

Cabinet Member for Highways and Transport

Approval of draft West Sussex Joint Minerals Local Plan (Regulation 18 stage)

Report by Executive Director for Residents' Services and Strategic Planning Manager

**Ref No: HT01
(16/17)**

**Key Decision:
Yes**

Part I

**Electoral
Divisions:
All**

Executive Summary

The West Sussex Joint Minerals Local Plan (JMLP) is being prepared in partnership with the South Downs National Park Authority (SDNPA). Informal stakeholder engagement about the contents of the Plan including potential mineral site allocations was undertaken in January 2014, July/August 2014 and March 2015. Following consideration of the responses received, further consultation on possible sites in March 2015, the results of further technical work, and dialogue with other Minerals Planning Authorities, a draft JMLP has been prepared for informal public consultation under Regulation 18 of the Town and Country Planning (Local Planning) Regulations 2012.

An Environmental and Community Services Select Committee Task and Finish Group (TFG) has worked in parallel to shape all aspects of the JMLP since Spring 2014.

The draft Plan (attached as Appendix B) summarises the background to the Plan and includes draft strategies and policies, and only two proposed mineral site allocations (supported by development principles): a new soft sand site at Ham Farm near Steyning, and an extension to the West Hoathly clay pit.

Following approval by the Cabinet Member for Highways and Transport (and the SDNPA), the draft Plan will be published for public comment for eight weeks in April and May 2016.

The results of the informal consultation will inform the preparation of the Proposed Submission Draft of the Plan which will be considered by both authorities later in 2016. Following approval, the Proposed Submission Draft will be subject to formal representations in November 2016 to January 2017 under Regulation 19 of the Town and Country Planning (Local Planning) Regulations 2012 before it is submitted for independent examination. Once adopted the Joint Minerals Local Plan will supersede the current Minerals Local Plan that was adopted in 2003.

Recommendation

That the Cabinet Member for Highways and Transport approves the draft West Sussex Joint Minerals Local Plan (Appendix B) for informal public consultation purposes.

1. Context

- 1.1 On 13 May 2011, the County Council agreed to prepare separate Minerals and Waste Local Plans jointly with the South Downs National Park Authority (SDNPA) for the area of National Park within West Sussex. Priority was given to the preparation of a 'Waste Local Plan' with a separate 'Minerals Local Plan' to be prepared at a later date.
- 1.2 Following adoption of the West Sussex Waste Local Plan in April 2014, informal public engagement on key issues and options for the Joint Minerals Local Plan (JMLP) was undertaken during 2014 and 2015. This included evidence underpinning the Plan, and potential sites for mineral development. Following consideration of the responses received and the results of further technical work, a draft JMLP has been prepared.
- 1.3 Following approval by the Cabinet Member for Highways and Transport (and the SDNPA), the draft JMLP will be published for informal public consultation for eight weeks in spring 2016. The results of the informal consultation will inform the preparation of the Proposed Submission Draft which will be considered by both authorities later in 2016.

2. Background Papers

- 2.1 In 2014, five background papers were published covering the following key topics:
 - Spatial Portrait (the human and physical geography of West Sussex);
 - Minerals in West Sussex (the presence of minerals in the County);
 - Site Identification and Assessment (the proposed approach to identifying and assessing sites suitable for minerals extraction and allocation in the Plan);
 - Safeguarding Minerals Infrastructure (how infrastructure needed to manage minerals would be protected); and
 - Safeguarding Minerals Resources (how economic minerals deposits would be protected).
- 2.2 Key stakeholders, including the district and borough councils, the parish councils, landowners, developers (including the minerals industry), and resident and community groups were invited to provide comments on the background papers.
- 2.3 The background papers were updated to take account of the comments received earlier in the year and published in December 2014.

3. Technical Work

- 3.1 In addition to the background papers and responses from informal engagement, technical work has been undertaken to provide evidence of the demand and supply of aggregates, and the impacts of mineral development. This technical work has informed the preparation of the draft JMLP and the selection of proposed site allocations.

