

Agenda Item 8
Report PC19/20-24

Report to	Planning Committee
Date	14 November 2019
By	Director of Planning
Local Authority	South Downs National Park Authority (West Sussex)
Application Number	SDNP/13/06169/ROMP
Applicant	Dudman Aggregates Ltd
Application	Periodic review of minerals planning permission
Address	Minsted Sandpit Minsted Lane Minsted Stedham West Sussex.

Recommendation:

- I. That the conditions at paragraph 10.1 of this report be approved.**
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Executive Summary

The review of old minerals planning permissions (those that have been extant for more than fifteen years) is required under the provisions of the Environment Act, 1995. The planning permissions for the working of soft sand at Minsted Quarry are reviewed under this application.

The primary issues in determining the review of the planning conditions are to ensure the protection of the natural features, residential amenity and the environment during extraction works and the proper restoration of the site. The principle of the development is not being reviewed and new conditions which affect the viability of the quarry can lead to a claim for compensation.

Minsted Sandpit is a permitted soft sand site located within the South Downs National Park (SDNP) and the site has planning consent to be worked until 2041.

In 2013 it was agreed between the South Downs National Park Authority (SDNPA) Minerals Officers at the time, (having considered formal enforcement action against a number of planning breaches), and the Minsted Site Operator, that the most appropriate way to review the operation of the site, the planning breaches and the quantity of remaining reserves would be for the Operator to submit a Review of Old Mineral Planning Permission (ROMP) application. Accordingly, an application was submitted in December 2013 but was deemed invalid. Officers have continued to liaise with the site operator in the intervening years to work towards validation of the ROMP Application.

The site was operational until 14 August 2014 when, due to the environmental information not being provided in order to determine the conditions of the submitted ROMP, the site was placed in suspension. As such, no further mineral working can take place until the Suspension Order is lifted. Since that time no further quarrying has been undertaken at this site and the site has been actively monitored since the suspension by Officers of the SDNPA.

The ROMP review has been a complex process requiring numerous reports for the applicant and significant documentation and evidence in support of the application. The Operator advises that they can demonstrate remaining reserves still to be worked at the site of circa 120,000 tonnes, (with 30,000 tonnes being required to address the areas of overdig on the south western quarry faces).

A number of the applicant's proposed conditions are considered to be generally acceptable. The modification of some of the suggested conditions is recommended. The most significant modifications relate to a shorter completion date, condition 1 (reduction in time for the working and winning of sand from 2041 to 2024), and for the areas of overworking of the southern western slope to be addressed in accordance with the requirement of condition 3.

Further information is required with regard to the final restoration scheme. Natural England (NE) have provided an updated consultation response to advise that they are satisfied that any impact on the adjacent Site of Special Scientific Interest (SSSI) can be controlled through conditions and the Ecology Consultee now is satisfied with the submitted information pending an amended final restoration scheme. These are technical matters that require expert input, but there is confidence an appropriate scheme can be achieved based on the evidence now submitted, and therefore it is recommended that the ROMP application be determined with the suite of conditions as amended by the case officer.

The application is brought back before Planning Committee for consideration at the request of Members when determining the site Status report brought before the Planning Committee on 11 October 2018.

1. Site Description

- 1.1 Minsted Sandpit was first granted planning consent for the working of minerals in March 1948 and since then various operators have worked this site. The site within the approved redline is 33 hectares (approx.). It is located within the SDNP 0.5 km (approx.) from Minsted Village and approximately 0.7km south west of the village of Stedham. Iping Common Site of Special Scientific Interest and Local Nature Reserve adjoins the northern boundary of the site and extends westwards.
- 1.2 Vehicular access is from its north east corner from Minsted Road, an adopted no-through road that connects with the A272, some 500m to the north of the site entrance. There is a residential property, Woodman's Cottage, adjacent to the site access on the other side of Minsted Road and other properties further to the east at Quags Corner and south of the site on Andrews Lane. Fitzhall Lodge lies to the west adjacent to Elsted Road.
- 1.3 There are public footpaths that run outside but adjacent to the southern boundary and to the north, with very limited views into the site. There is a public bridleway adjacent to the western boundary within dense plantation of woodland.
- 1.4 The site consists of a large lake covering approximately 50% of the site. Within the north eastern corner is the site office and site processing equipment where sand dredged from the lake is dewatered, screened and graded. Nearer the entrance is a concrete batching plant. A restored bund is situated along the northern part of the site, except where an open area for the processing and mixing of soils is located.

2. Relevant Planning History

- 2.1 The original planning permission for sand working was granted in 1948. There are two extant consents to work the quarry, firstly the Interim Development Order, SJ/98/1471, (the 1998 IDO). This planning permission grants consent for the north eastern part of the site, including the access, workshops, offices, weighbridge and sand processing plants. A sizable amount of the site under this permission is no longer being worked and has been restored. The consent for working the remainder of the sandpit was also granted in 1998 under a Review of Mineral Permission (ROMP) application (SJ/98/1472), this area of the site includes the current working area and the lake that has been formed as a result and both planning permissions are extant until 2041.
- 2.2 The history of this site is complex and a number of Breach of Condition Notices were served by West Sussex County Council, (WSCC), in 2005, in respect of breaches to conditions 1, 4, 8 and 10, of planning permission SJ/98/1471 and conditions 2, 3, 4 and 8 of SJ/98/1472. Whilst a number of these were not complied with, WSCC chose not enforce against these breaches in favour of working with the Site Operator to regularise the operations within the site. In seeking to regularise the breaches on site a Section 73 application was submitted to WSCC on 7 October 2011. The SDNPA 'called-in' the

application in November 2011 and subsequently determined that the submitted section 73 application was not valid as it was materially different from the extant consent. No further enforcement action with regard to the identified breaches of planning conditions was taken by the Officers monitoring the site at this time.

3. Proposals

- 3.1 Under the provisions of the Environment Act 1995, Mineral Planning Authorities, (MPAs), are required to review mineral planning permissions every 15 years. Following the introduction of a new provision within the Growth and Infrastructure Act 2013 such reviews can be extended beyond 15 years at the discretion of the MPA. These reviews are known as a Review of Old Mineral Planning Permission or ROMP applications. The purpose of a ROMP application is to ensure that the conditions attached to extant mineral planning consents comply with contemporary environmental standards.
- 3.2 Accordingly, it was deemed appropriate to address the issues within the Minsted Sandpit through the submission of a ROMP application, covering both the IDO and the 1998 ROMP. Subsequently, this was submitted by the site operator on the 19 December 2013. The information initially submitted was insufficient and, due to an incomplete Environmental Statement the SDNPA determined on the 14 August 2014 that the site should be placed in automatic suspension. Since that time the site has continued to be monitored by SDNPA Officers. SDNPA Officers are satisfied that the site has not been worked since it was put into suspension.
- 3.3 MPA's should usually only seek a review of planning conditions when monitoring visits have revealed an issue that is not adequately regulated by planning conditions, which the Operator has been made aware of and has not been able to address. It was considered that this does apply to Minsted Sandpit and therefore the ROMP application was an appropriate course of action, specifically in order to update the working plan and restoration plans and to review geotechnical and hydrology issues, as well as to ensure that the current conditions met contemporary environmental standards.
- 3.4 It is important to note that a key test of the ROMP is that any revised conditions should not prejudice to an unreasonable degree the economic viability of the operations or the asset value of the site. Therefore in any applications, material changes to the asset value of the working and winning would be inappropriate, including additional areas of working and any reduction in the area of working can be the subject of compensation claims. ROMP applications cannot be refused but conditions can be attached which seek to apply appropriate and necessary environmental controls.
- 3.5 In October 2018 a report was brought to Members of the Planning Committee to request that Officers be permitted to continue to progress the ROMP application. Whilst a great deal of information had already been submitted by the Operator, a significant degree of technical information was still considered to be outstanding. The Committee Members resolved that the application must be brought back to committee with 9 months as to ensure that matters were progressed expediently by the Operator. It has taken longer to bring this application back to Planning Committee. As matters were progressing in terms of information submitted, however, it was considered reasonable to allow a little additional time to submit those matters outstanding. Following the submission of the latest information it was then necessary to allow the appropriate consultation period to end.
- 3.6 The site operator was required to submit a new single set of proposed conditions to cover both SJ/98/1471 and SJ/98/1472 operation areas. The applicant proposed 19 conditions to be applied to the reviewed planning permissions. The conditions generally follow the 22 applied to the planning permission SJ/98/1472 issued in 1998.

