

Report to	Planning Committee
Date	12 July 2012
By	Director of Planning
Title of Report	Authority to consult on modifications to East Sussex, Brighton and Hove and South Downs Waste and Minerals Plan (WMP) and to note the revision of the Minerals and Waste Development Scheme.
Purpose of Report	To inform Planning Committee of progress on the WMP and seek delegation to officers to agree and consult on draft modifications.

Recommendation: That

- 1) the analysis of the representations made on the WMP be noted;**
 - 2) the Director of Planning, in consultation with the Chair of Planning Committee, be authorised to make main modifications to the WMP necessary to make it sound for consideration by the Inspector and subsequent public consultation subject to any major changes of policy of significance to the SDNP being the subject of a decision of the NPA (with comments being sought from the Planning Committee);**
 - 3) all modifications to the Plan will ultimately be presented to Planning Committee and NPA in due course as part of the adoption of the WMP be noted; and**
 - 4) the revision to the Minerals and Waste Development Scheme be noted**
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1. Introduction

- 1.1 In January 2012, The South Downs National Park Authority (SDNPA) agreed the Proposed Submission Waste and Minerals Plan (WMP) for consultation on its soundness and subsequent submission to the Secretary of State. The period for representations was from 24 February to 24 April. A summary of the representations made is included in **Appendix 1**. On 1 June 2012, following some minor, non-material changes, the authorities submitted the WMP to Government for examination by a Planning Inspector.
- 1.2 Delegated authority is sought for the Director of Planning, in consultation with the Chair of Planning Committee, to be authorised to agree any draft main modifications to the WMP necessary to make it sound for consideration by the Inspector and subsequent public consultation, subject to any major changes of policy being the subject of a decision of the NPA (with comments being sought from the Planning Committee).
- 1.3 The Minerals and Waste Development Scheme (MWDS) for East Sussex is a project plan that includes timetables for preparing planning documents over the next three years. The SDNPA Local Development Scheme cross-refers to the timetables set out in the respective county schemes. The MWDS needs to be up-to-date to assist the Examination in Public on the WMP.

2. Analysis of responses

- 2.1 36 responses (containing 47 comments) to the Proposed Submission WMP were received. The main comments in relation to soft sand raised concerns about: the justification for looking to neighbouring counties for mineral resources is too onerous (Policy WMP1); the lack of recognition of differing market for soft sand; not providing a 7 year landbank for soft sand or a separate landbank provision for soft sand.

- 2.2 In relation to waste, there was also concern that the plan would prohibit waste development in the SDNP. Some concerns were raised about the Plan's approach of relying on other areas for the management of waste by land disposal, in particular by Essex County Council, and Surrey County Council. Staffordshire and Northamptonshire County Councils have also raised concerns about the provision of waste management capacity within the Plan area.
- 2.3 A summary of the comments received is set out in **Appendix 1**.

3. Reasons for delegation being sought

- 3.1 On 15 January 2012 new provisions in the Localism Act 2011 came into force which, together with new Planning Regulations published in April 2012, alter the process for examination of the Plan. Previously, local planning authorities were bound to implement the Inspector's Report recommendations on soundness. The process is now that the Inspector can indicate that changes are needed and the local planning authorities can then recommend modifications to the Inspector to make the Plan sound and suitable for adoption. The local planning authority can also make non-material changes before adoption (**Appendix 2: Diagram of new process**). This change to the process will mean that the timeline to adoption is therefore longer.
- 3.2 On 27 March, the Government published the National Planning Policy Framework (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development which is seen as a golden thread running through planning matters. For plan-making this means the WMP should meet objectively assessed needs with flexibility to adapt to rapid change unless any adverse impacts outweigh benefits, taking into account the NPPF. For public examinations, this means assessing that the Plan is consistent with the NPPF. There are some relevant general policies as well as minerals production requirements within the NPPF.
- 3.3 Experience since March has indicated that this approach is being applied by Inspectors with some rigour, especially requiring Planning Inspectorate model wording on the presumption in favour of sustainable development having to be included for a plan to be considered sound.
- 3.4 In order to avoid delay to the process, it is proposed that delegated authority is given to the Director of Planning, in consultation with the Chair of Planning Committee, to agree any necessary draft modifications emerging from the public examination with our partner authorities and for the modifications to be published for public comment. Any major shift to the policy approach in the WMP, which is of significance to the SDNP, required by the Inspector to make it sound would be the subject of a decision of the NPA (with comments from the Planning Committee). Our partner authorities are seeking similar delegations.
- 3.5 It should be noted by Members that following the publication of modifications, receipt of further representations on soundness and assessment of those comments, if the Inspector considers the WMP sound, the whole Plan with major and minor modifications would come back before Planning Committee and NPA for adoption. Our partner authorities would also have to consider the modified Plan.
- 3.6 By utilising the proposed delegation, it is hoped that the Plan timely decisions can be made during or following the public examination and that a report for adoption of the Plan can be made to Planning Committee and NPA in February/March 2013.

