



The Planning Inspectorate

Report to West Sussex County Council and South Downs National Park Authority

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an Inspector appointed by the Secretary of State

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the West Sussex Joint Minerals Local Plan Single Issue Soft Sand Review

The Plan was submitted for examination on 17 April 2020

Virtual Examination Hearings were held between 25 and 27 August 2020

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Abbreviations

AONB	Area of Outstanding Natural Beauty
DP	Development Principle
DtC	Duty to Co-operate
HRA	Habitats Regulations Assessment
JMLP	Joint Minerals Local Plan
LAA	Local Aggregates Assessment
LPA	Local Planning Authority
MPA	Mineral Planning Authority
MM	Main Modification
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SDLP	South Downs Local Plan
SDNP	South Downs National Park
SDNPA	South Downs National Park Authority
SEEAWP	South East England Aggregates Working Party
SoCG	Statement of Common Ground
SSR	Soft Sand Review
the Authorities	WSCC and SDNPA
WSCC	West Sussex County Council

Summary

This report concludes that the West Sussex Joint Minerals Local Plan (JMLP) Single Issue Soft Sand Review (SSR) provides an appropriate basis for planning the extraction of soft sand from reserves within West Sussex, including that part of the South Downs National Park within the County, provided that a number of Main Modifications (MMs) are made to its proposals. West Sussex County Council and the South Downs National Park Authority, as joint Mineral Planning Authorities (the Authorities) have specifically requested that I recommend any MMs necessary to enable the policies and site allocations of the SSR to be adopted.

Following the Virtual Hearings, the Authorities prepared a Schedule of Proposed MMs and completed Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) of the changes. The MMs and the SA and HRA were subject to public consultation over an eight week period. In some cases I have amended the detailed wording of the MMs where necessary. I have recommended the implementation of the MMs after considering all the representations made in response to the consultation.

The Main Modifications are summarised as follows:

- Updated figures and text to Section 6.2 of the JMLP with respect to the existing supply of soft sand, based upon the most recent Local Aggregates Assessment (LAA) to make also express reference to planning for a steady and adequate supply, including from allocated or permitted sites outside of West Sussex (MMs1-3);
- Amendments to the development principles for the three allocated soft sand sites, including to require hydrological survey results to be taken into account and to avoid and minimise impact on Local Wildlife Sites (MM4, MM5, MM6, MM7);
- Amendments to the development principles for the three allocated soft sand sites to require identification and incorporation of opportunities for net gains in biodiversity, in accordance with national policy (MM5, MM6, MM7).

Introduction

1. This Report contains my assessment of the West Sussex Joint Minerals Local Plan (JMLP) Single Issue Soft Sand Review (SSR) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the preparation of the SSR has complied with the Duty to Co-operate (DtC). It then considers whether the SSR is sound and whether it is compliant with all legal requirements. The National Planning Policy Framework 2019 (NPPF) (paragraph 35) makes clear that, in order to be sound, the SSR should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the Examination is the assumption that West Sussex County Council (WSCC) and the South Downs National Park Authority (SDNPA), as joint Mineral Planning Authorities (MPAs - the Authorities), have submitted what they consider to be a sound review.
3. The West Sussex Joint Minerals Local Plan Soft Sand Review, submitted in April 2020, formed the basis for the Examination. It is the same document as was published for consultation in January to March 2020.
4. The Hearings were conducted in accordance with established procedure as virtual events via Zoom, live-streamed to the public, due to the Covid19 pandemic restrictions on public meetings.

Main Modifications

5. In accordance with section 20(7C) of the 2004 Act, the Authorities requested that I recommend any Main Modifications (MMs) necessary to rectify matters that make the proposals of the SSR for changes to the JMLP unsound and thus incapable of being adopted. My Report explains why the recommended MMs, all of which relate to matters that were considered during the Examination, are necessary.
6. The MMs only relate to the proposals to modify the JMLP put forward by the SSR, referenced SSR1-43 and set out in Section 4 of the SSR document. The SSR document as a whole is not for adoption as a separate development plan document. The MMs are referenced in bold in the report (**MM1-7**) and are set out in full in the **Appendix** to this Report.
7. Following the Examination Hearings, the Authorities prepared a Schedule of Proposed MMs. This was subject to Sustainability Appraisal (SA), Habitats Regulations Assessment (HRA) and public consultation for a period of eight weeks in December-January 2020-21. I have taken account of the consultation responses in coming to my conclusions in this Report and I have made some amendments to the detailed wording of the MMs for clarity, consistency and effectiveness. None of these amendments significantly alters the content of the MMs as published for consultation or undermines the participatory processes and SA that has been undertaken. Where necessary, I have highlighted these amendments in the Report. None of the responses to the MM consultation raised matters requiring further oral Hearings.

Policies Map

8. The Authorities must maintain adopted policies maps which illustrate geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Authorities are required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted plan. In this case, the submission policies maps comprise the set of site plans contained within the SSR document.
9. None of the MMs to the SSR proposals recommended in this Report affect the policies maps. However, when the policy changes and site allocations of the SSR are adopted within the JMLP, in order to comply with the legislation and give effect to the policies, the Authorities will need to update their adopted policies maps to include all the SSR changes.

Context of the Soft Sand Review

10. The Authorities are required to plan for a steady and adequate supply of minerals in accordance with paragraph 207 of the NPPF.
11. The West Sussex JMLP was jointly prepared by the Authorities and adopted in July 2018. The JMLP sets out strategic policies for a number of different types of mineral for the period to 2033.
12. During the examination of the JMLP in September 2017, concerns were raised about its strategy for the extraction of soft sand. On adoption, the JMLP was modified to delete references to planning for a declining amount of sand extraction from within the SDNP, to reword Policy M2 for Soft Sand and to delete a proposed allocation of the Ham Farm site from Policy M11.
13. As currently adopted, Policy M2 requires the Authorities to commence the Single Issue SSR within six months of the adoption of the JMLP and for the SSR to be submitted to the Secretary of State for examination within two years of its commencement.
14. With respect to that part of the County of West Sussex that lies within the boundary of the SDNP, legislation¹ on the statutory purposes and duty for national parks requires that great weight be given to conserving and enhancing the landscape and scenic beauty of the SDNP, which enjoys the highest level of policy protection.
15. The SSR considers three key issues of: the identified need for soft sand to the end date of the JMLP in 2033, options for meeting any identified shortfall in supply, and the identification of potential sites for the extraction of soft sand and their allocation if required.