- 3.2 The Local Aggregates Assessment (LAA) provides evidence of the demand for and supply of aggregates in West Sussex. The most recent LAA, which will be published alongside the draft JMLP, suggests the following:
- The two types of sand resource in West Sussex ('sharp sand' and 'soft sand') should be planned for separately as they have distinct and separate uses;
 - Sharp sand and gravel is the main mineral produced in West Sussex, both land-won and marine-dredged, with the majority of the latter landed at Shoreham Port;
 - There are already sufficient permitted sites for sharp sand and gravel to meet demand over the plan period (to 2033);
 - The demand for soft sand is likely to exceed the current permitted reserves over the plan period;
 - Crushed rock is imported to West Sussex by rail; and
 - Recycled and secondary aggregates are produced and used at permanent sites and temporary sites in the County through use of mobile crushing equipment.
- 3.3 In August 2014, a Mineral Sites Study (Version 1) about the availability and suitability of land for mineral development was published. Again, key stakeholders were invited to comment on the contents of the report. In March 2015, a report on the outcomes of the informal engagement was published, together with version 2 of the Mineral Sites Study (MSSv2).
- 3.4 Since the publication of MSSv2, detailed landscape and transport assessments of potential mineral development sites have also been undertaken to identify key issues that need to be addressed and, where appropriate, mitigated. A stage 1 Habitats Regulation Assessment of the sites has also been undertaken in accordance with the European Union Directive and national legislation. A Sustainability Appraisal of the sites has been undertaken and will be updated, as necessary, in the light of the comments received during the public consultation. The Sustainability Appraisal also provides background evidence to allow early consideration of issues which inform appropriate restoration schemes for mineral sites.
- 3.5 A separate study that examined the presence of a mineral known as 'silica sand', has also been completed. This study concluded that silica sand is present within the same geological formation that contains soft sand (known as the 'Folkestone Beds').
- 3.6 An assessment of how existing wharves and railheads are used for the importation of minerals, and whether the existing infrastructure will be sufficient over the plan period, has been completed. This work suggests that existing infrastructure is sufficient and will continue to be needed over the plan period.

4. Stakeholder Engagement

4.1 In addition to the engagement with key stakeholders identified above, two stakeholder events were undertaken in July and August 2014 to discuss the background papers and the mineral sites study.

4.2 The key themes and outcomes that arose as a result of the various engagement exercises are as follows:

- **Background Paper Engagement (including targeted stakeholder event)**

- 43 responses were received in total.
- The restoration of sites was raised as an issue for not only the economy, but also the environment and social wellbeing.
- Concerns raised about potential impacts on the road transport network resulting from mineral activities.
- There is a requirement for monitoring policies, particularly in relation to hydrocarbon development, to allow identification of divergence from the Plan.
- Future demand calculations should consider planned housing and infrastructure projects.
- Soft sand and sharp sand & gravel have distinct qualities, and should be considered separately.
- There were concerns of accuracy of data available for calculating future demand; the 10 year average of sales is not a good baseline, and instead should use 3 or 5 year average.
- General concerns raised about hydrocarbon extraction, and the impacts it can cause (particularly around fracking).
- Site assessments for potential allocation should be considered in detail, including technical assessments.
- The strategic importance of wharves is underplayed; there are supply implications for the wider South East.

- **Mineral Sites Study Engagement**

- 547 responses were received in total.
- A number of comments were received setting out that the proposed methodology for site selection was acceptable.
- Concerns were raised in relation to transport issues at each site, including congestion, traffic and pedestrian safety, concerns about increases in heavy goods vehicles and traffic noise and pollution.
- There were also concerns raised about landscape and nature conservation impacts, especially within the SDNP.
- Concerns were raised about impacts on the quality of life for local residents, especially for those in close proximity to the sites.
- There were also a series of technical responses, including from the minerals industry requesting consideration of alternative sites.

- The identification of further technical assessments on sites was supported.

5. Draft Joint Minerals Local Plan

Purpose

- 5.1 The draft JMLP has been prepared for informal public consultation purposes in accordance with Regulation 18 of the Town and Country Planning (Local Planning) Regulations 2012. Its purpose is to invite comments on the background to the Plan, the vision and strategic objectives, the strategies and policies, and the proposed strategic mineral site allocations (and accompanying development principles). To assist consultees and ultimately users of the document, the draft JMLP includes the spatial context, strategy and policy context, and the supporting text to the policies, as well as implementation and monitoring information.
- 5.2 The draft JMLP has been subject to an appraisal of its social, economic and environmental impacts and this is set out in a draft Sustainability Appraisal which will be published alongside the draft JMLP.
- 5.3 The draft JMLP does not have any formal status in development management terms, as its purpose is only to provide the opportunity for public comment on its contents before the Plan is finalised.