4. Revised Minerals and Waste Development Scheme

- 4.1 A revision to the East Sussex MWDS is required to show the timetable for preparing the Sites Plan, which will allocate land for the future development of waste management and minerals production facilities. It was previously intended to prepare two separate documents for this purpose (the 'Waste Sites Development Plan Document' (DPD) and the 'Minerals Sites DPD'). It is now proposed to prepare a single document (to be called 'Waste and Minerals Sites Plan') to reflect recent government changes to plan making and improve the efficiency of the process.

- 4.2 The Sites Plan will commence after the adoption of the Waste and Minerals Plan in early 2013. The key stages in the preparation of the Waste and Minerals Sites Plan are set out below:

Stage	When
Call for Sites	Summer 2013
Consultation of shortlist of sites	Spring 2014
Consultation on Proposed Submission Plan	Summer 2015
Submission	Late 2015
Public Examination	Early Spring 2016
Adoption	Early Summer 2016

The SDNPA Local Development Scheme will need to be updated as it sets out profiles of the joint DPD's being produced. The SDNPA Director of Planning will need to approve the revised MWDS.

5. Conclusion and recommendation

- 5.1 Following SDNPA's previous consideration of the WMP, public representations on the soundness of the Plan have been made and the WMP has been submitted to Government. Changes to legislation mean that a different process will now be undertaken during the public examination and to avoid undue delay, authority is sought for delegation to the Director of Planning, in consultation with the Chair of Planning Committee, to make it sound, for consideration by the Inspector and subsequent publication for public comment.
- 5.2 Any major change in policy with significant implications for the SNDP requested by the Inspector to make the plan sound would be referred to NPA for decision before being put to the Inspector and published for comment. Similar delegations are being sought by our partner authorities. The whole modified Plan will ultimately be presented to Planning Committee and NPA hopefully for adoption in early 2013.
- 5.3 The revised MWDS provides certainty regarding the stages involved in the preparation of the Sites Plan and demonstrates the partner authorities' commitment to preparing such a Plan, which together with the Waste and Minerals Plan will provide a comprehensive framework for waste and minerals in the area. The revised document profiles will be included in the SDNPA LDS.

6. Resources

- 6.1 There are no additional resource implications associated with the delegation arrangements. There is little cost in producing a revised Minerals and Waste Development Scheme. There is budget provision for the SDNPA contribution to the overall work on the joint Waste and Minerals Development Framework. It is more cost effective and efficient to produce a single site allocations document than to progress with two separate documents.

7. Risk management

- 7.1 Risk: The risk of not gaining delegated approval is that the Plan's progression through the Examination in Public will not be in accordance with agreed timetables.
- 7.2 Mitigation: Gaining delegated authority will ensure that the Plan continues to progress in accordance with agreed timescales.

8. Human Rights, Equalities, Health and Safety

- 8.1 There are not considered to be any extraordinary human rights, equalities, or health and safety issues arising from this report.