¹ National Parks and Access to the Countryside Act 1949, as amended by the Environment Act 1995

16. The SSR is limited to soft sand and is not required to consider any other mineral planning issue or to propose changes to any other part of the JMLP as currently adopted.
17. In practical terms, the SSR is not for adoption in its entirety as a separate development plan document but the changes it proposes, with the recommended MMs, will amend the JMLP with respect only to its strategy and provisions for the supply of soft sand.

Public Sector Equality Duty

18. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. However, in connection with the limited scope of the SSR related to the extraction of a single mineral, I have detected no issue that would be likely to impinge upon the three aims of the Act to eliminate discrimination, advance equality of opportunity and foster good relations or affect persons of relevant protected characteristics such as age, disability, race or beliefs.
19. I find no reason to question the essential conclusion of the submitted Equalities Assessment that the SSR is not expected to discriminate against sections of the community. That is, given that the currently adopted JMLP includes policies to protect people from, and manage the negative social impacts associated with inappropriate minerals extraction (for example, loss of amenity space, increases in noise, dust, pollutants and traffic and general health and community safety concerns).

Assessment of the Duty to Co-operate

20. Section 20(5)(c) of the 2004 Act requires that I consider whether the joint Authorities complied with any duty imposed on it by section 33A in respect of the preparation of the SSR. This requires constructive, active and on-going engagement with local authorities and other prescribed bodies with respect to strategic matters affecting more than one planning area. It is necessary for the Authorities to demonstrate that the SSR, on submission, is compliant with this Duty to Co-operate (DtC).
21. The Authorities submitted evidence in connection with the DtC by way of a Duty to Co-operate Statement which accompanied the consultation draft SSR with an updating addendum on submission, followed by post-submission answers to initial questions posed by myself. This evidence demonstrates that, throughout the preparation of the SSR, the Authorities engaged with all other authorities and prescribed bodies, as applicable. These included neighbouring District and County Councils, East Sussex, Essex, Kent and Hampshire County Councils and many other more distant MPAs, as well as the Environment Agency, Natural England, Historic England, Highways England, and the Marine Management Organisation. The Authorities are members of the South East England Aggregate Working Party (SEEAWP) on the co-ordination of the supply of aggregate minerals, including soft sand, involving both MPAs and mineral industry stakeholders.
22. Prior to the comparatively recent adoption of the JMLP in 2018, its preparation was found at examination to be compliant with the DtC. In that context, it is

appropriate that this assessment of the DtC should focus on the cross-boundary single strategic issue of soft sand provision.

23. The strategic priorities for soft sand are appropriately defined as maintaining an adequate supply against need identified in the Local Aggregates Assessment (LAA) and the identification of potential soft sand mineral sites. The LAA, amended since the submission of the SSR, is produced by the joint Authorities on evidence updated to 2019, including information gathered via membership of the SEEAWP. The allocation of three soft sand sites by the draft SSR is the outcome of targeted engagement between the several MPAs and correspondence with the prescribed bodies noted above. Judgements made on the selection of sites for allocation was evidently informed by consultation with the prescribed bodies, resulting in Statements of Common Ground (SoCGs).
24. An essentially factual Soft Sand Position Statement (former Soft Sand SoCG) between relevant MPAs notes significant landscape, environmental and recreational constraints upon soft sand extraction in the South East. It is also noted that the allocation of additional sites necessary to maintain the requisite steady and adequate supply requires a balance between the requirement for soft sand and conflict with these considerations. It is recognised that alternative marine or more distant land-based sources of soft sand are currently limited.
25. There is some evidence of increasing scope, through the life of the JMLP, for the importation of sea-dredged sands, potentially including soft sand, to contribute to the requirements identified by the annual LAA. At the same time, there are known problems of quality control with soft sand from that source. This therefore appears to be an area for careful consideration in future five-yearly reviews of the JMLP, with the aim of minimising the adverse impacts of the exploitation of land-based reserves. However, this does not amount to evidence of any failure in meeting the DtC in connection with this SSR, noting also that the SA has considered all potential sources of soft sand.
26. A SoCG between the Authorities and Kent and East Sussex County Councils and Brighton and Hove City Council agrees that planned provision, based on respective LAAs, should avoid National Parks and Areas of Outstanding Natural Beauty (AONBs) but that reserves may be worked to contribute to the needs of other areas. A potential soft sand surplus of 0.7 million tonnes identified in Kent could make a meaningful contribution to wider regional need, including that of West Sussex, recognising the constraints of the SDNP. That is, subject to annual LAA monitoring in Kent and any resulting review of the Kent Mineral Sites Plan. However, it is agreed that, in meeting the identified shortfall of the West Sussex LAA in practice, the joint Authorities will take account of the planned surplus in Kent. This agreement follows the examination of the Kent Mineral Sites Plan where the potential availability of a 0.7 million tonnes soft sand surplus was considered and is now acknowledged in that Plan, as now adopted.
27. A further SoCG between WSCC and the West Sussex Local Planning Authorities (LPAs) sets out the agreed positions on general matters relating to minerals planning, waste planning and other statutory and non-statutory functions and services provided by WSCC.

28. Some uncertainty remains as to whether any surplus soft sand in Kent would in practice be available to meet any shortfall in West Sussex. However, there is no obligation, in meeting the DtC to finalise agreement on every aspect of cross-boundary engagement. Any outstanding questions regarding the quantification of need, distribution of supply and choice of sites for soft sand extraction are matters for the Assessment of Soundness below and do not affect the judgement on the DtC as a legal requirement.
29. Overall, I am satisfied that, where necessary, the Authorities have engaged constructively, actively and on an on-going basis in the preparation of the SSR and that the Duty to Co-operate has therefore been met.

Consideration of Public Consultation

30. With respect to public consultation, at the time the SSR was submitted for examination, the Authorities stated that they were unable to make hard copies of Submission Documents available to the public, due to closure of deposit points during Covid19 restrictions, but would make them available as soon as reasonably practicable in terms of Regulation 22(3). In practice, legislation made in July 2020², removes, on a temporary basis, the requirements on local planning authorities to make certain documents available for inspection at premises and to provide hard copies on request. The Authorities have made all documents available online, and made arrangements to meet any specific requests from interested parties and representors unable to access documents electronically. I am satisfied that, at the close of the Examination there has been no disadvantage to any party in this respect.
31. There is some outstanding public concern regarding the process of the preparation of the JMLP and the SSR. That is especially because the Ham Farm allocation was removed from the JMLP following the examination in 2018, when the Inspector concluded that the proposed strategy for soft sand was unsound. Ham Farm was then reallocated on the evidence supporting the SSR. This concern is understandable. However, public consultation on the SSR itself, as well as on the proposed MMs to it, was evidently carried out in compliance with the **Statements of Community Involvement** of the respective joint Authorities.