4. Consultations

4.1 County Archaeologist – No Objection

- The sandpit is within an area of high archaeological potential and has already been identified there is an extant barrow within the area indicated as Phase 3, it is part of a

group of barrows the rest of which are Scheduled. The area surrounding the barrow should be considered to have a moderate archaeological potential.

- We understand that as permission has already been granted that will result in the destruction of the barrow this decision cannot be reversed. However, given the significance of the monument it is particularly important that its recording is comprehensive. It is also important that the archaeological potential of the wider area is also investigated.
- In addition, I note that the current plan suggests the clearing of ground cover across the Scheduled Monument Bowl Barrow on the western site boundary. I would ask for this not to take place as it would be likely to cause damage to the monument. Such works would also require Scheduled Monument Consent from Historic England. I also notice that the western site boundary as shown in working Plan DG/MINSP/14003 crosses the curtilage of the Scheduled Monument Bowl Barrow. No extraction will be possible within the curtilage without Scheduled Monument Consent from Historic England and the monument should be given a wide berth, on my advice by at least 5 metres, although Historic England may advise differently.
- Updated comments following the submission of previous survey information of the site from WSCC; Thank you for sending me this survey report. While it is very informative, it does not change my last response as I feel it is important that any extension to the quarry is subject to an archaeological evaluation.

4.2 **Historic England – Comments**

- The only scheduled monument affected by the proposal is a bowl barrow on Fitzhall Rough (List Entry Ref: 1008503) which forms part of a larger linear barrow cemetery. Round barrow cemeteries date to the Bronze Age (c.2000-700 BC) and comprise closely-spaced groups of rubble or earthen mounds (barrows) which cover single or multiple burials. Often occupying prominent locations, they are a major historic element in the modern landscape and provide important information on the variety of beliefs and social organisation amongst early prehistoric communities.
- As the barrow is a scheduled monument, works within any part of the scheduled area would require a prior application for Scheduled Monument Consent; any works taking place without such would constitute an offence under the Ancient Monuments Act (1979). The scheduled barrow actually sits partially within the development site boundary (as demonstrated by the attached map). Whilst the upstanding mound itself is outside the development site, part of its encircling ditch and the buffer zone around it do sit within the development area
- We recommend that you take into account our representations above when determining the correct conditions to be attached to this permission. In order to avoid and minimise harm to heritage significance, and comply with the NPPF and the Ancient Monuments Act (1979).

4.3 **Highways: No objection.**

4.4 **Public Rights of Way Officer: No objection**

4.5 **Health and Safety Executive (HSE)**

- In my view I believe the risk of a major collapse of the quarry face is unlikely and this appears to be supported in the geotechnical report dated 2012. However, the report is written assuming quarry operations are to continue and the geotechnical specialist would have expected to review the position two years after this one was completed. This means that as the quarry has not continued to operate, some of the assumptions made may no longer be valid.
- I would strongly recommend that another assessment is undertaken by a geotechnical specialist in respect of the stability of the high face and the lagoon before any further work or extraction is allowed in the quarry. The quarry operator would also need to notify HSE in advance of commencing any works to reopen the quarry.

- Whilst there is no work taking place in the quarry and any collapse of faces would not impact on members of the public it would be difficult to say any action was needed urgently. This would change should permission be granted to restart quarrying operations. In the long term I suspect you might be right in allowing the extraction of further material to provide the necessary material to buttress the high face, but only if this extraction was carried out to a design and had been appraised/assessed by geotechnical specialist.

4.6 **Sussex Wildlife Trust (SWT)**

- Consider that there outstanding matters relating to;
- Iping Common SSSI in terms of hydrological impact on the SSSI and that there appears to be no reference to the invasive species present on site and the risk of these spreading onto the SSSI.
- SWT would support the adoption of all the mitigation recommendations within the Hydrological Review, along with any further recommendations made by Natural England and require and appropriately worded condition.
- SWT is not convinced that further extraction and subsequent restoration, or immediate restoration will currently result in a net gain to biodiversity.
- The ecological priorities for this site should be the restoration of heathland, removal of invasive species and management to enhance the invertebrate interest. The issue of what ecological measures will be implemented must be clarified before the ROMP is decided.
- Given the above, SWT still does not believe that the ROMP can be concluded.

4.7 **Environment Agency: Comments**

- Comments of 24th June 2019 - We have reviewed the Hydrogeological Review prepared by H2Ogeo (ref: 20160728 MgMConsulting).
- The modelling shows a sustained lake level rise to 37mAOD would effect the local groundwater flow direction. The report concludes that regular ground and surface water monitoring should be carried out and we support this and advise that the level platform around the lake will need to be formed at 35.3 mAOD to accord with the terms of the planning permission (condition 3) and provide the necessary level of protection to the base of the southern and western worked faces from wave action.
- The current planning condition 14 relates to storage and use of fuels, lubricants, chemicals and other potential pollutants. These requirements need to be met as soon as possible.
- Comments of 18 September 2019 - We have reviewed the Additional Information (4) submitted dated August 2019. We note that no monitoring has been carried out since the Hydrogeological Review.
- Comments of 23 October 2019 - Thank you for your letter dated 20/09/19 (ref 01290913) and for providing details of the proposed groundwater and surface water monitoring. We support these proposals and the reinstatement of the regular monitoring program for ground and surface water levels around the site.

4.8 **Ecologist: Updated Comments**

- The additional hydrological information appears to address the concerns in relation to the SSSI. Provided that Natural England concur with the modelling results and monitoring checks, then I raise no additional concerns.
- In relation to the restoration plan, I would still like to reiterate that a revised plan would be appropriate, considering the results of the updated surveys.

4.9 **Environmental Health:**

- A noise assessment report has been submitted dated July 2016 produced by Clarke Saunders Acoustics. Noise measurements were taken at two locations near the quarry representing background noise levels and a noise assessment of the plant to be operated at Minsted sandpit is also presented in the report. Predicted noise levels at the nearest

properties indicate that the criteria set out in the Planning Practice Guidance for Minerals can be achieved between 0700 – 1900 hours. Further mitigation is therefore not required.

- The conclusions of the report are considered acceptable. It is recommended that a condition is applied to ensure that the noise levels are kept to acceptable levels.
- Suggested condition:

Noise levels at the nearest noise-sensitive property should not exceed the background noise level (LA90,1h) by more than 10dB(A) during normal working hours (0700-1900). Total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field) between 0700 – 1900 hours.

- It is understood that there is to be no evening or night-time working at the site.

4.10 **Natural England:**

Updated comments of 4 November 2019:

- Iping Common Site of Special Scientific Interest (SSSI)

We note the findings of the additional hydrological Information supplied in support of the ROMP. We welcome the proposed regular monitoring program, bathymetric surveys and review of water elevations. We further welcome regular survey work for ground and surface water and the provision of additional boreholes, the location of which were identified in the report. We note that these will be used to further explore the hydrological relationship between the site and the SSSI.

We note the provision of trigger levels which if breached will instigate exploratory works into cause and mitigation. We further note that this includes consultation with the appropriate authorities. We note that the Report states that with respect to the SSSI there may be a hydrological disconnect between the SSSI and the ROMP but that this has not been confirmed.

We confirm that provided the specific measures contained within the *Additional Hydrological Information Report* are confirmed by way of conditions to any approval of the ROMP this will address Natural England's concerns regarding the lack of hydrological monitoring and information pertaining to links between the site and the SSSI.

- Biodiversity Net Gain

We advise that restoration proposals should maximise biodiversity benefits and include a demonstrable net gain. We note that heathland creation and tree planting is proposed and advise that ecological connectivity around the site should be strengthened to ensure movement of wildlife can be maintained.

4.11 **Stedham with Iping Parish Council: Objection**

- Recommend Refusal:
 1. Insufficient time allowed to properly consider the new documentation
 2. The new documentation presented appears to offer nothing with regard to addressing and rectifying the existing breaches of planning conditions
 3. The new documentation presented appears to offer little with regard to addressing the impact on local residents and infrastructure
 4. The applicant has a history of failing to comply with planning conditions and enforcement orders
- Comments of 24th September 2019 – The Parish Council considered that, despite further information being provided, there was no indication that the issues raised previously are being addressed. Therefore the previous decision to Recommend Refusal was upheld.
- Further comments have been submitted in conjunction with Minsted Residents Group (see item 5.4 of this report).

