

CPRE Sussex Response to the West Sussex County Council and the South Downs National Park Authority Joint Minerals Local Plan Proposed Submission Draft. Reg 19 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 and sustainable land use, farming, woodland and biodiversity policies and practice to improve the well-being of rural communities.

B1: Which Policy/Para? The vision

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 (AONB) the same level of protection as it gives to the South Downs National Park by reason of their natural beauty. We welcome the change of language in the first paragraph of para 2.2 and would like this approach to be reflected elsewhere in the document. AONBs' statutory right to protection under Countryside & Rights of Way Act 2000 and NPPF paras 115/6 is substantially similar to that of National Parks and they are equally valued by local communities. We also question whether the term "local distinctiveness and character" in respect of the two AONBs is appropriate and consistent with national policy.

Also, it is a central concept of the National Planning Policy Framework (NPPF) that development should be allowed only if it is sustainable; the measure of sustainability in this context requiring a balancing of economic benefits against social and environmental implications.

In terms of the 'aspiration' to source more and more minerals from alternatives to primary extraction, the plan should provide a greater commitment to source secondary and recycled aggregates to replace primary minerals. This would provide greater consistency with the NPPF requirements and the EU Landfill Directive which aims to reduce the amount of waste going to landfill. Policy M26 should also be strengthened to reflect this and give further support to Strategic Objective 2.

B5. Changes needed?

Ensure that the Vision commitment to "conserve and enhance the beautiful outdoors of West Sussex, including the special qualities of the South Downs National Park and Areas of Outstanding Natural Beauty, for the benefit of current and future generations" is reflected throughout the plan, including paragraphs that currently also refer to the special qualities of the SDNP, and/or to the local distinctiveness of AONBs, including paras 5.3.8, 6.7.18, 8.2.1, 8.3.1, 8.12.1 and 8.13.1, and policies M7a(c), M7b(c), and M12(a).

In order to be consistent with the NPPF, the Vision paragraph 2 should refer to "sustainable development" rather than "growth". The Vision paragraph 3 should be amended to: "Will be a place that seeks to meet its own need for minerals and encourages the sustainable use of natural

resources, whilst aspiring to source minerals from alternatives to extraction of indigenous resources”

B1: Which Policy/Para? Strategic Objectives 12, 14 and paras 5.3.7, 4.1 and 6.7

B2. Legal compliance or soundness? Legal compliance and Soundness

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

The Plan takes too narrow a view of Government policy on energy. In particular, the draft Plan gives insufficient weight to the Government’s public commitment to reduce fossil fuel usage and carbon emissions as the core element of its statute-backed climate change agenda, and hence the importance of reducing dependence on oil and gas throughout the Plan period.

Whilst the draft Plan refers in strategic objective 12 and in sections 5.3.7 and 6.7 to the Government’s energy security strategy, it makes no reference at all to the Climate Change Act 2008 framework under which increasing carbon reduction targets are set on a 5-yearly basis, requiring reducing dependence on fossil fuels as a source of energy generation/usage and for transportation. As a result, the proposed Plan fails to acknowledge the need to strike an appropriate balance between competing Governmental objectives and pressures.

B5. Changes needed?

Amend Strategic Objective 12 to include as an additional material consideration the national policy commitment to UK carbon reduction targets and hence the importance of reducing dependence on oil and gas throughout the Plan period.

Amend sections 5.3.7, 4.1 and 6.7 to reflect the national policy commitment to reduce fossil fuel usage and carbon emissions as the core element of its statute-backed climate change agenda, and hence the importance of reducing dependence on oil and gas throughout the Plan period. This national policy should be given great weight in considering any proposal for hydrocarbon development, and should be balanced against any argument that might be made that there is a national energy security need for exploitation of hydrocarbon reserves at the proposed site in question.

Amend Strategic Objective 14 to encapsulate the national policy commitment to move towards a low carbon economy and not limit this policy to mitigative design efficiency and transportation considerations.

Consideration should be given to creating a new Development Management Policy in relation to Climate Change or amending Policy M.23 (see our further comments in this section.) This would better support the achievement of para 4 ‘Carbon and Climate Change’ and enable the plan itself to respond to the national policy commitment to UK carbon reduction targets.

B1: Which Policy/Para? Para 5.3

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

Para 5.3 does not make reference to chapter 11 of the NPPF on Conserving and Enhancing the natural Environment, and to paras 115 and 116 particularly that place great weight on the conservation of the landscape and natural beauty of National Parks and AONBs.

B5. Changes needed?

Para 5.3 should make reference to chapter 11 of the NPPF on Conserving and Enhancing the natural Environment, and to paras 115 and 116 particularly that place great weight on the conservation of the landscape and natural beauty of National Parks and AONBs.

B1: Which Policy/Para? Para 5.3.8 and Glossary

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

The reference to Areas of Outstanding Natural Beauty does not refer to Part IV of the Countryside & Rights of Way Act 2000 which replaced ss 87-88 of the National Parks & Access to the Countryside Act 1949.

B5. Changes needed?

The reference to Areas of Outstanding Natural Beauty should refer to Part IV of the Countryside & Rights of Way Act 200, not to ss 87-88 of the National Parks & Access to the Countryside Act 1949.

B1: Which Policy/Para? Policy M7a: Hydrocarbon development not involving hydraulic fracturing.

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not effective / Not Justified / Not consistent with National Policy

B.4 Explain why?

