WEST SUSSEX JOINT MINERALS LOCAL PLAN

Regulation 19 Consultation January-March 2017

Response by The Wiggonholt Association

4 March 2017

Safeguarding minerals wharves (Policy M10)

1.1 The Wiggonholt Association considers that Policy M10 Safeguarding Minerals Infrastructure is unsound because:

(a) it is not consistent with national policy;
(b) it will not be effective;
(c) it is not justified.

Not consistent with national policy

1.2 The NPPF paragraph 143 states that:

> "In preparing Local Plans, local planning authorities should:… safeguard: – existing, planned and potential rail heads, rail links to quarries, wharfage and associated storage, handling and processing facilities for the bulk transport by rail, sea or inland waterways of minerals, including recycled, secondary and marine-dredged materials…".

1.3 Policy M10 of the Submitted WSJMLP will not achieve safeguarding in the manner intended by NPPF paragraph 143 because it includes in paragraph (a)(ii) (in respect of sites hosting permanent minerals infrastructure) the allowance that development preventing or prejudicing minerals use can be permitted in certain instances. In particular this can be allowed where:

> "redevelopment of the site or loss of the infrastructure would form part of a strategy or scheme that has wider social and/or economic benefits that clearly outweigh the retention of the site or the infrastructure for minerals use."

That provision in the West Sussex context means that 'safeguarding' of sites which are supposed to be 'permanent' is not safeguarding at all, but little more than a statement of the current use of the site. We note that the WSJMLP specifically acknowledges in its paragraph 1.2.1 (headed *The 'Challenge'*) that a key conflict of interest is "Some minerals can be won from the marine environment and easily imported but the coastal locations of the wharves are also potentially attractive places to live."

1.4 The proviso for release of wharves in paragraph (a)(ii) applies also in paragraph (d)(ii) in respect of temporary minerals infrastructure. The two temporary wharfs covered by this part of Policy M10, Kingston Wharf and Free Wharf at Shoreham Harbour, both have such short foreseeable lifespans as wharves, due to the exercising of this proviso, that their 'safeguarding' is nominal and illusory. Both may be out of mineral wharf use by the time the WSJMLP is adopted. This is inconsistent with NPPF paragraph 143.

1.5 We note that the proposed policy will replace Policy 40 in the adopted West Sussex Minerals Local Plan 2003. That policy had no such proviso allowing wharfs to be lost to other beneficial use, and no such proviso should be introduced now. Policy 40 stated:

> "Wharves with current or potential mineral use will be safeguarded from inappropriate development. The improvement, modernisation and increase in capacity of aggregate wharves will be encouraged provided that such operations would not have unacceptable impact on the environment and would not cause a significant increase in disturbance due to factors including increases in noise, dust and traffic."

Not effective

1.6 Policy 40 of the West Sussex MLP 2003 failed, and Policy M10 of the Submitted WSJMLP is still more likely to fail yet more, not least due to the misconceived provisos which would allow mineral wharves to be lost to other uses. The local planning authorities with responsibility for wharves in West Sussex have failed to apply Policy 40 and have recently been acting as if the emerging weaker Policy M10 was in place.

1.7 The West Sussex Minerals Local Plan July 2003 safeguards five specific wharf sites at Shoreham Harbour and one wharf at Littlehampton Harbour, and allocated an additional site at Littlehampton for use as a wharf. It is instructive to see what has happened to these.

(a) Brighton Power Station 'A' Wharf, Shoreham (now ARC Wharf) and the adjacent RMC Roadstone Wharf (now Rombus Wharf). ARC Wharf is in use, but Rombus Wharf has been lost to another storage use instead of being properly safeguarded. Policy M10 has downgraded the safeguarding of Rombus Wharf (showing dotted not firm lines in the Inset 3 map). When or if Rombus Wharf might once again be available for aggregates landings is wholly unclear.

(b) Halls Wharf, Shoreham is safeguarded and the western part of it is in use for aggregates landing.

(c) Turberville (and Penney's) Wharf, Shoreham is safeguarded and in use for aggregates landing.