Assessment of Other Aspects of Legal Compliance

32. The SSR has been prepared in accordance with the **Local Development Schemes** of the respective joint Authorities, as updated with respect to the projected date of adoption of its proposals.

² Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020

33. **Sustainability Appraisal (SA)** has been carried out on the SSR and the MMs and is adequate. The evidence contained within the SA is taken into account elsewhere in this Report.
34. The **Habitats Regulations Report** of September 2019 includes an Appropriate Assessment and concludes that, on information available at the plan preparation stage, the three allocation sites for soft sand are not expected to have an adverse effect on the integrity of European sites, alone or in combination with other plans and projects. That is subject only to certain mitigation measures in connection with any future applications. These are to control sediment loading for the East of West Heath Extension and Chantry Lane Extension and project-level Appropriate Assessment to address impacts on bats, for the East of West Heath Extension and Chantry Lane Extension, and air quality for all three sites, as required by the respective development principles. An Addendum to the HRA confirms that none of the MMs would alter the conclusions of the submitted HRA.
35. The Development Plan, taken as a whole, including the adopted JMLP and the South Downs Local Plan (SDLP), contains a vision and objectives which address the **strategic priorities** for the development and use of land in West Sussex, which will naturally apply to the soft sand provisions of the SSR once adopted within the JMLP.
36. The Development Plan, taken as a whole, including the adopted JMLP and SDLP, contains policies designed to secure that the development and use of land in West Sussex contributes to the mitigation of, and adaptation to, **climate change**. These policies will naturally encompass the soft sand provisions of the SSR, once adopted within the JMLP.
37. The SSR complies with all **other relevant legal requirements**, including the 2004 Act (as amended) and the 2012 Regulations. Regulations 8(4) and 8(5) require that the proposals of the SSR be consistent with the development plan unless they are intended to supersede policies in the adopted development plan. That exception applies in this case and the relationship of the SSR to the JMLP, and thus to the development plan as a whole, is clearly stated in the submitted SSR document.

Assessment of Soundness

Main Issues

38. Taking account of all the representations, the written evidence and the discussions that took place at the Examination Hearings, I have identified five main issues upon which the soundness of the SSR depends. This Report deals with these main issues. It does not respond to every point or issue raised by Representors.

Issue 1 – Vision and Strategic Objectives

Is the SSR based on an appropriate Vision and appropriate Objectives, taking into account those of the adopted JMLP and SDNP as well as national policy, legislation and guidance governing National Parks?

39. The Vision and Strategic Objectives applicable to all mineral development in West Sussex are established within the adopted JMLP, taking account of national policy, legislation and guidance governing National Parks. The SSR considers a single issue, as expressly required by the currently adopted version of Policy M2 of the JMLP. The ultimate adoption of its proposals will not create a new development plan document but will amend the adopted JMLP. There is no requirement and no basis for the SSR to revisit the adopted overarching Vision and Strategic Objectives of the JMLP.
40. The Strategic Objectives include No1, relating generally to the prudent and efficient production and adequate and steady supply of minerals, No2 to prioritise the use of secondary and recycled aggregates over primary sources and No3, to make necessary provision for soft sand, among other land-won aggregates, from outside the SDNP where possible, only allowing development within the SDNP exceptionally and in the public interest.
41. Other Strategic Objectives establish a commitment to protect health and amenity, conserve and enhance the landscape of West Sussex and the special qualities of the SDNP and AONBs, protect the natural and historic environment, minimise flood risk and ensure high quality mitigation and restoration to appropriate after uses.
42. Consideration of whether, in practice, the SSR implements and is consistent with that Vision and those Strategic Objectives is inherent in the assessment that follows of the remaining matters of soundness.
43. However, for clarity, effectiveness and consistency with the adopted JMLP, **MM2** to Proposal SSR4 is necessary to correct an erroneous deletion from new paragraph 6.2.15 of a proper reference within Strategic Objective 1 to planning for a steady and adequate supply of aggregates. It is noted that the consultation version of MM2, in terms of ensuring a steady and adequate supply of minerals, is not strictly consistent with paragraph 207 of the NPPF in this respect. However, proposed modified paragraph 6.2.15 of the JMLP merely repeats its earlier adopted Objectives 1 and 3 and a further amendment here would not be appropriate in the context of this single issue review.

44. Further, for full justification and effectiveness of the JMLP, **MM3** to Proposal SSR5 is also necessary. This inserts a footnote to make clear that the preferred soft sand provision from outside the SDNP should only derive from opportunities identified in adopted or emerging minerals plans or from existing permitted sites.

Issue 2 – Soft Sand Requirement

Is the Soft Sand requirement of the SSR soundly based on robust evidence and appropriately expressed?

Approach

45. The SSR does not specify a precise soft sand requirement figure for the period of the JMLP. The Soft Sand Policy M2 merely provides for allowing allocated or unallocated sites, subject to a range of need, transportation and environmental criteria, in order to plan for a steady and adequate supply and maintain at least a seven year landbank related to the most recent LAA.
46. As submitted, the supporting text to Policy M2 provides an account of the demand and supply data from the 2018 LAA, indicating a range of predicted shortfall in supply over the period of the JMLP.
47. The shortfall range is calculated with reference to a series of demand scenarios, from simple reliance upon average prior sales over 10 years to an assumed future growth rate in housing construction in West Sussex; for that is the accepted main end use of soft sand.
48. Data on aggregate reserves is collated annually through surveys with quarry operators, conducted in conjunction with SEEAWP, and the outcomes provide information for individual LAAs. The latest reserves data for West Sussex is now set out in the 2019 LAA.
49. When based upon the ten-year average figures to 2019, in accordance with the national Planning Practice Guidance (PPG), the annual soft sand sales figure is 0.29 million tonnes. The latest three-year trend is slightly higher. The LAA considers assumptions, also as advised by the PPG, that housing construction could grow and the LAA estimates that this could occur by up to 28.8%, based on planned housing provision in adopted and emerging development plans, as a primary development indicator. This results in a total requirement in the range of 4.04 to 5.21 million tonnes. Current reserves are estimated as 2.30 million tonnes, resulting in a net shortfall of between 1.74 and 2.91 million tonnes over the JMLP period to 2033.
50. The LAA states that West Sussex is a net exporter of soft sand on the basis of data from 2014 and the Authorities rightly accept that this occurs and that they are required to plan for a steady and adequate supply to meet the requirement, whether or not it is used within the JMLP area.
51. I consider that the basic approach of the SSR, as set out in the proposals for Policy M2 and its supporting text, is appropriate. It is also consistent with that of Policy M1 of the adopted JMLP for sharp sand and gravel, albeit no site allocations are deemed necessary for that mineral.