Policy M7a is not 'effective' as it is not flexible enough to deal with changing circumstances such as the technological advancement of the hydrocarbon extraction industry and the anticipated adjustment in regulatory regimes. Although a separation of 'hydraulic fracturing' from Policy 7a to 7b reflects the current differential regimes and government commitment within the Shale Gas and Oil Policy Statement (DCLG 2015) to 'ensure that hydraulic fracturing cannot be conducted from wells that are drilled at the surface of National Parks and other protected areas' there is good reason to anticipate that the justifications for preventing hydraulic fracturing at the surface of protected areas are equally applicable for other forms of 'stimulation' including emerging trends for 'acidisation.' New stimulation techniques may involve specific additional hazards of environmental degradation and contamination to nearby land, to watercourses and aquifers and may require a greater level of control or scrutiny. Policy M7a should be adjusted to provide flexibility that reflects the different risks proposed by differing new techniques for hydrocarbon development which are not classed as 'hydraulic fracturing' and would therefore be considered within the context of this Policy M7a.

Policy M7a cannot be considered 'Justified' as it does not provide the most appropriate, precautionary strategy when considered against reasonable alternatives, based on proportionate evidence. The Plan recognises that "A large area of the Plan area is underlain by a principal aquifer and there is a high number of groundwater Source Protection Zones, feeding water to public and private supplies. This is an important factor in developing the strategy for identifying areas suitable for new mineral development sites where the underlying geology significantly affects the costs of engineering and the level of environmental risk. In addition, the often complex relationship between the local geological structure at a specific site and the potential for water movement is likely to be a major issue for consideration of individual mineral working." New stimulation techniques such as acidizing may pose an unacceptable risk to groundwater contamination and therefore the presumption against any form of hydrocarbon development in Groundwater Source Protection Zones 1, 2 and 3, unless it is demonstrated that there will be no unacceptable impacts on groundwater, must also be captured within Policy M7a, not merely Policy M7b in order to represent the most appropriate strategy based on proportionate evidence.

Policy M7a is also not consistent with National Policy in that it makes no reference to the Climate Change Act 2008 and associated planned reduction in dependence on fossil fuels as a source of energy generation/usage and for transportation. As a result, the proposed Plan fails to acknowledge the need to strike an appropriate balance between competing Governmental objectives and pressures.

B5. Changes needed?

The policy should be amended as follows:

Policy M7a: Hydrocarbon development not involving hydraulic fracturing

Exploration and Appraisal

(a) Proposals for exploration and appraisal for oil and gas, not involving hydraulic fracturing but including those which propose to use advanced well stimulation techniques including acidisation, and including extensions to existing sites, will be only be permitted where they can demonstrate by robust evidence and assessment that:

(i) The site is located outside the South Downs National Park, High Weald AONB or Chichester Harbour AONB unless it has been demonstrated that there are exceptional circumstances and that it is in the public interest, and in accordance with Policy M13;

It should then be established that:

(ii) the site selected is the least sensitive, deliverable location from which the target reservoir can be accessed, taking into account impacts from on-site activities and off-site activities including HGV movements;

(iii) any negative impacts including (but not limited to) noise, dust, visual intrusion, transport, and lighting, on both the natural and built environment and local community, including air quality and the soil and water environment, can be minimised, and/or mitigated, to an acceptable level;

(iv) restoration and aftercare of the site to a high quality standard would take place in accordance with Policy M24 whether or not oil or gas is found;

(v) No unacceptable impacts would arise from the on-site storage or treatment of hazardous substances and/or contaminated fluids above or below ground.

Production

(b) Proposals for oil and gas production, not involving hydraulic fracturing, but including those which propose to use advanced well stimulation techniques including acidisation, including extensions to existing sites will be only be permitted where they can demonstrate by robust evidence and assessment provided that:

(i) they accord with (a)(i-v) above;

(ii) no unacceptable impacts would arise from the transport, by vehicle or other means, of oil/gas, water, consumables and waste to or from the site;

Activity beneath or proximate to designated areas

(c) Proposals for exploration, appraisal and production of oil and gas, not involving hydraulic fracturing, but including those which propose to use advanced well stimulation techniques including acidisation, will be only be permitted underneath or in close proximity to designated areas, assets and habitats, where they can demonstrate by robust evidence and assessment that the risk of social and environmental harm does not outweigh the benefits of the proposal, having regard to; Chapter 11 of the National Planning Policy Framework (Conserving and enhancing the natural environment); the purposes of any special designation of any land or heritage asset that would be affected by the proposal and cumulative impact in accordance with Policy M22

Groundwater

d) There is a presumption against hydrocarbon development in Groundwater Source Protection Zones 1, 2 and 3 unless it is demonstrated that there will be no unacceptable impacts on groundwater.

This policy should also link to either a Strategic Objective or Development Management policy in relation to national policy for Climate Change and carbon reduction (see our comments in relation to policy M.23)

B1: Which Policy/Para? Policy M7b: Hydrocarbon development involving hydraulic fracturing

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not Justified

B.4 Explain why?

The geology of the Weald is such that the Jurassic Clays are overlain by a succession of permeable water bearing strata serving most of the County's domestic, industrial and agricultural requirements, and sustaining the baseflow of the region's rivers and wetlands. Full development of any shale gas or oil reserves would normally involve high volume and high pressure injection of a water and sand mixture with a cocktail of hazardous and in some cases toxic chemicals; the purpose being to disaggregate the shales and release the constituent fluid hydrocarbons. However, the Weald is a geologically unstable region; and in some cases, this process can also result in the fracturing of the adjacent rocks and the re-activation of ancient geological faults; thereby opening passage ways for

the migration of 'return' fracking fluids into any over-lying aquifers. This creates the unmeasurable potential for long term, irreversible harm to aquifers and to the quality of our rivers and groundwater reserves; and this, in a region identified by the Environment Agency as one in which the balance of public supply has been assessed as "seriously stressed".

The House of Commons Environmental Audit Committee report of 21st January 2015 entitled "Environmental Risks of Fracking" makes reference to the risk to groundwater quality, emphasising the Precautionary Principle, which so far appears not to have been applied, pointing to the need for more robust enforcement of protection measures. Although we welcome the amendment of this policy from previous iterations to provide for the total prohibition of all fracking operations within and beneath groundwater protection zones 1, 2 and 3, such provisions of course, only apply to strategic groundwater sources and the Precautionary Principle must also be invoked wherever there is a perceived threat to our increasingly fragile water environment.