(d) Kingston Wharf, Shoreham. At the time of the 2003 Plan this was owned by the Shoreham Port Authority. However, this site is being sold by the Authority to a housing developer, contrary to safeguarding policy, and the temporary planning permission for Day Aggregates expires in March 2018. Day Aggregates has no current interest in any other land in Shoreham Harbour so far as we are aware. The loss of Kingston Wharf will be significant:

- Kingston Wharf has direct access to the A259 and the major road network;
- it is located close to the harbour entrance, well away from the principal area of residential development further west down the Western Arm, and did not need to be released to a non-industrial use;
- the contribution of Day Aggregates to supply may be lost, mitigated only by the site currently having a very low throughput of aggregates;

– the land use planning guardians of the site (Adur DC and West Sussex CC) have not upheld the development plan policy applying to the site and allowed other uses to supplant the mineral wharf.

Kingston Wharf has been downgraded from its apparently permanent mineral wharf status in the 2003 MLP to 'temporary' status in Policy M10 of the WSJMLP.

(e) Free Wharf (including New Wharf), Shoreham. The position here is even worse than Kingston Wharf, also adjacent to the A259. The *West Sussex Wharves and Railheads Study*, February 2014 (for WSCC) shows that two separate marine aggregates businesses had operated from this extended wharf, Minelco Specialities Ltd from Free Wharf (west side) and Kendall Bros from New Wharf (east side). The main area of the site is at Free Wharf but this had been lost to aggregates (safeguarding had failed) by 2014. The site is now expected to be developed for housing by Southern Housing Group and has already been cleared.

Kendalls run an aggregates operation on the New Wharf part of the safeguarded site to the east, for which their temporary planning permission expires in March 2018. Given the site's proximity to a new housing development, continuation of this site will be challenging even if an extension to the lease (which is only to 2019) is forthcoming[1]. Kendalls too have no current interest in any other land in Shoreham Harbour so far as we are aware, and the loss of effective capacity again looms unless the Harbour Board negotiates an alternative site, perhaps Britannia Wharf in Brighton & Hove. None of the safeguarding measures in place to address the pressures of alternative lucrative development seem to have worked so far. New Wharf too has been downgraded from its apparently permanent status in the 2003 MLP to 'temporary' status in Policy M10 of the WSJMLP. The *West Sussex Wharves and Railheads Study* 2014 reports that, compared with Kingston Wharf, "*New Wharf is a more viable site and is classed as a Class 2 (i.e. medium capacity) site in Table 3.3 and therefore contributes a fairly substantial annual tonnage to Shoreham Harbour's overall throughput and capacity. Furthermore, New Wharf could potentially more than double its current average throughput, if demand required.*" We conclude that its impending loss demonstrates a significant failure of safeguarding.

(f) Railway Wharf, Littlehampton. This site is used for the landing of imported crushed rock. The safeguarding of this wharf for aggregates landings has failed in three separate ways.

(1) The area of land proposed to be safeguarded in the WSJMLP Submitted Policy M10 has been reduced from the area safeguarded in the WSMLP 2003. The western third of the site is no longer proposed to be safeguarded, and the Plan gives no explanation for this.

(2) West Sussex County Council's Draft Interim Policy Statement for Railway Wharf Littlehampton in 2011 states quite clearly, as a concluding draft interim policy positon that "*notwithstanding the formal safeguarding of Railway Wharf in the West Sussex Minerals*

[1] Paragraph 6.10.17 states that "Buffers may be included such that sensitive uses are not located adjacent to or within, for example, 150 metres of a minerals handling site", but this seems unlikely at Free and New Wharves.

Local Plan, no objection would be raised by West Sussex County Council, as the Mineral Planning Authority, to proposals for the redevelopment of Railway Wharf that resulted in the loss of the wharf for the importation of minerals". The County Council apparently no longer treats this as an emerging policy document (rightly we feel as it is supported by wholly out of date evidence), but nonetheless it is proposed to be incorporated by reference into the emerging Arun Local Plan in paragraph 8.8.2. The relevant supporting text states:

> "8.8.1 Littlehampton Harbour is a valuable asset for Littlehampton and the surrounding area. The Harbour area includes both the East and West Banks. Railway Wharf on the East Bank is safeguarded for the importation of minerals in the adopted West Sussex Minerals Local Plan. However, in partnership with West Sussex County Council and the Harbour Board, Arun District Council has identified Railway Wharf as a key opportunity for regeneration within the Littlehampton Economic Growth Area.
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> 8.8.2 The emerging West Sussex Minerals Plan will review the safeguarding policy for Railway Wharf and its protected status. In the meantime, a draft interim policy has been prepared by the County Council which takes into consideration the national, regional and local planning policy context and considers the importance of Railway Wharf for its commercial use and as an opportunity area for leisure use and regeneration. Until the Minerals Local Plan is prepared, the location of all currently safeguarded minerals sites, including Railway Wharf, Littlehampton will be safeguarded."