Other Development Indicators

52. However, a number of other factors potentially affecting the requirement for soft sand through the JMLP period deserve consideration.
53. Notwithstanding the provisions of adopted development plans, there is an established Government imperative to boost housing supply by 300,000 homes per year nationally, compared with significantly lower outturns in past years. There is also evidence that the proportion of soft sand used in house construction is increasing. One estimate is that these factors could result in the upper end of the soft sand requirement range for West Sussex rising to as much as 6.55 million tonnes, representing a shortfall of 4.25 million tonnes during the JMLP period
54. With respect to the existing supply of permitted reserves; this relies on a relatively small number of sites, of which some are currently inactive, raising the question whether they will in practice contribute to the overall requirement, also implying a higher net shortfall figure.
55. Another factor is the degree to which soft sand reserves might increasingly be diverted to highly specialised end products unrelated to building, thus enlarging the overall upper requirement figure still derived from the uplift due to home construction.
56. Against these factors suggesting a greater requirement than predicted by the 2019 LAA, there is evidence of renewal of certain old mineral permissions with potential to yield soft sand.
57. It should also be taken into account that the current Covid19 pandemic restrictions will have caused a slowdown of construction and demand for soft sand.
58. All of these factors could have a greater or lesser influence upon the practical requirement for soft sand in West Sussex in the future years of the JMLP period. It is to be expected that current economic uncertainties following Brexit, together with the strictures of the ongoing Covid19 pandemic, will render the monitoring and prediction of aggregate requirements even less certain than hitherto. However, this Report is not the appropriate vehicle for conjecture as to whether the most recent LAA findings should be accepted in assessing SSR requirements. It is fundamental to the mineral planning process that, as laid down in Policy M2, the ongoing soft sand requirement is related to the LAA which will naturally take into account such economic and any resultant practical market fluctuations on an ongoing annual basis.
59. Moreover, the statutory requirement for five-yearly review of the JMLP and the PPG advice to rely upon an annual LAA to monitor demand and supply, together provide a proper basis for the Authorities to monitor ongoing requirement and manage supply, rather than attempting to predict a fixed requirement and provide for supply accordingly.
60. The current planning regime creates the appropriate opportunities for review of the JMLP in 2023, five years from adoption. In the meantime, market fluctuations, in particular any marked elevation in soft sand use in support of a boost in home construction, will manifest itself via emerging and adopted

development plan provisions to be taken into account in the annual LAA. There is no basis to assume a sudden increase in house building in West Sussex which, for the time being at least, depends upon the calculation methodology of the NPPF and PPG, and not upon a direct application of the broad national objective. Any depletion or increase in permitted reserves would also be monitored.

61. As for the effect of the pandemic, this is unpredictable but it must be noted that the Government remains committed to revitalising the economy and medical advances show signs of making way for this, such that any negative influence of the pandemic could be reversed over the life of the JMLP.

Conclusions on Soft Sand Requirement

62. The preparation of the SSR has evidently followed the advice of the PPG on Minerals, regarding the completion of and reliance upon LAAs in minerals planning. Further, the LAA has been considered by the SEEAWP, in compliance with the DtC, as noted above.
63. Proposal SSR3 is appropriate in inserting a new text paragraph 6.2.14, setting out the 2018 LAA need and landbank figures, subject to amendment to substitute the more recent figures of the 2019 LAA. This is achieved by **MM1**, as published, but this requires further amendment to make clear that the figures are taken from the 2019 LAA and to state expressly the shortfall range that follows from the difference between the demand and supply totals.
64. Subject those changes, I conclude that the soft sand requirement of the SSR, and the JMLP, once modified in accordance with it, is soundly based on robust evidence and appropriately expressed.
65. In reaching this conclusion I disregard any implication that the calculated requirement for soft sand in West Sussex should be influenced by planning constraints on potential extraction sites or their likely practical yield, particularly where these might lie within the boundary of the SDNP, given the specially protected status of its landscape. That would inappropriately conflate requirement and supply. Whether the SSR provides effectively to meet the calculated requirement in its selection of sites is for the remaining issues considered below.

Issue 3 – Site Selection Process

Are the site allocations of the SSR soundly based upon a robust site selection process?

Strategy

66. Fundamentally, minerals can only be worked where they occur and soft sand resources in West Sussex lie geologically within the Folkstone Formation and largely within the SDNP.
67. The Authorities considered five supply strategy options for soft sand; A, from sites within West Sussex outside the SDNP; B, from sites within West Sussex but including the SDNP; C, from sites outside West Sussex; D, from alternative sources; and E, from a combination of all those four options.

68. There is no substantive dispute that the chosen Option E is the most reasonable and logical in terms of identifying a sufficient amount and certainty of supply considering all available sources.
69. The adopted JMLP includes five guiding principles for the selection of mineral sites. These are related to (1) opportunities for beneficial restoration, (2) environmental sensitivity and protection of amenity, (3) good access to the Lorry Route Network, (4) landscape protection and (5) avoidance of sterilisation of minerals. The SSR adds a further guiding principle of a preference for extensions to existing sites, subject to cumulative impact assessment. Whilst the site allocations of the SSR are regarded by some as contrary to its own guiding principles, these properly contribute to the basis for a planning balance to be achieved between competing harms and benefits. They cannot practically be taken as placing an absolute prohibition on any given potential soft sand site.

Major Development

70. Soft sand extraction is a type of operation regarded as major development in the NPPF and in legislation³. Under paragraph 172 and Footnote 55 of the NPPF, where a decision maker judges a proposal in the SDNP to represent major development, permission should not be granted other than in exceptional circumstances and where the development is demonstrably in the public interest. Consideration of major development should include assessment of need and local economy, cost and alternatives, and detriment to the environment, landscape and recreation. Otherwise, what constitutes major development is not defined in national policy.
71. Proposals for major development within the SDNP are subject to Core Policy SD3 of the adopted SDLP 2019 in the same terms as paragraph 172 of the NPPF. The Policy provides that, in determining whether a proposal for soft sand extraction constitutes major development, the SDNPA will consider whether, by reason of scale, character or nature, it has the potential to have a significant adverse impact on the natural beauty, wildlife, cultural heritage or recreational opportunities of the SDNP, including cumulatively with other development.
72. According to the *Advearse*⁴ case in 2020, this judgement will not always be a one-off event but the expectation is that it will be made in successive stages from local plan formulation through to the determination of a specific application at a different level of detail. While the decision on such an application may reasonably take account of the conclusions previously reached by the local plan Inspector, detailed further consideration will be required.
73. Thus, under Core Policy SD3, any proposal for soft sand extraction within the SDNP boundary, whether from an allocated or an unallocated site, if judged

³ Town and County Planning (Development Management Procedure)(England) Order 2015

⁴ R (Advearse) v Dorset CC et al [2020] EWHC 807 (Admin) Paragraph 46

by the SDNPA to constitute major development by itself or cumulatively, could be refused at the application stage. It would be for the SDNP to judge whether, on consideration of the details of the specific application, exceptional circumstances and public interest would justify approval.