Furthermore, a Plan that permits hydraulic fracturing cannot be justified on public policy grounds. In our view, the economic need for hydrocarbons to be extracted by fracking methods is not demonstrated to outweigh the environmental and other hazards involved. The impossibility of eliminating the risk of environmental harm is incompatible with permitting fracking in a geologically unstable zone when the required precautionary approach to regulation is applied. Proof of sustainability is so unlikely that Policy M7b should document the Authorities' presumption against allowing hydrocarbon development involving hydraulic fracturing to occur anywhere within the Plan area.

B5. Changes needed?

If a Policy is retained which permits hydraulic fracturing then consideration should be given to the following amendments:

Policy M7b: Hydrocarbon development involving hydraulic fracturing

Exploration and Appraisal

(a) Proposals for exploration and appraisal for oil and gas, involving hydraulic fracturing, including extensions to existing sites will be considered using a precautionary approach, requiring environmental impact assessment; including screening and scoping of the range of (direct and indirect cumulative) impacts likely to arise from such development. Permission will only be given based on robust evidence which demonstrates that:

(i) any surface development is located outside the following areas (as shown on the policies map):

i. South Downs National Park

ii. Chichester Harbour AONB

iii. High Weald AONB

iv. Groundwater Source Protection Zone 1;

v. Sites of Special Scientific Interest (SSSI)

vi. Any other area given specific protection from hydraulic fracturing in legislation including those within EU Directives

(ii) the site selected is the least sensitive, deliverable location from which the target reservoir can be accessed, taking into account impacts from on-site activities and off-site activities including HGV movements;

(iii) any negative impacts including (but not limited to) noise, dust, visual intrusion, transport, and lighting, on both the natural and built environment and local community, including air quality and the soil and water environment, can be minimised, and/or mitigated, to an acceptable level;

(iv) restoration and aftercare of the site to a high quality standard would take place in accordance with Policy M24 whether or not oil or gas is found.

(v) No unacceptable impacts would arise from the on-site storage or treatment of hazardous substances and/or contaminated fluids above or below ground

Production

(b) Proposals for oil and gas production, involving hydraulic fracturing, including extensions* to existing sites, will be permitted provided that:

(i) they accord with (a)(i-v) above;

(ii) no unacceptable impacts would arise from the transport, by vehicle or other means, of oil/gas, water, consumables, and wastes to or from the site;

Activity beneath or proximate to designated areas

(c) Proposals for exploration, appraisal and production of oil and gas, involving hydraulic fracturing, but including those which propose to use advanced well stimulation techniques including acidisation, will be only be permitted underneath or in close proximity to designated areas, assets and habitats, where they can demonstrate by robust evidence and assessment that the risk of social and environmental harm does not outweigh the benefits of the proposal, having regard to; Chapter 11 of the National Planning Policy Framework (Conserving and enhancing the natural environment); the purposes of any special designation of any land or heritage asset that would be affected by the proposal and cumulative impact in accordance with Policy M22

Groundwater

d) There is a presumption against hydrocarbon development involving hydraulic fracturing in Groundwater Source Protection Zones 1, 2 and 3 unless it is demonstrated that there will be no unacceptable impacts on groundwater.

B1: Which Policy/Para? Para 6.7.15

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not Justified

B.4 Explain why?

Whilst the AONBs may not enjoy international reserve status, dark skies are integral to AONBs. This should be mentioned at the end of the penultimate sentence of this paragraph. Research by CPRE shows that the High Weald AONB enjoys some of the darkest skies in the country:

<https://nightblight.cpre.org.uk>

B5. Changes needed?

Para 6.7.15 should refer to AONBs in addition to the National Park.

B1: Which Policy/Para? Policy M11: Strategic Minerals Site Allocations

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not Justified / effective / consistent with National Policy

B.4 Explain why?

CPRE Sussex strongly disagrees with Policy M11's presumption that the allocation of Ham Farm, Steyning, for soft sand extraction "is acceptable, in principle, for that purpose", and considers that its usage for soft sand extraction would be contrary to the 'Vision' of the West Sussex Joint Minerals Local Plan Proposed Submission Draft (Regulation 19), January 2017 (JMLP PSD) (page 15), in particular that West Sussex:

"Will be a place where minerals are produced in ways which conserve and enhance the beautiful outdoors

of West Sussex, including the special qualities of the South Downs National Park and Areas of Outstanding Natural Beauty, for the benefit of current and future generations.

Will be a place where the production and transportation of minerals does not detract from it having thriving communities and being a special place to live and visit. In particular, impacts resulting from the use of heavy vehicles in transporting minerals will have been minimised.

Will ensure minerals have been produced in a manner that protects and enhances the historic and natural environment, and contributes to a low carbon, circular economy.

Will make a contribution to the needs of other areas in a manner which is consistent with this Vision, in

particular by ensuring the supply of minerals via ports at Shoreham and Littlehampton and railheads at Chichester, Crawley and Ardingly.

Will be a place where the production and transportation of minerals does not detract from it having thriving communities and being a special place to live and visit. In particular, impacts resulting from the use of heavy vehicles in transporting minerals will have been minimised.

Will ensure minerals have been produced in a manner that protects and enhances the historic and natural environment, and contributes to a low carbon, circular economy".

for the following reasons:

1. Although the site is located outside of the South Downs National Park, in accord in with Strategic Objective 3 of the Proposed Submission Draft (PSD) (page 16): "To make provision for soft sand to meet the needs of West Sussex from outside the South Downs National Park, where possible", the declared purpose of which is to "ensure that the special qualities of the National Park are protected" (page 16, paragraph 2.3.3), the site's southern boundary abuts the northern boundary of the National Park.