(3) Arun District Council itself is failing to safeguard Railway Wharf, Littlehampton, neglecting both the NPPF and West Sussex MLP 2003. The adopted Arun Local Plan 2003 in its Land Allocations Policy Site 8 states "*Within the area shown on the Proposals Map, planning permission will be granted for development which consolidates, improves or extends the commercial port or related activities of the harbour*". The reason given for this is that "*Railway Wharf is considered the most appropriate wharf to accommodate new and existing port related commercial activities*". By way of explanation, the Plan states at paragraph 4.21 "*The Railway Wharf is the only wharf in the harbour which is currently in use. It is of strategic importance to the region for minerals/aggregate handling. Encouragement will be given to improvements or expansion*".

The policy and the explanation for it could hardly be clearer, but in less than a decade Arun DC was attempting to evade the safeguarding in the Draft IPS (see (ii) above). Furthermore, it is now currently attempting to enshrine the loss of safeguarding into its emerging policy. The Publication version of the Plan, October 2014 includes Policy EMP DM3 which envisages 'regeneration' of Littlehampton Harbour where landing minerals is not envisaged specifically as a use (though many other new uses are mentioned). Instead there is a clear intention in Policy EMP DM3 to abandon mineral safeguarding if this can be achieved:

> "Operations on the East Bank at Railway Wharf that are protected by the National Planning Policy Framework <u>will need to be satisfactorily resolved</u> with operators and land owners and through the emerging Minerals Local Plan in order to secure any transition of uses at Railway Wharf" (our emphasis).

Our conclusion, therefore, is that Railway Wharf is still proposed to be safeguarded in the WSJMLP Submitted Policy M10, but this is clearly misleading as the County Council is

apparently amenable to having the site allocated by Arun DC for other uses. Fortunately, Lafarge Tarmac have a lease on the wharf to 2026, but its future beyond that is unclear.

Finally on safeguarding at Railway Wharf, the area safeguarded excludes the asphalt plant operated by Tarmac as part-and-parcel of the operation to land imported aggregates. In our view, the safeguarded area should be extended to include the parcel of land on which the asphalt plant sits.

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(g) The Wharf, Littlehampton. Policy 41 of the West Sussex MLP 2003 allocated this land (Site 11, Inset Map L and accompanying explanation) for "*The construction of a wharf to accommodate dredgers and imports*". At just 0.5ha it would have a capacity of 100,000tpa. This Policy has failed as the site is not currently used for landing aggregates and has not been mentioned at all in the WSJMLP Submitted Policy M10.

(We also note that the small LDF Wharf, Shoreham (immediately east of Rombus Wharf on South Quay), although not a safeguarded aggregates wharf, was until recently operated by Tarmac. It is now lost to aggregates use (currently being used for storing wood chippings). This is another site controlled by Shoreham Harbour Port Authority where other uses have been found more attractive than aggregates.)

1.8 The evidence demonstrates clearly that an apparently simple safeguarding policy in the West Sussex MLP 2003 has failed and that claimed safeguarding in Policy M10 of the Submitted WSJMLP is not intended to be effective. This is already transparent at Kingston Wharf Shoreham, Free and New Wharves Shoreham, Rombus Wharf Shoreham and Railway Wharf Littlehampton, all identified in Submitted Policy M10. The provisos in Submitted Policy M10 which would allow wharfs to be lost from mineral use, not present in the 2003 WSMLP, give further cause for concern that the Submitted Policy will be even less effective than its predecessor.

1.9 The mineral planning authorities try to justify the actual and proposed losses of wharfage accessible for aggregates landings by arguing that there is ample capacity at other available wharves (at least in Shoreham Harbour, though not at Littlehampton Harbour). The *West Sussex Wharves and Railheads Study* 2014 shows that the highest annual rate of landings of aggregates in Shoreham Harbour was just over 1.32mt in 2011 (Tables 3.4 and 3.5) and that the capacity for accommodating these minerals in Shoreham harbour was around 1.79mt (Table 4.1) (assuming that Rombus Wharf will not be available). The study views this as showing that the wharves "*have significant additional capacity to increase throughput of marine-dredged aggregates….*" (paragraph 4.3), but that "*it should be noted that the last 10 years have included a period of prolonged economic recession and that the 'spare' capacity available in these operational wharves might well be needed in future years as the economy returns to growth*" (paragraph 4.4). (The study elevates the surplus capacity at Shoreham by taking the average landings over the previous 10 years as its starting point for need, not typical post-2011 figures or maximum recent usage.)

