

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

Simon Jones, Corporate Director for Growth, Environment and Transport

**To:** Environment and Transport Cabinet Committee – 3 November 2021

**Decision No:** 21/00089

**Subject:** Kent Minerals and Waste Local Plan 2013-30: Proposed Changes Resulting from the 5-year Review of the Local Plan and a Mandate for Public Consultation

**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 with some limited changes adopted in 2020. 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 Kent Minerals and Waste Local Plan also includes policies related to the safeguarding of mineral resources and waste management facilities which are mainly implemented by District and Borough Councils.

Plan making is a cyclical process. In accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 a five yearly review of the Kent Minerals and Waste Local Plan has been completed. This concludes the current local plan cycle. A report outlining the Review of the Kent Minerals and Waste Local Plan and where changes were needed to ensure that it remains fit for purpose by conforming to updated national policy and guidance and satisfactorily addressing updated local policy was reported to the Environment and Transport Cabinet Committee on the 8<sup>th</sup> September 2021. Following consideration by the Cabinet Committee, the Cabinet Member for Environment agreed the 5 year Review of the Local Plan for publication.

Following this decision, proposed changes to the Local Plan policy and its explanatory text have been prepared for consideration prior to public consultation. These changes are set out in Appendix 1 and start the next cycle of the Council's Mineral and Waste Local Plan. The updating process will follow that set out in the Regulations and in accordance with an updated timetable in the Council's Minerals and Waste Development Scheme.

**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 her decision to:

1. Approve the proposed updates to the Vision, Strategic Objectives, Policies (and supporting text) and Chapters 1 and 2 of the Kent Minerals and Waste Local Plan 2013-30 as set out in Appendix 1;
2. Delegate to the Corporate Director for Growth, Environment and Transport the authority to approve draft updates to the Minerals Safeguarding Areas in the Kent Minerals and Waste Local Plan in consultation with the Cabinet Member for Environment prior to their publication for consultation;
3. Agree to publish the proposed updates to the Kent Minerals and Waste Local Plan, and associated supporting evidence, for a minimum six week period of public consultation in line with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
4. Agree the revised Local Plan Timetable, as shown in paragraph 1.8, to be set out in an update to the Kent Minerals and Waste Local Development Scheme; and
5. Delegate to the Corporate Director for Growth, Environment and Transport the authority to approve any non-material changes to the proposed updates of the Vision, Strategic Objectives, Policies (and supporting text) and Chapters 1 and 2 in the Kent Minerals and Waste Local Plan in consultation with the Cabinet Member for Environment prior to their publication for consultation.

## **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 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.
- 1.4 A review of the Vision, Strategic Objectives and policies in Kent Minerals and Waste Local Plan has been completed and the outcomes of this review are detailed in the

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

report presented to the September 2021 Environment and Transport Cabinet Committee. 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 published since the Kent Minerals and Waste Local Plan was adopted in 2016. The review also identified changes to the local context which require further updates to be made.

- 1.5 The review recommended that 37 of the Plan’s 52 policies, and/or their supporting text, be updated. Updates to the Vision and Strategic Objectives were also recommended. In light of the review, draft updates to the Vision, Strategic Objectives and Policies (and supporting text) have been prepared. To reflect these changes, draft updates to in Chapter 1 (Introduction) and Chapter 2 (Spatial Portrait) of the Kent Minerals and Waste Local Plan have also been prepared. These chapters provide the context on which the Vision, Strategic Objectives and Policies are based.
- 1.6 The process of updating the Plan needs to follow that set out in the Planning and Compulsory Purchase Act 2004 and associated plan making regulations<sup>2</sup> as well as the National Planning Policy Framework and Planning Practice Guidance. This includes updating the Kent Minerals and Waste Local Plan in accordance with a timetable published in the Minerals and Waste Development Scheme. The latest Development Scheme was considered by the Environment and Transport Cabinet Committee on 19 January 2021 and subsequently agreed by the Cabinet Member. It includes the timetable set out below.

Stages	Dates
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 by Council	January 2023

- 1.7 The ‘Regulation 18’ stage included in the table above provides an opportunity for stakeholders and communities to comment on the Council’s draft proposals for updates to the Kent Minerals and Waste Local Plan. At the same time consultees will be able to comment on whether changes to other parts of the Plan, not identified by the review, are needed.
- 1.8 In light of the timing of this report to Environment and Transport Cabinet Committee, it will not be possible to conclude Regulation 18 public consultation in accordance with the timetable in the Local Development Scheme as set out in paragraph 1.6 above. This has consequences for the delivery timescale for other parts of the plan making process. A revised timetable is proposed for inclusion in an update to the Local Development Scheme and this is set out below.

