

27 July 2010

Mineral Planning Application (County Matter) accompanied by an Environmental Statement

Proposed easterly extension to West Heath Quarry, West Heath Common, West Harting, West Sussex

Application No: WSCC/031/10/HT

Report by Divisional Manager (County Development)

Local Member: Nola Hendon

District: Chichester

Executive Summary

This report concerns a proposal by CEMEX UK Operations Ltd for an easterly extension of the West Heath Quarry, which lies in the South Downs National Park. The majority of the application site is allocated for this purpose in the adopted West Sussex Minerals Local Plan. The extended quarry would enable CEMEX to extract 565,000 tonnes of soft sand from an area of approximately 7 hectares over a period of four to five years.

Sand extraction has taken place at West Heath Common for over 50 years with approximately 100,000 tonnes of soft sand extracted per annum. The worked out parts of the site are presently being restored to a mix of woodland, a large lake and heathland. Current reserves of sand at the site are at low levels with the only remaining areas still to be worked located in its south-eastern corner (adjacent to the proposed extension site).

This report provides a generalised description of the site, sets out the planning history, and describes the proposal and the policy context within which it should be considered.

Chichester District Council raise no objection to the proposal subject to the imposition of appropriate conditions controlling impacts on local amenity. Harting Parish Council raise concerns with regard to the continuing impact of traffic on the local road network/Durford Mill bridge and the acceptability of extending the life of the quarry given its location in the newly designated South Downs National Park and its adverse impacts on access to the land and local footpaths. The Environment Agency, South Downs Joint Committee, Natural England, Highways Authority and other internal consultees have no objections to the proposal subject to the imposition of appropriate conditions and completion of legal agreements.

Representations from local residents, businesses and campaign groups/organisations object, in the main, on the grounds of highway capacity and road safety, location within the National Park, and the associated adverse impacts to amenity.

Consideration of Key Issues

The main material planning considerations are whether the proposal:

- is in accordance with national policy on development in a national park;
- meets an identified need;
- has an acceptable impact on the landscape;
- has an acceptable impact on ecology;
- has an acceptable impact on the water environment;
- has an acceptable impact on the historic environment;
- is acceptable with regard to highway capacity and road safety; and
- has an acceptable impact on recreational and local amenity.

Policy on National Parks

National policy requires an assessment of the availability of alternative supply outside the park area or of meeting the need in some other way (as well as an assessment of the need for the development; and the impact on the environment, landscape, and recreation). Within West Sussex, the future need for this important resource is likely to be met from within, or very close to, the SDNP area given the geographical location of the Folkstone Formation. There may be alternative supplies elsewhere in the region but the economic and environmental cost of meeting need in this way is very likely to be neither feasible nor acceptable.

Need for the Development

Assessing the need for the development is problematic due to the policy vacuum created by the revocation of the South East Plan and the loss of the approved sub-regional apportionment to West Sussex. There are a number of options for assessing whether the landbank of permitted reserves is sufficient to meet the economic need for land-won sand and gravel. Use of the most recently published draft apportionment (1.03mtpa) results in an estimated landbank of 5.3 years which suggests that additional reserves are required and that, if acceptable in all other respects, the application should be permitted. However, even if a locally-derived apportionment of 0.73mtpa is used (which is probably the most accurate figure of actual need), the estimated landbank is only 7.4 years which is not considered to be excessive and not sufficient reason, in its own right, to refuse the application. In addition, the principle of the development (albeit for a smaller area) has been established by the allocation in the adopted Minerals Local Plan and the proposal would enable the continued working of an established sandpit. It also potentially reduces the need for new workings to ensure the continued supply of the economically important soft sand resource.

Impact on the Landscape

The proposed development, when restored, would result in a landform broadly similar to that of the existing and ensure that the development can take place without causing permanent detriment to the visual appearance and quality of the surrounding landscape. Existing mature trees and hedges adjoining the area from which the sand would be quarried would be retained and protected. Proposed native planting and additional water features are considered to have the potential of enhancing the future landscape and ecological benefits of the site.

Impact on Ecology

The majority of potential impacts upon ecology would be limited to the preparatory groundworks and tree clearance, and then the subsequent phased extraction of minerals. Implementation of the proposals may require a licence from Natural England in order to ensure reptiles are protected during these phases. Upon completion, the proposed development, once restored, would result in a moderate positive gain to the local environment through creation of a site of improved habitat (and landscape) value and improved future ecological management.

Impact on the Water Environment

Although the proposals do have the potential for pollution, the Environment Agency raise no objection subject to a condition being imposed for the safe storage of potentially polluting materials. In addition, the applicant proposes measures for continuing groundwater level and quality monitoring to secure a continuing knowledge of the local hydrogeological and hydrological regime and the identification at an early stage of impacts through quarrying.

Impact on the Historic Environment

Provided that measures are taken to ensure ground excavations are carried out in accordance with an agreed scheme and that they are monitored with archaeological evidence recorded, there would not be any unacceptable impacts upon the historic environment.

Highway Capacity and Road Safety

There is an existing quarrying use and this proposal would not result in an intensification of that use. In addition, there are no known issues with the existing operation of the site. Accordingly, there would be no highway objection in terms of highway capacity and road safety.

Impact on Recreational and Local Amenity

Recreational: The proposed development would not have any significant, long-term adverse effect on the recreational amenity of local residents or visitors to the locality. Users of the adjacent public footpaths that encircle the current sand quarry would experience some temporary, transitory disruption due to the route of public footpath 866 transecting all four phases of the development site. This footpath would have to be closed for safety reasons but would be reinstated as part of any approved restoration scheme.

Noise: No unacceptable impacts upon amenity will arise subject to imposition of a 55dB limit (70Db limit for a period not exceeding 8 weeks during the construction of the screen bund), controlled hours of operation, noise conditions (to ensure best practice measures), and a survey to demonstrate compliance with prescribed limits should any complaints be received.

Air Quality: Due to the nature of preparatory works and mineral extractions, proposed conditions to ensure detailed mitigation measures, and shelter afforded by surrounding trees, it is considered that there would not be any unacceptable impact upon residential amenity resulting from dust.

Conclusion

The proposal involves the extension of an established sandpit in the South Downs National Park. The principle of sand extraction for the majority of the application site has been established by an allocation in the adopted West Sussex Minerals Local Plan. Given that the proposal involves the extraction of over 0.5mt of soft sand, it is considered to be a major mineral development and, therefore, it has been assessed in accordance with national policy to determine whether there are exceptional circumstances that justify permission being granted.

First, it is considered that there is a need for the development as it would contribute to ensuring the continued supply of the economically important soft sand resource and the extension potentially reduces the need for, potentially more harmful, new workings elsewhere within or very close to the National Park. Second, it is considered that although there may be alternative supplies elsewhere in the region, the economic and environmental cost of meeting need in this way is very likely to be neither feasible nor acceptable. Third, it is considered that the impacts of extraction on the environment, the landscape, and recreational opportunities can be moderated and controlled by the application of appropriate conditions. In addition, it is considered that other impacts, e.g. on highway capacity and road safety and on local amenity, can also be controlled.

Although extraction would have an adverse impact on the area, it would take place for a relatively short period (four to five years). Furthermore, phased restoration would provide the opportunity to enhance both the landscape and ecological benefits of the site e.g. through the creation of mixed heath and grassland, the planting of native species, the creation of additional water features, and improved future ecological management. It would also provide the opportunity to enhance informal public access to the area.

Overall, it is considered that the proposal accords with national policy on development, in general, in National Parks and the national policy specifically on minerals development in those areas. It is also considered that the proposal complies with the relevant development plan policies that cover the extraction of land-won minerals.

Recommendation

That planning permission be granted subject to the conditions and informatives set out in **Appendix 1** of this report.

1. Introduction

- 1.1 This report relates to an application for the easterly extension to the existing sand quarry on land adjacent to West Heath Quarry, located at West Heath Common, West Harting, West Sussex.

2. Site Description

- 2.1 The proposed development site is located in a rural area and within the South Downs National Park. The town of Petersfield, Hampshire is situated 2.5 miles to the west of the site whilst the village of Rogate lies approximately 1.5 miles to the north-east (**see Appendix 2 - Location Plan**). The application relates to an

area of approximately 7 hectares of gently inclined agricultural grazing land (falling from west/north west to east/south-east) (see **Appendix 3 - Site Plan**).