1.10 Demand forecasting for aggregates is hazardous. One measure is to project forward landings of marine-dredged aggregates at Shoreham Harbour at the rate they have increased recently. This is by an average of over 40,000 tonnes annually over the 10 years

to 2012 (Table 3.4)[2], whereas landings of imported aggregates have been roughly constant. Were recent trends to continue, the spare capacity would be taken up in 13 years' time, even without any relocation of lost capacity in the Western Harbour to the Eastern Harbour. The *West Sussex Wharves and Railheads Study* 2014 takes a wider view across West Sussex. It notes that "*There is evidence that overall sales of primary aggregate within West Sussex are growing at a faster rate than in other parts of the South East, and appear to have bucked the national trend, having barely been affected by the recent economic recession*" (paragraph 5.32) and that "*Based on a simple extrapolation of the net changes experienced over the baseline period, it is suggested that annual sales of primary aggregate within West Sussex are likely to increase at an average rate of 5.2% per annum in future years*" (paragraph 5.33). It suggests that this rate is assumed for the next 10 years. If applied to imports into Shoreham Harbour, this would use up the spare capacity in Shoreham Harbour:

2012 landings of marine-dredge aggregates at Shoreham = 1.053mt
plus 2012 landings of imported aggregates at Shoreham = 0.123mt
Total landings = 1.176mt (excl. imports by sea of c. 0.12mtpa)
Forecast growth at an average of 5.2% over 10 years: 1.176 x 0.52 = 0.611mt
Forecast landing requirement in 2022 = 1.176 + 0.611 = 1.787mt (excl. imports by sea)
Shoreham Harbour capacity (noted above) = 1.79mtpa

1.11 The striking point in these figures is that reasonably forecast growth in demand for aggregates could by itself result in the capacity of Shoreham Harbour being fully taken up within ten years. That is without any relocation of existing landings in an effort to free up aggregates wharves for redevelopment. The forecasts suggest there is no spare capacity for this and therefore that existing wharves should not be lost. The *West Sussex Wharves and Railheads Study* 2014 notes another relevant trend:

> "there could be pressure for domestic land-based production to reduce further than it already has, in recognition of the environmental constraints associated with the South Downs National Park, and that would put further upward pressure on the need for imports via the wharves and railheads" (paragraph 5.34).

Conversely it also cautions against failure to maintain wharf capacity:

> "it must be recognised that any future restrictions on the capacity of wharves and railheads for aggregates (e.g. due to change of use at the wharves or railhead sites) could give rise to direct conflicts with any plans to reduce future land-based extraction within the National Park" (paragraph 5.35).

This is one of the Wiggonholt Association's major concerns.

1.12 The *Study* goes on to assess capacity at individual wharfs. This notes that New Wharf, Shoreham – a medium capacity site at present – could double its current average throughput if required. Losing this wharf to redevelopment, as now seems quite likely, would mean the loss of a capacity of about 140,000tpa, which would be a significant blow to the aggregates industry.

[2] Marine aggregates landings rose from 646,000t in 2003 to 1,053,000t in 2012, an increase of 407,000t.

1.13 In practice, the theoretical available capacity in Shoreham Harbour is of no use to Day Aggregates or Kendall Bros at Shoreham, who do not currently have access to it. There can be no certainty that other marine-dredging companies operating out of Shoreham will have the ability or inclination to invest in increasing their throughputs, least of all if this would involve commissioning expensive new dredgers. Capacity is often a function of dredger capacity, the length and draught of the wharves available, and the time taken to enter the harbour, unload and return to sea on a high tide. Capacity also depends on control of wharfs by aggregates businesses: without long term guarantees, there is little incentive to invest heavily in new dredgers and other equipment to sustain the marine landings into the longer term. The assumption should not necessarily be made that landings will be maintained or continue to increase if Kendalls in particular cease operations. On the Eastern Arm of Shoreham Harbour there is also the time taken (and possibly competition) to pass through the locks at specific times of the tide. Furthermore, it is into the Eastern Arm of the harbour, notably South Quay, that Shoreham Harbour Port Authority is endeavouring to locate non-aggregate port businesses displaced from the Western Arm by its 'regeneration' activities, creating avoidable competition for wharves with firms landing aggregates[3]. We have seen no evidence from the Mineral Planning Authorities that the truly effective capacity of Shoreham and Littlehampton Harbours is sufficient to satisfy a rising market in practice.