74. Clearly, this policy and this legal position have a bearing upon the practical deliverability of either of the soft sand allocations of the SSR within the SDNP, once incorporated in the adopted JMLP.
75. Therefore, following the approach advocated in the *Advearse* case, the Authorities provided a Major Development Background Paper, firstly, to assess whether a shortlist of nine potential soft sand extraction sites would constitute major development within the SDNP and, secondly, to scope the ability of shortlisted sites within the SDNP to demonstrate exceptional circumstances and public interest at a high level as part of the plan making process.
76. I consider that the evidence of this Major Development Assessment is properly to be taken into account as an appropriate part of the site selection process and in considering, under Issue 5 (*below*), the adequacy of the supply provided by the SSR.

Selection Methodology

77. The Authorities followed a five-stage site selection methodology, which was found sound in 2017 by the Inspector examining now adopted JMLP. The Authorities therefore applied the same criteria and colour coded red-amber-green (RAG) traffic light system for assessing and comparing sites in the preparation of the SSR.
78. Following a call for soft sand sites in 2018 a long list of all known potential sites, numbering 21 in all, was drawn up at Stage 1. Twelve were ruled out at Stage 2 on grounds of non-availability or non-viability, leaving a short list of nine for detailed assessment and SA at Stages 3-5, which included the Regulation 18 Issues and Options consultation.
79. The nine shortlisted sites were: Buncton Manor Farm, East of West Heath Common Extension, Minsted West, East and West Severals, Duncton Common, Coopers Moor, Chantry Lane Extension and Ham Farm.
80. The Authorities carried out Habitats Regulations, transport, landscape and flood risk assessments of the nine shortlisted sites to inform the ultimate selection over the range of twelve environmental criteria including landscape, visual and cumulative impacts as well as access and air and soil quality.
81. Under the Major Development Assessment, all nine shortlisted sites were considered likely to be regarded as major development and all but seven were located inside the SDNP. The assessment identifies the issues and considerations to be taken into account in deciding whether exceptional circumstances would justify approval of a future application. These included the level of need, existing supply and alternatives according to the current LAA, as well as detailed site-specific criteria. The assessment stops short of indicating whether an application for any of the seven the shortlisted sites inside the SDNP would potentially be refused on grounds of lack of exceptional justification.

82. At Stage 5 of the selection process, the Buncton Manor Farm site was excluded in principle on grounds of unacceptable adverse impact on key views of Chanctonbury Hill.
83. Thus, on this new assessment, five sites emerged as acceptable in principle: Chantry Lane Extension (Storrington), East of West Heath Common Extension (Rogate), Ham Farm (Steyning and Wiston), Minsted West and Severals East and West (Midhurst).
84. Ham Farm is the sole site of the remaining five which is outside the SDNP. The sites East of West Heath Common and at Chantry Lane would be extensions, in that they would utilise the processing facilities of their parent existing sites, with potential for improved restoration of the original sites. This is in line with the additional principle preferring extensions over new sites, subject to consideration of cumulative impact. By comparison, new sites at Severals East and West were less favoured on grounds of greater impact on the SDNP, whilst Minsted West was considered by the Authorities to be less able to demonstrate exceptional circumstances and public interest.
85. The SSR accordingly allocates the three sites at Ham Farm, Chantry Lane and East of West Heath Common.

Alternative Resources

86. There is no evidence to indicate that there remain other viable soft sand resources within those parts of West Sussex outside the SDNP. Any change in this respect would be reported via the annual LAA and, in turn, lead to an adjustment in the overall requirement for soft sand from natural reserves, year-on-year.
87. Neither is there any substantive evidence that soft sand, as a relatively highly specialised mineral in its end uses and quality requirements, could be provided from recycled or secondary aggregate sources.

Transportation

88. Whilst soft sand is transported by road across the West Sussex border in response to detailed market circumstances, the SSR, as submitted, and hence the JMLP, would not be reliant upon importation to meet the identified soft sand requirement.

Conclusions on Site Selection Process

89. The judgements made and tabulated in the Site Selection Report are necessarily subjectively based upon the professional judgements, experience and local knowledge of officers and members of the Authorities. The conclusions reached appear broadly reasonable.
90. Accordingly, I conclude that the approach and methodology of the site selection process is sound in itself.
91. However, it remains, under Issue 5 (*below*), to consider each of the three allocated sites in more specific detail as to whether they would be acceptable

in practice and would together deliver a supply of soft sand to contribute sufficiently to meeting identified requirements.

Issue 4 – Policy M2: Soft Sand

Is the detailed proposed wording of Policy M2 justified, effective and sound?

92. Policy M2 of the JMLP as currently adopted, merely sets out broad criteria for the approval of soft sand applications and commits the Authorities to undertaking this SSR. Therefore, proposal SSR13 of the SSR replaces the adopted wording of Policy M2 with specific criteria.
93. Criterion (a) permits soft sand extraction where (i) it is needed to maintain a steady and adequate supply and a minimum seven year landbank according to the latest LAA, (ii) the site is allocated by Policy M11 or the need cannot be met by an allocated site and (iii) the site is well related to the Lorry Route Network.
94. Criterion (b) states that soft sand sites outside the SDNP must not impact adversely upon its setting.
95. Criterion (c) states that soft sand sites inside the SDNP that constitute major development will be refused other than in exceptional circumstances and in the public interest.
96. Criterion (a) gives rise to the question whether the requirement to maintain a minimum seven year landbank of soft sand sites in West Sussex should expressly apply to the whole of the life of the adopted JMLP to 2033. However, it is widely recognised that the wording of national policy makes no such stipulation. Moreover, with statutory five-yearly review of the JMLP and soft sand requirement defined in terms of the annual LAA, Policy M2 is properly to be regarded as compliant with national policy in this regard.
97. Criterion (c) implies a negative presumption, even against the extraction of soft sand from sites allocated inside the SDNP by Policy M11, where it is considered at the application stage to amount to major development and the exceptional circumstances and public interest tests are judged not to be met. Whilst this may be seen as running against the broad national presumption in favour of sustainable development, nevertheless the wording of Criterion (c) properly reflects the law and policy provisions for major development in the SDNP referenced above.
98. The question of the implications of the constraint imposed by Policy M2(c) for the supply of soft sand is for Issue 5 regarding Policy M11.
99. In itself, I consider that the amended Policy M2, as set out in Proposal SSR13, is justified and effective in its wording and accordingly sound.