4.12 **Landscape Officer: No Objection**

- No objection in terms of the final landform but would defer for the County Ecologist's comments with regard to the suitability of the final restoration scheme.

5. Representations

5.1 The summary below concerns all representations received within life of this application.

5.2 Throughout the life of the application 8 representations have been received. The comments received are summarised below;

- 20 breaches of planning conditions previously identified on the site - planning permission should not be granted until all breaches have been addressed and rectified and safe guards in place going forward.
- No planning permission should be granted until all the consultations for the joint mineral plan have been completed.
- Concerns regarding noise and disturbance to neighbouring amenity through the operation of the quarry.
- Result in harm to the environment bringing further pollution and traffic to Midhurst and Rogate by the heavy lorries that are needed to operate such a facility as this
- Highway safety in Midhurst and Trotton
- Further exploiting the sandpit will destroy an ancient barrow at the western edge of the site
- This is against the founding precepts of the NP.
- Concerned that documents refer back as far as 2013 have not been updated. The Environmental Statement is dated 2014. It also appears that statutory consultees who responded in 2014 have either not been consulted further on any of the additional information supplied by the applicant or have decided on mass not the comment further.
- Short timescale given to public scrutiny of this application appears very short given that discussions with the applicant have been over 5yrs.
- The Environmental Statement and associated mitigation are thin when commencing quarrying on site would involve significant habitat removal that supports this diversity wildlife.
- The boundaries of the site are not secure or properly maintained. The fence is down in numerous locations.
- The Planning Committee minutes of 11 October 2018 state that "the suspension order should remain in place until such a time that all necessary reports associated with the ROMP application have all been submitted and assessed". The applicant should be required to list all of the necessary reports required and demonstrate where these requirements have been met.

Officer Response to Representations

5.3 This is an existing site that benefits from planning consent and is not relevant to the West Sussex Single Issue Review of Soft Sand, as this review concerns the allocation of new sites within the National Park. The concerns that residents raise with regard to the amenity and highway impact of the previous workings of the site can be managed through suitable amended planning conditions.

Stedham with Iping Parish Council in association with the Minsted Residents Group

5.4 Comments have been received from Stedham with Iping Parish Council in association with the Minsted Residents Group which are summarised below, the full representations, along with appendices, are available for Members to view online and are also appended to this reports as **appendices 4 and 5**:

- Absence of necessary information to determine the ROMP substantial and key information is still required.

- Conclusive and detailed evidence of the quality or quantity of sand reserves exist beyond the need to achieve the required full reinstatement of overworked areas has not been provided.
- Conditions are completely inadequate and do not meet the required objectives of the ROMP review process to update the consents to provide modern environmental standard of working.
- Visual amenity is a key factor from outside the site and is described using photographs.
- It appears that the water level being used is 32.5m AOD, substantially below the actual or theoretical level being suggested in the hydrogeological report. It is crucial to understand the potential for run off and flooding from the site.
- Full restoration of the site now depends on reversing the pollution damage done to the lake, which must be a condition of any restoration plan.
- Concerns raised regarding operation of concrete batching facility
- Archaeological background, further information is required
- Consistent with the current controls working of sand beneath the processing plant area should remain prohibited.
- It is recommended that an operator working Minsted Sandpit must be a member of a relevant trade body, e.g. the Mineral Products Association to help ensure that best practice be followed in Minsted Sandpit's operations and to adopt the basic core values that are recognised throughout the industry.

Stedham with Iping Parish Council and Minsted Residents Group: Supplementary statements to ROMP submission dated 20th September 2019.

- The applicant has not shown that there are any further viable and workable reserves within the site and therefore a prohibition order should be served We estimate at least 210,000 tonnes of sand were extracted by Dudman from those areas which had been restored by Hanson in 2004.
- In terms of the further hydrogeological assessment it is apparent that this has failed to indicate the potential impacts upon the SSSI.
- The geotechnical assessment, lake decontamination proposals and the arrangements for dealing with the imported waste within the site have still to be submitted.
- Ecological information is still outstanding
- Images submitted with this representation demonstrated areas of over digging by current operator and not previous operator.
- Concerns regarding how the areas of overworking can be restored technically given the constraints of the material
- The submitted topographical plan is not sufficiently detailed
- Ambiguity regarding the date of the site survey
- The ROMP is not supported by a detailed cut and fill analysis of the sort that would be expected and generated from a software programme (i.e. AutoCAD or Civil 3D)
- The large amounts of buried, imported waste materials need to be dug out and cleared away, and the ground allowed to recover.
- The silt bays, a prime requirement for proper operations, need to be restored.

Officer Response to Stedham with Iping Parish Council and Minsted Residents Group (SIPCMRG) Representation

- 5.5 When considering the approach to regularise the breaches within this site SDNPA Officers have continued to monitor the site on a yearly basis. The SDNPA first became involved in monitoring and conducted a joint monitoring visit of the site in December 2012 with WSCC who were responsible on our behalf at the time for enforcement. The site was operational and so regular monitoring visits were undertaken, all identifying a number of breaches of planning conditions across the two extant permissions. There were potential opportunities here, whilst the site was still operational, to take enforcement action against the alleged

planning condition breaches within the site. This was not pursued and on the 16 December 2013 the ROMP application SDNP/13/06196/ROMP was submitted in an attempt to address the outstanding issues.

- 5.6 The SDNPA took over sole compliance monitoring of the site on 1 April 2014. The final monitoring visit to be undertaken prior to the site being placed into suspension was on 4th July 2014. This monitoring report identified 21 breaches of planning conditions with regard to permission SJ/98/1472, (this consent concerns the lake and the area of the site that was still being worked), and 6 breaches of planning conditions with regard to permission SJ/98/1471, (the IDO which concerns the area of the site including the access, storage areas and concrete batching plant).
- 5.7 Later a full review of the site was undertaken to establish why the ROMP application had stalled and to understand the nature of each of the planning condition breaches as reported in 2014. It was concluded that many of the multiple breaches to which the SIPC MRG refer, as described in the 2014 monitoring report pertain to conditions that requested further information to be submitted post commencement and that some of the breaches identified were indeed repetitions.
- 5.8 The SIPC MRG responses raise a number of concerns about many aspects of the quarry when it was in operation and the acceptability of the information submitted by the applicant with regard to the determining of the ROMP application. The SDNPA can only determine an application based on the information before it. The SDNPA must consider the information submitted, statutory consultations responses and representations made. The site Operator has requested that the application be determined on the information submitted to date and that the only outstanding matter he is currently looking to address are the comments of Natural England, Sussex Wildlife Trust and Ecology with regard to the final restoration scheme and the need to incorporate the finds of the ecological surveys and mitigation measures required. It would appear from Natural England's and County Ecologist's responses that the technical survey work has now been undertaken to a satisfactory extent to allow the determination of the ROMP but these findings need to be incorporated into a final restoration scheme for the site and this can be done through an appropriately wording planning condition.
- 5.9 A further concern of the SIPC MRG is the areas of overdig that have occurred within the site. The SIPC MRG claim that this is solely the responsibility of the current site Operator and the current site Operator claims that the previous Operator, Hanson was also responsible for overdig. In part this overdig was due to an incorrect working plan being submitted at the time of the previous ROMP review that suggested that the working area was greater than that approved by the original consent. The current ROMP application working plan corrects this. The allocation of blame at this point will not assist to achieve a final and satisfactory resolution of this site that being the final restoration of the overworked south western faces in a reasonable timescale without causing undue harm to the ecology of the site and to the amenities of the occupiers of neighbouring dwellings.
- 5.10 To this regard, it is considered that the SIPC MRG make a valid point concerning the timing of the required final restoration of the quarry. This site has planning consent for the quarrying of sand until 21 February 2041 and it would be inappropriate for the SDNPA to remove the asset value of the quarry unless it can be certain that the reserves within the site are exhausted and mineral working has ceased. However, the SDNPA is confident from the information submitted and the assertions made by the SIPC MRG that sufficient reserves do not remain in the site to warrant a continuation of a planning consent to work the site until 2041. Furthermore, that removal of excavated sand from the site should be controlled to some degree whilst the final phases are being worked out and restored to ensure that the areas of overdig within the south western corner of the site are rectified.
- 5.11 With reference to the alternative option to bringing forward a final restoration of this site, namely the serving a Prohibition Order on the site, regard must be had to the relevant legislation, which is complex not least as new EIA Regulations came into force in 2017. Notwithstanding, a saving provision is in place from earlier 'Prohibition Order' 2011 legislation which means that if an Environmental Statement had been submitted with regards

to a ROMP application before the new Regulations came into force (in 2017), the 2011 Regulations continue to apply.