1.14 A final confusion is that the West Sussex Joint Local Aggregate Assessment of January 2017 argues (page 30) that there is wharf capacity of 2.274mtpa across the whole county "*Following discussions with operators and the Shoreham Port Authority*". This is a significant uprating of the estimate in the *West Sussex Wharves and Railheads Study* as recently as 2014, which produced the equivalent figure of 1.885mtpa (Table 4.1). Where the additional capacity of 0.4mtpa came from is unclear and needs explanation. We are pleased to see that the Submitted Plan does not rely on this figure. The information requirement is for landing capacity, not sales capacity.

Not justified

1.15 We share the view of the WSJMLP that the aggregate minerals landed at Shoreham and Littlehampton are of very considerable importance to the economy of the subregion. Paragraph 6.10.14 of the Submitted Plan calls them 'essential'. All but about 10,000 of approaching 1.2 million tonnes of the sharp sand and gravel originating in West Sussex is marine-dredged aggregate landed at Shoreham Harbour (paragraphs 6.2.7 and 6.10.2). Shoreham Harbour is currently the only point of entry on the entire Sussex coast for marine-dredged aggregates. Marine wharves land about an additional 120,000 tonnes annually of crushed rock delivered by sea (paragraph 6.10.3). Sand and gravel exports from West Sussex are well over 0.6mtpa, mainly to Brighton & Hove and to East Sussex (paragraph

[3] The Shoreham Harbour Joint Area Action Plan Consultation Draft (December 2016) states at paragraph 4.1.5: "The regeneration strategy for the harbour is dependent on consolidating port-related activities within the Eastern Arm and Canal. South Quayside will be safeguarded for port operational uses. As well as improving operating efficiencies for the port, it will enable waterfront land to be redeveloped for alternative uses along the Western Harbour Arm."

3.4.2). The West Sussex Joint Local Aggregate Assessment (January 2017) additionally notes that:

(i) "The East Sussex Brighton and Hove LAA (2014) states that 70% of the total sand and gravel consumed in East Sussex and Brighton & Hove was supplied from wharves at Shoreham Harbour in West Sussex which means development in these areas is heavily dependent on landings of marine-won sand and gravel at these wharves" (paragraph 2.2.17); and

(ii) "East Sussex and Brighton & Hove rely on crushed rock landed at wharves at Shoreham to meet demands for aggregates in highways works" (paragraph B11).

1.16 Given the importance of marine wharves in West Sussex, their safeguarding is essential. However, the safeguarding strategy in Submitted Policy M10 is not the most appropriate one to achieve this. Instead of setting out criteria which, if met, would allow wharves to be lost to other uses, a strategy is needed which provides certainty about the future use of aggregates wharves for the whole plan period and ideally beyond. This certainty would:

– provide long term continuity and reassurance to marine-dredging and aggregates-importing businesses, encouraging investment in dredgers, wharf facilities and adjacent infrastructure;
– provide existing aggregates wharves with a firm bulwark against the loss of their businesses to more financially attractive uses by wharf owners (notably Shoreham Harbour Port Authority);
– ensure the supply of aggregates anticipated in the Plan, noting that notional landing capacity within Shoreham Harbour may not be genuinely available to aggregates businesses which might be displaced by wharf redevelopment;
– eliminate speculation and uncertainty amongst redevelopment interests about the longer term future of Shoreham and Littlehampton Harbours;
– provide the local planning authorities with the means to stiffen their resolve against planning proposals which would supplant aggregates landings.

1.17 The means of providing this certainty is to identify the wharves which will be protected for aggregates landings for the whole period of the Plan, providing no exception to their use for that purpose. Demand is more likely to increase than decrease, so the risk of unnecessarily safeguarding a wharf that will not be needed in the medium to long term is very small. In our view the steps required are:

– fully safeguard sites (i) to (v) in paragraph (c) of Policy M10*;
– add to that list 'Site 11' allocated in the West Sussex MLP 2003 at Littlehampton Harbour;
– add also New Wharf from the proposed list of temporary wharves**; and
– delete criteria (i) to (iii) in paragraph (a) of Policy M10, together with the introductory word "unless".