Issue 5 – Policy M11: Strategic Minerals Site Allocations

Will the sites allocated by the SSR contribute sufficiently to the requisite supply and landbank of soft sand, based upon justified and effective development principles according to the planning considerations and constraints at each site?

General Issues

100. The overall main issues in connection with Policy M11, as amended by Proposal SSR30, are: whether the three allocated sites, at Ham Farm, East of West Heath Common and at Chantry Lane, would contribute sufficiently to the requisite supply and landbank of soft sand through the JMLP period; and whether the development principles (DPs) stated for each site are appropriate, justified and potentially effective, having regard to the range of planning considerations, constraints and impacts arising in each case, as assessed below.
101. Whilst the allocated sites are considered individually, common issues arise in connection with all three, in particular regarding policy to enhance biodiversity and with respect to impact upon hydrogeology.

All Allocated Sites

Biodiversity

102. Policy M17 of the adopted JMLP, by Criteria (b) and (e), resists unacceptable impacts on biodiversity and seeks net gains where possible. Since that provision became part of the adopted development plan, national policy, including paragraphs 170 and 174 of the NPPF, has shifted to require expressly the pursuit of opportunities for securing measurable net gains for biodiversity. To that extent, JMLP Policy M17 is no longer fully consistent with national policy.
103. Notably, Policy M24(c) of the JMLP does require restoration of mineral sites to maximise biodiversity gain, whilst Strategic Policy 9(1)(b) of the SDLP does require development to identify and incorporate opportunities for net gains in biodiversity. These provisions provide sufficient cover over any mineral development proposal in West Sussex, consistent with the national policy to seek opportunities for biodiversity enhancement.
104. It is appropriate in the circumstances to future-proof the proposals of the SSR for Policy M11, prior to adoption within the JMLP, and it would be desirable that the JMLP itself should be made internally consistent. However, it is outside the scope of this Report to recommend modifications to Policy M17 or any other policies of the adopted JMLP, apart from M2 and M11 where they relate to soft sand.
105. At the same time, the SSR proposals are for the three major mineral development allocations of the JMLP as a whole. Accordingly, in the interests of effectiveness and soundness, I consider that changes should be made to the DPs for all three allocations, consistent with current national policy to seek opportunities to provide for an overall enhancement of biodiversity. This requires the addition of a new DP and consequent renumbering.

106. It will be for the five-yearly review of the whole JMLP to rectify any inconsistency between its provisions and national policy at that point. In the relatively short meantime, the NPPF covers the relative weight to be accorded national policy over any local development plan provision judged to be inconsistent with it.

Hydrogeology

107. With respect to hydrogeology, for the DPs for each site to be effective and sound, it is appropriate to insert a requirement to avoid impact on hydrogeology, rather than merely to minimise any such impact.
108. Where there is wet woodland within an allocation site boundary, as in the case of the East of West Heath Common Extension, it is appropriate to provide in the DPs for limiting the practical extent of excavation. However, depending on the site-specific evidence, such a stipulation is not necessarily required in every case and there is no inconsistency where there are resulting differences in the respective DPs.

Trees and Hedgerows

109. The DPs for all three allocated sites, as submitted, set a general requirement that existing trees and hedgerows should where possible be retained and reinforced to create corridors of mature and newly planted trees and vegetation. For the SSR and the JMLP to be fully effective and sound, the DPs should impose an obligation that mineral development must, rather than should, retain trees and hedgerows where possible.

Changes Applying to the DPs for All Allocated Sites

110. All the foregoing necessary changes generally required to the DPs are included within **MM5** to New Paragraph 7.2.9 for the allocation East of West Heath Common, **MM6** to New Paragraph 7.2.7 for Ham Farm and **MM7** to New Paragraph 7.2.11 for Chantry Lane.

Ham Farm, Steyning (Policies Map 8)

Description

111. The site comprises approximately 7.9ha of agricultural land just outside the SDNP on the north side of the A283 west of Steyning. The estimated yield set out in the SSR is 0.725 million tonnes of soft sand. Restoration could include restoration to the original site profile and agricultural use, potentially with some woodland enhancement.
112. Proposal SSR34 introduces a new paragraph 7.2.6 providing a general description of the site and its prospective restoration, whilst Proposal SSR35 adds new paragraph 7.2.7 which sets out a range of DPs for soft sand extraction from the site.

Transportation

113. The allocation site lies on the inside of a bend on a section the main A283 with a significant accident record where an additional access for mineral traffic

is not desirable. Evidently, however, an access could be provided at the position of the present entrance gate compliant with established geometric highway standards with no objection to the allocation from the highway authority, providing direct access to the main lorry route. This is specified by DP(xvi) as submitted.

114. The potential restoration of the site to agriculture at its original level by importation filling material need not generate additional lorry traffic via the site entrance if export and import trips were co-ordinated using the same vehicles, as is accepted operational practice.
115. DP(xiv) as submitted requires an agreed lorry routing agreement to be implemented and monitored, avoiding trips via Steyning and Storrington.
116. There is no evidence at this plan preparation stage of an overriding highway objection where the need for soft sand from the site is demonstrated.

Trees and Landscape

117. The site is largely surrounded by established woodland and bounded by mature trees and hedgerows. There is an internal hedgerow within the south western part of the site to be retained. Landscape Assessment concludes that the site has medium sensitivity to and moderate capacity for accommodating mineral extraction. DPs(ii) and (iii) require a detailed landscape and visual impact assessment at the application stage, whilst DP (iv) specifies that the access design would ensure the retention and protection of mature broadleaf trees. DP(vi) requires landscaped boundary screen mounding at the eastern and southern boundaries. In this way, the landscape impact of necessary soft sand extraction could be acceptably mitigated.

Heritage and Amenity - Noise and Light Pollution

118. The proposed landscape mitigation measures would also help to address considerations of heritage and amenity which considerably constrain the site. DP(ix) requires an impact assessment of nearby listed buildings, including Horsebrook Cottage and Wappington Manor, to identify any further necessary mitigation measures. DP(xx) requires a detailed noise, dust odour and vibration management plan to be agreed and implemented, setting out how such impacts would be avoided or mitigated.
119. There would still be noticeable changes to the living conditions at adjacent properties, including Hammes Farm and the studio there, in particular regarding their outlook where boundary mounding were necessary. However, the degree of adverse impact could be limited in planning terms and would be weighed in the planning balance with the wider public benefit of meeting identified soft sand requirements.

