

From: Susan Carey – Cabinet Member for Environment
Barbara Cooper, Corporate Director for Growth, Environment and Transport

To: Environment and Transport Cabinet Committee – 19 January 2021

Decision No: 21/00008

Subject: Kent Minerals and Waste Local Development Scheme – Revision 2021

Classification: Unrestricted

Past Pathway of Paper: N/A

Future Pathway of Paper: Cabinet Member for Environment

Electoral Division: Countywide

Summary:

Section 15 of the Planning and Compulsory Purchase Act 2004 requires the County Council, as the minerals and waste planning authority for Kent, to prepare and maintain a Local Development Scheme that sets out the timetable for preparing and revising development plan documents. These development plan documents are more commonly known as local plans. The Kent Minerals and Waste Local Plan 2013-30 was adopted in July 2016 and the Council is statutorily required to review adopted planning policy at least every five years.

The County Council's current Local Development Scheme was adopted in February 2019 and included a timetable for preparing the Kent Mineral Sites Plan and completing an Early Partial Review of the Kent Minerals and Waste Local Plan 2013-30. Work on the Mineral Sites Plan and the Early Partial Review has now been completed. This, along with the review cycle of the adopted Kent Minerals and Waste Local Plan has triggered the need for a revised Local Development Scheme.

An updated Local Development Scheme, (to be known as the Kent Minerals and Waste Local Development Scheme – 2021) is required to set out the timetable for the review of the Kent Minerals and Waste Local Plan 2013-30. The elements of the Plan recently updated by the Early Partial Review will not require review until 2025. It is proposed that the Scheme also be updated to include updates to the Kent Minerals and Waste Safeguarding Supplementary Planning Document and a review and update of the Council's Statement of Community Involvement.

Recommendation(s):

The Environment and Transport Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member responsible for the Minerals and Waste Local Plan on the proposed Kent Minerals and Waste Local Development Scheme 2021 (as set out in Appendix 1) that concerns:

- The review of the Kent Minerals and Waste Local Plan 2013-30

- updates to the Kent Minerals and Waste Safeguarding Supplementary Planning Document
- review and update of the Council's Statement of Community Involvement

The proposed record of decision is appended as Appendix A.

1. Introduction and Background

- 1.1 As the waste and minerals planning authority for Kent, the County Council is required to prepare and maintain planning policy concerning waste management and minerals supply in the County, excluding Medway.
- 1.2 The Kent Minerals and Waste Local Plan 2013-30 (KMWLP) sets out the County Council's strategy and policy framework for minerals and waste development in Kent which includes future capacity and supply requirements. The KMWLP was adopted by the County Council in July 2016. The KMWLP forms part of the Development Plan and is a key policy document for the determination of planning applications.
- 1.3 The KMWLP committed the Council to identifying and allocating land considered suitable for minerals and waste development in a subsequent Waste Sites Plan and a Minerals Sites Plan. Work on the Mineral Sites Plan has now been completed and an Early Partial Review of the KMWLP removes the commitment to prepare a Waste Sites Plan.
- 1.4 Section 15 of the Planning and Compulsory Purchase Act 2004 requires the County Council, as the minerals and waste planning authority for the Kent administrative area, to maintain a scheme, referred to in the legislation as a Local Development Scheme, that sets out the timetable for preparing and revising development plan documents.
- 1.5 The County Council's current Local Development Scheme, which was adopted in February 2019, includes a timetable for preparing the Kent Mineral Sites Plan and completing an Early Partial Review (EPR) of the Kent Minerals and Waste Local Plan 2013-30. An update to this scheme is needed to reflect the following:
 - Work on the Mineral Sites Plan and Early Partial Review has now been completed;
 - a five yearly review of aspects of the KMWLP not updated by the EPR needs to be completed by July 2021;
 - a review and update of the Statement of Community Involvement is required; and,
 - an update to the Council's Supplementary Planning Document on Mineral and Waste Safeguarding is also needed to provide guidance on the implementation of the adopted policies.
- 1.6 Further details on the work to be timetabled in the updated Local Development Scheme is provided below:

Five Yearly Review of the Kent Minerals and Waste Local Plan 2013-30

- 1.7 The National Planning Policy Framework (and legislation¹) states policies in local plans should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.
- 1.8 Although the implementation of policies is monitored on an ongoing basis, the five yearly review is intended to establish whether any work is needed to update the policies. An update to a policy may be needed for several reasons including the following:
- the Kent policy is no longer in conformity with national policy;
 - changes to local circumstances; such as a change in the quantum of development requirements or development of a Nationally Significant Infrastructure Project within the area (or nearby);
 - the performance of policies during appeals i.e. the ability of policies to be implemented as intended;
 - the effectiveness of policies in achieving the objectives of the KMWLP;
 - significant economic changes that may impact on viability; and,
 - whether any new social, environmental, or economic priorities have arisen.
- 1.9 As the KMWLP was adopted in July 2016, all of its policies, save those which were updated by the Early Partial Review (which the Council adopted in September 2020) must be reviewed by July 2021.
- 1.10 In the context of the review it should be noted that the National Planning Policy Framework has undergone revision since the adoption of the KMWLP and the government has signaled its intention to update National Planning Policy for Waste in the near future. Amongst other matters, policies in the KMWLP will be reviewed to check whether they are still in conformity with updated national planning policy.
- 1.11 Finally, during the independent examination of the Early Partial Review of the KMWLP in 2019/2020, it became apparent that since adoption of the KMWLP, the government has issued policy relating to the management of low-level radioactive waste arising from the nuclear industry. The review of the KMWLP will therefore also consider whether updates to related policy in the KMWLP, including that relating to Dungeness nuclear power station, are necessary. During the Early Partial Review examination, the County Council acknowledged the need for such a review in a 'Statement of Common Ground' between it, the Nuclear Decommissioning Authority and Magnox Ltd. (the company responsible for decommissioning at Dungeness nuclear power station).

¹ [Regulation 10A of The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(as amended\)](#)

1.12 The timetable for the review of the KMWLP is set out below:

Stages	Dates
Evidence gathering to inform KMWLP review	June 2020 – March 2021
Consultation with key stakeholders on need for review of KMWLP policies	January 2021 - May 2021
Report outcome of review to Members including recommendations on the need to update policies	June – July 2021
<i>If policy update required:</i>	
Consultation on draft updated policy (Regulation 18)	October-November 2021
Publication of draft updated policy (Regulation 19) for representations on soundness	March-April 2022
Submission to Secretary of State	July 2022
Independent Examination Hearings	October 2022
Inspector's Report	December 2022
Adoption	January 2023

1.13 The review will recommend whether changes to policies are required and so until it is complete it is not possible to say whether any changes will result. The outcome of the review will be reported to Members.

Review and update of the Statement of Community Involvement

1.14 As part of its planning function, the County Council is required to prepare and maintain a Statement of Community Involvement that sets out how the Council will engage with communities and other stakeholders when preparing, and updating, planning policy and processing planning applications. Legislation also requires the County Council to set out in its Statement of Community Involvement how it will support the preparation of neighbourhood plans.

1.15 The current Statement of Community Involvement was adopted in 2012 and needs revising to reflect updates to consultation practice and how it supports neighbourhood plan preparation. The County is also required by the Regulation 10A of the Town and Country (Local Plan) (England) Regulations 2012 (as amended) to review the document every five years.

1.16 The Environment and Transport Cabinet Committee considered a consultation draft of the Statement of Community Involvement at its meeting on 12 November 2020. It is anticipated that a final document will be reported to the Cabinet Committee in March 2021 following public consultation.

