, we have set out several points in response. For ease of reference, all 2nd draft comments are in boxed text. The timetable may or may not permit further dialogue. In any event, the ExA have been considering the impact of overflying upon the special qualities of the AONB. We consider the special qualities (SQ) report to be material to the ExA's recommendations to the Secretary of State.

In essence, our key points are as:

'Matters outstanding'- This point links to Table 5.1: Special Qualities Screening. Omitted Special Qualities (SQs). The special qualities of an archaeological landscape and the dramatic chalk escarpment should be included in the 'yes' category, to be scoped. (CCB's recommendation for inclusion).

A disagreement remains as to which special qualities linked to relative tranquillity are impacted by the proposed expansion. **The CCB maintains that the setting of an archaeological and dramatic chalk escarpment along the Chilterns Ridge is impacted**, for example, Bronze and Iron Age archaeology at Ivinghoe, Pitstone and Aldbury Nowers. The ExA visited Ivinghoe Beacon during their site visits on Tuesday 23rd May 2023. Aircraft overfly this landscape at or below 7,000ft. The ExA noted that *'the footpath leading to the Beacon is under the footpath'*. (Case Ref: TR020001 The Examining Authority's Note of an Unaccompanied Site Inspection).

The sweeping escarpment of the Chilterns Ridge is rich in archaeology. To illustrate this point, we have pasted (below) Figure 3 from an English Heritage study in 2001, which shows the Bronze Age and Iron Age landscape of the Chilterns Ridge. The CCB is itself heavily engaged in the 'Beacons of the Past' National Lottery Heritage Fund project to record and improve the condition of the many Hillforts that pepper the escarpment, historically taking advantage of its topography and bequeathing what is now a strong place identity. In November 2023, Cholesbury Camp was removed from the Heritage-at-Risk register because of this work.