- 5.12 Where it can be shown that the winning and working or depositing of minerals has not permanently ceased, an MPA has a discretion whether to make a Prohibition Order. In this case the ROMP application is still live and there is evidence of reserves in the site and intention has been shown from the Site Operator to work these reserves.
- 5.13 In terms of the hydrology of the site, the survey information submitted has been assessed by the relevant statutory consultees. The Environment Agency has removed its earlier objection on the basis of the updated information and is the body responsible for water monitoring at this site. Nevertheless it should be conditioned that the recommended measures within the hydrology report are implemented and that regular surveys continue. This may impact the final datum position of the level bench required within the south western faces still to be worked and restored. The planning conditions should be worded such to allow for amendments to the final level bench based on ongoing hydrological monitoring of the site.
- 5.14 Section 8 of this report considers each of the conditions drafted by the application with regard to the responses from Statutory Consultees and Representations received.

6. Planning Policy Context

6.1 National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well-being of the local community in pursuit of these purposes.

National Planning Policy Framework and Circular 2010

- 6.2 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued on 24 July 2018. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.
- 6.3 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF
- 6.4 The relevant policies to this application are set out in section 7 below.

7. Planning Policy

- 7.1 The following policies of the **National Planning Policy Framework** are relevant to this application:
- NPPF02 - Achieving sustainable development
 - NPPF04 - Decision-making
 - NPPF15 – Conserving and enhancing the natural environment
 - NPPF15 - Conserving and enhancing the historic environment
- 7.2 The **South Downs Partnership Management Plan (SDPMP)** was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan. The following Policies and Outcomes are of particular relevance to this case:

- General Policy 1
- General Policy 2
- General Policy 3
- General Policy 9
- General Policy 10
- Minerals Policy 27

7.3 The South Downs Local Plan

Applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The statutory development plan is the South Downs Local Plan 2014-2033 and any relevant minerals and waste plans. The key development plan policies and other material considerations considered relevant to this application are set out below.

- Core Policy SD1 - Sustainable Development
- Core Policy SD2 - Ecosystems Services
- Core Policy SD3 – Major Development
- Strategic Policy SD4 - Landscape Character
- Strategic Policy SD5 - Design
- Strategic Policy SD6 - Safeguarding Views
- Strategic Policy SD7 - Relative Tranquillity
- Strategic Policy SD8 - Dark Night Skies
- Strategic Policy SD9 - Biodiversity and Geodiversity
- Strategic Policy SD10 – International Sites
- Development Management Policy SD11 - Trees, Woodland and Hedgerows
- Strategic Policy SD12 - Historic Environment
- Strategic Policy SD16 - Archaeology
- Strategic Policy SD17 - Protection of the Water Environment
- Strategic Policy SD19 - Transport and Accessibility
- Development Management Policy SD22 - Parking Provision
- Strategic Policy SD25 - Development Strategy
- Strategic Policy SD45 – Green Infrastructure
- Strategic Policy SD48 - Climate Change and Sustainable Use of Resources
- Development Management Policy SD50 - Sustainable Drainage Systems
- Development Management Policy SD54 – Pollution and Air Quality
- Development Management Policy SD55 – Contaminated Land

7.4 West Sussex and South Downs National Park Joint Minerals Local Plan 2018

This is the relevant Minerals Plan for this location and has been found sound by the Local Plan Inspector apart from policies with regard to the future supply Soft Sand. The Inspector required the MPA, (this being West Sussex and the South Downs National Park Authority working jointly), to start an immediate single issue review of soft sand policy, (SIR), and this had to consider all the policy options and any potential sites within West Sussex including within the South Downs National Park. However, the review does not impact the consideration of this ROMP application as this is an existing soft sand quarry.

A site was put forward by the Applicant in the SIR Call for Sites process for an extension to the existing Minsted Quarry. However, this was not selected by the MPA as an appropriate proposed site allocation for a more soft sand provision within West Sussex.

The following policies are considered to be relevant to the ROMP application under consideration:

- M2 – Soft Sand
- M8 – Mineral processing at mineral sites
- M12 - Character
- M13 – Protected Landscape
- M14 – Historic Landscape
- M15 – Air and Soil
- M16 – Water Resources
- M17 – Biodiversity and Geodiversity
- M18 - Public Health and Amenity
- M19 – Flood Risk Management
- M20 - Transport
- M23 – Design and Operation of Mineral Developments
- M24 – Restoration and Aftercare
- M25 – Community Engagement

8. Planning Assessment

- 8.1 The applicant has submitted a list of conditions that they consider would adequately control the development, it consolidates the list of conditions of the two extant planning permissions for this site, SJ/98/1471 and SJ/98/1482. The draft list as submitted by the Applicant is appended at **Appendix 2** of the report. The proposed conditions are considered below and any amendments that are recommended to be applied to the reviewed planning permission are set out as the ‘Recommended Conditions’.
- 8.2 In considering the conditions to be applied to future operations at the Minsted quarry particular attention has to be taken to the manner in which the operations will meet the concerns of consultees as well as the planning issues of ecology, hydrology, noise, dust, visual amenity and impacts on the neighbours to the site. The applicant has undertaken an assessment of the principle issues and has set these out in an Environmental Statement that has been submitted in 4 parts.
- 8.3 It is considered that additional conditions to address these matters are required to supplement the list submitted by the Applicant. The requirements for the additional conditions and amendments to the submitted conditions are considered below. Furthermore, in line with modern condition writing, the reasons have also been attached to all recommended conditions.

Consideration of the applicant’s submitted conditions

- 8.4 The applicant has submitted a condition that retains the length of time that quarry until 2041.

Proposed condition 1

The winning and working of sand from the area edged yellow on Drawing Ref DG/MINSP/14-03 (March 2014) shall cease not later than 21st February 2041.

- 8.5 However, it is considered that there are only limited reserves remaining at the site and the Operator had previously advised that they believe that there are only two years of sales left within the site. The Applicant can claim compensation as a result of any ROMP review where the mineral planning authority determines conditions different from those submitted by the applicant; and the effect of new condition, other than restoration or aftercare conditions, is to prejudice adversely to an unreasonable degree wither the economic viability of the operation or the asset value of the site, taking account of the expected remaining life of the site.

- 8.6 In this case the Applicant has agreed that limit reserves remaining within the site and based on the calculated levels of reserved by both the Operator and the estimates submitted by the SIPC MRG that the SDNPA can be confident with the reserves on site will not exceed the calculations that have been submitted and all information associated with the working pattern. Given the site's location in a national park, there is no justification for extending the harm caused to visual amenity and by local disturbance for until 2041. As such, condition 1 is amended as follows and has been agreed by the Applicant;

Recommended condition 1

The winning and working of sand from the area edged yellow on Drawing Ref DG/MINSP/14-03 (March 2014) shall cease not later than 30 November 2024.

Reason: To enable the Mineral Planning Authority to adequately control the development and to ensure that the land is restored to a suitable condition.

- 8.7 Condition no.2 concerns the final restoration of the site and is proposed by the applicant as;

Proposed condition 2

Unless otherwise agreed with the Mineral Planning Authority the development hereby permitted shall be operated and restored in accordance with Drawings Ref DG/MINSP/14-03 "Working Plan" (March 2014) and DG/MINSP/14-04 "Restoration Proposals" (September 2018) and as described in Chapter 3 of the Environmental Statement dated March 2014.

- 8.8 However, as recommended by the Ecologist Consultation response and Sussex Wildlife Trust an amended restoration plan should be submitted that incorporates the advice and measures as detailed within the submitted Ecology reports by The Ecology Co-Op submitted August 2019. Accordingly, this condition is amended as follows;

Recommended condition 2

Within 6 months of the date of this permission, a revised restoration plan for the entire application site shall be submitted to and agreed in writing by the Mineral Planning Authority. The development permitted shall be operated and restored in accordance with Drawings Ref DG/MINSP/14-03 "Working Plan" (March 2014) and the to be approved restoration plan and as described in Chapter 3 of the Environmental Statement dated March 2014 and the Ecology Reports within the Additional Information document (August 2019).