High Quality Agricultural Land

120. It is currently not known whether the site is overlain by Grade 3b agricultural soils or the higher quality Grade 3a or above, resulting in a potential significant adverse environmental impact according to the SA. Accordingly DP(xviii) requires mitigation measures for any loss of such soils. In normal

practice, soils would not be removed from the site but stockpiled for restoration to agriculture.

Yield and Viability

121. The commercial viability of the site for soft sand extraction is not directly related to the acceptability of the site in planning terms, albeit most relevant to the adequacy of supply to meet LAA requirements. However, to allocate a site based on a significant overestimate of yield could lead to unnecessary planning blight and uncertainty to local residents.
122. In this regard, the claimed potential yield of 0.725 million tonnes is questioned with reference to the geological investigation report published by the prospective operator. This estimates the yield based on a mean depth of sand over the net developable area after deduction of retained trees and hedgerows. Allowance is also made for buffer zones to maintain screening and critical excavation slope stability, especially against the main A283. The question is raised whether the deductions made are sufficient, especially regarding the slope angles and the assumed depth of sand when closely analysed on borehole results.
123. At the same time, a specialist technical review for the prospective operators, whilst confirming the stated yield figure of the SSR, foresees a potentially higher figure due to areas of deeper deposits than the assumed mean. Estimates vary from some 34% below the stated 0.725 million tonnes to some degree above it. The operator remains confident of the broad estimated tonnage, assuming progressive restoration avoiding temporary side slopes being exposed for long periods.
124. On balance, the yield of the allocation site assumed by the SSR appears reasonable.

Cumulative Impact

125. The Transport Assessment identifies no unacceptable cumulative highway impacts resulting from the potential mineral development of the allocation site, including a cluster of sites along the A283.
126. More generally DP(xvii), as amended to DP(xviii) by **MM6**, sets a clear requirement for a detailed assessment of cumulative impact in connection with any application.

East of West Heath Common (Extension), Rogate (Policies Map 9)

Description

127. The site comprises 14ha of agricultural land at Rogate, some distance east of the existing site, within the SDNP. The estimated yield set out in the SSR is 0.95 million tonnes of soft sand. Extraction would be linked to the existing site with material transported for processing via a conveyor or pipeline crossing the intervening land and intersecting with Public Footpath 861. Restoration in conjunction with the existing site would be to a low-level water environment for nature conservation and informal recreation with improvement to long distance trails and rights of way.

128. Proposal SSR36 introduces a new paragraph 7.2.8 providing a general description of the site and its prospective restoration, whilst Proposal SSR38 adds new paragraph 7.2.9 which sets out a range of DPs for soft sand extraction from the site.

Trees and Hedgerows, Ecology and Hydrogeology

129. Neither the supporting text nor the DPs include specific reference to impact on West Heath Common itself or the adjacent River Rother Local Wildlife Site. For the SSR and the JMLP to be fully effective and sound, paragraph 7.2.8 should stipulate avoidance and minimisation of such impact.
130. A southern part of the allocation site is wet woodland where Blackrye Pond and a Victorian drainage system are located. It is likely that earthworks for soft sand extraction in this area would be impractical and harmful, depending on the findings of a detailed hydrogeological survey. As a result, the extent of earthworks within the boundary of the allocation could be curtailed. That is not to say that the allocation boundary itself needs to be altered on the Policies Map. However, for clarity and effectiveness, this matter should be made clear within paragraph 7.2.8 and DP(viii) as submitted should be similarly amended.
131. All these necessary changes are made by **MM4** and **MM5**.

Transportation and Public Rights of Way

132. The Transport Assessment concludes that the site has a high overall highway suitability in terms of access via the existing site entrance off Durford Lane, with moderate negative impact on public rights of way. There is no technical evidence to indicate otherwise in the broad context of the highway or rights of way network.
133. However, there are local concerns, based upon experience of the existing aggregate extraction works. The nearby Sky Park Farm Visitor Centre generates similar traffic flows to the mineral development and there has been damage to Durford Bridge near the site entrance. Pedestrian and cycle use of Durford Lane is increasing, encouraged by ongoing enhancement to the local bridleway network.
134. Most particularly, there could be conflict walkers and the projected conveyor or pipeline to transport mineral from the extension to the present site for processing, as this would cross Public Footpath 861, a major public right of way over open land outside the allocation boundary.
135. However, the Transport Assessment takes account of all predicted traffic flows and, whilst the continued use of Durford Lane and Durford Bridge by mineral traffic is clearly not desirable, such use is evidently within the traffic and weight carrying capacity of the Bridge and the Lane, with no additional adverse comment from the highway authority. At this stage of plan preparation, there is no evident insurmountable planning objection on traffic grounds where overriding need for soft sand is demonstrated.
136. The projected use of a conveyor or pipeline would contribute beneficially to non-motorised transport and there is scope for accommodation or temporary

diversion of the public right of way to minimise any conflict. This is advocated by DP(xii) as submitted, which states that consideration should be given to ensuring such mitigation measures but, to be effective and sound, this needs to be modified to state that such consideration must be given. The necessary change is put into effect by **MM5**.

Heritage

137. The site is relatively close to scheduled ancient monuments and DP(vi), as submitted, draws attention to the need for their protection from adverse impacts. along with highway bridges and structures where relevant. Any application would also be judged on merit against the requirements of Policy M14 of the JMLP that mineral development record, conserve or enhance heritage assets, unless there are overriding reasons in favour of the mineral extraction.

Noise and Light Pollution

138. There is always potential for noise and light pollution to arise from mineral workings, affecting the amenity of local residents and impinging upon the special qualities of the SDNP. However, there is no indication that the conveyor or pipeline would require external illumination and these potential impacts due to the extraction site itself are addressed by DP(xi), requiring a lighting, noise, dust, odour and vibration management plan, as well as by DPs(ii) and (iii) to provide a landscape impact assessment.

139. Sand extraction would also be subject to adopted development management provisions. These include Policy M18 of the JMLP, protecting public health and amenity by restricting working hours, and Strategic Policy SD8 of the SDLP, to conserve and enhance the intrinsic dark night skies of the SDNP. This limits unavoidable lighting to no more than the appropriate level. Given the Landscape Assessment places the site in the lowest category of visual sensitivity, these measures are likely to prove sufficient, on balance, where need for the soft sand is demonstrated.

Cumulative Impact, Landscape Impact, Restoration and Public Access.

140. The application of the guiding principle of preferring extensions to new sites is not immediately evident in this case, with a half-kilometre open, rural gap between the allocation site and the existing works. However, the proposed conveyor system would avoid road transport between the two and facilitate processing via the existing plant and use of the existing access. The potential cumulative impact of the mineral development on the allocated site is assessed by the SA as minor negative.