9. External Consultees

9.1 There are no external consultees

TIM SLANEY **Director of Planning**

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Appendices Appendix 1: Summary and analysis of the comments received
Appendix 2: Diagram of new process
SDNPA Consultees Director of Corporate Services, Monitoring Officer, Deputy Chief
Financial Officer, Solicitor

Background Documents

- Planning Committee Report (13/06/11) - Joint Working Protocols
- South Downs National Park Authority Report (25/10/11) – Approval of draft Waste and Minerals Plan
- South Downs National Park Authority Report (13/12/11) – Delegation of authority to approve Proposed Submission WMP to Planning Committee.
- Planning Committee Report (19/01/12) – Approval of Proposed Submission WMP
- Draft Revised East Sussex Minerals and Waste Development Scheme
- Draft WMP – Full Version
- ESCC/ BHCC Waste and Minerals Local Plans

Appendix 1 - Summary of the representations on the Proposed Submission Waste and Minerals Plan

1.1 Thirty six respondents made forty seven comments on the Proposed Submission Waste and Minerals Plan.

1.2 Representations on soundness and legal compliance were received from:

- Days Aggregates,
- DK Symes on behalf of Dudmans,
- Essex County Council,
- Hove Civic Society,
- KTI Energy,
- Lewes Friends of the Earth,
- Light Brothers
- MJCA on behalf of Ibstock,
- Minerals Products Association (MPA),
- Northamptonshire County Council,
- Quarryplan on behalf of Tarmac,
- Rother District Council,
- Staffordshire County Council,
- Surrey County Council
- Ticehurst Parish Council,
- Town and Country Planning Solutions
- Wealden District Council,
- Friends of Lewes
- Councillor John Livings
- 2 x residents (living near Pebsham)

1.3 Letters of support (or stating no intention to comment) were received from:

- Deanland Wood Park,
- Highways Agency,
- Horsham District Council,
- Kent County Council,
- Laughton Parish Council,
- Leicestershire County Council,
- Lewes District Council,
- Marine Management Organisation,
- Natural England,
- Rotherfield Parish Council,
- Southern Water,
- West Sussex County Council,
- Rabbit Skips,
- Environment Agency,
- Bexhill Against Landfill and Incineration (BALI)

1.4 Comments querying soundness and legal compliance have been summarised in three tables below using the following categories:

- 1) County, District or Borough Councils
- 2) Town Council, Parish Council, Civic Societies
- 3) Industry, Other

Comments querying soundness and legal compliance

1) County, District or Borough Council	Summary of comments		
Essex County Council	Concern over information about landfill – stress that ECC are not willing to provide landfill for waste arising in the Plan Area.		
Northamptonshire County Council	Hazardous Waste policies are not appropriate. Consider that polices will prevent development of any hazardous waste capacity.		
Rother District Council	Support for no allowance made for residual waste from London. Consider Plan is not sound or legally compliant in respect of Pebsham.	Policy WMP5 (Safeguarding)	Not justified, effective or consistent as policy should state that there will be no extension to Pebsham for additional landfill capacity and reference should be made to the Country Park.
		Saving of sites specific allocations from the Waste Local Plan	Site specific allocations can only be saved by application to the Secretary of State and consultation has been stifled.
		Policy WMP14 (Safeguarding Railheads and Wharves)	Not justified, effective or consistent with national policy. Clarity sought that policy doesn't apply to former or redundant wharves.
Staffordshire County Council	Plan is unsound and not effective	Plan does not make sufficient provision for facilities to manage waste arising in the Plan Area and [or] achieve net self-sufficiency.	
Surrey County Council	Objection to exporting residual waste from Plan Area for landfill. Request for Ashdown Brickworks to be safeguarded for landfill beyond the plan period (2026). (Policies WMP5 and WMP7)		
Wealden District Council	Support but seeking clarification, particularly on development management policies. Policy WMP6a may not be specific enough to guide developers and future Sites Plan.		