Reason: To enable the Mineral Planning Authority to adequately control the development and to ensure that the land is restored to a suitable condition.

- 8.9 Condition 3 is a key condition and it controls the final land form of the quarry faces still to be completed within phases 1, 2 and 3 on the submitted working plan. The proposed condition reads as follows;

Proposed condition 3

The sand shall be worked to its full depth to the base of the Folkestone Beds deposit subject to the following design parameters which will apply to the working of sand from the margins of the pit:

- (i) the pit side slope between the existing ground levels and a level 1.5 metres above the average ground water level shall not exceed a gradient of 1 in 3;
- (ii) at the level of approximately 1.5 metres above the average ground water level a level platform of sand shall be formed with a width of not less than 3 metres;
- (iii) the side slope below the average ground water table shall not exceed an angle of 30 degrees to the horizontal.

- 8.10 However, concerns have been raised by the SIPC MRG concerning the remaining reserves within the quarry. The SDNPA must make a balanced judgement based on the information

submitted by the Applicant and the consultation responses received. To this regard the SDNPA are satisfied that there are limited reserves remaining within this site.

- 8.11 The SDNPA are also aware that ongoing water monitoring may require that the submitted cross sections plan DA/MQ/RA1118-03 will require amendment if the average water level of the lake rises from the 32.5m to 33m AOD on which the current calculations are derived.
- 8.12 Accordingly, the original wording of condition allows for changes to the final land form to respond to ongoing hydrological monitoring at the site and it has been amended to require that no more than 25,000 tonnes of material is removed from the site until the end of each phase to ensure that the areas of overdig are amended on each phase with sufficient sand being retained within the site to rectify the areas of overdig.

Recommended condition 3

The sand shall be worked to its full depth to the base of the Folkestone Beds deposit subject to the following design parameters which will apply to the working of sand shall from the margins of the pit. Not more than 25,000 tonnes of sand shall be exported from the site until the following parameters are achieved on Phase I and then subsequently for each following phase;

- (i) the pit side slope between the existing ground levels and a level 1.5 metres above the average ground water level shall not exceed a gradient of 1 in 3;
- (ii) at the level of approximately 1.5 metres above the average ground water level a level platform of sand shall be formed with a width of not less than 3 metres;
- (iii) the side slope below the average ground water table shall not exceed an angle of 30 degrees to the horizontal.

Reason: To enable the Mineral Planning Authority to control the development and to minimise its impact on the amenities of the local area

- 8.13 Condition 4 concerns the timing of the final restoration of the site,

Proposed condition 4

All buildings, plant, machinery and hardstandings erected, constructed or used in pursuance of this permission shall be dismantled or demolished and removed from the site and the area underneath them shall be restored in accordance with the approved scheme of restoration within twelve months of the permanent cessation of sand extraction or by 21 February 2042 whichever is the earlier.

- 8.14 Given the limited resources within the site it is considered that the amended wording as drafted below will not adversely effect to an unreasonable degree wither the economic viability of the operation of the asset value of the site, taking account of the expected remaining life of the site.

Recommended condition 4

All buildings, plant, machinery and hardstandings erected, constructed or used in pursuance of this permission shall be dismantled or demolished and removed from the site and the area underneath them shall be restored in accordance with the approved scheme of restoration within twelve months of the permanent cessation of sand extraction or by 30 November 2025 whichever is the earlier.

Reason: To minimise its impact on the amenities of the local area.

- 8.15 It is not considered that there need to be any changes to the proposed condition 5 as drafted by the applicant. Furthermore, the wording of this condition controls the use of the concrete batching planting within the site. The SPCMRG have raised concerns regarding the use of permitted development rights regarding this operation in respect of condition 13 of the 1998 consent which remove Part 19 class B permitted development rights. However, the SDNPA previously found that the equipment had been erected within the site under Class A of Part 19. Importantly class A and the condition below require that the equipment

is used in connection with the minerals extracted from the site. If further materials are required to utilise the concrete batching plant then it is considered that a variation of condition application will be required in order to address the requirements of condition 5 and that the operation would not fall under class A. It is expected that the Applicant will submit such an application and that it would provide further details regarding the volume of material that would need to be imported to operate the batching plant. The merits of such a proposal will then be able to be considered in full.

- 8.16 It is considered that this requirement, alongside the shorter timescale for the completion of the restoration works, the submitted working plan and the recommended noise condition further within this report are robust enough to prevent unassessed harm from the use of and the importation of material for use in the concrete batching plant.

Proposed and recommended condition 5

No materials shall be imported to the site and deposited or stored on the site.

Reason: In the interests of the amenity of the area.

- 8.17 It is considered that this condition as drafted by the Applicant is acceptable;

Proposed and recommended condition 6

No soils, overburden, clay, rock or other surplus materials associated with the extraction of sand shall be removed from the site.

Reason: In the interests of the amenity of the area.

- 8.18 It is considered that the following condition 7 as drafted by the Applicant is acceptable;

Proposed and recommended condition 7

Except in emergencies and in order to maintain safe working or unless otherwise agreed with the Mineral Planning Authority, no operations or maintenance of plant and machinery shall be carried out at the site except between the following times:

- 0700 hours and 1800 hours Monday to Friday, and 0700 hours and 1300 hours Saturday
- No operations shall take place on Sunday or Public Holidays.

Reason: In the interests of the amenity of the area.

- 8.19 Condition 8 concerns noise levels at the site and is drafted by the applicant as follows;

Proposed condition 8

All vehicles, plant and machinery operated within the site shall at all times be maintained in accordance with the manufacturers specification and shall be fitted with and use effective silencers.

- 8.20 The Environmental Health consultee was content with the noise assessment report submitted dated July 2016 produced by Clarke Saunders Acoustics. However, they recommended that a condition is applied to ensure that the noise levels are kept to acceptable levels. As such the submitted draft condition 8 has been amended accordingly;

Recommended condition 8

Noise levels at the nearest noise-sensitive property should not exceed the background noise level (LA90,1h) by more than 10dB(A) during normal working hours (0700-1800). Total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field) between 0700 – 1800 hours.

All vehicles, plant and machinery operated within the site shall at all times be maintained in accordance with the manufacturers specification and shall be fitted with and use effective silencers.

Reason: In the interests of the amenity of the area.

- 8.21 It is considered that the following condition 9 as drafted by the Applicant is acceptable;
Proposed and recommended condition 9
The surfacing of the site entrance from the public highway and all areas of hardstanding within the site shall be maintained in a good state of repair and kept clean and free of mud and other debris at all times until completion of the site restoration and aftercare.
Reason: In the interests of local amenity and highway safety
- 8.22 It is considered that the following condition 10 as drafted by the Applicant is acceptable;
Proposed and recommended condition 10
No vehicles shall leave the site carrying mud, soil or other materials on their wheels in a quantity which is likely to cause a nuisance or hazard on the public highway.
Reason: In the interests of local amenity and highway safety
- 8.23 It is considered that the following condition 11 as drafted by the Applicant is acceptable;
Proposed and recommended condition 11
All fuels, lubricants, chemicals and other potential pollutants shall be handled on the site in such a manner as to prevent pollution of any watercourse or aquifer.
For any liquid other than water this shall include storage in suitable tanks and containers which shall be housed in an area surrounded by bund walls of sufficient height and construction so as to contain 110% of the total contents of all containers and associated pipework. The floor and walls of the bunded areas shall be impervious to both water and oil. The pipes shall vent downwards into the bund.
Reason: To enable the Mineral Planning Authority to retain control over the development which may be injurious to the amenities of the area and of neighbouring properties and to prevent pollution.
- 8.24 It is considered that the following condition 12 as drafted by the Applicant is acceptable;
Proposed and recommended condition 12
No vehicular access to the site shall be used except for the existing entrance via Minsted Road.
Reason: In the interests of local amenity and highway safety
- 8.25 It is considered that the following condition 13 as drafted by the Applicant is acceptable;
Proposed and recommended condition 13
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 no fixed plant, machinery or buildings shall be installed or erected on the site without permission first having been obtained under Part 17 Class B from the Mineral Planning Authority.
Reason: To protect the visual amenities of the locality and to enable the Mineral Planning Authority to adequately control development at the site.
- 8.26 Condition 14 is drafted by the applicant as;
Proposed condition 14
An archaeological investigation of the working area shown as “Phase 2” on Drawing Ref DG/MINSP/14-03 “Working Plan” (March 2014) shall be carried out in accordance with a specification to be submitted to, and agreed in writing by, the Mineral Planning Authority prior to the commencement of soil stripping and mineral extraction.
- 8.27 However, the Archaeology Consultant requires revised conditions in accordance with modern practice. Condition 14 must be expanded to become conditions 14, 15 and 16.
Recommended condition 14

Prior to the re-commencement of operations the applicant shall have secured the implementation of a programme of archaeological assessment in accordance with a Written Scheme of Investigation that has been submitted to and approved by the Mineral Planning Authority.