Contents

- 5.4 In the draft JMLP, the County Council and SDNPA (the 'Authorities') have sought to address the points raised during the informal public engagement on the data and information underpinning the Plan and potential mineral development sites. The draft JMLP also takes account of the outcomes of technical work (including Sustainability Appraisal), evidence gathering and points raised in engagement with consultees and others during the preparation of the draft JMLP.
- 5.5 Given that the draft JMLP covers the part of the South Downs National Park (SDNP) in West Sussex, the Authorities have sought to ensure that it is consistent with the Plans prepared by the SDNPA jointly with mineral planning authorities in Hampshire and with East Sussex (and Brighton and Hove) and which cover the other parts of the National Park.
- 5.6 Section 110 of the Localism Act deals with the need for authorities to engage constructively, actively, and on an ongoing basis in any process where there are cross-boundary issues or impacts. In support of this 'duty to cooperate', the National Planning Policy Framework refers to planning authorities demonstrating evidence of having effectively cooperated in planning for strategic cross boundary issues.
- 5.7 Accordingly, the Authorities are continuing to engage with adjoining minerals planning authorities and those elsewhere to ensure that planned provision of minerals is co-ordinated, as far as is possible, whilst recognising that provision by the minerals industry is based on commercial considerations. In particular, the draft JMLP recognises that minerals can only be worked where

they exist and so some areas will be better able to supply minerals than others.

Proposed Approaches

- 5.8 The general approaches of the draft JMLP are to:
- provide supplies of minerals from outside of the SDNP and Areas of Outstanding Natural Beauty (subject to consistency with national policy) and 'managed retreat' from quarrying in the SDNP;
 - seek transportation by rail and water; use of Lorry Route Network where rail and water transport is not practicable; and
 - safeguard economically viable mineral resources and supply infrastructure from non-mineral development that would needlessly sterilise resources and/or hinder and prevent the operation of infrastructure.
- 5.9 These approaches were used to guide the identification of proposed mineral site allocations. In particular, it was considered appropriate to avoid the allocation of new sites within the South Downs National Park and Areas of Outstanding Natural Beauty. This approach is consistent with the National Planning Policy Framework (NPPF) which does not expect major development in these areas except in exceptional circumstances and where they are in the public interest.
- 5.10 The assessment of the need for additional sites took into account national policy expectations and the availability of mineral resources; for aggregates this is set out in the LAA. This assessment concluded that there was only a need to consider the allocation of sites for soft sand and Wadhurst Clay.
- 5.11 The following proposed approaches have been finalised taking account of technical work and discussions with the minerals industry, consultees, and resident and community groups and the results of the stakeholder engagement.
- 5.12 **Sharp Sand and Gravel** – the approach taken is to safeguard the mineral resource and existing quarries, but not to seek new site allocations. The evidence set out within the LAA shows that there are enough permitted reserves of sharp sand and gravel to meet demand, and instead a criteria-based policy is proposed in order to allow for consideration of proposals that do come forward. Supply of sharp sand and gravel also comes from marine dredged aggregates landed at wharves in West Sussex. For this reason, the Plan safeguards wharf capacity to allow continued landing of marine-dredged aggregate.
- 5.13 **Soft Sand** – based on historical supply levels, the need for additional soft sand over the period to 2033 is between 3.56mt and 4.61mt (depending on the demand forecast scenario). The soft sand resource in the County is heavily constrained due its location within or adjacent to the SDNP and it is not considered that the exceptional circumstances that justify allocating sites in the SDNP. One new site outside the SDNP (Ham Farm near Steyning), which has an estimated yield of 850,000 tonnes, has been identified.

However, this site is not sufficient to meet the estimated demand and, furthermore, it is considered that there are now insufficient permitted reserves and opportunities for additional sites to allow for supplies sourced from within West Sussex to be maintained at historic levels. Accordingly, the Plan will safeguard the mineral resource and existing quarries, and rely on imports to supplement local reserves and the proposed allocation at Ham Farm. A criteria-based policy will also allow consideration of proposals that do come forward.