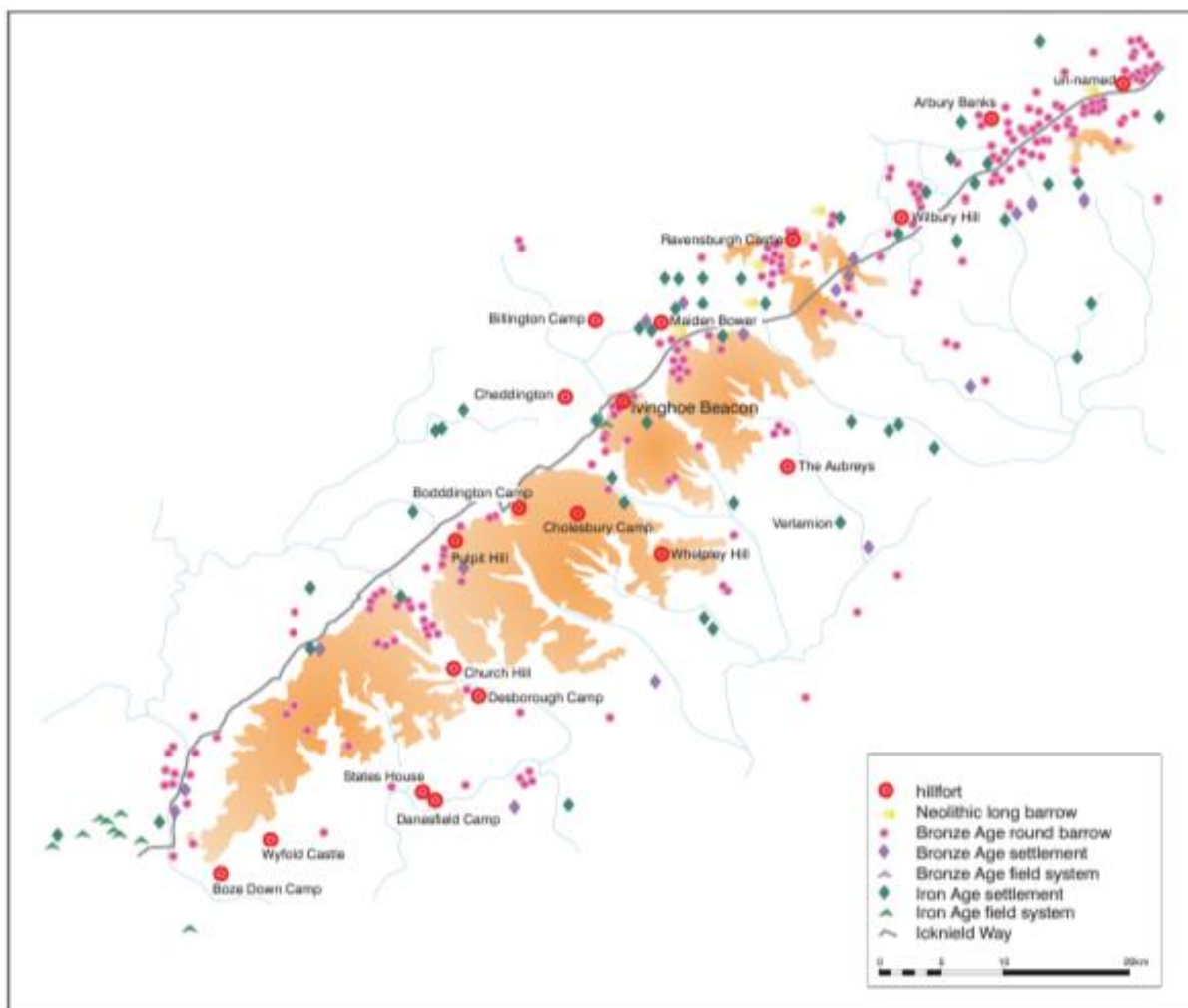


Figure 3 The Bronze Age and Iron Age landscape of the Chiltern Ridge, showing the relationship between known hillforts, settlement, field systems and funerary monuments.
 (Source: English Heritage (2001) Ivinghoe Beacon, Ivinghoe Buckinghamshire Archeological Investigation Report Series 15/2001, ISSN 1478-7008. Report by Moraig Brown. London: English Heritage.

‘Matters outstanding’ – This point links to Methodology and Overview 3.1 as a supplementary point of detail.

Methodology, accommodating the boundary extension project - the Rochdale Envelope approach.

In their detailed response to the CCB, the applicants do not pursue this point. The SQ study, notwithstanding its detail, does not countenance the AONB boundary review at all. The methodology adopted should be duly transferable within the wider Chilterns. If you take the land to the east of the existing airport and its AONB candidate status the metric or measures promoted should be readily transferable to this candidate land. **CCB seeks a brief commentary on the methodology agreed for the SQ study, to confirm that it can be carried forward into the boundary review project, once in the public domain. (anticipated Spring 2024).**

‘New matters welcomed’ – This links to 6.3.17 + and the assessment of Effects.

Landing Lights.

This is mentioned, albeit briefly, at 6.4.12. **The CCB’s assumption that they are switched on below 10,000 ft remains unchallenged, and, therefore, we assume is correct.**

‘Matters Outstanding’ – This links to 6.0+ dealing with the assessment of special qualities.

The calibration of impacts upon the special quality of relative tranquillity.

The applicants accept that the relative tranquillity of the Chilterns will be impacted. This is the key point. The applicants rely upon the language used by the Landscape Institute in their professional guidance. A material variation exists between the calibrated impacts upon relative tranquillity in the submitted ES and the draft SQ. We draw attention to this below.

In essence, the SQ says that,
(red denotes directly attributable quotes from the SQ second draft or the updated ES)

Phase 2(a) that (6.3.22) *‘The effect on this SQ is assessed to remain **negligible adverse, which is not significant**’.*

Phase 2(b) that (6.3.25) *‘A further increase in the number of overhead aircraft may be perceptible in views from within the AONB during this period. The effect on this SQ is assessed to rise to **minor adverse, which is not significant**’.* (our emphasis)

and continues that, (also 6.3.25) *‘A further increase in the number of overhead aircraft **may be perceptible in views from within the AONB during this period**’* (our emphasis)

On **relative tranquillity**, (6.4.6) *‘Policies and guidelines for managing change in the AONB recognise that airport expansion could result in more aircraft over-flying the AONB and identify that this could harm the tranquillity of the AONB’.*

On Effects (6.4.12) *‘Aircraft movements would continue to increase over the Study Area during this assessment phase. However, the geographical increase in the extent of the overflight contours during this assessment phase would be small (refer to Figures 6.7, 6.9, 6.11 and 6.13). As noted above, the relative tranquillity of some parts of the AONB within the study area is currently compromised due to **noise from major roads and existing aircraft movements. Any views of aircraft landing lights would be fleeting.** The relative tranquillity of the remainder of the AONB would not be affected. The magnitude of impact on this SQ during this phase is judged to remain as **very low adverse**’.* (our emphasis).