Reason: To assess the extent, nature and date of any archaeological deposits that might be present and the impact of the development upon these heritage assets.

Recommended condition 15

Prior to the re-commencement of operations the applicant shall have secured the implementation of a programme of archaeological mitigation of impact in accordance with a Written Scheme of Investigation that has been submitted to and approved by the Mineral Planning Authority.

Reason: To mitigate the effect of the works associated with the development upon any heritage assets and to ensure that information regarding these heritage assets is preserved by record for future generations.

Recommended condition 16

Following completion of archaeological fieldwork a report will be produced in accordance with an approved programme submitted by the developer and approved in writing by the Mineral Planning Authority setting out and securing appropriate post-excavation assessment, specialist analysis and reports, publication and public engagement.

Reason: To contribute to our knowledge and understanding of our past by ensuring that opportunities are taken to capture evidence from the historic environment and to make this publicly available.

- 8.28 Proposed condition 15 relates to restoration of the site;

Proposed condition 15 (now to form condition 17)

Unless otherwise agreed in writing with the Mineral Planning Authority (prior to the implementation of any changes) the site shall be restored in accordance with the restoration details provided on Drawing Ref DG/MINSP/14-04 "Restoration Proposals" (September 2018) (as amended by the condition of this permission) by no later than twelve months after the permanent cessation of the working of sand from the site or by 21 February 2042, whichever is the earlier.

- 8.29 This condition must reflect that a final restoration plan is required to be submitted and approved under condition 2. Aftercare details can also be required by condition, (see condition 21, former condition 19).

Recommended condition 15 (now to form condition 17)

Unless otherwise agreed in writing with the Mineral Planning Authority (prior to the implementation of any changes) the site shall be restored in accordance with the approved restoration details, (as required under condition 2) by no later than twelve months after the permanent cessation of the working of sand from the site or by 30 November 2025, whichever is the earlier.

Reason: To enable the Mineral Planning Authority to control the development and to minimise its impact on the amenities of the local area.

- 8.30 Former condition 16 is another condition concerning the restoration of the site and seeks to ensure progressive restoration;

Proposed condition 16 (now to form condition 18)

Where practicable the site shall be progressively restored such that no part of the site where the working of sand has permanently ceased shall remain unrestored for longer than two years following the cessation of working and in any case not later than 21 February 2042.

- 8.31 However, the documents submitted for the application have revised the phasing of the areas still to be worked as phases 1, 2 and 3. Given the clear context of the areas remain to be worked and the reduction in the time limit for extraction, it is consider appropriate to amend this conditions as follows;

Recommended condition 16 (now to form condition 18)

The site shall be progressively restored in accordance with the phasing as detailed on plan DG/MINSP/14-03 “Working Plan” (March 2014) such that no phase where the working of sand has permanently ceased shall remain unrestored for longer than one year following the cessation of working of that phase and in any case not later than 30 November 2025.

Reason: To enable the Mineral Planning Authority to control the development and to minimise its impact on the amenities of the local area.

- 8.32 This condition requires further information to be submitted with regard to the final planting in connection with the submitted restoration plan;

Proposed condition 17 (now to form condition 19)

Notwithstanding the information given on Drawing Ref DG/MINSP/14-04 “Restoration Proposals” (September 2018) no seeding or planting of trees, shrubs or other vegetation shall take place on the site unless and until details of the locations, species to be planted, the density of planting and timing of such planting (including the identification of areas to remain undisturbed) has been submitted to, and approved in writing by, the Mineral Planning Authority following which the approved details shall be carried out in full.

- 8.33 Further information has been submitted with regard to the planting out of the site. However, the restoration plans need further revision following the comments of the relevant statutory consultees in relation to the requirement to include those mitigation measures as listed in the ecology reports of August 2019. As such this plan reference should be removed from the condition;

Recommended condition 17 (now to form condition 19)

No seeding or planting of trees, shrubs or other vegetation shall take place on the site unless and until details of the locations, species to be planted, the density of planting and timing of such planting (including the identification of areas to remain undisturbed) has been submitted to, and approved in writing by, the Mineral Planning Authority following which the approved details shall be carried out in full.

- 8.34 The condition as drafted;

Proposed condition 18 (now to form condition 20)

Notwithstanding the submitted statements and drawings in support of the application the following details shall be submitted for approval to the Mineral Planning Authority not later than twelve months from the date of this permission:

- (i) the manner in which soils will be handled and managed during stripping, storage and placement as part of the restoration of the site;
- (ii) the position and extent of access tracks to be used by vehicles as part of the restoration of the site;
- (iii) the manner in which those areas that are to be subject to heathland restoration will be managed in the short and long term, to include the provision of a management plan;
- (iv) subject to (iii) a timetable for the seeding and planting of the site.

The approved details shall be carried out in full.

- 8.35 It is considered that this condition as drafted by the Applicant is acceptable except for the timeframe for details to be submitted, this should be reduced to 6 months in light of the shorter time frame for site operations

Recommended condition 18 (now to form condition 20)

Notwithstanding the submitted statements and drawings in support of the application the following details shall be submitted for approval to the Mineral Planning Authority not later than six months from the date of this permission:

- (i) the manner in which soils will be handled and managed during stripping, storage and placement as part of the restoration of the site;
- (ii) the position and extent of access tracks to be used by vehicles as part of the restoration of the site;
- (iii) the manner in which those areas that are to be subject to heathland restoration will be managed in the short and long term, to include the provision of a management plan;
- (iv) subject to (iii) a timetable for the seeding and planting of the site.

The approved details shall be carried out in full.

- 8.36 It is considered that the following condition 19 (now 21) as drafted by the Applicant is acceptable;

Proposed and recommended condition 19 (now to form condition 21)

Any part of the site where the working of sand has permanently ceased and which has been restored in accordance with the approved restoration details shall be subject to the provisions of an aftercare scheme the details of which, unless otherwise agreed, shall be submitted to the Mineral Planning Authority not later than twelve months from the date of this permission. The approved scheme shall be carried out in full.

The submitted aftercare scheme shall specify the steps to be taken and period during which they are to be taken to ensure the satisfactory implementation of the restoration proposals. Such steps shall be carried out for a period of five years following the completion of the restoration of any area within the site and following the implementation of the aftercare of such areas.

As part of the aftercare of restored areas of the site provision will be included in the scheme for an annual review of progress and suitability and if considered necessary then changes shall be agreed with the Mineral Planning Authority and thereafter the aftercare shall be carried out in accordance with any such agreed changes.

Reason: To enable the Mineral Planning Authority to control the development and to minimise its impact on the amenities of the local area.

Additional recommended conditions

- 8.37 It is considered through reviewing the information submitted and the consultation responses received that the following conditions are also necessary to control the development and to ensure that the operations are in accordance with current environmental legislation. The final order of conditions may change so that a more coherent decision notice is produced that will assist the future monitoring of the site

Recommended condition 22

- 8.38 Geotechnical and Topographical Surveys

The site operator shall submit geotechnical, topographical and bathymetrical survey plans of the site, including levels to Ordnance Datum to the Mineral Planning Authority, within 6 months of the date of this decision or prior to recommencing operations on the site whichever is the sooner, then again after 1 year from the initial survey and then annually to the end of the restoration period. These surveys shall be in full accordance with requirements and recommendations of the submitted Geotechnical Assessment (2012), Hydrological Review (2016) and Hydrological Mitigation Measures Information submitted (2019).

Reason: To enable the Mineral Planning Authority to monitor and check the progress of the levels/contours against the approved levels/contours throughout the life of the operations.