- 2.2 The existing, active West Heath Quarry is situated to the west of the proposed development site, to the west of the north-south running Durford Mill Road. The site's southern boundary is bordered by agricultural land around Down Park Farm and is close to Downpark Common. Along its eastern boundary is a mix of woodland, open pasture, bracken and birch heath. To the north of the site is woodland and an access track/public footpath along the route of a former, dismantled railway line embankment.
- 2.3 Access to and from the proposed development site would be as with the existing quarry via a surfaced access road and a site entrance onto Durford Mill Road. From the site entrance, traffic turns right onto Durford Mill Road and travels some 700m to the north where it joins the A272 (Petersfield to Midhurst Road).
- 2.4 A number of residential properties are situated in close proximity to the proposed development site (and existing quarry). Wenham Edge is the closest being situated immediately north of the former railway line embankment approximately 70m to the north/north-east of the application site. Down Park Farm, Down Park Farm House, and Down Park Farm Cottages are situated between 120m and 380m to the south-east, south-west and west of the site respectively. A number of other properties, both residential and commercial, are situated between the site and the Durford Mill/A272 junction.

3. **Planning History**

- 3.1 Sand extraction has taken place at the existing West Heath Common quarry since the 1950s. RMC Aggregates (now part of CEMEX) bought the site in 1997 and since then approximately 100,000 tonnes has been extracted annually. Sand is exported by road in either 10 to 20 tonne or 28 to 30 tonne heavy good vehicles (HGVs).
- 3.2 A Review of Old Mineral Planning Permissions (ROMP), under the Environment Act 1995, was submitted in February 1999 which led to updated conditions for the existing quarry site being approved under consent HT/98/2000. Under this consent, the winning and working of minerals shall cease on or before 21 February 2042. In accordance with this consent, the site is in the process of being restored to a mix of woodland, a large lake and heathland. ROMP permissions require a 15 year review whereby all conditions relating to the operation of the site are reviewed and determined by the Mineral Planning Authority. The current permission is due to be reviewed in March 2014.

4. **The Proposal**

Background

- 4.1 The applicant, CEMEX UK operations Ltd, is a global producer and marketer of cement, concrete, and other building materials. The reserves within the active sand quarry at West Heath are at low levels. Following geological investigations, CEMEX has established the presence of economic reserves of soft sand, in terms of both quantity and quality, from the Folkestone Bed below the application site.

- 4.2 The proposal is for the phased extraction of 565,000 tonnes of sand with progressive restoration to heathland, reedbed and wetland areas (with associated land management).

Phased Extraction

- 4.3 The extraction would proceed from south to north in four phases covering a total area of 7.04 hectares (**see Appendix 4 - Phasing Plan**). Extraction would be completed over a four to five year period. Approximately two thirds of the sand is recoverable by dry working. The remaining third being largely recoverable only by wet working (i.e. below the water table).
- 4.4 The conditioned 'method of working' requires restoration works to take place not longer than two phases behind extraction. Each phase would be approximately one year in duration. However, it is likely that restoration works will commence immediately following completion of each extraction phase such that restoration of the site overall will be completed in the fifth year. (**Appendix 5, 5a to 5d - Method of Working**).
- 4.5 Phase 1 would commence on cessation of extraction in the south-eastern corner of the adjacent, existing sand quarry. Soils and overburden would be stripped and placed on the boundaries. Mineral extraction and progressive restoration would be achieved on a bulk haul basis. Every two to three months sufficient earth would be stripped to allow for extraction of the amount of sand that is required for the following three months based on market forecasts. Earth stripping would take around one week to complete.
- 4.6 After the bulk haul is finished, initial restoration work would be carried out (reinstatement of the topsoil) which is likely to take another week. Excavated sand will be moved and stored close to the site offices and access in the north-western area of the existing sand quarry to accord with current practice. The most disruptive activities (associated with earthmoving/extraction) are likely to be limited to a period of 8-12 weeks per annum.

Hours of Operation

- 4.7 The proposed working hours within the pit and the transportation of quarrying equipment and the export of minerals are the same as for the existing pit; Mondays-Fridays 07.00 to 19.00 and Saturdays 07.00 to 13.00 with no working on Sundays or bank or public holidays. Despite the 19.00 hours closure time, no extraction operations currently take place after dusk.

Restoration

- 4.8 The proposed restoration 'masterplan' provides for the restoration scheme of the easterly extension (the subject of this application) as well as continuing to satisfy the restoration conditions of extant consent (HT/98/2000) for the existing, adjacent West Heath sand quarry (**see Appendix 5 - Restoration Masterplan**).
- 4.9 Material to a depth of approximately 1.1m would have to be removed to expose the economic mineral. The thin layer of topsoil and humic rich black sands (sands that are not economically viable) stripped during extraction would be used to form acoustic and screening bunds around the perimeter of the site. It is

envisaged that initially these surplus black sands would be stored in the centre of the site until restoration of Phase 1 could commence. Thereafter, the sands would be directly placed in their final resting place as part of progressive restoration. The screening bunds around the perimeter of the site will be simply pushed over the top of the already restored phases on their completion.

- 4.10 Proposed mitigation measures would be implemented throughout the course of the development in accordance with the key principles of the Heathland Regeneration Partnership (involving the South Downs National Park Authority, formerly the South Downs Joint Committee). This would involve protection and survival of existing biodiversity at the site; creation of appropriate conditions for mixed heath and grassland (all on land owned by the applicant); creation of appropriate conditions for marginal wet heath and reed bed areas; and provision of enhanced informal public access.
- 4.11 The proposals would impact on footpath 866 (a public right of way) which runs north-south through the application site. Should planning permission be granted for the current application, the footpath would need to be relocated (which would require approval under separate legislation). The proposed new route can be seen on **Appendix 5 - Restoration Masterplan**.

5. **Environmental Impact Assessment**

- 5.1 An Environmental Statement accompanies the application. The proposals fall within Part 13 (a) of Schedule 2 of the Environmental Impact Assessment Regulations (1999) being '*an extension to a development that is already authorised*' i.e. an extension to an existing sandpit (Part 2 of Schedule 2). The proposed development is a Schedule 2 development and is capable of having a significant environmental effect on the environment.
- 5.2 The scale of the proposal requires the planning authority to determine whether an environmental impact assessment (EIA) is required. In addition, special consideration is required to be given to any development that would fall in a 'sensitive area' as defined in the EIA regulations, and constitute development. The proposal falls within the South Downs National Park (formerly the Sussex Downs AONB). The site is also designated as the West Heath Common Site of Nature Conservation Importance (SNCI).

6. **Policy**

Statutory 'Development Plan'

- 6.1 Planning applications must be determined in accordance with the statutory 'development plan' unless material considerations (including national policy guidance) indicate otherwise. For the purposes of the application, the following approved or adopted planning policy documents form the statutory 'development plan': the West Sussex Minerals Local Plan (2003) and the Chichester District Local Plan (1999).
- 6.2 The key policies in the 'development plan' are summarised below. In addition, reference is made to relevant national planning guidance and other policies that guide the decision-making process, all of which are material to the determination of the application.

- 6.3 It should be noted that the Regional Spatial Strategy, the South East Plan (2009), was revoked by the Government on 6 July 2010 and it no longer forms part of the development plan. The implications of revocation are considered in Section 9.

West Sussex Minerals Local Plan (adopted in July 2003 with saved policies from 28 September 2007)

- 6.4 Policy 1 seeks to permit mineral workings only where (a) working practices which cause least environmental harm will be followed; and (b) opportunities to conserve and enhance the environment are incorporated in proposals to reclaim the land to a standard appropriate to the agreed after use.
- 6.5 Policies 10 to 22 seek to permit mineral workings only where the environment is afforded adequate protection and where the preservation of designated areas is prioritised.
- 6.6 Policy 29 requires that a Mineral Planning Authority will aim to grant planning permissions for the supply of sand and gravel between the period 2006-2013.
- 6.7 Policy 32 allocates the majority of the application site as a 'new site identified for sand extraction' as an extension to the existing sand quarry (**Appendix 6 - Inset Map H West Heath (Site No 26)**). It should be noted that the allocated area is 5.8 hectares and would yield 352,300 tonnes of sand from dry workings whereas the application being considered occupies a site area of 7.04 hectares and would yield 565,000 tonnes from a combination of dry and wet workings. Accordingly, the principle of sand extraction within the allocated area has been established which provides a degree of certainty to the industry and local communities about where future mineral extraction is likely to take place. This does not, however, mean that individual planning applications will necessarily be permitted as they have to be acceptable in all other respects.
- 6.8 Policies 47 to 49 and 51 to 64 seek to ensure that any applications for mineral workings will protect and safeguard the local environment and amenity through appropriate control of workings.