* The full extent of Railway Wharf, Littlehampton should be safeguarded, including the western area proposed in the Submitted Plan to be lost; the proper safeguarding of Rombus Wharf should be clarified by changing the dotted line on the Inset Map to solid.

** Safeguarding New Wharf would eliminate the possibility of redevelopment of this site, increasing the chance of an extension to the lease for marine landings. In addition, development at the adjacent Free Wharf must be sensitively handled to keep the

impacts of aggregates landings on the new development to an acceptable level. On this basis, paragraph (e) of Policy M10 could be deleted.

1.18 The Submitted MLP is also unsound because it does not consider the alternative of providing soft sand in future from marine-dredged sources. At present almost all the aggregates landed are sharp sand & gravel, though there may be a small fraction of soft sand separated from it if appropriate. There are, however, deposits of soft sand available for dredging off the West Sussex coast. The *South Downs National Park - Soft Sand Study* 2012 (by Capita Symonds for four MPAs) reports:

> "9.12 Marine sands are often formed by the same processes that have created terrestrial sand deposits and therefore, comparable sands could be anticipated in an offshore situation. Marine sands are used in the production of mortar[4] and the Crown Estate indicate that there are areas of the sea bed in the south east that could provide suitable raw materials.
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> 9.13 Although they identify some issues that would need to be resolved, the Crown Estate "*believe there is potential for marine sources to provide a viable "soft" sand as an alternative to land based quarrying*". They have identified the following issues as relevant: being able to meet colour and grading expectations; the logistics of onshore handling and/or processing; retention of the bottom end of the sand grading as material is dredged (particularly to meet building sand grading specification) and customer product acceptance. Options put forward for providing the desired products are: targeting particular sandbanks for the appropriate grades; screening for the appropriate grade at sea; or, screening on land.
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> 9.14 Brief research indicates that, in order for marine sands to offer a suitable alternative to the current land-won pattern of soft sand supply, wharf and fleet capacity could be key. Phased long-term investment to enable permanent working above the current capacity might be required, or the marine materials that might otherwise be exported could be sold into the south east. Either way, a reliable UK market could be needed as justification."

1.19 We also note that the *Minerals Sites Selection Report* for the West Sussex Joint MLP (January 2017) reviews the alternative options for meeting soft sand requirements, and states in Appendix 8 paragraph 2.45, under the heading of 'Marine-won supplies': "*There are deposits of sand potentially suitable for mortar manufacture off the coast of Sussex which are not within licensed dredging areas but which could possibly be licensed in the plan period*".[5] The Submitted Plan is therefore in contradiction with its own evidence base.

1.20 Marine-dredged soft sand would fall within the ambit of the Plan's Strategic Objective 3: "*To make provision for soft sand to meet the needs of West Sussex from outside*

[4] Source: British Marine Aggregate Producers Association – contrary to the claim in the Submitted MLP paragraph 3.2.2.

[5] Appendix 8 refers to other alternative sources of soft sand, noting the import into the UK of soft sand dredged in continental waters (paragraphs 2.17 and 2.47).

the South Downs National Park, where possible; and only make provision for a declining amount of extraction within the SDNP over the Plan period", but this has not been considered in the 'strategy' in paragraph 6.2.16 and is not mentioned in Policy M2 Soft Sand. Not only is Policy M2 not justified because it has not considered this alternative, but so also Policy M10 is not justified because it has failed to consider the option of landings of marine-dredged soft sand adding to the demand for wharf capacity at Shoreham and Littlehampton in the years ahead. As the Soft Sand Study notes at paragraph 9.14 (above): wharf and fleet capacity could be key to this source offering an alternative to land-won supply. We should plan for it now.

Policy M3: silica sand

2.1 The Wiggonholt Association considers that Policy M3 Silica Sand is unsound because it is not consistent with national policy (or will not be effective in applying it).

(i) We consider that Government policy will not be implemented because the Plan will fail to prevent the squandering of high grade mineral on low grade end uses. Silica sand deposits gain policy benefits under Policy M3 compared with other soft sand deposits which make planning permission somewhat more likely to be forthcoming, yet the policy fails to ensure that any silica sand extracted will not be squandered for non-industrial purposes – thereby potentially misusing the benefit conferred by the policy.