Recommended condition 23

8.39 Hydrogeological Assessment

Prior to the re-commencement of operations hereby permitted, an updated review of all water levels shall be undertaken and submitted to the Mineral Planning Authority. All future operations at the site shall be carried out in accordance with the recommendations and mitigation measures identified in the approved Hydrological Review (2016) and Hydrological Mitigation Measures Information submitted (2019) throughout the duration of the development.

Reason: To ensure that new development does not harm the water environment.

Recommended condition 24

Monitoring of sales and reserves of minerals

8.40 Details of annual sales and remaining reserves of sand from the site shall be submitted to the Mineral Planning Authority. These details shall include the quantity of sand in tonnes.

The period provided for shall be from 1 January to 31 December each year and the information shall be provided by 31 March for the preceding period.

Reason: To enable monitoring and assist the Mineral Planning Authority in the forward planning of mineral resources.

Recommended condition 25

Availability of Approved Documents

8.41 A copy of the decision notice, with the approved plans and any subsequent approved documents shall be kept at the site office at all times and the terms and contents of them shall be made known to the supervising staff on site. These documents shall be made available to the Mineral Planning Authority upon request.

Reason: To ensure that the site operatives are conversant with the terms of the planning permission and the Restoration Plan in order to secure a satisfactory standard of development

Recommended condition 26

Vehicle Sheeting

8.42 All vehicles removing minerals and other excavated materials from the site shall have their loads enclosed within the vehicle or container or covered/sheeted

Reason: In the interests of highway safety and to prevent spillage or loss of materials on the public highway

Recommended condition 27

Boundary Markers

8.43 No operations, other than making areas of access safe, shall re-commence until the permission boundary of the site shown on the approved drawing No DG/MINSP/14-03 "Working Plan" (March 2014) has been pegged out with concrete markers. The markers shall be maintained for the duration of mineral working and if removed, displaced, damaged, or destroyed at any time shall be replaced within seven days.

Reason: To enable monitoring and ensure the development complies with the approved plans for the site

Recommended condition 28

Historic England Protection of Ancient Monument

8.44 No clearance of vegetation in or around the scheduled area of scheduled bowl barrow on Fitzhall Rough may commence until a method statement for vegetation clearance has been submitted to, and approved in writing by the Mineral Planning Authority.

Reason: To mitigate the effect of the works associated with the development upon any heritage assets

Notes: Ground works should be excluded from the scheduled bowl barrow on Fitzhall Rough (List Entry Ref: 1008503), and preferably from a 5m buffer around it also. If any ground works are required within the scheduled area (as defined by the relevant scheduling map - <https://historicengland.org.uk/listing/the-list/list-entry/1008503>), Scheduled Monument Consent **must** be applied for and obtained before any such works may commence. Undertaking such works without consent would constitute an offence under the Ancient Monuments Act (1979).

9. Conclusion

9.1 Having reviewed the history of this site it is reasonable to conclude that there are remaining reserves within the site and that works to extract these reserves have not permanently ceased. The draft conditions as submitted by the applicant have been amended in light of consultee's responses, representations made and case officer assessment of the submitted information.

9.2 It is considered that the ROMP review process is now sufficiently advanced and that the required technical surveying work has been undertaken to allow the re-drafting of the recommended conditions. The conditions as re-drafted are considered acceptable.

10. Reason for Recommendation and Conditions

10.1 It is recommended that the ROMP conditions as listed below be permitted;

1. The winning and working of sand from the area edged yellow on Drawing Ref DG/MINSP/14-03 (March 2014) shall cease not later than 30 November 2024.

Reason: To enable the Mineral Planning Authority to adequately control the development and to ensure that the land is restored to a suitable condition.

2. Within 6 months of the date of this permission, a revised restoration plan for the entire application site shall be submitted to and agreed in writing by the Mineral Planning Authority. Thereafter the development permitted shall be operated and restored in accordance with Drawings Ref DG/MINSP/14-03 "Working Plan" (March 2014) and the to be approved restoration plan and as described in Chapter 3 of the Environmental Statement dated March 2014 and the Ecology Reports within the Additional Information document (August 2019).

Reason: To enable the Mineral Planning Authority to adequately control the development and to ensure that the land is restored to a suitable condition.

3. The sand shall be worked to its full depth to the base of the Folkestone Beds deposit subject to the following design parameters which will apply to the working of sand from the margins of the pit. Not more than 25,000 tonnes of sand shall be exported from the site until the following parameters are achieved on Phase I and then subsequently for each following phase;

- (i) the pit side slope between the existing ground levels and a level 1.5 metres above the average ground water level shall not exceed a gradient of 1 in 3;
- (ii) at the level of approximately 1.5 metres above the average ground water level a level platform of sand shall be formed with a width of not less than 3 metres;
- (iii) the side slope below the average ground water table shall not exceed an angle of 30 degrees to the horizontal.

Reason: To enable the Mineral Planning Authority to control the development and to minimise its impact on the amenities of the local area

4. All buildings, plant, machinery and hardstandings erected, constructed or used in pursuance of this permission shall be dismantled or demolished and removed from the site and the area underneath them shall be restored in accordance with the approved scheme of restoration within twelve months of the permanent cessation of sand extraction or by 30 November 2025 whichever is the earlier.

Reason: To minimise its impact on the amenities of the local area.

5. No materials shall be imported to the site and deposited or stored on the site.
Reason: In the interests of the amenity of the area.
6. No soils, overburden, clay, rock or other surplus materials associated with the extraction of sand shall be removed from the site.
Reason: In the interests of the amenity of the area.
7. Except in emergencies and in order to maintain safe working or unless otherwise agreed with the Mineral Planning Authority, no operations or maintenance of plant and machinery shall be carried out at the site except between the following times:
 - 0700 hours and 1800 hours Monday to Friday, and 0700 hours and 1300 hours Saturday
 - No operations shall take place on Sunday or Public Holidays.
 Reason: In the interests of the amenity of the area.
8. Noise levels at the nearest noise-sensitive property should not exceed the background noise level (LA90,1h) by more than 10dB(A) during normal working hours (0700-1800). Total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field) between 0700 – 1800 hours.

All vehicles, plant and machinery operated within the site shall at all times be maintained in accordance with the manufacturers specification and shall be fitted with and use effective silencers.

Reason: In the interests of the amenity of the area.
9. The surfacing of the site entrance from the public highway and all areas of hardstanding within the site shall be maintained in a good state of repair and kept clean and free of mud and other debris at all times until completion of the site restoration and aftercare.

Reason: In the interests of local amenity and highway safety
10. No vehicles shall leave the site carrying mud, soil or other materials on their wheels in a quantity which is likely to cause a nuisance or hazard on the public highway.

Reason: In the interests of local amenity and highway safety
11. All fuels, lubricants, chemicals and other potential pollutants shall be handled on the site in such a manner as to prevent pollution of any watercourse or aquifer.

For any liquid other than water this shall include storage in suitable tanks and containers which shall be housed in an area surrounded by bund walls of sufficient height and construction so as to contain 110% of the total contents of all containers and associated pipework. The floor and walls of the bunded areas shall be impervious to both water and oil. The pipes shall vent downwards into the bund.

Reason: To enable the Mineral Planning Authority to retain control over the development which may be injurious to the amenities of the area and of neighbouring properties and to prevent pollution.
12. No vehicular access to the site shall be used except for the existing entrance via Minsted Road.

Reason: In the interests of local amenity and highway safety
13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 no fixed plant, machinery or buildings shall be installed or erected on the site without permission first having been obtained under Part 17 Class B from the Mineral Planning Authority.

Reason: To protect the visual amenities of the locality and to enable the Mineral Planning Authority to adequately control development at the site.

14. Prior to the re-commencement of operations the applicant shall have secured the implementation of a programme of archaeological assessment in accordance with a Written Scheme of Investigation that has been submitted to and approved by the Mineral Planning Authority.

Reason: To assess the extent, nature and date of any archaeological deposits that might be present and the impact of the development upon these heritage assets.

15. Prior to the re-commencement of operations the applicant shall have secured the implementation of a programme of archaeological mitigation of impact in accordance with a Written Scheme of Investigation that has been submitted to and approved by the Mineral Planning Authority.

Reason: To mitigate the effect of the works associated with the development upon any heritage assets and to ensure that information regarding these heritage assets is preserved by record for future generations.