1.1. JMLP PSD Inset 1: Proposed Minerals Site, Ham Farm, shows that the site abuts the A283, which at this location corresponds with the boundary of the National Park. The JMLP PSD (Regulation 19) SA Report, December 2016, page 514, advises that the Ham Farm site is approximately 20m north of the South Downs National Park.

1.12. Accordingly, usage of the Ham Farm site for soft-sand extraction would impact on the special qualities and landscape setting of the National Park, in particular Tranquil and Unspoilt Places and Diverse Inspirational Landscapes. Note that

“Within the diversity of the English countryside, the Parks are recognised as landscapes of exceptional beauty, fashioned by nature and the communities which live in them. The National Parks and Access to the Countryside Act 1949 (“the 1949 Act”). enabled the creation of the National Parks, and ensures that our most beautiful and unique landscapes have been, and will continue to be, protected in the future. It makes provision for everyone to enjoy them” (English National Parks and the Broads, UK Government Vision and Circular 2010. DEFRA, March 2010).

A Sand Pit at Ham Farm would be Visually Intrusive.

2. A sand pit at Ham Farm would be visually intrusive and visible from the South Downs Way National Trail as well as from other locations, as is acknowledged by the ‘West Sussex Minerals Landscape Sensitivity and Capacity Study for Potential Mineral and Waste Sites – Minerals Addendum May 2015’ (March 2016), page 82: ‘Site Characterisation’, which advises that:

“visibility of this site from the surrounding area will be available from the east, with some long distance visibility from the northeast around Partridge Green, from the east along the A281 and from the southeast around Upper Beeding and Shoreham-by-Sea (along the A283 and A2037). There is also some visibility from the south up to the South Downs Way National Trail which lies 2.3km to the south at its closest proximity, although this is likely to be limited by woodland and tree cover across the surrounding area. The site is visually sensitive in views from the top of the scarp slope in sections where woodland does not block wider views”.

2.1. In addition, the WSCC site assessment (referred to and quoted in JMLP PSD (Regulation 19) SA Report, December 2016, page 515, found that *‘the site is visually sensitive in views from the top of the scarp in sections where woodland does not block wider views. The ZTV shows visibility from Wiston Park and it is likely that there would be some negative experiential impacts (tranquillity, remoteness) on visitors to the parkscape should this site come forward’.*

2.2. Note that the JMLP PSD, page 89, paragraph 8.3.4 advises that *“Due to their nature and size, mineral developments can have significant impacts on these designated landscapes, both during operations and following restoration. In order to maintain the unique landscape character, it is important to protect their natural beauty, distinctive character, and remote and tranquil nature from unnecessary harm wherever possible. Development proposals should therefore take suitable account of the SDNPA purposes and AONB Management Plan Objectives when considering the impact on protected landscapes”.*

2.3. JMLP PSD, page 113, paragraph 8.12.3. states that *“Careful design and a comprehensive approach to minimization and mitigation of adverse impacts can help support developments that would otherwise be unacceptable”.*

2.4. However, whether adverse and unacceptable impacts resulting from the usage of the Ham Farm site as a soft-sand quarry could really be made 'acceptable' by, for example, the various mitigation measures re visual impacts proposed for this site by West Sussex County Council (JMLP PSD (Regulation 19) SA Report, December 2016, page 515, 516, is a most crucial issue, which in our view has not been addressed either by the JMLP PSD (Regulation 19), January 2017 or the supporting JMLP PSD (Regulation 19) SA Report December 2016.

Impact on Tranquillity

3. NPPF paragraph 123 stipulates that '*Planning policies and decisions should aim to: "identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.*' (Fourth bullet).

3.1. According to the 'Site Characterisation' (page 82) "*CPRE data indicates that the site lies within an area defined as 'disturbed by noise' and of medium tranquillity, with the northern parts being of a higher tranquillity*". However, this statement seems to be a misinterpretation of the CPRE 'data' and assessment.

3.2. CPRE's tranquillity map at http://maps.cpre.org.uk/tranquillity_map.html shows that on CPRE's tranquillity scale, in which areas shown in red have the lowest tranquillity scores, yellow/khaki mid-range tranquillity and green the highest tranquillity, the site lies at the lower end of the green spectrum, therefore part way between medium tranquillity and the highest tranquillity.

3.3. Accordingly, whilst the southern boundary of the Ham Farm site adjoins the A283 and is exposed to noise caused by road traffic, away from the road the area in which the site is located is relatively undisturbed. Hence the acknowledgment by the Site Characterisation that the northern part of the site is "relatively undisturbed by noise". This is true also for countryside and Wiston Park to the south of the site, which lie within the National Park.

3.4. Accordingly, usage of the site as a sand quarry in an area that is relatively undisturbed by noise, would certainly impact on the character, distinctiveness, and sense of place of the National Park. After all, the site is approximately only 20m from the South Downs National Park (JMLP PSD (Regulation 19) SA Report, December 2016, page 514)

3.5. The impact that the extraction of sand, including noise emitted by on-site plant and generated by the ingress to and egress from the site of HDVs, employed to transport sand away from the site, would have on the National Park is of vital importance. It is our view that this would be unacceptable and therefore contrary to 'Policy M12: Character' of the JMLP PSD.

3.6. We are very concerned that the Sustainability Appraisal for the site advises that "*the site is considered likely to have a minor negative effect on designated landscapes, local landscape character or tranquillity*", (JMLP PSD (Regulation 19) SA Report, December 2016, page 516), apparently without consideration of the noise that would be emitted by on-site plant and generated by the ingress and egress of HDVs employed to transport sand away from the site.

Impact on the Setting of Listed Buildings.