2) Town Council, Parish Council, Civic Society	Summary of comments
Hove Civic Society	Policy WMP2c (Production of Energy from Waste) Policy should express a firmer preference for Combined Heat and Power (CHP) from the recovery of waste. Policy does not go far enough and references to heat and power should be inserted into policy wording.
Cllr John Livings	Plan should not go forward without consideration of waste water
Ticehurst PC	Resolution about water abstraction – there should be no further development which involves the use of water from Bewl Water reservoir.

3) Industry/ Other	Summary of comments		
Days Aggregates	Partial support for Policy WMP14, but request stronger wording relating to wharf related activities and joint working with West Sussex County Council.		
Dudmans (DK Symes)	Plan is not sound or legally compliant	Policy WMP1	Not justified as policy does not give assurance that neighbouring counties would allow resource to be extracted
		Policy WMP10/Para 4.7	Not consistent with the National Planning Policy Framework (NPPF) as there is no recognition of differing market for soft sand
		Policy WMP10 4.17	Not consistent with national policy as doesn't state that soft sand reserve will be exhausted in 3 years time and make necessary plans for future extraction
		Policy WMP10	Not consistent with national policy as 7 year landbank will not be maintained
		Policy WMP10 4.42	Not consistent with national policy as separate landbanks should be identified
		Policy WMP16	Not justified or consistent with national policy as restoration to agricultural land is not specifically considered
		Policy WMP25	Not justified as Paragraph 6.27 does not recognise the specific locational constraints of minerals development
FoE Lewes	Plan is unsound based on comments made at previous consultation stages (no further detail supplied)		
Ibstock (MJCA)	<ul style="list-style-type: none"> - Ashdown Quarry should be considered as a site allocation for waste development. - Do not believe that consultation on the removal of Ashdown Brickworks was carried out appropriately or in accordance with the Statement of Community Involvement. - Site could be suitable for other types of waste development (not just landfill). ESCC data and evidence is not robust. 		
KTI Energy Limited (Dr Bill Temple-Pediani)	More emphasis on CHP, Pebsham and Hangleton Bottom should be explored to construct a waste processing plant producing fuel for export		
Light Bros	Support for Policy WMP5 and Policy WMP21 but concern the plan will prohibit waste development in the South Downs		

3) Industry/ Other	Summary of comments		
	National Park.		
MPA	Delete clause (c) of Policy WMP1 as it is not required and there is no justification for the special treatment of soft sand quarries as these will need to comply with clause (b) and the tests in the NPPF.		
	Policy WMP3 Amend clause (c) to properly reflect NPPF para 143 bullet #2 as current policy is overly restrictive on use of primary materials		
	Policy WMP10 – support for meeting the apportionment [i.e. no request for reference to soft sand split].		
	Policy WMP13 not in accordance with British Geological Society (BGS) guidance – and therefore unsound		
	Policy WMP14 - support for policy but concern about timing of West Sussex Waste and Minerals Plans in relation to planning for Shoreham Port in a consistent manner over the Plan boundary.		
Southern Water	Support for waste water policies		
Tarmac (Quarryplan)	Plan is not sound or legally compliant	Policy WMP1	Clause (c) is unsound as it places reliance for resource on adjoining counties that are also within the SDNPA/AONB
		Policy WMP3	Clause (c) is unsound as soft sand cannot be substituted
		Policy WMP10	The policy is not effective although it may be sound. A stronger commitment to soft sand is required for the plan period.
		Policy WMP13	The policy is unsound as it does not accord with BGS safeguarding guidance
Town and Country Planning Solutions	<p>Policy WMP6b and Policy WMP21 – request new policy to consider expansions to sites beyond their existing boundaries</p> <p>Policy WMP2c and Policy WMP23b – consider use of woodchip to produce energy is hampered by policy and request deletion of wording “onsite generation of energy should not prejudice the movement of waste up the hierarchy”</p>		
Residents	Two emails were received from residents stating the continued allocation of Pebsham made the plan unsound.		

Appendix 2: Diagram of new process during and following Examination in Public
 (N.B. the approach taken to main modifications can vary and there is also scope to make minor amendments)