<sup>2</sup> Town and Country Planning (Local Planning) (England) Regulations 2012

Stages	Dates in January 2021 Local Development Scheme	Proposed Dates in Development Scheme update November 2021
Consultation on draft updated policy (Regulation 18)	October-November 2021	November 2021-January 2022
Publication of draft updated policy (Regulation 19) for representations on soundness	March-April 2022	June-July 2022
Submission to Secretary of State	July 2022	September 2022
Independent Examination Hearings	October 2022	December 2022
Inspector's Report	December 2022	February 2023
Adoption by Council	January 2023	May 2023

## 2 Proposed Updates to Kent Minerals and Waste Local Plan

- 2.1 The outcome of 5 year review of the Kent Minerals and Waste Local Plan 2013-30 was reported to the Environment and Transport Cabinet Committee in September 2021. The Cabinet Committee and the Cabinet Member considered a detailed explanation of why updates to the Vision, Strategic Objectives, policies and supporting text were required and agreed that changes to the adopted Local should be prepared. The Vision, Strategic Objectives and Policies (and supporting text) (Chapters 3 to 7) in the Kent Minerals and Waste Local Plan are key to determining how minerals and waste development can come forward in Kent. The proposed draft changes are set out in Appendix 1. A summary of the Minerals and Waste Local Plan 5 year Review Report and its conclusion is provided in Appendix 2. The full Review Report is linked to these papers as a background document.
- 2.2 Updates are proposed to ensure the Plan is consistent with updated planning policy, guidance and legislation including the following:
- Updates to the National Planning Policy Framework in 2018, 2019 and 2021 and associated Planning Practice Guidance;
  - government 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<sup>3</sup> where more waste is prevented or reused.
- 2.3 Updates are also proposed to ensure the Kent Minerals and Waste Local Plan takes account of the current local context which include the following:

<sup>3</sup> A circular economy is an alternative to a traditional linear economy (make, use, dispose) in which resources are kept in use for as long as possible, extract the maximum value from them whilst in use, then recover and regenerate products and materials at the end of each service life.

- A need for the development of additional capacity associated with the management of household waste has been identified by the Waste Disposal Authority;
- adoption by the County Council of the Kent Environment Strategy and Kent and Medway Energy and Low Emissions Strategy; and.
- changes to settlement boundaries affecting the extent of areas identified in the Kent Minerals and Waste Local Plan where the presence of economic minerals needs to be taken into account before surface development can take place. These areas are known as 'Mineral Safeguarding Areas.

- 2.4 Further changes are also proposed which are intended to ensure the meaning of the policies is clear.
- 2.5 None of the proposed changes seek a fundamental shift in the way minerals will be supplied and waste will be managed in future. Indeed, monitoring of planning permissions granted over the last five years suggests that the Kent Minerals and Waste Local Plan has been largely effective in allowing development which is consistent with the Vision and Strategic Objectives.
- 2.6 Information that will confirm the need for changes to Mineral Safeguarding Areas has been requested from the District Councils and is awaited. Once this has been received, agreement to any changes to these areas will be sought from the Cabinet Member prior to consultation. Such changes will reflect changes to the boundaries of settlements which are excluded from mineral safeguarding.
- 2.7 Text of the Kent Minerals and Waste Local Plan that sets out the policy, legislative and spatial context also requires updating. This is the text included in Chapter 1 (Introduction) and Chapter 2 (Spatial Portrait) of the Kent Minerals and Waste Local Plan. For example, any new Air Quality Management Areas which have been designated since the Plan was adopted will need reflecting in changes to Figure 15.
- 2.8 As part of the 5 year review key stakeholders were invited to comment on whether the Local Plan needed updating and as a result the Council received (August 2021) a representation from one of the mineral operators asserting that policy CSM2 - Supply of Land-won Minerals in Kent requires a review to satisfy landbank requirements for ragstone. For the purpose of the 5 year Review, it was concluded that no change was required based on evidence available at that time, however further assessment work is being undertaken and if changes are found to be necessary then separate public consultation on a revised policy CSM2 will take place at a later date which would be agreed with the Corporate Director and the Cabinet Member. Irrespective of the conclusion of the additional assessment work required for CSM2 there is merit in proceeding with consultation on other proposed policy changes now in order to ascertain an understanding of local views.