4. As is explained in the 'West Sussex Minerals Landscape Sensitivity and Capacity Study for Potential Mineral and Waste Sites – Minerals Addendum May 2015', page 83:

“There are numerous listed buildings within proximity to the site. The Grade II listed Horsebrook Cottage is directly adjacent to the site to the west (some visibility, although predominantly restricted by vegetation); Grade II listed Old Rectory and Roundhouse 300m to the west of the site (although currently screened by trees and hedgerow); Grade II listed Water Tower and Sun Room at Wappingthorn, to the northeast of the site (restricted visibility due to screening by trees); and numerous listed buildings to the southwest in the grounds of the Grade I listed Wiston House (visibility from house and buildings to the site is restricted by woodland at the northern boundary of Wiston Park, but partial views are possible from the Park itself onto the site from the Park’s northern boundary”.

4.1. This summary omits to mention that the Grade 1 listed Wiston House and the ‘numerous listed buildings’ within the house’s grounds are located inside the National Park.

4.2. Whether the sand pit and its impact on the setting of these listed buildings would accord with the National Park’s purpose of conserving and enhancing cultural heritage- and the requirement stipulated by paragraph 115 of the NPPF that the conservation of cultural heritage *“should be given great weight in National Parks’*, have to be important considerations for decision takers.

4.3. In addition, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides:

“General duty as respects listed buildings in exercise of planning functions. (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

4.4. The Court of Appeal stressed in the case of *Barnwell*, the importance of planning authorities genuinely, not merely by way of lip service, paying “special regard” to the legal requirements (Case No: C1/2013/0843. Neutral Citation Number: [2014] EWCA Civ 137, 18 Feb 14). Historic England guidance is to similar effect.

4.5. Historic England, in its ‘The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning:3’ (March 2015), includes “lighting effects and light spill” and “noise” in its ‘check-list of the potential attributes of development affecting setting that may help to elucidate its implications for the significance of the heritage asset’.

4.6. Note, too, the NPPG (Paragraph: 013 Reference ID: 18a-013-20140306) stipulation that

“Setting is the surroundings in which an asset is experienced, and may therefore be more than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.” And that

“The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places”. And that:

“The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance”.

4.7. Unfortunately, notwithstanding Historic England’s Advice and the NPPG stipulation just quoted, the conclusion of the JMLP PSD (Regulation 19) SA Report, December 2016, page 518, that usage of the Ham Farm site as a sand pit *“is considered likely to have a minor negative effect”* on the settings of the listed buildings in question is concerned only with visual impact. No consideration is given in the Appraisal to the impact of noise, dust and vibration and the level of harm that would result in consequence.

4.8. The JMLP PSD (Regulation 19) SA Report, December 2016, page 518, concedes that although *“this site is considered likely to have a minor negative effect on these assets”, “there is uncertainty as a more detailed assessment would be required once proposals are known”.*

4.9. The admission that *“there is uncertainty as a more detailed assessment would be required once proposals are known”* negates the emphatic and misleading statement made on the same page, that usage of the Ham Farm site as a sand pit *“is considered likely to have a minor negative effect”* on the settings of the listed buildings in question.

4.10. It is CPRE Sussex’s view that the level of harm to the settings of the listed buildings, that would be caused by the usage of the Ham farm site as a sand pit, should have been the subject of a *“more detailed assessment”* as part of the site-selection process, before the decision was made to include the site in the West Sussex Joint Minerals Local Plan Proposed Submission Draft (Regulation 19).

Impact on Biodiversity, Natural Habitats and Protected Species.

5. The JMLP PSD (Regulation 19) SA Report, December 2016, page 516 advises that the Ham Farm site *“is considered to have a significant negative effect on biodiversity, due to its close proximity to ancient woodland. This effect would be uncertain as the potential for effects will depend on the exact nature and design of new sites. The site could have significant negative effects on provisioning regulatory and cultural ecosystem services”.*

5.1. Government Circular 06/2005: ‘Biodiversity and Geological Conservation-Statutory Obligations and their impact within the planning system’, at:

Paragraph 98: *“The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat”.* And at:

Paragraph 99: *“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted”.*

5.2. Natural England's 'Standing advice for local planning authorities to assess the impacts of development on wild birds' states that

"Survey reports and mitigation plans are required for development projects that could affect protected species, as part of getting planning permission. Surveys need to show whether protected species are present in the area or nearby, and how they use the site. Mitigation plans show how you'll avoid, reduce or manage any negative effects to protected species" and

"Ecologists need to decide which survey and mitigation methods are right for the project being worked on. If this can't be followed, they'll have to include a statement with the planning application explaining why".

5.3. It is CPRE Sussex's view that the site should have been surveyed for protected species, and an assessment made of the extent that they may be affected by the usage of the site as a sand pit, as part of the site-selection process, before the decision was made to include the site in the West Sussex Joint Minerals Local Plan Proposed Submission Draft (Regulation 19).

5.4. Furthermore, since the site is only c.20m north of the South Downs National Park (JMLP PSD (Regulation 19) SA Report, December 2016, page 514) the impact that a sand pit at the Ham Farm site would have on biodiversity, including protected species, inside the South Downs National Park needs to be assessed and considered – and should have been assessed and considered before the site was allocated to the JMLP PSD. NPPF paragraph 115 includes the stipulation that *"The conservation of wildlife and cultural heritage are important considerations . and should be given great weight in National Parks"*.

Air Quality and Air Pollution

6. The JMLP PSD (Regulation 19) SA Report, December 2016, page 519 advises that *"development at this proposed site is considered likely to have a minor negative impact on protecting air quality for human sensitive receptors. Although this impact is very dependent on the type of mineral site, likely routes to be taken by HDVs, the scale of the operations and the type of activities undertaken within the site and potential mitigation measures proposed, which would be assessed at the planning application stage. The site could have a minor negative effect on the regulating ecosystem services"*.

6.1. In other words, the advice given in the JMLP that *"development at this proposed site is considered likely to have a minor negative impact on protecting air quality for human sensitive receptors"* and *could have a minor negative effect on the regulating ecosystem services"* has not been arrived at by means of a thorough and objective assessment.

