

The Planning Support Team
SDNPA (Minerals and Waste)
South Downs Centre
Midhurst GU29 9DH

10 December 2024

Dear Sir,

Planning Application by Dudman Aggregates (Properties) Ltd – SDNP/24/04961/CND
OBJECTION to change of conditions of ROMP in relation to MINSTED SANDPIT

1. We write as individuals and on behalf of the residents of Minsted and Quags Corner to object to the planning application submitted by Dudman Aggregates on 30 November 2024. The objection is in two parts:

First: **General observations** relating to the Minsted Sandpit, including SDNPA's own policies and Dudman's management of the site; and

Second: **Specific challenges** to the contents of the application.

Each objection is preceded by the rationale, and the objection is in bold print.

General Observations

Background and Policy considerations

2. The SDNPA Planning Committee considered a report by their Director of Planning on 14 November 2019 relating to the Sandpit at their Periodic Review of Minerals Planning Permission (ROMP). It concluded that there are remaining sand reserves within the site and that the works to extract these reserves had not permanently ceased. They approved 27 recommended conditions (the ROMP conditions) based on an assumption that sand extraction would be permitted up to 30 November 2024 at the latest after which sand extraction should cease and the site should be restored.
3. A Soft Sand Review (SSR) was undertaken by an inspector appointed by the Secretary of State. The report was submitted to the West Sussex County Council and SDNPA on 4 February 2020. After due consideration of the recommendations, three sites (Ham Farm, Chantry Lane and East of West Heath Common) were allocated for sand extraction. There was a further assessment of the SSR allocations in 2023 where it was concluded that it "remained relevant". Paragraph 3.14 of that 2023 assessment states:

"Policy M2 of the JMLP adopted in July 2018, required the Authorities to undertake a review to address the shortfall in soft sand to the end of the JMLP plan period (2033). The Soft Sand Review considered the strategy for how the shortfall will be met and resulted in the allocation of three sites for soft sand extraction (Policy M11), two of which are in the national park. The changes to the JMLP were adopted in March 2021".
4. The West Sussex Joint Minerals Plan (JMLP) contains policies relating to Soft Sand. Policy M2 states that:

- (a) *Proposals for land won soft sand extraction, including extensions of time and physical extensions to existing sites, will be permitted provided that:*
1. *The proposal is needed to ensure a steady and adequate supply of soft sand and to maintain at least a seven year land bank, as set out in the most recent Local Aggregates Assessment; and*
 2. *The site is allocated within Policy M11 of this Plan, or if the proposal is on an unallocated site, it can be demonstrated that the need cannot be met through the site's allocated for that purpose; and*
 3. *....., (relate to transport)*
- (b)..... *(proposals outside the SDNP.*
- (c) *Proposals located within the SDNP that accord with part (a) and constitute major development will be refused other than in exceptional circumstances and where it can be demonstrated to be in the public interest.*

5. DAP cites as exceptional circumstances that the access track running along the southern shore of the water body has been submerged. We deal with this at paragraph 11 et seq below, but we submit that this circumstance fails to reach anywhere near "exceptional". Nor does DAP demonstrate how an extension of time on this major development is in the public interest.
6. The SSR decisions and subsequent assessment were both made after the ROMP and on the understanding that there would be no further extraction from the Minsted Sandpit after November 2024. DAP does not refer to the SSR in their application, but infers that the three sites allocation will not be able to meet the need for aggregates, thereby justifying further extraction from Minsted. That is not consistent with para 3.14 of the further assessment cited above.

OBJECTION 1 – approval of this application would be contrary to the SDNPA's own policy on sand extraction. It would undermine the SSR decisions and contravene Policy M2 in that further extraction from the Minsted Sandpit is not required "to ensure a steady and adequate supply of soft sand". Further it has not been demonstrated that there are "exceptional circumstances" to permit further sand extraction nor is it in the "public interest". JMLP Policy M2 demands that the application be refused.

Dudman Aggregates (Properties) Ltd (DAP)

7. Before the 2019 ROMP there were conditions attached to permission to extract sand. DAP were in breach of eleven of those conditions (SDNPA letter to DAP dated 28 September 2018 – reference SV/06/08/2018/SR). Against that background the ROMP imposed 27 conditions on DAP in 2019, and it has been further alleged that DAP has breached a number of these conditions (particularly in relation to the submission of geotechnical, topographical and bathymetrical survey plans and progressive restoration). DAP's application does not include any details as to how the various breaches identified by the SDNPA will be addressed so as to allow sand to be extracted.
8. In 2021 DAP commissioned the Ecology Co-Op to prepare a restoration plan for Minsted Sandpit. That plan was dated 17 January 2022 and stated that restoration of the site will be carried out by no later than twelve months after the permanent

cessation of the working of sand from the site or by 30 November 2025 whichever is the earliest (Condition 17). In addition the site will be progressively restored in accordance with the phasing as detailed on the approved working plan. It further detailed the restoration plan in relation to removal of plant and provision of biodiversity enhancement.

9. DAP has not extracted any sand from the site since 2011. The arguments deployed in the current application are similar to those deployed to the ROMP in 2019 when seeking an extension of time to extract sand. Companies House shows that the last time DAP submitted full accounts was 5 November 2009. On 24 August 2010 DAP submitted an annual return but since 26 October 2010 it has submitted annual accounts as a dormant company and no new directors have been appointed following terminations.

OBJECTION 2 – DAP have regularly breached the planning conditions in relation to the Minsted Sandpit. They have had 14 years since they ceased to operate to extract sand. However, they have shown no interest in further extraction and in 2022 they provided a restoration plan which signalled no further extraction after November 2024. The objective conclusion is that DAP seeks a five-year extension to the current permission to avoid the costs associated with restoration. DAP’s company background, its breaches of conditions and its eleventh-hour application suggests that they simply want to avoid their contractual liabilities.