(ii) We consider that Policy M3 is contrary to Government policy in the way in which its approach to new permitted reserves is proposed to be interpreted. Policy M3 correctly avoids the word 'landbank', which is appreciated in a particular way in mineral planning, but the term is used four times in the supporting text: this suggests that the MPAs have misunderstood the intention of NPPF paragraph 146, which is to tie the supply of permissions and permitted reserves at the site level to investment requirements.

End use control

2.2 The Wiggonholt Association supports Policy M3 paragraph (a) so far as it goes, that one criterion should be "*There is a demonstrable need for silica sand of a specific quality and quantity that will be met by the proposal*". This can properly be a contributory reason why a planning permission could be granted for silica sand working. If, however, permission is granted, there is then nothing to stop the mineral company from using the silica sand for a low-grade purpose such as soft sand aggregate. There would then be two consequences if this happened:

– a high grade mineral resource would be squandered on a low grade use, contrary to paragraph 142 of the NPPF that "*since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation*"; and
– the planning process would have been abused by obtaining a planning permission for one purpose based on a preferential regime, but using it for another.

2.3 The risk of inadequate control over mineral end uses applies to a number of minerals but is a particular problem with silica sand. There is evidence that squandering is already

happening with silica sand in West Sussex, albeit at a site granted permission primarily for construction sand rather than for silica sand (so only the issue of squandering scarce resources applies, not misuse of the planning process). In June 2016 GWP consultants issued a report "*Review of evidence for a nationally important silica sand resource at Horncroft, West Sussex*", for Lady Susan Anstruther and Henry Bourne. This recorded an experience at Sandgate Quarry in West Sussex. Paragraph 5.1.3 reports that:

> "Three samples were analysed from Sandgate Quarry, one of which (SASS3) was from a blended and washed stockpile, the others being unwashed face samples. The analyses showed Fe_2O_3 in unwashed samples of 0.22% and 0.15%, and of 0.09% in the washed sample. Al_2O_3 in the unwashed samples were 0.43% to 0.47% compared to 0.1% in the washed sample. The washed sample has a chemistry similar to glass feedstock at North Park Quarry [in Surrey] and would be suitable for further processing. The alumina content is low and would be suitable for sodium silicate manufacture."

Paragraph 5.1.4 then concluded:

> "Some of the highest grade analyses are from Sandgate Quarry which lies outside the National Park and is operated by Cemex for construction materials. The single washed sample is comparable to washed and graded feedstock further processed for Na silicate and float glass at North Park Quarry."

In short, very high grade silica sand at Sandgate Quarry is being used as a construction sand. As GWP reported (paragraph 8.1):

> "Amongst the highest grade (lowest iron) samples were three from Sandgate Quarry, which lies outside the National Park and is operated by Cemex for construction sand. The reason it is not classified as 'silica sand' is because it is not marketed as such by CEMEX whose commercial interests and customers are in the construction materials sector."

2.4 The solution to the risk of silica sand sites being misused for construction purposes is end use control. This is entirely feasible but depends on an appropriate policy basis for applying it through development management. This is well illustrated by Policy CSM2 adopted in the Kent Minerals and Waste Local Plan in July 2016. Paragraph 3 on Silica Sand states:

> "In response to planning applications, the Mineral Planning Authority will seek to permit sites for silica sand production sufficient to provide a stock of permitted reserves of at least 10 years for individual sites and 15 years for sites where significant new capital is required, to support the level of actual and proposed investment required for new or existing plant and the maintenance and improvement of existing plant and equipment.[6] Proposals will be considered on their own merits, having regard to the policies of the Development Plan as a whole subject to them demonstrating:
> a. how the mineral resources meet technical specifications required for silica sand (industrial sand) end uses

[6] "'Plant and equipment' is taken to mean that used in the processing of minerals and its use in industrial and manufacturing processes."

b. how the mineral resources will be used efficiently so that high-grade sand deposits are reserved for industrial end uses."

2.5 The West Sussex Joint MLP Policy M3 paragraph (a) is comparable to the Kent M&WLP Policy CSM2 paragraph 3(a). What West Sussex needs is the equivalent of Kent's paragraph 3(b). We suggest inserting a new paragraph after M3(a) as follows:

"There is a demonstrable mechanism to ensure that silica sand suitable for those specific needs will be reserved for them;".