6.2. The JMLP also advises that *"site traffic may pass through the AQMA at the A283 High Street/Manley's Hill, Storrington' approximately 7km west of this site"*. We note that the '2016 Annual Status Report (ASR) for Horsham District Council' July 2016, re Air Quality, advises that:

"Air pollution is associated with a number of adverse health impacts. It is recognised as a contributing factor in the onset of heart disease and cancer. Additionally, air pollution particularly affects the most vulnerable in society: children and older people, and those with heart and lung conditions" (ASR, page iii). And that:

“The main source of air pollution in the district are road traffic emissions from major roads, notably the A24, which intersects the district north - south, A264 to the north of Horsham, A272 and A281 at Cowfold; and A283 at Storrington. Two Air Quality Management Areas (AQMAs) have been declared in the district, in the town centres of Cowfold and Storrington; both for the exceedences of the annual mean objective for NO₂” (ASR, page iii). And that:

“The achievement of congestion improvement measures in Storrington and Cowfold has been challenging as there are no easy solutions. Horsham District Council continues to work with WSCC to explore traffic management measures to reduce congestion and improve air quality. This has included revisiting and reviewing the evidence from all previous measures identified to understand what impacts these would be likely to have in terms of improving air quality, and whether the measures would be deliverable and provide value for money” (ASR, page 6).

6.3. Clearly, the impact that emissions from HDVs driving to and from the Ham Farm site would have on Air Quality and public health is not confined solely to Storrington’s AQMA, as the JMLP PSD (Regulation 19) SA Report seems to suggest.

6.4. It is CPRE Sussex’s view that the impact that emissions from HDVs driving to and from the Ham Farm site would have on Air Quality and public health should have been subject to a thorough and objective assessment as part of the site-selection process, before the decision was made to include the site in the West Sussex Joint Minerals Local Plan Proposed Submission Draft (Regulation 19).

Impact on Health, Well Being and Amenity of Residents.

7. The JMLP PSD (Regulation 19) SA Report, December 2016, page 513 advises in its appraisal against SA Objective 1, the purpose of which is *“To protect and, where possible, enhance health, well-being and amenity of residents, neighbouring land uses and visitors to West Sussex”* that:

“There are residential properties to the east and northwest of this site. Therefore, development at this site could have a minor negative effect on health due to the potential for dust (PM₁₀) to have a negative effect on the health of local residents and visitors to the County, and minor negative effects on amenity”.

“However, this is dependent on local circumstances (such as the topography, the nature of the landscape, the respective location of the site and the nearest residential property or other sensitive use in relation to the prevailing wind direction and visibility). It is also dependent on the scale of the operations and the type of activities undertaken within the site and potential mitigation measures proposed, which would all be assessed at the planning application stage. In addition, it is assumed that mineral extraction at any of the potential sites will be well operated and that dust avoidance and suppression measures implemented by the operators should be sufficient to avoid any potential health effects. Therefore, these effects are minor negative uncertain”.

7.1. We note that this appraisal is apparently concerned solely with the impact of dust arising from the intended sand pit. That noise emitted by on-site plant and generated by the ingress to and egress from the site of HDVs has the potential to impact on well-being and amenity of residents, neighbouring land uses and visitors to West Sussex seems not have been considered in the context of SA Objective 1; likewise air-polluting emissions from the HDVs (see 6.2 and 6.3 above)..

7.2. It is CPRE Sussex’s view that impact on health and well being and amenity of residents should have been comprehensively assessed as part of the site-selection process, before the

decision was made to include the site in the West Sussex Joint Minerals Local Plan Proposed Submission Draft (Regulation 19).

Impact on Water Resources, Water Quality and the Function of the Water Environment.

8. The JMLP PSD (Regulation 19) SA Report, December 2016, page 520, that usage of the site as a sand pit *“has the potential to have a significant negative effect”* on SA Objective 11, the purpose of which is to *“protect and, where possible, enhance water resources, water quality and the function of the water environment”*, and that *“this effect would be uncertain as it would be very dependent on the exact nature, working and proposed design of the site”*.

8.1. It is CPRE Sussex’s view that the impact on water resources, water quality and the function of the water environment should have been assessed as part of the site-selection process, before the decision was made to include the site in the West Sussex Joint Minerals Local Plan Proposed Submission Draft (Regulation 19).

Ham Farm site allocated for soft-sand extraction without first determining whether its usage for that purpose is truly ‘acceptable in principle’.

9. The concluding paragraph (paragraph 1.89) of the ‘Draft West Sussex and South Downs National Park Joint Minerals Local Plan (Regulation 18): Sustainability Appraisal (SA) including Strategic Environmental Assessment Non-Technical Summary’ (April 2016), advises that *“In general, the Draft JMLP has been found to have a wide range of positive effects on the SA objectives”*, before explaining that *“significant negative and a number of minor negative effects have also been identified (mainly in relation to the potential for one or both of the two allocated sites (Policy M11) to affect landscape, biodiversity, water resources and flooding”, the “severity of these impacts will depend very much on the nature and scale of the proposed development at the allocated sites, which cannot be known until the planning application stage, and how well proposals adhere to the development principles contained in the supporting text to Policy M11, as well as other relevant development management policies in the Draft JMLP.”*

9.1. This advice is restated in the Conclusion (paragraph 8.2) of the West Sussex and South Downs National Park Joint Minerals Local Plan Proposed Submission Draft (Regulation 19) SA Report Sustainability Appraisal including Strategic Environmental Assessment, December 2016, and also in the penultimate paragraph (paragraph 1.91, page page 26) of the SA Report’s Non-Technical Summary.