### **3. Next Steps**

- 3.1 Public consultation is required on the proposed changes to the adopted Local Plan. To support the public consultation on the proposed changes, a version of the Local Plan with all changes shown as tracked will be prepared. In addition, a shorter more focussed document based upon Appendices 1 and 2 will be prepared as part of the public consultation material.

- 3.2 Legislation also requires that an independent 'Sustainability Appraisal' of draft planning policy is undertaken that determines the likely social, economic and environmental effects of the policies and makes recommendations for changes. The appraisal process involves the preparation of an 'appraisal framework' that takes account of baseline conditions as well as other relevant plans, programmes and policies which development should take account of. A draft appraisal framework and related evidence base must be published in the form of a 'Scoping Report' for consultation, and this will accompany the consultation of the draft updated Kent Minerals and Waste Local Plan. This is set out in Appendix 4.
- 3.3 Consultation on the draft updated Local Plan must take place in accordance with the Council's 'Statement of Community Involvement' (SCI). The latest SCI was adopted by the Cabinet Member for Environment on 19 March 2021, following a recommendation from Environment and Transport Cabinet Committee. The SCI expects consultation in accordance with Regulation 18 to involve publication of draft documents with at least a six week period for comments.
- 3.4 While all stakeholders will have an opportunity to comment on the draft updated Local Plan, specific dialogue may be sought with 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 interested parties such as the Environment Agency, Natural England and Historic England.
- 3.5 Comments received during the initial consultation will be taken into account in the preparation of the updated Kent Minerals and Waste Local Plan that will be submitted to Government for independent examination into its soundness and legal compliance. Prior to its submission to Government, there will be a further opportunity for public engagement, with the Local Plan being published for representations on the updated Plan's soundness and legality. The Kent Minerals and Waste Local Plan proposed for submission will be presented to Full Council for agreement following consideration by Environment and Transport Cabinet Committee and Cabinet.
- 3.6 As identified in paragraph 2.7 above, if the further assessment work related to policy (Policy CSM2) suggests changes to this policy (and any other aspect of the Kent Minerals and Waste Local Plan) are needed then this will be reported to Environment and Transport Cabinet Committee.
- 3.7 As the process of updating the policies in the Local Plan takes place, it will be necessary to monitor Government's publication of any further updates to national planning policy. In particular the Government has signalled its intention to review the NPPF to take account of its net zero carbon emissions target, to make updates to the National Planning Policy for Waste and the imminent Royal Assent of the Environment Act.
- 3.8 A cross party 'Informal Members Group' (IMG) has been established to oversee the preparation of the updated Kent Minerals and Waste Local Plan. The IMG will continue to meet at key stages during the preparation of the emerging Local Plan to oversee this work. The IMG has now met twice in their work to review the Kent Minerals and Waste Local Plan.

#### **4. Financial Implications**

- 4.1 The costs of updating the 2016 Kent Minerals and Waste Local Plan will need to be met from existing KCC budgets.
- 4.2 There is a risk and likelihood that any changes proposed to the Local Plan will attract objection in response to the public consultation. These will be considered as part of the plan making process and where appropriate defended via the planning examination.

#### **5. Policy Framework**

- 5.1 The Kent Minerals and Waste Local Plan delivers the Council's adopted Mineral and Waste planning strategy and is important in the determination of planning applications in Kent. A Local Plan is prepared in accordance with national planning policy and guidance, whilst providing a local perspective. Mineral and waste planning policies support and facilitate sustainable growth in Kent's economy. They also support the protection and creation of a high-quality environment, with accessible local services that reflect the community's needs.
- 5.2 The proposed updates to the Kent Minerals and Waste Local Plan take 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. These include the Kent Environment Strategy and the Kent and Medway Energy and Low Emissions Strategy. The proposed updates support the Council's corporate policies contained within the Council's Setting the Course – Kent County Council's Interim Strategic Plan 2020. In particular proposed revised policy will reflect recent changes to the environmental agenda including mitigation and adaptation to Climate Change and Kent's Climate Change Statement and measures to support Covid recovery.

