

Agenda Item 12
Report 24/17

Report to	South Downs National Park Authority
Date	19 December 2017
By	Director of Planning
Title of Report	Approval of Proposed Modifications to the West Sussex Joint Minerals Local Plan

Recommendation: The Authority is recommended to:-

- 1. Agree the proposed Modifications to the draft West Sussex Joint Minerals Local Plan (Appendix I) for publication and public consultation on their soundness followed by submission to the Inspector;**
- 2. Agree primary weight should be placed on the draft West Sussex Joint Minerals Local Plan, in conjunction with other material considerations, when determining minerals development proposals in the interim period until the date of adoption.**
- 3. Agree to undertake a single issue (soft sand) joint review of the Plan after adoption.**

1. Introduction and Summary

- 1.1 The West Sussex Joint Minerals Local Plan (JMLP) is being prepared by the South Downs National Park Authority (SDNPA) in partnership with West Sussex County Council (WSCC) to cover the period to 2033.
- 1.2 As Members will be aware the JMLP was submitted to the Secretary of State for independent examination in May 2017. The Hearing Sessions for the examination took place in September 2017. During and following those sessions, the Inspector indicated that changes ('Main' and 'Minor' modifications) will need to be made to the submitted JMLP to make it 'sound'. In line with this, Officers have prepared a schedule of proposed modifications to the JMLP (Appendix A). The schedule of modifications include changes to both policies and site allocations.
- 1.3 This report sets out the background to the Modifications which, subject to approval by National Park Authority (19 December 2017) and West Sussex County Council (15 December 2017), will be published to allow representations on their 'soundness' and compliance with legal requirements for an eight week period commencing in January 2018.
- 1.4 The proposed modifications were considered by the Planning Committee at its meeting on 14 December. Planning Committee resolved to recommend the modifications to the Authority Approval. Planning Committee also resolved to recommend that primary weight should be given to the draft JMLP when determining minerals development proposals in the interim period until the date of adoption, and that a soft sand joint review be undertaken following the adoption of the plan.

2. Modifications to the West Sussex Joint Minerals Local Plan

- 2.1 The Inspector identified a number of modifications that he considered would be essential. That is, if the modifications were not made, then the Plan would be found unsound. The Authorities were then invited to consider the text of the changes and to prepare a schedule of proposed modifications for public consultation.
- 2.2 The schedule of modifications (Appendix A) sets out the proposed changes which

necessarily have to be made in order for the plan to be found sound. The letter from the Inspector to the Authorities received in October is set out in Appendix B. Copies of the Submitted Plan with the proposed modifications included (Appendix C) and the updated Sustainability Appraisal (Appendix D) are available upon request.

2.3 The rationale for the most significant modifications is set out below.

Soft Sand Strategy, Policy M2: Soft Sand and Policy M11: Strategic Minerals Site Allocations

2.4 In preparing the JMLP, the Authorities concluded that ‘exceptional circumstances’¹ did not exist to justify the allocation of sites within the National Park to meet the identified shortfall of soft sand (2.36 million tonnes was the latest figure). As such, no sites for soft sand extraction within the SDNP were proposed for allocation in the JMLP. Instead, the proposed soft sand strategy sought to meet forecasted demand in the plan area through:-

- Allocation of one site outside the SDNP (Ham Farm, Steyning);
- The safeguarding of existing sites; and
- Reliance on ‘windfall’ sites and importation from outside of West Sussex

2.5 At the Hearing Sessions, the Inspector raised two main concerns about the proposed soft sand strategy. Firstly, the Inspector was critical of how the Authorities had interpreted national planning policy on how major development in National Parks should be addressed in plan preparation. Essentially, the Inspector did not agree with the approach taken when considering ‘reasonable alternatives’ which did not address the option of extracting soft sand within the SDNP by virtue of its nationally designated status.

2.6 Secondly, the Inspector was concerned that there was insufficient certainty that the shortfall at the end of the plan period would be met through windfall sites and by supplies from outside West Sussex.