9.2. Crucially, as is explained above at paragraphs 3.6,4.10,5.3, 5.4, 6.4, 7.2, and 8.1, the JMLP PSD (Regulation 19) SA Report, December 2016 shows that it has not been determined *“how well proposals adhere to the development principles contained in the supporting text to Policy M11, as well as other relevant development management policies in the Draft JMLP”*. This makes nonsense of the statement in the JMLP PSD (Regulation 19), January 2017, page 15, that the allocation of Ham Farm, Steyning, for soft sand extraction *“is acceptable, in principle, for that purpose”*

9.3. Clearly, the allocation of the Ham Farm site for soft-sand extraction has been made without first determining whether its usage for that purpose is truly ‘acceptable in principle’.

9.4. This is unacceptable – and the omission undermines the credibility of both Policy M11 and the Plan.

B5. Changes needed?

Remove this allocation from the Plan

B1: Which Policy/Para? 8.1.6

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not Justified

B.4 Explain why?

The current list of potential planning conditions does not include those designed to protect against ground, water, air and noise pollution, and against land instability.

B5. Changes needed?

Expand to the list of potential planning conditions to include those designed to protect against ground, water, air and noise pollution, and against land instability.

B1: Which Policy/Para? M.12 Character

B2. Legal compliance or soundness?

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

CPRESx believes that section 8 2 should include a reference to NPPF para 109 and that policy M12 should require development proposals to be compatible with that paragraph, in particular vis a vis valued landscapes and biodiversity enhancement. This is not an issue that should only be considered at the site restoration phase as para 8.13.7 implies.

B5. Changes needed?

Amend para 8.2 to include a reference to NPPF para 109.

Amend Policy M12 to require development proposals to be compatible with para 8.2, particular vis a vis valued landscapes and biodiversity enhancement. This is not an issue that should only be considered at the site restoration phase as para 8.13.7 implies.

Re policy M12(a) please see our comments re the ‘vision’ in relation to whether the term “local distinctiveness and character” in respect of the two AONBs is appropriate and consistent with national policy.

B1: Which Policy/Para? M.13b Protected Landscapes and paragraph 8.3.9

B2. Legal compliance or soundness? soundness

B.3 How unsound? Not effective

B.4 Explain why?

Although protecting the 'setting' of protected landscapes is not contained within the NPPF, the principle is widely recognised in local plans and numerous appeal cases therefore demonstrating that setting is a material consideration. For example, in a recent appeal (**ref:**

APP/Q1445/W/15/3130514, Land South of Ovingdean Road) the Inspector noted that:

"The site does not form part of the SDNP but is, nonetheless, adjacent to it. Whilst the Framework states that National Parks should enjoy the highest status of protection in relation to landscape and scenic beauty, little direct reference is made to setting. Nevertheless, the government's Planning Practice Guidance (the Guidance) advises that regard should be given to development proposals outside the National Park boundaries which might have an impact on the setting of the protected area."

In order for policy M.13 to be effective, the policy should include ensure any proposals do not undermine "the setting and objectives of the designation." This would also be consistent with s.85 of the Countryside & Rights of Way Act 2000 which requires planning authorities *"to have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty ... "in exercising or performing any functions in relation to, **or so as to affect** [our emphasis], land in an area of outstanding natural beauty".*

B5. Changes needed?

Suggested Policy amendment:

Policy M13: Protected Landscape

(a) Proposals for mineral development within protected landscapes (the South Downs National Park, the Chichester Harbour Area of Outstanding Natural Beauty, and the High Weald Area of Outstanding Natural Beauty will not be permitted unless:

- i. the site is allocated for that purpose in the adopted plan; or**
- ii. the proposal is for a small-scale development to meet local needs that can be accommodated without undermining the setting and objectives of the designation; or**
- iii. the proposal is for major mineral development that accords with part (c) of this Policy.**

(b) Proposals for mineral development located outside protected landscapes will be permitted provided that they do not undermine the objectives of the designation.

(c) Proposals for major mineral development within protected landscapes will not be permitted unless there are exceptional circumstances and where it is in the public interest as informed

by an assessment of:

- i. the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;**
- ii. the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for the mineral in some other way ; and**

iii. any potential detrimental impact on the environment, landscape, and recreational opportunities, and the extent to which identified impacts can be satisfactorily mitigated.

In paragraph 8.3.9 we would also prefer to see the word “potentially” before “include” in the sentence beginning “Examples of small scale developments include,” as not all such ancillary works will necessarily and automatically fall outside the major development criterion.

B1: Which Policy/Para? M.16 Water Resources

B2. Legal compliance or soundness? soundness

B.3 How unsound? Not Justified

B.4 Explain why?

The geology of the Weald is such that the Jurassic Clays are overlain by a succession of permeable water bearing strata serving most of the County’s domestic, industrial and agricultural requirements, and sustaining the baseflow of the region’s rivers and wetlands. Full development of any shale gas or oil reserves would normally involve high volume and high pressure injection of a water and sand mixture with a cocktail of hazardous and in some cases toxic chemicals; the purpose being to disaggregate the shales and release the constituent fluid hydrocarbons. However, the Weald is a geologically unstable region; and in some cases, this process can also result in the fracturing of the adjacent rocks and the re-activation of ancient geological faults; thereby opening passage ways for the migration of ‘return’ fracking fluids into any over-lying aquifers. This makes for a very high risk operation, threatening the quality of our rivers and groundwater reserves; and this, in a region identified by the Environment Agency as one in which the balance of public supply has been assessed as “seriously stressed”.

The House of Commons Environmental Audit Committee report of 21st January 2015 entitled “Environmental Risks of Fracking” makes reference to the risk to groundwater quality, emphasising the Precautionary Principle, which so far appears not to have been applied, pointing to the need for more robust enforcement of protection measures. The Precautionary Principle must be invoked wherever there is a perceived threat to our increasingly fragile water environment.

B5. Changes needed?