#### **6. Legal Implications**

- 6.1 The County Council has a legal obligation under the Town and Country Planning legislation to prepare a statutory Development Plan. The County Council is also required by national planning policy to ensure that local plans promote sustainable minerals and waste development. Updating the Kent Minerals and Waste Local Plan will ensure that minerals and waste development in Kent occurs in line with national planning policy.
- 6.2 There is an expectation by Government (Department for Levelling Up, Housing and Communities) that all planning authorities have an up to date local plan in place. Without an up to date adopted plan, there is a risk that the Secretary of State will step in as the plan making authority, reducing local accountability.
- 6.3 The process of updating planning policy must take place in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 which include the requirement that public consultation takes place in accordance with Local Planning Authority's Statement of Community Involvement.

#### **7. Equalities implications**

- 7.1 An equality impact assessment (EQIA) has been completed and no equalities implications have been identified which arise from the updating of the Kent Minerals and Waste Local Plan. A copy of the assessment is included at Appendix 3.

## 8. Conclusion

- 8.1 Updates to the Kent Minerals and Waste Local Plan are proposed in light of the statutory five year review of its effectiveness and consistency with national and local policy and local context. The proposed updates take account of changes to Government policy and legislation and changes to the context in Kent including adoption of local strategies relating to climate change and the environment. Updating the Kent Minerals and Waste Local Plan needs to be carried out in accordance with the statutory plan making process which includes an initial period of consultation on the proposed updated Local Plan and supporting evidence.

## 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 her decision to:

1. Approve the proposed updates to the Vision, Strategic Objectives and Policies (and supporting text) and Chapters 1 and 2 of the Kent Minerals and Waste Local Plan 2013-30 as set out in Appendix 1;
2. Delegate to the Corporate Director for Growth, Environment and Transport the authority to approve draft updates to the Minerals Safeguarding Areas in the Kent Minerals and Waste Local Plan in consultation with the Cabinet Member for Environment prior to their publication for consultation; and,
3. Agree to publish the proposed updates to the Kent Minerals and Waste Local Plan, and associated supporting evidence, for a minimum six week period of public consultation in line with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
4. Agree the revised Local Plan timetable as shown in paragraph 1.8, to be set out in the Revised Kent Minerals and Waste Local Development Scheme; and,
5. Delegate to the Corporate Director for Growth, Environment and Transport the authority to approve any non-material changes to the proposed updates to the Vision, Strategic Objectives and Policies (and supporting text) and Chapters 1 and 2 in the Kent Minerals and Waste Local Plan in consultation with the Cabinet Member for Environment prior to their publication for consultation.

## 10. Appendices and Background documents:

### Appendices

- **Appendix A:** Proposed Record of Decision
- **Appendix 1:** Proposed updates to the text of the Vision, Strategic Objectives and Policies (and supporting text) and Chapters 1 and 1 of the Kent Minerals and Waste Local Plan 2013-30
- **Appendix 2:** Summary of the Kent Minerals and Waste Local Plan 5-year Review Report 2021

- **Appendix 3:** Kent Minerals and Waste Local Plan 2013-30: Proposed Changes Resulting from the 2021 Review - Equality Impact Assessment [Document Appendix 3 - Equality Impact Assessment - Proposed Changes to KMWLP \(kent.gov.uk\)](#)
- **Appendix 4:** Scoping Report Sustainability Appraisal of the Five-Year Review of the Kent Minerals and Waste Local Plan 2013-30 - October 2021 [Document Appendix 4 - Scoping Report Sustainability Appraisal of the Five Year Review of the KMWLP \(kent.gov.uk\)](#)

**Background documents:**

- 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)
- Report of the 5 Year Review of the Kent Minerals Waste Local Plan, 2021 - [https://www.kent.gov.uk/\\_data/assets/pdf\\_file/0003/126426/Report-of-the-5-year-Review-of-the-Kent-Minerals-and-Waste-Local-Plan-2021-assessment.pdf](https://www.kent.gov.uk/_data/assets/pdf_file/0003/126426/Report-of-the-5-year-Review-of-the-Kent-Minerals-and-Waste-Local-Plan-2021-assessment.pdf)
- Kent Minerals and Waste Development Scheme, January 2021 - [https://www.kent.gov.uk/\\_data/assets/pdf\\_file/0015/12921/Minerals-and-Waste-Scheme.pdf](https://www.kent.gov.uk/_data/assets/pdf_file/0015/12921/Minerals-and-Waste-Scheme.pdf)
- Kent County Council Statement of Community Involvement, 2021 - [https://www.kent.gov.uk/\\_data/assets/pdf\\_file/0017/120491/Statement-of-Community-Involvement.pdf](https://www.kent.gov.uk/_data/assets/pdf_file/0017/120491/Statement-of-Community-Involvement.pdf)

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