State of the Site

10. The Minsted Sandpit is dangerous. There is a cliff edge at one end – Condition 3 of the ROMP stated that not more than 25,000 tonnes of sand shall be exported from the site until the specified pit side slope gradient is established. DAP have not addressed this issue. The boundary fence around the site is incomplete and in some parts non-existent. It is easy to walk into the site, and in some parts that can be done without realising one has crossed the boundary. It is not inconceivable that someone (perhaps a child) will be seriously hurt on the site. Neighbours report that youths often go into the site. DAP have, therefore, breached the JMLP Policy M24 which requires them to (inter alia); (a) ensure that land is restored at the earliest opportunity including where appropriate by phased or progressive restoration and (d) re-instate and/or re-route, and where possible, improve public rights of way and maximise public amenity benefits.

OBJECTION 3 – DAP have not managed properly or cared for the site which remains a danger to the public (and an eyesore). Delaying restoration further is not conducive to the SDNPA’s own policies.

Specific Challenges to Dudman’s application

Claim of exceptional circumstances

11. Item 6.12 of the planning application describes the access track running along the southern shore of the water body as being submerged and claims that this is “exceptional circumstances”. However, the Additional Information (3) provided in 2019 by DAP as part of the SDNP/13/06169/ROMP submission states on page 4:

"In practical terms it is evident that the level of the lake can fluctuate by a significant amount as was evidenced some years ago when the track/access which runs along the southern bank of the lake was entirely submerged (2013/2014 when the lake level was recorded as being 34 metres AOD). This perimeter track is currently clear of water, and has been for a couple of years."

12. This is evidence that the DAP is, and has been, fully aware of the fluctuating water levels and the impact on the access track. Given the submerging of the track was actually predicted by the Operator, it is not credible for him to then claim these as "exceptional circumstances" as a justification in line with section 15 of the National Planning Policy Framework.

OBJECTION 4 – The exceptional circumstances claimed in para 6.12 as justification for the extension are not exceptional.

Linkage to restoration

13. Item 6.12 also states that *"recommencement of mineral working would facilitate the restoration and aftercare obligations"*. There is no explanation or expert assessment to support this assertion. It may well be the case that there are some items such as access roads that are common for both mineral working and restoration and aftercare, but that is not justification for mineral working. This statement is thus irrelevant and misleading. The statement in para 6.12 that the proposal is also in the public interest is simply an assertion with no explanation. It is not demonstrated that this extension will be in the public interest.

OBJECTION 5 – The linking of recommencement of mineral working to restoration is neither logical nor reasonable, and nor has it been demonstrated that it would be in the public interest.

Impact on the environment

14. Paragraph 7.2 of DAP's application states that: *"Minsted Sand Quarry operated successfully for many years without giving rise to any unacceptable impacts on the environment"*. This statement does not stand up to scrutiny. The SDNPA agreed in 2019 that there was a total of 11 breaches prior to the suspension of operation in 2014. The residents have argued that there were yet more breaches. Sussex Wildlife Trust are better placed to assess the impact on the environment in their objections. However, a partially unfenced prohibited and dangerous area with heavy machinery in close proximity to residential properties creates a *de facto* adverse impact on the environment.

OBJECTION 6 – DAP'S assertion that there have been no unacceptable impacts on the environment is wrong. A further extension to their planning permission will allow the impact on the environment to continue.

DAP failure to complete surveys and undertake progressive restoration

15. Surveys (geotechnical, topographical and bathymetrical) are required whether or not sand is being extracted as there may be movement caused by natural forces, such as heavy rain. These surveys are required to inform extraction and restoration. There is also concern that the one survey submitted is not accurate as no new field survey data was obtained. DAP's application does not address the reasons why yearly surveys were not carried out, why new data has not been obtained, nor is there any assertion that they will be carried out in the future.
16. Equally, there is no evidence of any progressive restoration as required by ROMP condition 18. In particular the cliff edge should have been made into a gradient.

OBJECTION 7 – DAP has not carried out surveys every year as required by ROMP Condition 22. Neither has DAP undertaken progressive restorations. This demonstrates a lack of good faith by DAP.

Stalled ROMP

17. Mineral Planning Authorities are advised under government guidance that if no minerals development has taken place to any substantial extent for at least two years they can assume minerals development has ceased. This guidance was considered and not followed as part of the 2019 ROMP. DAP's application has not provided any reasons for failure to extract any sand in the past five years (having not extracted sand for eight years before that). There is sufficient evidence of lack of activity for the SDNPA to declare that the ROMP is "stalled".

OBJECTION 8 – The Minsted Sandpit should now be considered a "Stalled ROMP" given that there has been no extraction for thirteen years.

Conclusion

18. This application for a five-year extension is entirely without merit. The SSR has determined that sufficient sand can be extracted from three sites not including Minsted Sandpit. DAP has had fourteen years' grace to extract any remaining sand from the site but has not done so. There are no exceptional circumstances to support this application for an extension, nor is it in the public interest to do so. This application should be rejected and DAP should be required to restore the site by 30 November 2025 in accordance with the Restoration Plan prepared by the Ecology Co-Op dated 17 January 2022.

His Honour Jeffrey Blackett, North Barn, Minsted
Mr Stephen Duke, Dairy Barn Cottage, Minsted
Mr Alun Kimber, Quags Meadow, Quags Corner
Ms Diane Walkington, South Barn, Minsted