The Policy should be amended to reflect the precautionary principle, for example:

Policy M16: Water Resources

Proposals for mineral development will be only be permitted if there is adequate and robust evidence to ensure that they would:

(a) not cause unacceptable risk to the quality and quantity of water resources, using the ‘precautionary principle’;

(b) not cause changes to groundwater and surface water levels which would result in unacceptable impacts on:

(i) adjoining land;

(ii) the quality of groundwater resources or potential groundwater resources; and

(iii) the potential yield of groundwater resources, river flows or natural habitats such as wetlands or heaths; and

(c) protect and where possible enhance, the quality of rivers and other watercourses and water bodies (including within built-up areas).

B1: Which Policy/Para? M17 Biodiversity and Geodiversity

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

References to “no unacceptable impacts” falls short of the NPPF expectation that opportunities should actively be sought for enhancements to biodiversity.

Para (b) appears to be incompatible with UK regulations protecting EU designated Natura sites. Those regulations preclude unavoidable harm to those protected sites with no balancing assessment of the benefits of the development, other than via a public interest test.

B5. Changes needed?

Amend Policy M17 to reflect the NPPF expectation that opportunities should actively be sought for enhancements to biodiversity. Amend M17 (b) to ensure consistency with UK regulations protecting EU designated Natura sites. For example;

Policy M17: Biodiversity and Geodiversity

Proposals for minerals development will be permitted provided that:

(a) The development will:

i. minimise impacts on and take advantage of any available opportunity to provide net gains for wildlife species and habitats; or

ii. where harm cannot be wholly or partially avoided, ensure that the harm is effectively mitigated or;

iii. as a last resort, where there is still significant residual harm to proposal that is otherwise compatible with this Plan, ensure suitable compensation for that harm;

(b) in the case of a proposal that involves or affects an area or site of international or national biodiversity or geological conservation importance the proposal is compatible with any applicable statute, regulation and national policy relating to the conservation of that area or site;

(c) there are no unacceptable impacts on areas, sites or features of regional or local biodiversity or geological conservation importance unless the benefits of the development clearly outweigh the impact on the objectives of the designation;

(d) where appropriate, the creation, enhancement, and management of habitats, ecological networks, geodiversity and ecosystem services shall be secured consistent with wider environmental objectives, including Biodiversity Opportunity Areas and the South Downs Way Ahead Nature Improvement Area; and

(e) where necessary, the investigation, evaluation, and recording of important sites and features is undertaken and, where appropriate, representative features are preserved.

B1: Which Policy/Para? Policy M23, Design and Operation of Mineral Developments

B2. Legal compliance or soundness? Soundness

B.3 How unsound? Not consistent with National Policy

B.4 Explain why?

Please see our comments in relation to Strategic Objectives 12 - that the draft Plan gives insufficient weight to the Government's public commitment to reduce fossil fuel usage and carbon emissions as the core element of the Climate Change Act 2008 framework.

Whilst policy M.23 aims for mineral developments to "avoid or at least minimise greenhouse gas emissions" through design, the policy fails to elaborate in any detail as to whether this includes the process of extraction, rather than the physical design of equipment on site, or off site impacts such as transport distance reduction for HGVs. Further clarity is needed to ascertain whether the approach of policy M23 also cover the process of exploring/appraising and extracting energy minerals themselves (i.e. those which obtained by conventional means or by hydraulic fracturing).

In addition, the reference in (vi) to a compensation scheme is not followed up anywhere else within the draft Plan document. In our view it would be beneficial if the Plan were to indicate in general terms what kind of compensation would be likely to be considered appropriate and who the Authorities would consider should benefit from it.

We would also like to see this policy contain greater consistency with the emerging South Downs Local Plan, particularly Policy SD6: Design. For example, this emerging policy states that;

"Development proposals will be permitted where they adopt a landscape-led approach and respect the local character of the built, natural and agricultural environment, through sensitive and high quality design that makes a positive contribution to the overall character and appearance of the area."

The design principles associated with policy M.23 should be reflected as closely as is appropriate to the National Park Policy, recognising the differing nature of mineral plan proposals from housing and other development. This could include, for example, ensuring development proposals are demonstrably informed by an assessment of the landscape context, achieve effective and high quality routes for people and wildlife, take opportunities to connect green infrastructure, contribute to local distinctiveness and sense of place, incorporate hard and soft landscape treatment which takes opportunities to connect to the wider landscape and give due consideration to avoiding harmful impact upon, or from, any surrounding uses and amenities.

B5. Changes needed?

Amend policy M23 so that it has greater consistency with the emerging SDNP Local Plan, particularly Policy SD6: Design. For example, stating that "Development proposals will be permitted where they adopt a landscape-led approach and respect the local character of the built, natural and agricultural

environment, through sensitive and high quality design that makes a positive contribution to the overall character and appearance of the area.” The policy should also require that development proposals are demonstrably informed by an assessment of the landscape context, achieve effective and high quality routes for people and wildlife, take opportunities to connect green infrastructure, contribute to local distinctiveness and sense of place, incorporate hard and soft landscape treatment which takes opportunities to connect to the wider landscape, enhance green infrastructure, and that proposals should give due consideration to avoiding harmful impact upon, or from, any surrounding uses and amenities.

B1: Which Policy/Para? Policy M25

B2. Legal compliance or soundness? soundness

B.3 How unsound? Not Justified

B.4 Explain why?

The phrase “where necessary” is unhelpful: engagement is rarely, if ever, “necessary”; but it is nearly always beneficial to the community. The recent Housing White Paper refers to research by the Prince’s Foundation which highlights how effective community involvement is essential for creating successful places and securing public support for new development (see: <http://www.housing-communities.org>) In the case of hydrocarbons, given public levels of concern, CPRESx would also encourage you to consider requiring publication of compliance monitoring criteria and testing results

B5. Changes needed?

The following changes are suggested:

Policy M25: Community Engagement

Proposals for minerals development will be permitted provided that a site liaison group involving affected local community representatives is established by the operator to address issues arising from the operation of a minerals development or facility and that the operator publishes at least annually monitoring criteria agreed with the site liaison group, including testing results.