2.7 As such, the Inspector indicated that the submitted strategy for soft sand (“managed retreat”) set out in Policies M2 (Soft Sand) and M11 (Strategic Minerals Site Allocations) (with regard to the allocation of Ham Farm) was unlikely to be justified and consistent with national planning policy².

2.8 Therefore, to ensure the soundness of the JMLP the Inspector has suggested modifications as follows:

- To delete references to planning for a declining amount of sand extraction from within the National Park;
- To replace Policy M2 with new wording; and
- To remove the soft sand allocation at Ham Farm from Policy M11

2.9 Policy M2 as modified would allow unallocated sites to come forward and to be permitted, provided they are needed to meet the identified shortfall and to maintain a seven year landbank. Any application for extraction within the National Park would need to demonstrate that there were exceptional circumstances and that it would be in the public interest to permit such development in line with the NPPF.

2.10 In addition Policy M2, as modified, would require the Authorities to commence a single issue soft sand review of the JMLP. A Regulation 18 consultation on the draft plan is required to take place within six months of adoption of the JMLP, and it would need to be submitted within two and a half years of the adoption. By taking this approach the Inspector has stated that this would ensure that the Plan can be adopted in a timely manner without the potential for significant delay.

2.11 Officers are recommending that the Authority commits to undertaking this early soft sand policy review. The Inspector has given a clear steer that this approach would be appropriate and ensure that the remainder of the plan can be adopted in a timely manner without the potential for significant delay and as such have an up to date decision-making framework in place.

¹ National Planning Policy Framework Paragraph 116

² National Planning Policy Framework Paragraph 182

- 2.12 In addition, the Inspector has not indicated that any additional site allocations are required to be included within Policy M1I to address other mineral requirements. This includes the silica sand site at Horncroft near Coldwaltham, which was discussed at length during the Hearing Sessions. The Inspector has not indicated that he is minded that the allocation of the site would be necessary for the JMLP to be found sound. As such, it is considered that the Authorities have successfully defended the National Park from this proposed allocation, the development of which would have had a significant adverse impact on the landscape of the National Park. For reference, the proposed allocation of the Extension to West Hoathly Brickworks in Policy M1I will remain in the JMLP.

Policy M1: Sharp Sand and Gravel

- 2.13 Policy M1 has been modified to clarify that any applicants must demonstrate that their proposals are needed to ensure a steady and adequate supply of sharp sand and gravel, and to maintain the seven year landbank as required by national planning policy. This modification will ensure that the policy is effective and consistent with the NPPF.

Policy M3: Silica Sand

- 2.14 Policy M3 has been modified to include a new clause to ensure that ‘best use’ of the silica sand resource is made in line with national policy³. This will reduce the risk of high quality silica sand resources in West Sussex being used for aggregates and other uses where the utilisation of lower quality sands would be a more sustainable option.

Policies M7a and M7b: Hydrocarbons

- 2.15 Policies M7a and M7b have several modifications to ensure consistency with national policy and legislation.

Development Management Policies

- 2.16 To ensure that all of the development policies in the JMLP are justified, effective and consistent with national planning policy, the following policies are proposed to be modified:
- M13: Protected Landscape
 - M14: Historic Environment
 - M17: Biodiversity and Geodiversity
 - M19: Flood Risk Management
 - M22: Cumulative Impacts
 - M23: Design and Operation of Mineral Developments

3. Next Steps and Timetable

- 3.1 Subject to approval by the National Park Authority (NPA) on 19 December and WSCC on 15 December, the schedule of modifications will be published for public consultation for eight weeks commencing in January 2018. The consultation will be restricted solely to the issue of the ‘soundness’ of the proposed modifications. As such, comments on other parts of the Plan will not be considered.
- 3.2 Following the consultation, the modifications and the representations received on them will be submitted to the Inspector for his consideration. The Inspector will then finalise his report on the soundness of the JMLP and submit it to the Authorities. Before completing his report the Inspector may decide to reconvene the Hearings to consider the representations that have been made.
- 3.3 If no further modifications are recommended by the Inspector and a report is received indicating that the JMLP is sound, the JMLP (as modified) will be adopted by both Authorities when it will become part of the statutory ‘development plan’ for West Sussex.
- 3.4 Table I below outlines the revised timetable for the JMLP. If the Inspector does decide to reconvene the Hearings the table will be revised accordingly.