Update to the Kent Minerals and Waste Safeguarding Supplementary Planning Document

- 1.17 The Kent Minerals and Waste Safeguarding Supplementary Planning Document was adopted by the County Council in 2017. The document provides guidance on the implementation of planning policy related to the safeguarding of minerals resources and minerals and waste infrastructure set out in the Kent Minerals and Waste Local Plan 2013-30. Such safeguarding is required to ensure access to essential minerals resources, and waste management and minerals supply operations, are not adversely impacted by other forms of development.
- 1.18 An update to the current document is required to take account of changes made to related planning policy which were made as part of the Early Partial Review of the KMWLP.
- 1.19 District and Borough Council local planning authorities are largely responsible for implementing the safeguarding policies and during discussions with these authorities, the County Council has acknowledged that further guidance on implementation is needed. The update to the Supplementary Planning Document will seek to provide this additional guidance and be undertaken in consultation with the District and Borough Councils.
- 1.20 It is anticipated that the updated Safeguarding Supplementary Planning Document will be reported to the Environment and Transport Cabinet Committee in March 2021.
- 1.21 The revised Local Development Scheme (known as the 'Minerals and Waste Local Development Scheme - 2021') is included as Appendix 1 to this report and it includes a programme related to the above activities. The review and update work will be completed by the County Council's planning policy team with support from external experts as necessary.

2. Next Steps

- 2.1 As is described in the scheme document, progress on the activities described above will be reported on an annual basis in the County Council's Annual Monitoring Report

3. Financial Implications

- 3.1 The costs of reviewing the KMWLP and updating the Mineral and Waste Safeguarding Supplementary Planning Document and the Statement of Community Involvement are met from the Planning Application Group's budget.

4. Policy Framework

- 4.1 In addition to national planning policies, the KMWLP and the Mineral Sites Plan support the County Council's corporate policies contained within the Council's Strategic Statement 'Increasing Opportunities, Improving Outcomes – Kent County Council's Strategic Statement 2015-2020 and the recently approved Setting the Course – Kent County Council's Interim Strategic Plan 2020, which sets the Council's priorities for the next 2 years. Kent's mineral and waste planning policies support and facilitate sustainable growth in Kent's economy and support the creation of a high-quality built

environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being.

5. Legal Implications

- 5.1 The County Council has a legal obligation under the Town and Country Planning Acts to prepare and maintain a statutory Development Plan for planning purposes and an associated Local Development Scheme and Statement of Community Involvement.
- 5.2 The County Council is also required by national planning policy to ensure that local plans promote sustainable minerals and waste development. The review of the KMWLP will play an important role in ensuring that minerals and waste development in Kent remains in line with national planning policy.
- 5.3 There is an expectation by the Minister for Housing, Communities and Local Government that all planning authorities have an up to date local plan and Statement of Community Involvement in place. Without an up to date adopted plan, there is a risk that MHCLG will step in as the plan making authority, reducing local accountability.

6. Equalities implications

- 6.1 As the Kent Minerals and Waste Local Development Scheme is essentially a programme for updating planning policy (and associated documentation) it is considered that an Equality Impact Assessment (EQIA) is not required. A separate EQIA has, and will be, undertaken which considers the equalities implications of updated planning policy and guidance identified in the Development Scheme.

7. Conclusion

- 7.1 The Planning and Compulsory Purchase Act requires the County Council to prepare and maintain a scheme setting out how it will prepare and maintain planning policy for mineral and waste planning matters in Kent. The KMWLP adopted in July 2016 sets out the overarching strategy and vision until 2030 and, in accordance with legislation, needs to be reviewed by 2021.
- 7.2 The updated Local Development Scheme as set out in Appendix 1 includes a timetable for reviewing the KMWLP and, if the review identifies the need for updates, making subsequent updates.
- 7.3 Updates to the Council's Statement of Community Involvement and its Supplementary Planning Document on Minerals and Waste Safeguarding are also required and the updated Scheme also includes a timetable relating to associated activity.

8. Recommendation

The Environment and Transport Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member responsible for the Minerals and Waste Local Plan on the proposed Kent Minerals and Waste Local Development Scheme – 2021 (as set out in Appendix 1) that concerns:

- The review of the Kent Minerals and Waste Local Plan 2013-30;
- the update to the Kent Minerals and Waste Safeguarding Supplementary Planning Document, and,
- the review and update of the Council's Statement of Community Involvement.

The proposed record of decision is appended as Appendix A.

9. Background documents and appendices:

Appendix 1: Kent Minerals and Waste Local Development Scheme – 2021

Appendix A: Proposed Record of Decision

10. Contact details

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