Chichester District Local Plan (adopted in April 1999 with saved policies from 28 September 2007)

- 6.9 The relevant saved policies consist of RE1 (Development in Rural Area), RE7 (Nature Conservation), TR6 (Highway Safety), and R4 (Public Rights of Way).

Planning Policy Statement 4 – Planning for Sustainable Economic Growth (December 2009)

- 6.10 This national policy document sets out the Government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas.

Planning Policy Statement 5 – Planning for the Historic Environment (March 2010)

- 6.11 This national policy document contains guidance to compliment other policy regarding conservation, enhancement and restoration of England's cultural heritage.

Planning Policy Statement 7 – Sustainable Development in Rural Areas (August 2004)

- 6.12 This national policy document contains guidance to compliment other policy regarding development in rural areas and the protection of the rural area from the impacts of development. Paragraph 21 deals with planning in nationally designated areas, such as the South Downs National Park. It states that:

"Nationally designated areas comprising National Parks ... have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in planning policies and development control decisions in these areas. The conservation of wildlife and the cultural heritage are important considerations in all these areas. They are a specific purpose for National Parks, where they should also be given great weight in planning policies and development control decisions"

Planning Policy Statement 9 – Biodiversity and Geological Conservation

- 6.13 This national policy document contains guidance to compliment other policy regarding conservation, enhancement and restoration of England's wildlife and geology.

Minerals Policy Statement 1 (MPS1) – Planning and Minerals (November 2006)

- 6.14 MPS1, which should be given significant weight, sets out planning considerations and objectives associated with minerals developments, including need, locational criteria, and environmental protection.
- 6.15 Paragraph 14 states that major mineral developments should not be permitted in National Parks except in exceptional circumstances and that it should be demonstrated that they are in the public interest before being allowed to proceed. Therefore, an assessment should be undertaken to examine the need for the development; the availability of alternative supply outside the park area or of meeting the need in some other way; and the impact on the environment, landscape, and recreation.
- 6.16 Paragraph 14 goes to state that planning authorities should ensure that for *"any permission granted for major mineral development [in a National Park], the development and all restoration should be carried out to high environmental standards, through the application of appropriate conditions, where necessary, and be in character with the local landscape and natural features."*
- 6.17 Although not specifically about development in National Parks, paragraph 14 also highlights the importance of taking account of *"the value of the wider countryside and landscape, including opportunities for recreation, including quiet recreation, and as far as practicable maintain access to land"* and the need to *"minimise the impact of minerals operations on its quality and character and consider the cumulative effects of local developments"*. It also requires regard to be had to

"the positive or negative effects that minerals operations may have on rural communities and the extent to which adverse impacts of such operations could be moderated, but recognise that such developments can often also offer opportunities for these communities especially at the restoration stage."

- 6.18 Paragraph 15 covers the supply of minerals. It states that consideration should be given to the benefits, in terms of environmental disturbance and efficient use of minerals, of extending existing sites compared to developing new sites.
- 6.19 Annex 1: Sets out national objectives for the provision of construction aggregates including land-won sand to meet the provision. Paragraph 4.1 states that *"Mineral planning authorities should use the length of the landbank in its area as an indicator of when new permissions for aggregates extraction are likely to be needed. The landbank indicators are at least 7 years for sand and gravel ... A longer period may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites. A landbank below these levels indicates that additional reserves will need to be permitted if acceptable planning applications are submitted"*.

Minerals Policy Statement 2 (MPS2) – Controlling and Mitigating the Environmental Effects of Minerals Extraction in England (March 2005)

- 6.20 MPS2 contains national policy with regard to controlling and mitigating the environmental effects of minerals extraction. It broadly sets out the need to assess and limit the potential impacts of minerals development i.e. social, community, economic and environmental impacts.

West Sussex Minerals and Waste Development Framework

- 6.21 New development plan documents (DPD) are being prepared as part of the Minerals and Waste Development Framework (MWDF). Work has been undertaken on the issues and options to meet the need for minerals in the period to 2026. The application site has been identified as a potential mineral site (M/CH/7A) subject to the need to carry out further assessments. However, as no decisions have been made by the County council at this stage about which sites should go forward as provisional allocations, the inclusion of the site on the 'long list' of potential sites cannot be afforded any weight in decision-making.

7. Consultations

- 7.1 **Chichester District Council (Planning):** No objection. The applicant should provide a method statement detailing control measures to be used to ensure no impacts to air quality arise from the development in accordance with MPS2. No waste materials should be deposited at the site. Any wastes generated by the proposal should be disposed of according to current Waste Licensing requirements.
- 7.2 **Chichester District Council (Environmental Health):** No objection on the grounds of air quality (including dust), noise (and vibration) and contaminated land issues subject to the imposition of conditions relating to (a) the submission and approval of a method statement which details all the control measures that will be used to ensure no adverse impacts on air quality throughout development, (b) appropriate noise conditions/operational standards and (c)

restrictions on the operation of plant, machinery or vehicles outside the hours of 07.30–18.00 Monday to Fridays and 07.30–13.00 on Saturdays.

- 7.3 **Harting Parish Council:** Commented that (a) the extension area would prolong quarrying for 10 to 15 years and that there would be effects on local infrastructure, particularly the local road network. Durford Mill Road, which links the site and the A272, is not fit for HGV use and these vehicles caused the recent collapse of the bridge between the site and A272, (b) an extension to quarrying has increased opposition on these grounds. The impacts from the extension would be highly visible and it is questioned whether this is acceptable in the South Downs National Park and (c) would the existing public access at this site including footpaths be reinstated and/or diverted following extraction.
- 7.4 The Council also stated that the costs of repairs to recent damage to Durford Bridge and local roads in West Harting caused by CEMEX lorries should have been met to some degree by CEMEX and not the taxpayer. Any planning permission granted should require a financial contribution to infrastructure repair costs from CEMEX.
- 7.5 **Rogate Parish Council:** No response received at the time this report was completed.
- 7.6 **Environment Agency:** No objection in principle subject to the imposition of conditions relating to (a) storage and refuelling of oils and fuels, (b) groundwater and surface water monitoring programme and (c) detailed restoration scheme that includes suitable consideration of flood risk.
- 7.7 **South Downs Joint Committee:** No objection to this application subject to conditions and/or a legal agreement concerning (a) a time limit on the permission requiring extraction to cease after four years (unless permission is given for an extension of time), (b) restoration of the site to be undertaken progressively during working and to be completed within one year of the cessation of extraction (unless permission is given for an extension of time) in accordance with the proposed scheme or other agreed scheme that takes account of local landscape character and provides both biodiversity benefits and recreational opportunities, (c) the restored site to have open access, (d) the reopened and realigned footpaths to have a surface suitable for walkers, including a boardwalk through the wet heath and mire areas, (e) a restriction on the hours of working, (f) working to be subject to the proposed noise and dust attenuation measures and ongoing monitoring of the hydro-geology and archaeological interest and (g) the stripping and placing of topsoil and overburden in bunds to provide visual containment of the site during working.
- 7.8 In addition, the Joint Committee would welcome the provision of funding for an officer to oversee the heathland restoration of the site, the eventual transfer of site and associated land to an appropriate conservation body, a contribution to the future maintenance and repair of the historic bridge over the River Rother to the north of the site, and the making available of the route of the former Petersfield to Midhurst railway line to the north of the site, believed to be within the ownership of the applicants, for leisure purposes.
- 7.9 **Natural England:** No comments to make. Advice given that the County Council should consider impacts on the South Downs National Park, local wildlife sites, protected species and biodiversity enhancements.