³ National Planning Policy Framework Paragraph 142

Table 1. Timetable for preparing the JMLP (December 2017 onwards)

Key Stage	When
Approval of the Mods consultation by SDNPA and WSCC	December 2017
Public representations on soundness of proposed modifications	January to March 2018
Inspectors final Report	April/May 2018
Adoption by SDNPA and WSCC	June/July 2018

- 3.5 In addition, it is recommended that given the progress of the draft JMLP through the examination process, to formalise its use for determining planning applications. Whilst full weight cannot be given until formal adoption, in line with NPPF Paragraph 216, it is considered appropriate to recommend that primary weight should be placed on the draft JMLP, in conjunction with other material considerations, when determining minerals development proposals in the interim period until the date of adoption. Officers consider that this is an appropriate approach given the progress of the draft JMLP through the examination, the subsequent communication from the Inspector and the proposed modifications (which themselves are material considerations).

4. Other Implications

Implication	Yes/No
Will further decisions be required by another committee/full authority	The Joint West Sussex Minerals Plan will need to be taken to National Park Authority in 2018 in order for it to be adopted. In addition, as a joint plan WSCC will also need to approve accordingly before the proposed public consultation can commence in early 2018.
Does the proposal raise any Resource implications?	The cost of preparing the JMLP is shared equally by both Authorities. The proposed soft policy review will address an issue relevant for both Authorities and as such it is anticipated that cost for this will also be shared.
Has due regard been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	Due regard, where relevant, has been taken of the South Downs National Park Authority's equality duty as contained within the Equalities Act 2010. An Equality Impact Report (EIR) was prepared to support the JMLP and was included in the supporting documentation for the Examination in Public.
Are there any Human Rights implications arising from the proposal?	The JMLP has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.
Are there any Crime & Disorder implications arising from the proposal?	It is considered that the proposal does not raise any crime and disorder implications.
Are there any Health & Safety implications arising from the proposal?	It is considered that the proposal does not raise any health and safety implications.

<p>Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy:</p> <ol style="list-style-type: none"> 1. Living within environmental limits 2. Ensuring a strong, healthy and just society 3. Achieving a sustainable economy 4. Promoting good governance 5. Using sound science responsibly 	<p>A Sustainability Appraisal (SA/SEA) was prepared to inform the preparation of the JMLP and was included in the supporting documentation for the Examination in Public. The proposed modifications have been subject to updated SA/SEA as set out above.</p>
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5. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
That the West Sussex Joint Minerals Local Plan will <u>not</u> be found 'sound' at examination.	Medium	High	With the proposed modifications to the JMLP, in line with the advice from the Inspector, the JMLP will be sound.
A legal challenge to a Local Plan can be launched by way of judicial review within six weeks of the LPA publishing a decision to adopt the Plan.	Low/Medium	Medium/High	Officers at the SDNPA are satisfied the Plan, with the proposed modifications, meets the legal requirements and given that it has been through the correct statutory process including examination-in-public, the Authority is obliged to 'make' the plan part of the Development Plan.

TIM SLANEY

Director of Planning

South Downs National Park Authority

Contact Officer:	Robert Thain, Planning Policy Lead
Tel:	01730 819263
Email:	Rob.Thain@southdowns.gov.uk
SDNPA Consultees	Legal Services; Chief Finance Officer; Monitoring Officer; Director of Planning
External Consultees	None
Background Documents	<p>Appendix A: Draft West Sussex Joint Minerals Schedule of Proposed Modifications</p> <p>Appendix B: Inspector's letter to the Authorities</p> <p>For reference, the examination library is set out on the West Sussex County Council website:-</p> <p>http://www2.westsussex.gov.uk/mlp/mlp_doc_library.pdf</p>