- 5.14 **Crushed Rock** – Crushed rock is imported to West Sussex to five railheads and some of the wharves. There will be a continued reliance on imports to meet demand. In order to ensure importation can continue, the Plan safeguards railheads and wharves from being adversely impacted by nearby non-mineral development.
- 5.15 **Recycled and Secondary Aggregate** – Recycled and secondary aggregates can reduce the reliance on primary aggregates. The Plan encourages the production and use of recycled and secondary aggregate. Recycled and secondary aggregate sites are safeguarded and sites are allocated for potential new recycling facilities via policies in the adopted Waste Local Plan.
- 5.16 **Silica Sand** – Although the Folkstone Formation is a potential source of silica sand, this resource is located within the SDNP and there are resources of this nationally significant mineral available outside West Sussex. Therefore, there are no allocations of sites, and instead a criteria-based policy included to allow consideration of proposals that do come forward. The resource is safeguarded to avoid sterilisation of this mineral to ensure prior extraction where practicable and environmentally feasible.
- 5.17 **Chalk** - The existing chalk sites, and the resource around these sites, are safeguarded to allow for their continuation. A criteria-based policy to allow consideration of any small-scale proposals that come forward has been included within the Plan; large-scale chalk extraction proposals would be opposed.
- 5.18 **Clay** – There is a need to ensure a steady and adequate supply of clay to the existing brickworks in West Sussex. Four of the five active brickworks in the County have in excess of 25 years of clay reserves and do not require further allocations in the Plan at this time. An extension to West Hoathly clay pit is allocated in Policy M10 which would provide additional supplies of clay to support the brickworks in accordance with national policy. The Wadhurst and Weald clay resources are safeguarded, as well as the Gault clay resource around Pitsham Brickworks. The existing brickworks and permitted reserves are also safeguarded to ensure that non-mineral development does not prejudice their operations. A criteria-based policy is included to allow consideration of proposals do come forward.
- 5.19 **Stone** – There is no requirement to allocate sites as stone is a small-scale industry that provides local stone of distinctive character. The Plan seeks to encourage the continued use of existing sites and would allow for extensions to existing sites and small-scale extraction to continue through the plan period.

- 5.20 **Hydrocarbons** – The approach taken in the Plan is not to allocate sites but to use a criteria-based policy to allow consideration of any proposals that come forward for hydrocarbon exploration, appraisal, and production. The approach is for no proposals involving hydraulic fracturing to be permitted within the SDNP, AONBs, Groundwater Protection Areas and Sites of Special Scientific Interest to ensure they are not adversely impacted upon.

Strategic Mineral Site Allocations

- 5.21 As outlined above, only two new site allocations are proposed in the draft Plan under Policy M10: a new soft sand site at Ham Farm near Steyning, and an extension to the West Hoathly clay pit. Development principles for both sites have been established that identify specific issues that will need to be addressed at the planning application stage, as and when proposals come forward.

6. Timetable

- 6.1 Following approval by the Cabinet Member for Highways and Transport (and the SDNPA), the draft JMLP will be published for public consultation for eight weeks in April and May 2016. This will provide an opportunity for discussion with the relevant district and borough councils, the parish councils, landowners, developers, and resident and community groups about the contents of the draft Plan.
- 6.2 The results of the consultation and further technical work will inform the preparation of the Proposed Submission Draft of the Plan which will be considered by both authorities later in 2016. Following approval, the Proposed Submission Draft will be subject to formal representations in November 2016 to January 2017 under Regulation 19 of the Town and Country Planning (Local Planning) Regulations 2012, before it is submitted for independent examination.
- 6.3 Table 1 outlines the draft timetable for preparing the JMLP which is reflected in the latest Minerals and Waste Development Scheme.

Table 1. Draft JMLP Timetable	
Key Stage	Date
Public 'call for sites'	March/April 2014
Public engagement: Background Papers (x5)	June – July 2014
Public engagement: Mineral Sites Study	August – September 2014
Analysis of responses and revision of updated documents	September- December 2014
Preparation of evidence, site assessment, options, Draft Plan	January 2015 – January 2016
Approval of draft Plan by Cabinet Member and SDNPA	February – March 2016
Public consultation on Draft Plan	April - May 2016
Analysis of responses and revisions to Draft Plan	June – September 2016

Table 1. Draft JMLP Timetable	
Key Stage	Date
Approval of Proposed Submission Plan by County Council and SDNPA	October 2016 ¹
Public representations on soundness and legal compliance of Proposed Submission Plan (Reg 19)	November 2016 – January 2017
Submission of Plan to Government	March 2017
Public Examination	June 2017
Approval of any substantive changes by cabinet member key decision and SDNPA	September 2017
Public representations on soundness and legal compliance of and Main Modifications	October – November 2017
Inspectors Report	February 2018
Adoption by County Council	March 2018

- 6.4 Once adopted, the JMLP will supersede the current Minerals Local Plan that was adopted in 2003.