- 7.10 **Health and Safety Executive:** No response received at the time this report was completed.
- 7.11 **WSSC Highway Authority:** No alterations are proposed or would be required to the existing access or to the local highway network to accommodate this proposal, and no changes are proposed to the HGV routing to the site with HGVs continuing to approach the site from the A272 to the north and returning via the same route.
- 7.12 Given the existing site use, it is presumed that there is in operation equipment to ensure that debris is not carried onto the public highway from vehicles exiting the site. Any existing wheel cleaning regime should continue to be applied as part of this application. In conclusion, given that there is an existing use and that this proposal would not result in an intensification of use, and that there are no known issues with existing operation of the site, there would be no highway objection.
- 7.13 **WSSC Landscape Architect:** No landscape objections. The principle of the pit extension has been accepted for a while so previous concerns regarding the loss of a ridge feature in the landscape have not been considered to be an over-riding consideration. The proposed final restoration scheme will be satisfactory and habitat variety and increased public access will be of benefit although the landscape will change from the original undulating landform and will be replaced by a much flatter appearance.
- 7.14 **WSSC Ecology:** No strategic ecological objection subject to the imposition of a condition requiring the submission and implementation of an amended mitigation scheme to further enhance the existing works and immediate locality.
- 7.15 **WSSC Archaeology:** No objection subject to the imposition of planning conditions requiring that (a) no ground excavations are carried out on the site until the applicant have secured the implementation of the programme of archaeological work and (b) prior to commencement of mineral working on the site, the applicant shall submit in writing the scope and details of the Heritage Asset Management Strategy to ensure that the impact of mineral working upon archaeological remains and Heritage Assets and their settings will be appropriately recorded and mitigated.
- 7.16 **WSSC Public Rights of Way:** The applicant seeks through this application to stop-up/realign part of footpath 866, there is a separate procedure to that for planning consent and a separate application must be made. The applicant must be advised that planning consent does not automatically convey highway authority consent.
- 7.17 As a result of the development no lesser network of PROW would be expected, at the very least because being within the new South Downs National Park there is an expectation that within a National Park there are increased access opportunities to peaceful recreation. The application will, in the event of consent, restrict recreational aspect to some extent which lends to an argument that the applicant should offer wider opportunities for public recreation. Dedication of a new bridleway along the applicant's length of ownership of the former railway line together with a safe and convenient connection to Durford Lane would support the County Council's ambition to provide an off-road

bridleway connection between Durford Lane and Nyewood, and eventually to Elsted; this should be a condition of any planning consent.

Regulation 19 request for further information

- 7.18 A request for further information (covering archaeology, proposed extraction methodology, noise, ecology and biodiversity and restoration and aftercare) was made by the County Council in May 2010. This information, submitted by the applicant in late June 2010, was sent to the consultees for their comments.
- 7.19 At the time of writing, responses had been received from the Environment Agency, WSCC Archaeology, and WSCC Public Rights of Way, who all had no further comments to make. Any comments received from other consultees before the Committee meeting, will be reported orally.

8. Representations

- 8.1 The application was publicised in accordance with article (8) (5) (a) of The Town and Country Planning (General Development Procedure) Order 1995. In response to 31 neighbour notification letters, the erection of five site notices at the front of the site and throughout the local area, and adverts being placed in the local paper, eight representations have been received from local residents and businesses as well as organisations.
- 8.2 The organisations comprise the South Downs Society, Campaign for National Parks and Campaign to Protect Rural England.
- 8.3 The material representations are mainly related to the impact on local setting i.e. South Downs National Park, traffic problems and safety concerns, operational impacts to air quality, and the overall impact upon local (residential) amenity and access. The various matters raised are summarised below.
- The 'need' for the quarry extension does not meet central Government's strict requirements and objectives for mineral extraction in National Parks;
 - Inevitable loss of tranquillity and amenity within the South Downs National Park through extended quarrying operations;
 - The local public right of way has already been encroached upon by quarrying and thus reducing access for to the public;
 - Cumulative impact of extensions to existing minerals sites affecting the countryside setting;
 - Impact of existing noise at nearby residential properties will be exacerbated;
 - Damage to existing ecology and habitats;
 - The road network, Durford Mill Road and the verge in particular, is being increasingly damaged due to increasing volumes, sizes and weights of HGV traffic associated with the quarry as is water piping underneath the road;
 - Damage to Durford Bridge, a designated Scheduled Ancient Monument, caused by HGV traffic associated with the quarry;
 - Safety to pedestrians and horse-riders being compromised through increased volumes, sizes and weights of HGV traffic associated with the quarry;
 - Sand blown from the quarry affecting car sales garage to north of quarry; and

- Damage to a local residents listed building on Durford Mill Road caused by HGV traffic associated with the quarry.

8.4 As referred to in paragraph 7.18, additional information was provided by the applicant, which was advertised as in Paragraph 8.1. At the time of writing, no responses from third parties have been received and any comments received before the Committee meeting will be reported orally.

8.5 Copies of the representations are available for inspection in the Members' Room.

9. **Consideration of Key Issues**

9.1 The main material planning considerations are whether the proposal:

- is in accordance with national policy on development in a national park;
- meets an identified need;
- has an acceptable impact on the landscape;
- has an acceptable impact on ecology;
- has an acceptable impact on the water environment;
- has an acceptable impact on the historic environment;
- is acceptable with regard to highway capacity and road safety; and
- has an acceptable impact on recreational and local amenity.

Policy on National Parks

9.2 National policy on minerals in National Parks requires that proposals for major development are subject to the most rigorous examination because of the potential serious impact on natural beauty and recreational opportunities. Paragraph 14 of MPS1 states that consideration of such proposal should include an assessment of:

- "i. the need for the development, including in terms of national considerations of mineral supply and the impact of permitting it, or refusing it, upon the local economy;*
- ii. the cost of, and scope for making available an alternative supply from outside the designated area, or meeting the need for it in some other way;*
- iii. any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated."*

9.3 The need for the development (criterion i) is addressed in paragraphs 9.10-9.25. Similarly, the effects of the proposal on the environment, landscape and recreation (criterion iii) are addressed separately in the consideration of those key issues.

9.4 With regard to criterion ii, the soft sand resource comes from the Folkstone Formation which is recognised as being a regionally important source of high quality construction sand. There are no alternative economic supplies because marine-dredged material is generally too coarse to be suitable for mortars, etc. The varying colours of the sands are also particularly important in maintaining local distinctiveness e.g. bricks and tiles both for the restoration of historic buildings and the construction of new buildings.

- 9.5 Over 90% of the soft sand resource in West Sussex lies within the South Downs National Park (SDNP), and the majority of the remainder either adjoins or lies very close to the SDNP. Accordingly, the majority of the active sand pits (which account for approximately 80% of the combined sand and gravel produced in West Sussex) are either within or close to the SDNP.
- 9.6 As referred to in paragraph 6.7, the site is allocated (in part) in the adopted Minerals Local Plan. The only other allocated sand site is also within the SDNP. Therefore, any alternatives would be unallocated sites, which are themselves also likely to be within or close to the SDNP, given the geographical location of the Folkstone Formation.
- 9.7 With regard to future site allocation, the County Council is currently identifying potential sand and gravel sites as part of the preparation of the Minerals and Waste Development Framework. Although at an early stage, of the seven potential soft sand sites on the current 'long list', which has been the subject of initial discussions with the industry and other stakeholders, seven of them are within the SDNP area (six as extensions to existing pits, including the application site). Of the 14 potential soft sand sites rejected at this initial stage, 13 are within the SDNP.
- 9.8 Looking more widely, soft sand from the Folkstone Formation can be found in Hampshire and, to a very limited extent, in East Sussex although these reserves will also lie within the SDNP. The Folkstone Formation can also be found outside the SDNP within Surrey and Kent. Based on the latest Annual Monitoring Reports for those counties, there are good supplies of soft sand, although it is not clear whether the soft sand has the same properties (e.g. colour) as the sand found in West Sussex. In theory, therefore, it may be possible to meet some of the need for soft sand in West Sussex from outside the County. There would, however, be an economic cost to transporting the material across the region which may mean that this option would not be viable. In addition, there would be an environmental cost to the region and the County associated with the pollution from the HGVs.
- 9.9 *In conclusion, national policy requires an assessment of the availability of alternative supply outside the park area or of meeting the need in some other way (as well as an assessment of the need for the development; and the impact on the environment, landscape, and recreation). Within West Sussex, the future need for this important resource is likely to be met from within, or very close to, the SDNP area given the geographical location of the Folkstone Formation. There may be alternative supplies elsewhere in the region but the economic and environmental cost of meeting need in this way is very likely to be neither feasible nor acceptable.*

Need for the Development

- 9.10 As referred to in paragraph 9.2, national policy requires an assessment of the need for the development and the impact of permitting or refusing the development on the local economy.
- 9.11 The need for land-won sand and gravel within West Sussex is established through the regional and sub-regional apportionment. In short, the need within the region is established at a national level, taking account of the contribution

from marine-dredged and recycled aggregates. The latest apportionment to the South East Region is 12.18 million tonnes per annum (mtpa) between 2005 and 2010 as set out in "National and Regional Guidelines for Aggregates Provision in England 2005-2020" (June 2009).