The calibration of impacts in the SQ study is at variance with the submitted ES. The CCB drew attention to this at the 1st draft consultation stage, stating that (on the first draft), ‘Table 10: Summary of Effects on AONB SQ, is at variance with the Environmental Statement when dealing with overflying aircraft movements; for example, in examination document APP 040/AS079 at 14.9.20, at 14.9.22 and in Table 14.7 sensitivity analysis. We know the applicants will want to iron out these issues. The ES must prevail as a document already scrutinised in the examination’.

The applicants response to this in their second draft SQ appendix (stakeholder comments log and responses) is that,

Chapter 14 Landscape and Visual of the ES [AS-079] considers the likely effects of the Proposed Development on the perceptual and aesthetic qualities of the AONB and concludes that significant effects on this receptor occur from Assessment Phase 2b onwards. The Assessment specifically considers 'Panoramic Views' and 'Relative Tranquillity' and the likely effects of the Proposed Development on these SQ's. The two reports are assessing the likely effects on different (albeit related) receptors which results in the 'variance' noted by CCB.

To refresh, the ES deals with overflying aircraft at **APP 040/AS079 at 14.9.20**, *'The aesthetic and perceptual characteristics of the landscape within the Chilterns AONB, which is a high sensitivity receptor, is judged to experience an impact of low adverse magnitude in this assessment Phase 2b period. This is principally due to the noticeable increase in aircraft movements that are anticipated to pass over the AONB below 7,000 ft (AMSL) during this period, associated with an increase from 21.5mppa to 32mppa. and as identified on Figures 14.14 to 14.17 of this ES [TR020001/APP/5.03], which is judged to permanently deteriorate the sense of tranquillity perceived by those recreating within the AONB (APP 040/AS 079 at 14.9.22), this is calibrated as, 'moderate adverse, likely significant' effects.*

The ES accepts, rightly, that these operational effects constitute permanent, lasting effects, resulting from the increase in aircraft movements. This increase is calibrated across 3 phases of proposed growth in air traffic movements (21.5 mppa to 2027, 27mppa to 2039 and 32 mppa to 2043). Aesthetic factors cover the appreciation of landscape beauty in the Chilterns and its perceptual qualities, notably wildness and/or tranquillity. **The CCB submits that the ES must be given greater weight due to its reliance on a methodology contained within a statutory instrument, whilst the SQ, even though welcomed, is an ad hoc assessment submitted to assist the examination.**

'Matters Outstanding' – This point links to 6.0+ dealing with the assessment of special qualities.

Relative tranquillity calibration – principal point. In the ES the applicants report that at phase 2(b) a significant effect will impact the perceptual and aesthetic qualities of the AONB. In the SQ tranquillity study overflying aircraft at phase 2(b) will impact upon the SQs as a minor impact, which is not significant. (our emphasis).

The applicants encapsulate the difference as accountable due to different (albeit related) receptors. In our judgment, the receptors are the same, i.e. people walking/recreating in the landscape and experiencing a change in their perceptual and aesthetic appreciation of that landscape.

The CCB would make the point that the SQ tranquillity study has recalibrated the ES's conclusion without any real rationale to support it. No real explanation is offered to justify the claim as to a material difference to receptors. **If time permits, the CCB is grateful that this point is addressed.**

'New matters welcomed'. This Links to appendices/figures on page 38+

Tranquillity Mapping Fig 6.7 to 6.10 is welcome.

Dark Skies Mapping Fig 6.11 is welcome.

Figures 14.14 to 14.17 of the ES are reproduced in the SQ. We have assumed that this information is the same, noting that the dates of production are different (now Dec 2023). Thus, we assume that 14.14 to 14.17 (ES) is the same as Fig 6.3 to 6.6 (SQ appx).

CCB welcomes clarification on this point.

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30th January 2024 (Deadline 9).