

**From:** Susan Carey – Cabinet Member for Environment

Simon Jones, Corporate Director for Growth, Environment and Transport

**To:** Environment and Transport Cabinet Committee – 8 September 2021

**Decision No:** 21/00073

**Subject:** Kent Minerals & Waste Local Plan 2013-30 – 5 Year Review of 2016 adopted Plan, September 2021

**Classification:** Unrestricted

**Past Pathway of Paper:** N/A

**Future Pathway of Paper:** N/A

**Electoral Division:** Countywide

**Summary:** The County Council has a statutory responsibility to plan for future minerals supply and waste management within Kent. To this end, the Kent Minerals and Waste Local Plan 2013-30 (KMWLP) was adopted by Full Council in July 2016 and changes to a limited number of policies were made in 2020 following an Early Partial Review. The Kent Minerals and Waste Local Plan contains planning policies relating to minerals supply and waste management against which planning applications for these types of development are assessed. The Plan also includes a number of policies related to the safeguarding of mineral resources and waste management facilities which are mainly implemented by District and Borough Councils.

Town and Country Planning (Local Planning) (England) Regulations 2012 require Local Planning Authorities to review their Local Plans every five years. This is to ensure that the policies remain relevant, conform to national policy and guidance and satisfactorily address the needs of the local community. A review of the Kent Minerals and Waste Local Plan has now been completed and the outcomes set out in a separate report (see Appendix 1). The review has identified that a number of policies require updating to ensure the Local Plan remains consistent with national policy and legislation and relevant to the local context. To satisfy the Regulations regarding the 5 year Review, the Council is required to agree the review.

The identified changes needed to the 2016 Kent Mineral and Waste Local Plan then form the basis for the next plan making cycle. The detail of the proposed changes will be the subject of a separate key decision and reported to a future Environment and Transport Cabinet Committee.

**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 in respect of agreeing the five-year review of the Kent Minerals and Waste Local Plan 2013-30 (as set out in Appendix 1) for publication.

The Proposed Record of Decision is shown at Appendix A.

## 1. Introduction and Background

- 1.1 As the minerals and waste planning authority for Kent, the County Council is required to prepare and maintain planning policy concerning waste management and minerals supply in the County. The Kent Minerals and Waste Local Plan 2013-30 (KMWLP) was adopted by the Council in July 2016 and sets out the strategy and policy framework for minerals and waste development in Kent which includes future capacity and supply requirements. The Kent Minerals and Waste Local Plan forms part of the Development Plan for Kent and is a key policy document both for the determination of planning applications for minerals and waste development by the County Council, and applications relating to other development that may affect minerals and waste development or other aspects determined by the Kent District and Borough Councils.
- 1.2 Following its adoption, the Kent Minerals and Waste Local Plan was subject to an 'Early Partial Review' and changes resulting from this review were adopted by the Council in September 2020. These changes removed the Council's commitment to prepare a separate plan allocating land suitable for waste management development (a Waste Sites Plan) and improved the effectiveness of safeguarding existing waste and minerals infrastructure and mineral resources to assure ongoing waste management and minerals supply. Also in September 2020, the Council adopted a Minerals Sites Plan which allocates three areas of land suitable for development associated with the extraction of sand and gravel.
- 1.3 The National Planning Policy Framework (NPPF) (and legislation<sup>1</sup>) states policies in Local Plans should be reviewed at least once every five years to assess whether they need updating and should then be updated as necessary. Planning Practice Guidance produced by the Ministry for Housing, Communities and Local Government (MHCLG) notes that updates to local planning policy may be needed for several reasons including the following:
- The 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. whether the implementation policies is challenged successfully;
  - the effectiveness of policies in achieving the objectives of the Kent Minerals and Waste Local Plan;
  - significant economic changes that may impact on viability; and,
  - whether any new social, environmental or economic priorities may have arisen.
- 1.4 The County Council is required by national planning policy to ensure the Plan promotes sustainable minerals and waste development and the review work plays an important role in ensuring that minerals and waste development in Kent remains relevant to local development requirements and consistent with national policy and guidance.

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<sup>1</sup> Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

- 1.5 Government expects that all planning authorities have an up to date Local Plan in place and where this is not the case there is a risk that Government will intervene as the plan making authority, resulting in reduced local accountability. The need for the review is recognised by the Council in its Mineral and Waste Development Scheme (MWDS) that was adopted by Cabinet Member for Environment following consideration by the Environment and Transport Cabinet Committee on 19 January 2021.
- 1.6 As the Kent Local Plan was adopted in July 2016 all its policies have now been reviewed. For completeness, those policies updated by the Early Partial Review have also been reviewed.
- 1.7 To inform the review, views on the need for updates to the Kent Minerals and Waste Local Plan were sought from key stakeholder groups including District and Borough Councils in Kent, neighbouring Minerals and Waste Planning Authorities, representatives from the minerals and waste operators in Kent and other interested parties such as the Environment Agency, Natural England and Historic England. A total of nine responses were received.
- 1.8 The experience of applying the Local Plan policies in the determination of planning applications over the last five years has also been used to establish how effective the policies are in achieving desired outcomes in terms of waste management and mineral supply in Kent.
- 1.9 Up to date data and information relating to the supply of minerals and management of waste has been collated to establish how the Local Plan's objectives for waste management and minerals supply are being achieved.
- 1.10 A report detailing how the Local Plan policies, Vision and Strategic Objectives have been reviewed, including recommendations for updates to the Kent Minerals and Waste Local Plan is included as Appendix 1. This report includes a summary of views received from key stakeholder groups.