- 9.12 As referred to in paragraph 6.3, the South East Plan (SEP – approved in March 2009) was revoked on 6 July 2010. Policy M3 of the SEP contained the sub-regional apportionment to each mineral planning authority (MPA); the figure for West Sussex was 0.91mtpa. At the time of revocation, Policy M3 was under review. Following a public examination and receipt of a report by an independent panel of inspectors, the Government published Proposed Changes to Policy M3 in March 2010 which suggested that the South East region should provide for 11.12mtpa. The changes also suggested that West Sussex should provide for 1.03mtpa of land-won sand and gravel.
- 9.13 At the time of revocation, the Government published guidance which suggested that the MPAs should work from the sub-regional apportionments in the Proposed Changes to Policy M3. However, the guidance also indicated that the MPA could choose to use "*alternative figures for their planning purposes if they have new or different information and a robust evidence base*".
- 9.14 The permitted reserve within West Sussex was estimated to be 6.12mt at December 2008. Since then, no new permissions for mineral extraction have been granted and so the current position is likely to be approximately 5.42mt, (that is 6.12 less approximately 0.7mt for production since December 2008).
- 9.15 As referred to in paragraph 6.2, the length of the 'landbank' (permitted reserves) is an indicator of when new permissions may be needed. MPS1 states that if the landbank falls below seven years supply (the sub-regional apportionment being taken as a proxy for annual need), then this indicates that an acceptable application should be permitted to ensure the continued supply of that mineral. It should be noted that MPS1 refers to a landbank of "at least 7 years" for sand and gravel which suggests that this is a minimum requirement.
- 9.16 Revocation of the South East Plan creates a great deal of uncertainty about how the County Council should assess the future need for the soft sand. With regard to assessing the landbank, there are, arguably, three options: (a) to use the apportionment of 0.91mtpa in Policy M3 of the recently revoked SEP; (b) to use the figure of 1.03mtpa in the Proposed Changes to Policy M3; and (c) to use an alternative figure based on robust, local information.
- 9.17 With regard to option (a), the current landbank is estimated to be 6 years (5.42mt divided by 0.91 mtpa). This would suggest that additional reserves are required and that, if acceptable in all other respects, the application should be permitted.
- 9.18 With regard to option (b), the County Council strongly objected to the proposed revised apportionment of 1.03mtpa for West Sussex in the Proposed Changes. There has been a steady decline in the annual production of sand and gravel in West Sussex, with production running at roughly 50/60% of the then required amount (i.e. 0.5-0.6mtpa compared to the apportionment of 0.91mtpa). There was, therefore, a complete disconnect between the proposed sub-regional apportionment of 1.03mtpa and the level of mining activity in West Sussex. The logic of planning for increased levels of production was questioned given the

current levels of production and the fact that current allocations for land-won aggregates were not coming forward.

- 9.19 Notwithstanding the above, the current landbank under this option is estimated to be 5.3 years (5.42mt divided by 1.03 mtpa). This would suggest that additional reserves are required and that, if acceptable in all other respects, the application should be permitted.
- 9.20 With regard to option (c), as referred to paragraph 9.18, production has been running at much lower levels than either of the apportionment figures covered by options (a) and (b). A more local option is to use the average of production rates over the past eight years (2001-2008) as a proxy for future need (information taken from Table 1 of the Annual Monitoring Report). Discounting the highest and the lowest figures over that period (1.03mt and 0.41mt respectively) to allow for any statistical anomalies (e.g. due to unusual peaks or troughs in activity), the average is 0.73mtpa.
- 9.21 Therefore, the current landbank under this option is estimated to be 7.4 years (5.42mt divided by 0.73mtpa). This would suggest that additional reserves are not required. It is important, however, to take account of the guidance in MPS1 (paragraph 4.1, Annex 1) which states that a period longer than seven years *"may be appropriate to take account of the need to supply a range of types of aggregates."* Given the economic importance of the soft sand resource, an estimated landbank of 7.4 years (using a local apportionment) is not considered to be excessive and sufficient reason in its own right, to refuse the application.
- 9.22 There is, therefore, a great deal of uncertainty about how the future need for minerals should be assessed following the loss of the sub-regional apportionment in the SEP. The 'need' for the development varies depending upon which proxy for 'need' is chosen. Although option (c) could be argued to most closely reflect current local demand for minerals, the implication of this approach, if it were followed by every MPA, is that it could potentially result in a shortage of minerals across the region, and more widely, if the Government projections for the region are an accurate assessment of what is required by the national and regional economies.
- 9.23 In addition to considering 'need', it is also important to consider the impact of permitting or refusing the development on the local economy. The proposal would contribute to the continued operation of an existing quarry whose permitted reserves are coming to an end. The principle of the development (albeit for a smaller area) has already been established by the allocation in the adopted Minerals Local Plan which provides a degree of certainty to the operator about future investment. Although only a small number of people are employed at the existing site, continued extraction is important to the local economy as it will maintain the supply of the soft sand which is an important resource for the construction industry (see paragraph 9.4).
- 9.24 Another issue to consider with regard to the need for minerals is the potential benefit of that need being met through extensions to existing workings, rather than creating additional pressure for the creation of new sandpits. Given that there is a long history of extraction in the area (with associated, but fairly low-level disturbance), it could be argued that the extension of the existing working, even though it is in the SDNP, is likely to have less of an impact on the environment than the introduction of a new working, which itself would be either

within or close to the SDNP. It will also allow the full recovery of the material in that area.

- 9.25 *In conclusion, assessing the need for the development is problematic due to the policy vacuum created by the revocation of the South East Plan and the loss of the approved sub-regional apportionment to West Sussex. There are a number of options for assessing whether the landbank of permitted reserves is sufficient to meet the economic need for land-won sand and gravel. Use of the most recently published draft apportionment (1.03mtpa) results in an estimated landbank of 5.3 years which suggests that additional reserves are required and that, if acceptable in all other respects, the application should be permitted. However, even if a locally-derived apportionment of 0.73mtpa is used (which is probably the most accurate figure of actual need), the estimated landbank is only 7.4 years which is not considered to be excessive and not sufficient reason, in its own right, to refuse the application. In addition, the principle of the development (albeit for a smaller area) has been established by the allocation in the adopted Minerals Local Plan and the proposal would enable the continued working of an established sandpit. It also potentially reduces the need for new workings to ensure the continued supply of the economically important soft sand resource.*

Impact upon the Landscape

- 9.26 The proposed development site is situated alongside the eastern boundary of the existing sand quarry much of which has been restored and continues to be restored by the applicant. The development site is dominated by bracken and patches of heather. Birch, oak, willow and hawthorn woodland are also present while in the north-eastern area is a low-lying wet area containing sedges and grasses. The main vegetation features in the vicinity are mainly medium to large scale deciduous and mixed plantation woodland interspersed with open agricultural grassland. The topography of the surrounding landscape rises gently from the level meadows of the nearby River Rother valley creating an undulating landform interspersed with low rounded hills.
- 9.27 The proposals would not involve the loss of any of the mature vegetation at the site's boundaries, which is outside the main operational area and would provide a useful visual screen for the site during mineral extraction. Accordingly, there are two main types of visual effect resulting from the proposal: views into the quarry extension and restoration area; and changes to the landscape character through quarrying and restoration.
- 9.28 Although relatively well-screened, there would inevitably be a temporary, negative impact upon the landscape of the area during the four phases of mineral extraction. In particular, this would impact on a small number of isolated residential properties in the immediate vicinity and on public rights of way (to the north-east/east and south/south-east) as the western boundary of the application site acts a barrier to screen the workings. The bulk of vehicle and plant operations would occur at a lower level and should be screened by the quarry itself as a result. Stripped soils would be placed along the eastern and northern boundaries of each phase and retained throughout development to act as a visual screen as well as providing a degree of noise attenuation.
- 9.29 As discussed within paragraph 9.32, a biodiversity management and monitoring plan is proposed. The progressive restoration scheme would ensure that

restoration works are carried out concurrent to phased mineral extraction. The restoration proposals introduce areas of open water although 80% will comprise heathland which has been declining at West Heath Common.