Stocks of permitted reserves

2.6 A 'landbank' is a stock of permitted reserves expressed as a period over which those reserves are expected to last before they are used up through excavation and sales. A landbank usually applies across a number of quarries in a defined area. It is therefore a measure of the generality of supply capability in an area, accepting that different quarries will be at different stages in their lives (in planning terms). National planning policy expects that sand and gravel landbanks at any time (usually across an MPA) will be expected to last for at least seven years. If landbanks are below that, then the case is enhanced for a planning permission for additional reserves to be granted at that time. A landbank is therefore understood as an ongoing generalised commitment to supply mineral across an area.

2.7 A landbank is therefore very different from a commitment (in the words of the NPPF) to "*providing a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant….*" at an individual quarry (paragraph 146), and (in the words of the PPG) "*The overall amount required [of reserves permitted] should be directly linked to the scale of capital investment to construct and operate the required facility*" (Reference ID: 27-088-20140306). That is why neither the NPPF nor the Minerals PPG uses the term 'landbank' in relation to industrial minerals. For convenience we restate the relevant paragraphs from the PPG:

"Paragraph: 087 Reference ID: 27-087-20140306
What are stocks of permitted reserves for industrial minerals?
Stocks of permitted reserves are a monitoring tool to aid decision-making on planning applications at existing industrial minerals sites. They should be used as an indicator to assess when further permitted reserves are required at an industrial minerals site.
Revision date: 06 03 2014

Paragraph: 088 Reference ID: 27-088-20140306
How and when should the required stock of permitted reserves for industrial minerals be calculated?
Stocks of permitted reserves should be calculated when a planning application is submitted to extract the mineral (through either a site extension or a new site) or when new capital investment is proposed.
The overall amount required should be directly linked to the scale of capital investment to construct and operate the required facility (such as a cement plant or brick factory).
Revision date: 06 03 2014

Paragraph: 089 Reference ID: 27-089-20140306
Would existing stocks of permitted reserves provide justification to refuse planning permission?
Each application for minerals extraction must be considered on its own merits, regardless of the current stock of permitted reserves. However, low stocks of permitted reserves to justify capital investment may be seen as a strong indicator of urgent need.
Revision date: 06 03 2014

Paragraph: 090 Reference ID: 27-090-20140306
How do you calculate the required stock of permitted reserves for silica sand sites?
The required stock of permitted reserves for each silica sand site should be based on the average of the previous 10 years sales. The calculations should have regard to the quality of sand and the use to which the material is put.
Revision date: 06 03 2014"

2.8 Even though the term 'landbank' carries with it a very different understanding from the national approach to silica sand, it is used repeatedly and incorrectly in just a few paragraphs in pages 49-51 of the Submitted WSJMLP supporting Policy M3. It is not clear that the MPAs recognise the difference, and the Plan as drafted is certainly confusing to readers. Whereas the term 'landbank' implies an ongoing commitment, the NPPF is clear that the intention is to provide a one-off supply of permitted reserves at silica sand sites proportionate to such investment as is being made in plant and equipment. The way the term is used in paragraphs 6.3.4 and 6.3.5 is therefore misleading.

2.9 Likewise, under 'Implementation and Monitoring', the 'Measure/Indicator' and 'Trend/Target' entries are misleading in their construction of the objective and how it should be achieved. The NPPF does not say anything like "Target = maintain landbanks of at least 10 years at individual silica sand sites unless environmental and amenity impacts are unacceptable….". Given that silica sand can be found in highly variable deposits which can run out quickly, the NPPF is clearly correct to take the approach it does. The alternative, as implied in the 'Target' for West Sussex, is that permissions should be continually forthcoming to extend an existing silica sand site indefinitely, almost irrespective of other constraints – such as when the deposit runs only into extremely sensitive areas where quarrying was never intended to be granted. The West Sussex 'Target' as drafted would offer silica sand firms a remarkable licence to operate, giving them every expectation of an unending supply of extensions once they had obtained an initial planning permission. This 'foot in the door' approach could readily lead to applications for extensions into wholly inappropriate sites once permission had been granted originally in an acceptable location. We doubt that this was what the MPAs had in mind.

2.10 The supporting text needs extensive redrafting to remedy this.

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