16. Following completion of archaeological fieldwork a report will be produced in accordance with an approved programme submitted by the developer and approved in writing by the Mineral Planning Authority setting out and securing appropriate post-excavation assessment, specialist analysis and reports, publication and public engagement.

Reason: To contribute to our knowledge and understanding of our past by ensuring that opportunities are taken to capture evidence from the historic environment and to make this publicly available.

17. Unless otherwise agreed in writing with the Mineral Planning Authority (prior to the implementation of any changes) the site shall be restored in accordance with the approved restoration details, (as required under condition 2) by no later than twelve months after the permanent cessation of the working of sand from the site or by 30 November 2025, whichever is the earlier.

Reason: To enable the Mineral Planning Authority to control the development and to minimise its impact on the amenities of the local area.

18. The site shall be progressively restored in accordance with the phasing as detailed on plan DG/MINSP/14-03 "Working Plan" (March 2014) such that no phase where the working of sand has permanently ceased shall remain unrestored for longer than one year following the cessation of working of that phase and in any case not later than 30 November 2025.

Reason: To enable the Local Planning Authority to control the development and to minimise its impact on the amenities of the local area.

19. No seeding or planting of trees, shrubs or other vegetation shall take place on the site unless and until details of the locations, species to be planted, the density of planting and timing of such planting (including the identification of areas to remain undisturbed) has been submitted to, and approved in writing by, the Mineral Planning Authority following which the approved details shall be carried out in full.

Reason: To enable the Mineral Planning Authority to control the development and to minimise its impact on the amenities of the local area.

20. Notwithstanding the submitted statements and drawings in support of the application the following details shall be submitted for approval to the Mineral Planning Authority not later than six months from the date of this permission:

- (i) the manner in which soils will be handled and managed during stripping, storage and placement as part of the restoration of the site;
- (ii) the position and extent of access tracks to be used by vehicles as part of the restoration of the site;

- (iii) the manner in which those areas that are to be subject to heathland restoration will be managed in the short and long term, to include the provision of a management plan;
- (iv) subject to (iii) a timetable for the seeding and planting of the site.

The approved details shall be carried out in full.

Reason: To enable the Mineral Planning Authority to control the development and to minimise its impact on the amenities of the local area.

21. Any part of the site where the working of sand has permanently ceased and which has been restored in accordance with the approved restoration details shall be subject to the provisions of an aftercare scheme the details of which, unless otherwise agreed, shall be submitted to the Mineral Planning Authority not later than twelve months from the date of this permission. The approved scheme shall be carried out in full.

The submitted aftercare scheme shall specify the steps to be taken and period during which they are to be taken to ensure the satisfactory implementation of the restoration proposals. Such steps shall be carried out for a period of five years following the completion of the restoration of any area within the site and following the implementation of the aftercare of such areas.

As part of the aftercare of restored areas of the site provision will be included in the scheme for an annual review of progress and suitability and if considered necessary then changes shall be agreed with the Mineral Planning Authority and thereafter the aftercare shall be carried out in accordance with any such agreed changes.

Reason: To enable the Mineral Planning Authority to control the development and to minimise its impact on the amenities of the local area.

22. The site operator shall submit geotechnical, topographical and bathymetrical survey plans of the site, including levels to Ordnance Datum to the Mineral Planning Authority, within 6 months of the date of this decision or prior to recommencing operations on the site whichever is the sooner, then again after 1 year from the initial survey and then annually to the end of the restoration period. These surveys shall be in full accordance with requirements and recommendations of the submitted Geotechnical Assessment (2012), Hydrological Review (2016) and Hydrological Mitigation Measures Information submitted (2019).

Reason: To enable the Mineral Planning Authority to monitor and check the progress of the levels/contours against the approved levels/contours throughout the life of the operations.

23. Prior to the re-commencement of operations hereby permitted, an updated review of all water levels shall be undertaken and submitted to the Mineral Planning Authority. All future operations at the site shall be carried out in accordance with the recommendations and mitigation measures identified in the approved Hydrological Review (2016) and Hydrological Mitigation Measures Information submitted (2019) throughout the duration of the development.

Reason: To ensure that new development does not harm the water environment.

24. Details of annual sales and remaining reserves of sand from the site shall be submitted to the Mineral Planning Authority. These details shall include the quantity of sand in tonnes.

The period provided for shall be from 1 January to 31 December each year and the information shall be provided by 31 March for the preceding period.

Reason: To enable monitoring and assist the Mineral Planning Authority in the forward planning of mineral resources.

25. A copy of the decision notice, with the approved plans and any subsequent approved documents shall be kept at the site office at all times and the terms and contents of them

shall be made known to the supervising staff on site. These documents shall be made available to the Local Planning Authority upon request.

Reason: To ensure that the site operatives are conversant with the terms of the planning permission and the Restoration Plan in order to secure a satisfactory standard of development

26. All vehicles removing minerals and other excavated materials from the site shall have their loads enclosed within the vehicle or container or covered/sheeted

Reason: In the interests of highway safety and to prevent spillage or loss of materials on the public highway

27. No operations, other than making areas of access safe, shall re-commence until the permission boundary of the site shown on the approved drawing No DG/MINSP/14-03 "Working Plan" (March 2014) has been pegged out with concrete markers. The markers shall be maintained for the duration of mineral working and if removed, displaced, damaged, or destroyed at any time shall be replaced within seven days.

Reason: To enable monitoring and ensure the development complies with the approved plans for the site

28. No clearance of vegetation in or around the scheduled area of scheduled bowl barrow on Fitzhall Rough may commence until a method statement for vegetation clearance has been submitted to, and approved in writing by the Local Planning Authority.

Reason: To mitigate the effect of the works associated with the development upon any heritage assets

*Notes: Ground works should be excluded from the scheduled bowl barrow on Fitzhall Rough (List Entry Ref: 1008503), and preferably from a 5m buffer around it also. If any ground works are required within the scheduled area (as defined by the relevant scheduling map - <https://historicengland.org.uk/listing/the-list/list-entry/1008503>), Scheduled Monument Consent **must** be applied for and obtained before any such works may commence. Undertaking such works without consent would constitute an offence under the Ancient Monuments Act (1979).*

11. Crime and Disorder Implication

- 11.1 It is considered that the proposal does not raise any crime and disorder implications.

12. Human Rights Implications

- 12.1 This planning enforcement recommendation 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.
- 12.2 When considering enforcement action The Human rights Act 1998 and the implication of that Act have been considered and the following observations have been made.
- 12.3 Under Article 8 (right to respect for private and family life) the SDNPA is justified in continuing the suspension of mineral workings at the site in the interests and amenities of the locality.
- 12.4 Under Protocol 1 of Article 1, by taking this action, i.e. the investigation, the SDNPA is seeking to enforce the laws 'deemed necessary to control the use of property in accordance with the general interest'.

13. Equality Act 2010

- 13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

14. Proactive Working

- 14.1 In reaching this decision the Local Planning Authority has actively liaised with and responded to any correspondence from the local resident's group in a positive and proactive way, in line with the NPPF.

TIM SLANEY
Director of Planning
South Downs National Park Authority

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- Appendices
1. Site Location Map
 2. Suggested conditions as submitted by the Applicant
 3. Decision Notice for planning permission SJ/98/1472
 4. Stedham with Iping Parish Council and Minsted Residents Group comments dated 15 August 2019
 5. Stedham with Iping Parish Council and Minsted Residents Group comments dated 20 September 2019 (also dated 21 October 2019)

Background Documents Officer Report to Planning Committee 11 October 2018

https://www.southdowns.gov.uk/wp-content/uploads/2018/10/PC_2018Oct11-Agenda-Item-8.pdf

National Planning Policy Framework (2018)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

South Downs National Park Partnership Management Plan (2013)

<https://www.southdowns.gov.uk/national-park-authority/our-work/key-documents/partnership-management-plan/>

West Sussex and South Downs Joint Minerals Plan 2018

<https://www.westsussex.gov.uk/about-the-council/policies-and-reports/environment-planning-and-waste-policy-and-reports/minerals-and-waste-policy/minerals-and-waste-development-scheme/>

South Downs Local Plan

<https://www.southdowns.gov.uk/planning/national-park-local-plan/>

Review of Mineral Permission application SDNP/13/06169/ROMP

<https://planningpublicaccess.southdowns.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>