- 9.30 *In conclusion, the proposed development, when restored, would result in a landform broadly similar to that of the existing and ensure that the development can take place without causing permanent detriment to the visual appearance and quality of the surrounding landscape. Existing mature trees and hedges adjoining the area from which the sand would be quarried would be retained and protected. Proposed native planting and additional water features are considered to have the potential of enhancing the future landscape and ecological benefits of the site.*

Impact on Ecology

- 9.31 Although the site is not subject of any statutory ecological designation, it is situated within the non-statutory 30 hectare West Heath Common SNCI (Site of Nature Conservation Importance). Although much of the existing planting is species poor, the site is important as it contains a surviving fragment of Wealden Greensand heathland. Four reptile types were identified within the site (slow worm, common lizard, adder and grass snake) although no protected species or evidence of such protected or sensitive species or their habitats including Great Crested Newts (GCN), bats, dormice or badgers were found to be present.
- 9.32 Although the proposed development would result in the loss of approximately seven hectares of the SNCI, much of the existing planting and vegetation in is poor health, particularly the northern area, through a lack of long-term management. The application proposes a number of ecological mitigation and enhancement measures including: compliance with protected species legislation; monitoring of the existing heathland; protection and relocation of the four reptile types during mineral extraction; creation of new hibernacula (reptile habitats); a biodiversity management and monitoring plan; and most notably the provision of improved habitats through landscaping additions such as woodland blocks, marginal planting, meadow grassland, and new water features/ditches.
- 9.33 *In conclusion, the majority of potential impacts upon ecology would be limited to the preparatory groundworks and tree clearance, and then the subsequent phased extraction of minerals. Implementation of the proposals may require a licence from Natural England in order to ensure reptiles are protected during these phases. Upon completion, the proposed development, once restored, would result in a moderate positive gain to the local environment through creation of a site of improved habitat (and landscape) value and improved future ecological management.*

Impact upon the Water Environment

- 9.34 Groundwater monitoring (quality and quantity) has been carried out on the site since 1997 to both aid quarrying operations and check for any adverse effects on the water environment. A number of surface water features to the east and south-east of the site are groundwater derived and results show the water quality to be generally poor, although no direct evidence of the impacts of quarrying have been reported or identified as being directly attributable to the existing quarry since 1997.

- 9.35 An assessment of the impacts on the local hydrogeology, hydrology and flood risk has been carried out and included within the Environmental Statement accompanying the application. Potential impacts to groundwater quality and surface water quality and quantity from the proposed development have been considered with respect to working practices and the restored landform and any changes to existing water regimes.
- 9.36 With regard to potential pollution to water resources resulting from fuels and chemicals being stored on site, the Environment Agency (EA) require a scheme for safe storage of these materials to be submitted via condition. The EA also require the continuing assessment by condition of the long-term impacts to groundwater levels and groundwater quality from the effects of quarrying should planning permission be granted.
- 9.37 *In conclusion, although the proposals do have the potential for pollution, the Environment Agency raise no objection subject to a condition being imposed for the safe storage of potentially polluting materials. In addition, the applicant proposes measures for continuing groundwater level and quality monitoring to secure a continuing knowledge of the local hydrogeological and hydrological regime and the identification at an early stage of impacts through quarrying.*

Impact upon the Historic Environment

- 9.38 The existing sand quarry at West Heath has been extensively surveyed and investigated by both WSCC's Archaeologist and that of the operator over the last 20 years. A number of Bronze Age tumuli and barrows (burial mounds), Mesolithic pits and post medieval 'banks' have been identified, investigated and recorded since 1980.
- 9.39 Archaeological remains similar in type and age have been recorded from the application site and which would be removed by mineral workings should planning permission be granted. Additionally, there is likely to be some permanent adverse impact from the proposed development upon the setting of the Scheduled Ancient Monument (two prehistoric ceremonial mounds (barrows or "tumuli")) to the east of the application site.
- 9.40 Following comments from the WSCC Archaeologist, in accordance with the requirements of PPS5, the applicant has provided further information as part of the Regulation 19 request (see paragraph 7.18). Subject to conditions, the WSCC archaeologist raises no objection to the proposals.
- 9.41 *In conclusion, provided that measures are taken to ensure ground excavations are carried out in compliance with an agreed scheme and that they are monitored with archaeological evidence recorded, there would not be any unacceptable impacts upon the historic environment.*

Highway Capacity and Road Safety

- 9.42 The main access for traffic is northward from the site access to the A272 (Midhurst to Petersfield Road) via Durford Mill Road and would continue to be the preferred lorry route within this proposal. The proposed quarry extension is, therefore, well-located to be served by the local lorry route network in accordance with policy guidance.

- 9.43 Durford Mill Road is a typical rural lane and is narrow and winding in parts. It is transected in places by public footpaths between the site access and the A272 junction. A limited number of properties adjoin Durford Mill Road with the majority of residences being set back from the road linked by long private driveways/accesses. There are no footpaths alongside the road nor are there any public transport links.
- 9.44 The Transport Assessment (TA), submitted by the applicant, has been assessed and accepted by the Highways Authority. The number of HGVs generated currently by the existing sand quarry is 186 movements per week (Monday to Saturday). The TA considers the impact that this level of development traffic, which is the same as existing, would have on the local road network in terms of highway capacity and road safety.
- 9.45 Durford Mill Bridge and the road itself are, in places, in a state of disrepair. However, no direct evidence exists proving that traffic related to quarrying operations is the sole cause. The damage and subsequent repair works to Durford Mill Bridge during 2009 were not the result of quarry-related traffic, but a combination of heavier traffic using Durford Mill Road, weather conditions, and its age.
- 9.46 *In conclusion, there is an existing quarrying use and this proposal would not result in an intensification of that use. In addition, there are no known issues with the existing operation of the site. Accordingly, there would be no highway objection in terms of highway capacity and road safety.*

Impact on Recreational and Local Amenity

- 9.47 **Recreational:** Footpath 866 transects the proposed area of mineral extraction and would have to be closed for health and safety reasons to prevent walkers accessing a working quarry should planning permission be granted. This footpath links footpaths 865 (situated to the north of the site) and 867 (situated to the south of the site) together, although they can still be accessed from Durford Mill Road and other unaffected public rights of way within the locality.
- 9.48 On completion of restoration works, the new landform would incorporate the footpath links that currently exist through areas of woodland, wetland and heathland.
- 9.49 *In conclusion, the proposed development would not have any significant, long-term adverse effect on the recreational amenity of local residents or visitors to the locality. Users of the adjacent public footpaths that encircle the current sand quarry would experience some temporary, transitory disruption due to the route of public footpath 866 transecting all four phases of the development site. This footpath would have to be closed for safety reasons but would be reinstated as part of any approved restoration scheme.*
- 9.50 **Noise:** Noise-producing activities would predominantly relate to ground clearance and preparation, land-shaping, mineral extraction, and movement of soils around the site, and vehicles travelling to/from the site. The application includes a noise assessment which has predicted likely noise levels during construction at sensitive receptors and potential noise impacts arising from vehicular movements. Nearest residential properties lie to the north-east

(approximately 70m distance) and southeast of the site (between 120m and 380m to the south-east, south-west and west of the site respectively).

- 9.51 The proposed development would result in the continuation of approximately 30 HGV movements per day from the site (i.e. 2.5 HGVs or 5 movements per hour through Monday-Friday). Additional noise directly resulting from the continuation of the same mix of goods vehicles travelling to/from the site is not considered likely to give rise to an unacceptable impact, when considered in the context of established vehicular traffic noise associated already generated within the locality.
- 9.52 British Standard BS5228:2009 is the most recent code of practice issued in respect of Noise and Vibration control on construction and open sites. It states: *"Where construction activities involve large scale and long-term earth moving activities, then this is more akin to surface mineral extraction than to conventional construction activity. In this situation, the guidance contained within MPS2 [16] needs to be taken into account when setting criteria for acceptability.... it is suggested that the a limit of 55 dB LAeq, 1h is adopted for daytime construction noise for these types of activities, but only where the works are likely to occur for a period in excess of six months."*
- 9.53 Minerals Policy Statement 2 (MPS2), Annex 2 (Noise) states *"Subject to a maximum of 55dB(A)LAeq,1h (free field), MPAs should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10 dB(A). It is recognised, however, that this will in many circumstances, be difficult to achieve without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (0700–1900) and should not exceed 55dB(A) LAeq,1h (free field). Evening (1900–2200) limits should not exceed background level by more than 10dB(A) and night-time limits should not exceed 42dB(A) LAeq,1h at noise-sensitive dwellings."*
- 9.54 The applicant proposes hours of work of 07.00–19.00 Monday to Friday and half day Saturdays (as per the existing sand quarry and within normal working hours set out within MPS2). In addition, the scheme would be phased such that topsoil would be stored at the periphery of the site in order to serve the additional purpose of a noise attenuation bund (3.5m in height throughout all four phases). The applicant's noise survey and addendum to the noise survey (as requested under Regulation 19) concludes that as a worst case scenario (all plant operating simultaneously at the nearest point to receptors), noise experienced at residential receptors would be below 55dB. As referred to in paragraph 4.6, the most disruptive activities are likely to be limited to a period of 8-12 weeks per annum.
- 9.55 *In conclusion, no unacceptable impacts upon amenity will arise, subject to imposition of a 55dB limit (70Db limit for a period not exceeding 8 weeks during the construction of the screen bund), controlled hours of operation, noise conditions (to ensure best practice measures), and a survey to demonstrate compliance with prescribed limits should any complaints be received.*
- 9.56 **Air Quality:** Proposed activities could have the potential to create dust from topsoil stripping, storage, mineral extraction and material transport/deposit both on site and off-site. An outline dust management plan to be adopted by site operatives has been suggested within the submitted application. The