7. Recommendation

- 7.1 That the Cabinet Member for Highways and Transport approves the draft West Sussex Joint Minerals Local Plan, attached as Appendix B to this report, for informal public consultation purposes.

8. Consultation

- 8.1 The preparation of the draft JMLP (attached as Appendix B) has been the subject of scrutiny by a Task and Finish Group (TFG) appointed by the Environmental and Community Services Select Committee. The TFG has acted as an ongoing critical friend as the draft JMLP has been developed, meeting with officers a total of eight times and also meeting with SDNPA members. The TFG has had input to the following;

- Five background papers on key topics;
- Mineral Sites Study (including site visits);
- development of strategic policy options;
- development of development management policies;
- development of the vision and strategic objectives;
- consideration of sites following technical assessments;

- 8.2 The TFG will make a formal report to the Committee later in 2016 when the Proposed Submission Draft Plan is presented for scrutiny.

- 8.3 The plan has been subject to scrutiny by the Environmental and Communities Services Select Committee, and has recommended the Cabinet Member for Highways and Transport approve the draft West Sussex Joint Minerals Local Plan for public consultation purposes.

¹ Dependent on level of response to the Draft Plan

9. Resource Implications and Value for Money

- 9.1 The cost of preparing the Plan during 2015/16 and 2016/17 can be met from the base budget.
- 9.2 Preparation costs during 2017/18 will be met from the base budget other than the extraordinary cost of the Examination-in-Public. This is estimated to be about £60,000 (based on experience with the Waste Local Plan) and will need to be met through the inquiry reserve for that year.
- 9.3 A proportionate contribution (50%) to funding the costs associated with preparation of the Plan will be made by the SDNPA.

10. Risk Management Implications

- 10.1 The current West Sussex Minerals Local Plan was adopted in 2003 and so did not take into account current national planning policy (the National Planning Policy Framework). In light of this, decisions based on the adopted plan may be subject to appeal and there is a greater risk that any defence of council decisions will be unsuccessful. Progressing the JMLP will help ensure the Authorities have appropriate control of mineral development and it may make it easier to resist undesirable proposals for development.
- 10.2 The lack of up to date site allocations for minerals development generates uncertainty for communities and the minerals industry about the acceptability 'in principle' of sites and creates more pressure on the planning application process. Progressing the JMLP and allocating strategic sites for mineral development lessens the likelihood of 'planning by appeal' which takes control away from the County Council and has important resource implications.
- 10.3 Progressing the JMLP and allocating strategic sites will help ensure that the County continues to be supplied with the minerals it needs for its future development and prosperity.

11. Equality Duty

- 11.1 An Equalities Impact Report has been prepared and is attached as Appendix A to this report. Two actions have been identified:
 - (1) to ensure reasonable attempts are made to engage the views of individuals and/or groups covering the protected characteristics in Section 3 of the EIR and identify any resultant mitigation measures related to these protected characteristics resulting from the consultation.
 - (2) to ensure that opportunities for draft JMLP consultation information and related documentation to be made available in alternative consultation formats (different languages, larger print, audio, etc.) are available and publicised.

12. Crime and Disorder Act Implications

There are no identifiable Crime and Disorder Act implications.

13. Human Rights Act Implications

The High Court decided that Article 6(1) of the Convention which requires a fair hearing by an impartial tribunal does not apply to the Local Plan making process as no determination of civil rights is involved.

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Appendices

[A – Equalities Impact Report.](#)

[B – Draft Joint Minerals Local Plan](#)

Background Papers

[Background Paper Engagement: Report of Outcomes](#)

[Mineral Sites Study Engagement Summary: Report of Outcomes](#)

[Summary of targeted engagement event \(July 2014\)](#)

[Summary of targeted engagement event \(August 2014\)](#)

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