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Planning Services (ref: Minerals Local Plan)
West Sussex County Council
County Hall
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By email: mwdf@westsussex.gov.uk

8th March 2017

Dear Minerals Planning Team

**West Sussex County Council and the South Downs National Park Authority Joint Minerals Local Plan
Proposed Modifications Consultation**

This is the formal response of the Sussex Branch of the Campaign to Protect Rural England (CPRE Sussex / CPRE Sx) to the above consultation.

CPRESx works to promote the beauty, tranquillity and diversity of the Sussex countryside by encouraging the sustainable use of land and other natural resources in town and country. We encourage appropriate land use, farming, woodland and biodiversity policies and practice to improve the well-being of rural communities.

We have made comments specifically relating to the Main Modifications as attached. Our key areas of concern are;

- We remain concerned that the draft Plan as a whole continues to fail to afford the two Areas of Outstanding Natural Beauty (OANB) the same level of protection as it gives to the South Downs National Park which does not accord with national policy and legislation.
- Amended para M7a does not reflect the NPPF para 143 requirement to ensure there are no 'unacceptable adverse impacts on the natural environment' –
- Amended para M17b does not reflect requirements of Habitats Directive vis a vi EU protected sites.

Yours sincerely,

Kia Trainor

Kia Trainor
Director, CPRE Sussex
CPRE SUSSEX

SUMMARY OF CPRE Sx REPRESENTATIONS WSCC/SDNPA JOINT MINS PLAN

B1: Which Proposed Modification? MM1 – Vision and Strategic Objectives

B2. Legal compliance or soundness? soundness

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

We remain concerned that the draft Plan as a whole continues to fail to afford the two Areas of Outstanding Natural Beauty (OANB) the same level of protection as it gives to the South Downs National Park. AONBs' statutory right to protection under Countryside & Rights of Way Act 2000 and NPPF paras 115/6 is equal to that of National Parks and they are equally valued by local communities. NPPF para 144 requires LPAs to provide 'nonenergy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage sites, Scheduled Monuments and Conservation Areas'

The revised Policy MM1 statement that **minerals development** within the South Downs National Park (SDNP) should only **take place in exceptional circumstances and in the public interest**, should apply equally to AONBs in order to fully comply with national policy and legislation as set out above.

B5. Changes needed?

MM1: The Authorities want economic minerals in West Sussex, which mainly comprise Aggregates, Silica Sand, Clay, Chalk, Stone and Hydrocarbons, to be produced and managed in a sustainable way. To that end, minerals resources will be safeguarded and exploited in a manner which only sees minerals development activity within the South Downs National Park (SDNP) **and two Areas of Outstanding Natural Beauty (AONBs)** take place in exceptional circumstances and **where it is** in the public interest. The activity of minerals importation to wharves and railheads in West Sussex will be safeguarded from other non-minerals development. The replacement of primary minerals with secondary and recycled materials will be promoted. Provision of minerals will take place in ways that protect public amenity and the special character and environment of the County

B6. Is this a 'main' or 'additional' modification?

Main Modification.

B1: Which Policy/Para? MM9 – Strategic objective 3

B2. Legal compliance or soundness? Legal compliance and Soundness

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

See our comments to MM1 - We remain concerned that the draft Plan as a whole continues to fail to afford the two Areas of Outstanding Natural Beauty (OANB) the same level of protection as it gives to the South Downs National Park. AONBs' statutory right to protection under Countryside & Rights of Way Act 2000 and NPPF paras 115/6 is equal to that of National Parks and they are equally valued by local communities.

We acknowledge that para 2.3.3 of the draft Plan reports that; “The majority of these [soft and silica sand] resources are located within the South Downs National Park.”. However, paragraph 2.3.3 does not rule out the possibility that the High Weald and/or Chichester Harbour AONBs may potentially also carry some reserves.

B5. Changes needed?

Strategic objective 3 should only allow development within the National park **and AONBs in exceptional circumstances and when it is in the public interest**, in order to fully comply with national policy and legislation as set out above. Consequential amendment to MM21 and to para (c) of Policy M3 would be required.

B6. Is this a ‘main’ or ‘additional’ modification?

Main Modification

B1: Which Policy/Para? MM41 - Policy M7a -

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

Amended para M7a does not reflect the NPPF para 143 requirement to ensure there are no ‘unacceptable adverse impacts on the natural environment’ – this does not require LPAs to consider which is the least environmentally unsound option but requires refusal if there are unacceptable impacts. Therefore, there should not be a **comparison** in relation to alternative sites.

B5. Changes needed?

We suggest that policy M7a should be further amended on the lines of the following:

(ii) the site selected is does not present unacceptable adverse impacts on the natural environment, taking into account impacts from on-site activities and off-site activities including HGV movements;

B6. Is this a ‘main’ or ‘additional’ modification?

Main

B1: Which Policy/Para? M63 - Policy M17 - Biodiversity and Geodiversity

B2. Legal compliance or soundness? Legal Compliance and Soundness

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

Amended para M17b does not reflect requirements of Habitats Directive vis a vi EU protected sites. (Consequential amendment to para 8.11.2 as amended by MM70)

MM63 proposes amendments to policy M17 (Biodiversity & Geodiversity). New paragraph M17b, as drafted, does not conform to the requirements of the Conservation of Habitats & Species Regulations 2017 as regards European Natura 2000 sites designated (currently) under the Habitats Directive. The relevant chapters of Part 6 of the 2017 Regulation are Chapter 1 re the Assessment of Plans & Projects and Chapter 8 re Land Use Plans. The effect of those provisions (in respect of designated European sites) is to permit a land use plan or development “only after having ascertained that it will not adversely affect the integrity of the European site “. The regulation does provide for a very specific and narrowly defined overriding public interest exception and requires LPAs to “*secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected*” when that narrow exception is applied. This regulatory regime is very different from the hierarchy now proposed to set out in M17b as criteria to determine the acceptability of those international sites of international sites of biodiversity or geological conservation importance that are regulated under the 2017 Regulations.

B5. Changes needed?

We suggest that policy M17b should be further amended on the lines of the following:

(b) in the case of areas or sites of international biodiversity or geological conservation importance whose conservation is the subject of the Habitats & Species Regulations 2017 or other applicable laws or regulations the mineral development can be achieved in compliance with such laws or regulations, and in other cases the integrity of those areas or sites [as drafted in MM63]

B6. Is this a ‘main’ or ‘additional’ modification?

Main