Environmental Health Officer (EHO) raises no objection to this proposal subject to the submission and approval of a method statement which details all the control measures that will be used to ensure no adverse impacts on air quality throughout development

9.57 *In conclusion, due to the nature of preparatory works and mineral extractions, proposed conditions to ensure detailed mitigation measures, and shelter afforded by surrounding trees, it is considered that there would not be any unacceptable impact upon residential amenity resulting from dust.*

10.0 Overall Conclusion and Recommendation

10.1 The proposal involves the extension of an established sandpit in the South Downs National Park. The principle of sand extraction for the majority of the application site has been established by an allocation in the adopted West Sussex Minerals Local Plan. Given that the proposal involves the extraction of over 0.5mt of soft sand, it is considered to be a major mineral development and, therefore, it has been assessed in accordance with national policy to determine whether there are exceptional circumstances that justify permission being granted.

10.2 First, it is considered that there is a need for the development as it would contribute to ensuring the continued supply of the economically important soft sand resource and the extension potentially reduces the need, for potentially more harmful, new workings elsewhere within or very close to the National Park. Second, it is considered that although there may be alternative supplies elsewhere in the region, the economic and environmental cost of meeting need in this way is very likely to be neither feasible nor acceptable. Third, it is considered that the impacts of extraction on the environment, the landscape, and recreational opportunities can be moderated and controlled by the application of appropriate conditions. In addition, it is considered that other impacts, e.g. on highway capacity and road safety and on local amenity, can also be controlled.

10.3 Although extraction would have an adverse impact on the area, it would take place for a relatively short period (four to five years). Furthermore, phased restoration would provide the opportunity to enhance both the landscape and ecological benefits of the site e.g. through the creation of mixed heath and grassland, the planting of native species, the creation of additional water features, and improved future ecological management. It would also provide the opportunity to enhance informal public access to the area.

10.4 Overall, it is considered that the proposal accords with national policy on development, in general, in National Parks and the national policy specifically on minerals development in those areas. It is also considered that the proposal complies with the relevant development plan policies that cover the extraction of land-won minerals.

10.5 It is **recommended**, therefore, that planning permission be granted subject to the conditions and informatives set out in **Appendix 1** of this report.

11. Crime and Disorder Act Implications

11.1 There are no implications with relation to this planning application.

12. **Human Rights Act Implications**

- 12.1 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic well being of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 12.2 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 12.3 The Committee should also be aware of Article 6, the focus of which (for the purpose of this committee) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

Michael Elkington
Divisional Manager (County Development)

Background Papers

See documents referred to in Section 6.

List of Appendices

Appendix 1 – Conditions and Informatives

[Appendix 2](#) – Location Plan

[Appendix 3](#) – Site Plan

[Appendix 4](#) - Phasing Plan

[Appendix 5](#) - Restoration Masterplan.

[Appendix 6](#) - Inset Map H West Heath (Site No 26), Minerals Local Plan

Contact: Sam Dumbrell x56867.

Appendix 1 - Conditions and Informatives

Commencement

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

Cessation

2. The development hereby permitted shall cease and the land be restored in full (in accordance with Conditions 11 and 12 of this permission) not later than 5 years from the commencement of operations. Written notification of the date of commencement shall be sent to the County Planning Authority not less than 7 days before the commencement of development.

Reason: To comply with Schedule 5 of the Town and Country Planning Act 1990.

Approved Plans

3. The proposed development shall not take place other than in accordance with the approved information and plans; P1/1656/2 'Site Plan' (dated October 2009), P1/1656/3 'Survey Plan' (dated April 2009), P1/1656/4 'Phasing Plan' (dated April 2009), P1/1656/5, 5a - 5d (Method of Working (dated July 2009), P1/1656/6b 'Restoration Masterplan' REV B (dated April 2009), P1/1656/7 'Restoration Sections (dated May 2009), P1/1656/8 'Existing and Proposed Footpath Plan REV B (dated October 2009) and supporting information, save as varied by the conditions hereafter or any variation thereto that may be agreed in writing by the County Planning Authority.

Reason: To secure a satisfactory development.

Availability of Approved Documents

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

Reason: To ensure that the site operatives are conversant with the terms of the planning permission.

5. **Hours of Mineral Extraction and Processing and Deliveries/Exports to and from the quarry**

All quarrying activities including the deliveries of materials, plant or machinery and the export of sand associated with the development hereby permitted shall take place only between the hours of:

07.00 and 19.00 on Mondays to Fridays inclusive;

07.00 and 13.00 on Saturdays; and

not at any time on Sundays, Bank or Public Holidays, unless otherwise agreed in advance and in writing by the County Planning Authority.

Essential maintenance of plant or machinery shall not take place at the site except between the hours of 07.00 and 19.00 Mondays to Fridays only.

Reason: In the interests of residential amenity.

6. **Site Access**

The means of all vehicular access to and from the site shall be from Durford Mill Road only as indicated on approved plan P1/1656/2 'Site Plan' (dated October 2009).

Reason: In the interests of road safety.

Archaeology

6. No ground excavations shall be carried out on the site until the programme of archaeological work in accordance with the Enhanced Written Scheme of Investigation for a Programme of Archaeological Work at West Heath Quarry (dated June 2010) as approved by this consent is implemented in full.

Reason: To ensure that archaeological remains on the site shall be adequately investigated and recorded.

7. Prior to the commencement of the development hereby permitted the applicant shall submit to the County Planning Authority the scope and details of the Heritage Asset Management Strategy referred to in outline in Paragraphs 4.2.1 - 4.2.4 of the Enhanced Written Scheme of Investigation for a Programme of Archaeological Work at West Heath Quarry (dated June 2010) for written approval. Thereafter, the approved strategy shall be implemented in full throughout development.

Reason: To ensure that the impact of mineral working upon Heritage Assets and their settings will be appropriately mitigated.

Scheme for the Safe Storage of Oils and Fuels

8. Prior to the commencement of the development hereby permitted a scheme for:

- (i) the storage of oil and fuels; and
- (ii) the method of refuelling and pollution prevention

shall be submitted to, and approved in writing by, the County Planning Authority.

Thereafter, the approved scheme shall be implemented in full throughout development.

Reason: To protect the quality of Controlled Waters.

Controlled Water Monitoring Programme

9. Prior to the commencement of the development hereby permitted a scheme to assess the long term impacts on Controlled Waters (groundwater & surface water) from the effects of quarrying shall be submitted to the County Planning Authority for written approval. Thereafter, the approved scheme shall be implemented in full throughout development.

Reason: To assess the long term impacts on Controlled Waters from the effects of quarrying.

Tree Protection

10. Prior to the commencement of development hereby permitted a scheme detailing the measures to protect all retained trees during construction in accordance BS5837:2005 'Trees in relation to construction', shall be submitted to the County Planning Authority for written approval. Thereafter, the approved scheme shall be implemented and retained in full throughout the construction of the approved development.

Reason: To maintain the long term health of retained vegetation in the interests of the amenity and environment of the development and to safeguard the visual amenity of the wider area.

Restoration and Aftercare

11. The development hereby permitted shall be progressively worked in a phased manner, as detailed on the approved plans P1/1656/5, 5a to d 'Method of Working' (dated July 2009) and P1/1656/6b 'Restoration Masterplan' REV B (dated April 2009). Unless otherwise agreed in advance and in writing by the County Planning Authority no subsequent phase shall commence until the previous has been completed in full with the exception of final restoration, that may be carried out within a timescale to be agreed by schemes required by Condition 12 below.

Reason: To ensure that the quarry is landscaped in appropriate timescales in the interests of the general amenities of the locality.