## **2. Outcomes of the Kent Minerals and Waste Local Plan Review**

- 2.1 The review of the Kent Minerals and Waste Local Plan identified the need for updates to the Plan in response to relevant Government policy and legislation that has been published since the Local Plan was adopted in 2016. Key Government policy changes which the review took into account include the following:
  - Updates to the National Planning Policy Framework in 2018, 2019 and 2021 and associated Planning Practice Guidance;
  - policy relating to the management of low-level radioactive waste;
  - legislation and policy concerning the need to adapt to, and mitigate, climate change and associated low carbon growth; and,
  - policy and legislation concerned with achieving a circular economy where more waste is prevented or reused.

- 2.2 The review also identified changes to the local context which require further updates to be made. These include the following:
- Changes to settlement boundaries affecting the extent of areas identified in the Kent Minerals and Waste Local Plan where the presence of economic minerals needed to be taken into account before surface development can take place. These areas are known as ‘Mineral Safeguarding Areas’;
  - a need for the development of additional capacity associated with the management of household waste has been identified by the Waste Disposal Authority; and
  - adoption by the County Council of the Kent Environment Strategy and Kent and Medway Energy and Low Emissions Strategy and the emerging work on the refreshed Kent Design Guide.
- 2.3 In respect of policy CSM2 - Supply of Land-won Minerals in Kent, the County Council has very recently received (August 2021) a representation from one of the mineral operators asserting that the policy requires review to satisfy landbank requirements for ragstone. Further assessment is required to satisfy whether this is the case or not. For the purpose of the 5 year Review, it has been concluded that no change is required. The further assessment work is however being undertaken and if changes are considered necessary then this will be included in the work for the next plan making cycle and subsequent public consultation.
- 2.4 The Executive Summary included in the Kent Minerals and Waste Local Plan Review Report (see Appendix 1) summarises the outcome of the review and so this is not repeated here, however it is important to note that the report recommends that 39 of the Plan’s 52 policies, and/or their supporting text, be updated.
- 2.5 Updates to the Vision and Strategic Objectives are recommended, including those required to bring the Plan up to date with regard to approaches relating to protection and enhancement of biodiversity and adaptation to, and mitigation of, climate change.

### **3. Next Steps**

- 3.1 Subject to Members’ agreement to the Kent Minerals and Waste Local Plan Review Report (Appendix 1), this will be published in accordance with Planning Practice Guidance. Publication will satisfy the Council’s statutory requirement of reviewing its planning policy every five years.
- 3.2 In response to the recommendations in the Kent Minerals and Waste Local Plan Review Report, changes to planning policy and supporting text will be drafted with the intention to report to Environment and Transport Cabinet Committee later this year. This report will detail the proposed changes to the adopted Local Plan the procedure for updating the Plan and arrangements for public consultation.

### **4. Financial Implications**

- 4.1 The costs of reviewing the Kent Minerals and Waste Local Plan are met from the Growth and Communities Division - Planning Applications Group’s budget.

## 5. Policy Framework

- 5.1 The review of the Kent Minerals and Waste Local Plan takes account of changes to the County Council's corporate policies since July 2016 which are concerned with the way in which land is developed in Kent.

## 6. Legal Implications

- 6.1 The County Council is required by Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) to review its Local Plan every five years. Failure to have an up to date Plan risks the Secretary of State appointing others to undertake the Council's plan making function. The review reported in the Kent Minerals and Waste Local Plan Review Report included as Appendix 1 satisfies this requirement.

## 7. Equalities implications

- 7.1 An equality impact assessment (EQIA) has been completed and no equalities implications have been identified which arise from the review of the Kent Minerals and Waste Local Plan. A copy of the assessment is included as Appendix 2.

## 8. Conclusion

- 8.1 The County Council is statutorily required to review its planning policy within five years of its adoption. The Kent Minerals and Waste Local Plan has been reviewed and the need for updates to the Vision, Strategic Objectives and planning policies have been identified. The review has taken account of changes to Government policy and legislation and changes to the context in Kent including adoption of strategy relating to climate change and the environment. In accordance with Planning Practice Guidance the outcomes of the review, as set out in the Kent Minerals and Waste Local Plan Review Report should be published on the Council's website. The process of updating the Kent Minerals and Waste Local Plan in light of the review is to be considered in a separate report to Environment and Transport Cabinet Committee later this year and is the commencement of the next Kent Minerals and Waste Local Plan cycle.

## 9. 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 in respect of agreeing the five-year review of the Kent Minerals and Waste Local Plan 2013-30 (as set out in Appendix 1) for publication.

The Proposed Record of Decision is shown at Appendix A.

## 10. Background documents and Appendices:

Kent Minerals and Waste Local Plan 2013-30 as amended by the Early Partial Review 2020: [https://www.kent.gov.uk/\\_data/assets/pdf\\_file/0004/112585/Kent-Minerals-and-Waste-Local-Plan-2013-2030.pdf](https://www.kent.gov.uk/_data/assets/pdf_file/0004/112585/Kent-Minerals-and-Waste-Local-Plan-2013-2030.pdf)

**Appendix A:** Proposed Record of Decision

**Appendix 1:** Report of the Review of the Kent Minerals Waste Local Plan, 2021

**Appendix 2:** Report of the Review of the Kent Minerals Waste Local Plan, 2021 – Equality Impact Assessment:

<https://democracy.kent.gov.uk/documents/s105531/Appendix2FullReviewoftheKMWLP2021EqIA.docx.pdf>

## **11. Contact details**

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