141. That is of little comfort to local residents who perceive a prolongation of mineral workings in their neighbourhood, impeding access and delaying restoration of the existing site, and visible in views from public rights of way within the SDNP.

142. However, the potential cumulative impact of the mineral development on the allocated site is assessed by the SA as minor negative and DP(ii), as submitted, would ensure that development proposals necessary in the wider public interest would take account of a landscape visual assessment.

Site Liaison Group

143. For internal consistency with the other two allocations and effectiveness, DP(xiii), as submitted, should be subdivided to provide a separate requirement for the establishment of a Site Liaison Group, to include the local community. This change is put into effect within **MM5**.

Chantry Lane Extension, Storrington (Policies Map 10)

Description

144. The site comprises approximately 2.5ha of agricultural land located just south east of Storrington, within the SDNP. The estimated yield set out in the SSR is 1 million tonnes of soft sand. Extraction would be linked to the existing adjacent site with restoration to agriculture, including potential woodland and public rights of way enhancement.
145. Proposal SSR39 introduces a new paragraph 7.2.10 providing a general description of the site and its prospective restoration, whilst Proposal SSR40 adds a new paragraph 7.2.11 which sets out a range of DPs for soft sand extraction from the site.

Transportation

146. The Transport Assessment considers the site acceptable in transport terms with any application subject to the requirements of Policy M20 of the JMLP, including optimal lorry use and routeing. The site is located at the edge of Storrington, away from the centre, and is on the advisory lorry route network, such that unacceptable impact could be avoided.

Landscape

147. The Landscape Assessment concludes that the site has medium sensitivity and moderate capacity for mineral extraction and recommends mitigation measures that informed the DPs. As submitted, these include DPs(ii) and (iii) for landscape and visual impact assessment, DP(iv) on entrance design to minimise impact on the SDNP, DP(v) to provide for perimeter screen mounding during the works and DP(xvi) for restoration to be informed by an agreed landscape and ecosystem services-led strategy.

Pollution and Amenity

148. Any mineral application for the Chantry Lane allocation would be subject to detailed pollution assessments, including with respect to noise and light, whilst DP(xv), as submitted, requires an agreed management plan dealing with these potential impacts. There is no evidence that these impacts could not be adequately controlled where, on a balance of judgement, the development were essential.

High Quality Agricultural Land

149. The site could contain some Grade 3 soils of high quality. DP(xiii), as submitted, requires any loss of high quality agricultural land to be minimised and mitigated. Any planning application for the site would be judged against

JMLP Policy M15 on air and soil, avoiding unacceptable impact on the quality of soils.

Cumulative Impact

150. The Transport Assessment identifies no unacceptable cumulative highway impacts resulting from the potential mineral development of the allocation site, including a cluster of sites along the A283.
151. More generally DP(xii), as amended to DP(xiii) by **MM7**, sets a clear requirement for a detailed assessment of cumulative impact in connection with any application.

Conclusions on Policy 11 and the Site Allocations

152. There is understandable general concern in connection with all three allocated sites that the DPs should be more extensive and specific in terms of the detailed nature and control of any soft sand extraction which ultimately takes place and the subsequent restoration and afteruse of the land under future planning applications.
153. However, the stipulations required at the relatively high level of plan preparation level are to be distinguished from the tighter controls that will potentially be necessary in practice with respect to actual planning permissions. These would include such as precise access arrangements, phasing of earthworks, hours of operation, lorry routeing and phasing. Discretion is thus appropriately left to the Authorities to consider and consult publicly upon individual proposals, on merit and within the framework set by the policies of the JMLP and the DPs set down for each allocation.
154. Other controls exist under separate legislation with respect to engineering practice during earthworks and sand extractions regarding on-site and public safety.
155. I conclude from the discussion above that the range of potential planning impacts of sand extraction from the three allocations could be substantively addressed by mitigatory measures required by the DPs respectively set down for the sites, subject to the necessary MMs I have identified in the interests of soundness.
156. I further conclude that such mineral development could be justified on balance within the policy framework of the adopted JMLP and SDLP. That would include proposals where soft sand extraction within the SDNP would potentially meet the exception and public interest tests of Core Policy SD3 of the SDLP with respect to major development.
157. The remaining question is whether the three sites would yield sufficient quantities of soft sand to meet the supply shortfall currently identified of between 1.74 and 2.91 million tonnes over the JMLP period to 2033.
158. Whilst the estimated yield figures published for Ham Farm and Chantry Lane are questioned, the Authorities appropriately followed established practice in obtaining this information for all identified sites from the mineral industry via

the call for sites for the SSR and from information previously held from the preparation of the JMLP.

159. According to the evidence thus provided by the Authorities within the SSR itself and reviewed under Issue 3 (*above*), the total yield of the allocations should amount to about 2.67 million tonnes, well above the median shortfall estimate of some 2.32 million tonnes.
160. In the event that yields were compromised by the physical limitations of the sites affecting their commercial viability, the allocations would still make a valuable contribution to supply. In a hypothetical case of the Ham Farm site not proceeding at all due to alleged yield issues and the Chantry Lane extension reaching only, say, 75% of its predicted yield of 1 million tonnes, the total outturn would still amount around 1.7 million tonnes, equivalent to the lower end of the range of estimated shortfall as currently estimated.
161. The planning system should provide reasonable certainty as to future mineral development and this SSR to some extent leaves open the question of whether, in the face of the range of planning constraints which exist, its proposals would provide for the requisite steady and adequate supply of soft sand to maintain a seven-year landbank.
162. However, the process of statutory five yearly review of the JMLP, coupled with the annual monitoring of requirement and supply provided by the LAA, linked to policy M2, provides a substantial measure of compensation for any degree of immediate uncertainty. I am therefore led to the view that, in the context of West Sussex and the SDNP, that the sites allocated by the SSR can properly be regarded as contributing sufficiently to the requisite supply and landbank of soft sand for West Sussex and that, in this respect, Policy M11 of the JMLP, as amended by this SSR would be justified, effective and sound, subject to the MMs I have identified.

Overall Conclusion and Recommendation

163. The SSR has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend its non-adoption as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.
164. The Authorities have requested that I recommend MMs to make the SSR sound and capable of adoption. I conclude that the Duty to Co-operate has been met and that, with the recommended Main Modifications set out in the Appendix to this Report, the West Sussex Joint Minerals Local Plan Single Issue Soft Sand Review satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

B J Sims

Inspector

This report is accompanied by an **Appendix** containing the **Main Modifications**