12. Notwithstanding the proposed Restoration Masterplan (P1/1656/6b 'Restoration Masterplan' REV B (dated April 2009)) and restoration proposals as detailed in the submitted Environmental Statement, the site shall be restored in a progressive sequence following each annual period of extraction. Within 6 months of the commencement of the development hereby approved the applicant shall submit to the County Planning Authority for approval in writing, a detailed scheme of restoration for the first phase of extraction, and thereafter, within 6 months of commencement of each following phase of extraction. Detailed restoration schemes shall include details of the:

- (i) location within the site and extent of proposed restoration;
- (ii) a timetable for implementation/completion of phased restoration;
- (iii) the levels of the site on completion of the excavation works, grading and soil re-spreading shown on a plan of a scale not less than 1: 1000;
- (iv) the details of seeding, planting and subsequent aftercare of the restored land including the species and spacing of any plants;
- (v) the measures to be taken to integrate the works with those undertaken previously or to modify or improve the restoration works;
- (vi) the measures to be taken to incorporate features of ecological interest (SNCI) into the restoration and how such features would be managed in the long term after completion of restoration; and
- (vii) The details of any closure or diversion of public pathways.

Thereafter, the approved detailed restoration/aftercare schemes shall be implemented in full within the agreed timetable.

Reason: To ensure that the quarry is landscaped in appropriate timescales in the interests of the general amenities of the locality.

Ecological/Landscape Mitigation

13. Within 6 months of the commencement of the development hereby approved an Ecological Management and Enhancement Scheme (taking into account Paragraphs 1 - 4 of the submitted Ecological Assessment (dated June 2010) and including measures to sustain, improve and enhance West Heath Common) including details of; long term objectives, management responsibilities, and maintenance schedules for all landscaped/restored areas, shall be submitted to the County Planning Authority for written approval. Thereafter, the approved scheme shall be implemented in full throughout development.

Reason: In the interests of the ecology and biodiversity of the locality.

14. Large woody plants programmed for removal are only to be cleared outside the bird breeding season (March to August inclusive). The plants can be removed at any time if a qualified ecologist confirms that there are no breeding birds using them (Ref: Breeding birds - Wildlife and Countryside Act 1981).

Reason: In the interests of ecology.

Public Rights of Way

15. Prior to the commencement of the development hereby permitted a scheme which details all mitigation measures that will be used to reduce impacts on public right of way 866 throughout development shall be submitted to the County Planning Authority for written approval. Thereafter, the approved scheme shall be implemented in full throughout development save for any written variation approved in advance by the County Planning Authority.

Reason: To protect established public rights of way.

Dust Suppression Scheme

16. Prior to the commencement of the development hereby permitted a method statement which details all the control measures that will be used to ensure no adverse impacts on air quality throughout development shall be submitted to the County Planning Authority for written approval. Thereafter, the approved method statement shall be implemented in full throughout development save for any written variation approved in advance by the County Planning Authority.

Reason: To protect the amenities of locality.

Vehicle Cleaning

17. Prior to the commencement of the development hereby permitted a scheme shall be submitted to the County Planning Authority for written approval detailing the measures to ensure that no vehicle shall leave the site in such a condition that earth, mud and debris adhere to the wheels in a quantity which may introduce hazard or nuisance on the highway and actions to be taken in the event of earth, mud or debris arising from the development being present on the highway. Thereafter, the approved scheme shall be implemented in full throughout development.

Reason: In the interests of highway safety.

Noise

18. No plant, equipment or vehicle shall be used on the site unless fitted and operated at all times with silencing measures to a standard not less than the manufacturer's UK standard specification.

Reason: In the interests of the amenities of the locality.

19. Unless otherwise agreed in advance in writing by the County Planning Authority, vehicles as well as all plant and machinery that are used on site and those under the applicant's control moving to and from the development hereby permitted that are required to emit reversing warning noise, shall use white noise alarms as apposed to single tone 'bleeping' alarms.

Reason: To protect the amenities of local residents.

20. The corrected noise level* for operational noise from the site shall not exceed:

(i) 55dB(A) (free field as a L(A) eq over a time period of 60 minutes) during normal operations; and
(ii) 70dB(A) (free field as a L(A) eq over a time period of 60 minutes) during temporary operations (soil stripping/bund creation/replacement of soils during restoration). Such temporary operations shall be limited to a period not exceeding 8 weeks in any one year.

Noise levels shall be determined at the facades of the nearest residential premises.

*A 5 dB correction shall be added if one or more of the following features occur:

- the noise contains a distinguishable, discrete, continuous note (whine, hiss, screech, hum, etc.);
- the noise contains distinct impulses (bangs, clicks, clatters, or thumps);
- the noise is irregular enough to attract attention.

Reason: In the interests of residential amenity.

21. In the event noise complaints arise, at the discretion of the County Planning Authority, upon the first appropriate surveying conditions following the complaint, a suitable noise survey (the methodology for which shall be submitted to and approved in advance in writing by the County Planning Authority) shall be carried out to ensure compliance with Condition 20 above. Should the site fail to comply with set noise limits, all use of noisy plant/machinery shall cease until a scheme to attenuate noise to acceptable limits has been submitted and approved in writing by the County Planning Authority. Thereafter, any additional attenuation shall be implemented in full.

Reason: In the interests of the amenities of the locality.

Fencing

22. No fencing shall be installed at the development hereby permitted, whether temporary or permanent, without the prior written approval of the County Planning Authority.

Reason: In the interests of the visual amenities of the area.

Lighting

23. At no time shall the site be artificially illuminated with the exception of vehicle lighting during the permitted hours of working.

Reason: In the interests of the amenities of the locality.

Storage of Topsoil

24. Unless otherwise agreed in advance in writing by the County Planning Authority all topsoil shall only be stripped when, as far as practicable, in a dry and friable condition. In addition all topsoil shall remain on site for use in restoration/topsoiling and be stored at a height of no more than 2m in location/s to be approved in writing by the County Planning Authority prior to being stripped.

Reason: To prevent damage to, and ensure the reuse of, existing soils on site.

Vehicular Operations and Controls

25. All vehicles removing sand and other excavated materials from the site shall have their loads enclosed within the vehicle or container or covered/sheeted so as to prevent spillage or loss of materials on the public highway.

Reason: In the interests of highway safety and of the amenities of the locality.

26. The site shall not be used as an operating base for any lorries or Heavy Goods Vehicles, or the repair and/or maintenance of any lorries or Heavy Goods Vehicles and equipment which are not under the direct control of the operator and not normally used for the delivery, handling or sorting of minerals to or within the site.

Reason: In the interests of amenity and highway safety.

Removal of PD Rights

27. Notwithstanding the provisions of Parts 19 and 21 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any Order amending, replacing or re-enacting that Order, no fixed plant or machinery, buildings, structures and erections or private ways, including hard standings, shall be erected, extended, installed or replaced at the site without the prior agreement in writing by the County Planning Authority. Portable or mobile processing plant shall be sited and operated only on locations approved in advance in writing by the County Planning Authority.

Reason: To enable the County Planning Authority to adequately control development at the site within the Area of Outstanding Natural Beauty

INFORMATIVES

- A. This attention of the applicant is drawn to the comments of the attached letter from the Environment Agency (dated 31 March 2010).
- B. The applicant is advised that should protected species be present work must stop and Natural England be informed. A licence may be required from Natural England before works can re-commence, Natural England will advise.
- C. The attention of the applicant is drawn to the fact that Public Footpath 866 which runs through the application site in a north-south orientation. No development

work hereby permitted shall inhibit or degrade its legal and/or physical status. Any damage or alteration made to this footpath required by virtue of the development hereby approved shall be corrected by the applicant at his expense. In order to 'enable the development' to be carried out the applicant is advised to contact WSCC's Public Rights of Way team immediately.

D. The reasons for granting planning permission are that the proposal accords with National Policy Guidance and complies with Development Plan Policies requiring that the proposed development:

- is in accordance with national policy on development in a national park;
- meets an identified need;
- has an acceptable impact on the landscape;
- has an acceptable impact on ecology;
- has an acceptable impact on the water environment;
- has an acceptable impact on the historic environment;
- is acceptable with regard to highway capacity and road safety; and
- has an acceptable impact on recreational and local amenity.

E. In determining the application the following planning policies were considered:

West Sussex Minerals Local Plan (2003)

Policy 1 - Sustainable Development.

Policies 10 to 22 - Permitting Mineral Workings where the Environment is afforded Adequate Protection.

Policy 29 - Provision of Sand and Gravel between 2006-2013.

Policy 32 - Allocation of Extension to West Heath Quarry; and

Policies 47 to 64 - Ensure that Mineral Workings Safeguard the Local Environment and Amenity.

Chichester District Local Plan (1999)

Policy RE1 - Development in Rural Area.

Policy RE7 - Nature Conservation; and

Policy R4 - Public Rights of Way.