

Appendix 2 - Summary of the Kent Minerals and Waste Local Plan 5 year Review Report 2021

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October 2021

The Kent Minerals and Waste Local Plan (KMWLP) was adopted in July 2016 with changes made as a result of the ‘Early Partial Review’, adopted in 2020.

The National Planning Policy Framework (2021) (NPPF) and legislation require that Local Plans should be reviewed to assess whether they need updating at least once every five years. Having been adopted five years ago, the Kent Minerals and Waste Local Plan has been reviewed to assess whether updates to the Plan’s policies are required.

The review considered whether the Vision, Strategic Objectives and Policies of the Plan are still consistent with national policy and whether the policies have been effective in achieving the intended outcomes relating to the use of land for minerals and waste development in Kent.

National Planning Practice Guidance (PPG) states that “The review process is a method to ensure that a plan and the policies within remains effective”. The PPG also sets out what authorities should consider when determining whether a Plan or policies should be updated. Information relevant to this KMWLP Review includes:

- Conformity with national planning policy;
- changes to local circumstances;
- success of policies against indicators in 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.

To inform the process, a review of national policy changes was undertaken. This revealed that, amongst other things, there have been changes to the National Planning Policy Framework which require updates to policies in the Kent Minerals and Waste Local Plan to ensure they remain consistent with national planning policy. Locally, since adoption of the Local Plan, the Council has adopted the Kent and Medway Energy and Low Emissions Strategy that provides local impetus for achieving net zero carbon emissions by 2050. Monitoring of the way in which planning applications have been determined has also been undertaken to assist the review of the policies. Other observations regarding the wording of the policies and supporting text have been made and some of these indicate that policies, and supporting text, should be updated to ensure the ongoing effectiveness of the Kent Minerals and Waste Local Plan.

The review of the Local Plan’s Vision and Strategic Objectives found that while much of the text is still relevant some needs updating to reflect recent Government policy and legislation concerning climate change, circular economy¹ and biodiversity.

A system of Red/Amber/Green (RAG) scoring was applied to the review of policies which helps summarise whether a policy (and/or supporting text) needs updating. Red indicates the presence of an issue likely to mean that the policy should be updated. Amber indicates that the presence of an issue which, while an update would be useful, does not jeopardise

¹ 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.

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the effective implementation of the KMWLP. This may include where an update to the supporting text, rather than a policy, is needed. Green indicates that no issues were identified and so updates are not required. A 'Neutral' score has been applied where applications have not come forward requiring the use of a particular policy and so its effectiveness has not been tested. A summary of the outcome of the review is provided in Table 1 below.

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Table 1: Summary of the Outcome of the Review Assessment

Policy Number & Title	Monitoring	National & Local Policy	Other Observations	Update Required
Policy CSM 1: Sustainable development	Green	Red	Green	Yes
Policy CSM 2: Supply of Land-won Minerals in Kent	Green	Green	Red	Yes
Policy CSM 3: Strategic Site for Minerals	Green	Green	None	No
Policy CSM 4: Non-identified Land-won Mineral Sites	Green	Green	None	No
Policy CSM 5: Land-won Mineral Safeguarding	Green	Green	None	No
Policy CSM 6: Safeguarded Wharves and Rail Depots	Green	Green	Green	No
Policy CSM 7: Safeguarded Other Mineral Plant Infrastructure	Green	Green	None	No
Policy CSM 8: Secondary and Recycled Aggregates	Green	Green	Red	Yes
Policy CSM 9: Building Stone in Kent	Neutral	Red	Red	Yes
Policy CSM 10: Oil, Gas and Unconventional Hydrocarbons	Neutral	Amber	None	Yes
Policy CSM 11: Prospecting for Carboniferous Limestone	Neutral	Amber	None	Yes
Policy CSM 12: Sustainable Transport of Minerals	Neutral	Red	Red	Yes
Policy CSW 1: Sustainable Development	N/A	Red	Red	Yes
Policy CSW 2: Waste Hierarchy and Policy	Green	Red	Red	Yes
Policy CSW 3: Waste Reduction	Red	Red	Amber	Yes
Policy CSW 4: Strategy for Waste Management Capacity	Red	Amber	Amber	Yes
Policy CSW 5: Strategic Site for Waste	Green	Green	Green	No
Policy CSW 6: Location of Built Waste Management Facilities	N/A	Red	None	Yes
Policy CSW 7: Waste Management for Non-hazardous Waste	Green	Red	Red	Yes
Policy CSW 8: Recovery Facilities for Non-Hazardous Waste	Green	Red	Red	Yes
Policy CSW 9: Non inert Waste Landfill in Kent	Neutral	Red	Red	Yes
Policy CSW 10: Development at Closed Landfill Sites	Neutral	Green	Red	Yes
Policy CSW 11: Permanent Deposit of Inert Waste	Green	Red	Red	Yes

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Policy Number & Title	Monitoring	National & Local Policy	Other Observations	Update Required
Policy CSW 12: Identifying Sites for Hazardous Waste	Green	Red	Amber	Yes
Policy CSW 13: Remediation of Brownfield Land	Neutral	Green	Green	No
Policy CSW 14: Disposal of Dredgings	Neutral	Green	Green	No
Policy CSW 15: Wastewater Development	Green	Green	Red	Yes
Policy CSW 16: Safeguarding of Existing Waste Management Facilities	N/A	Green	Red	Yes
Policy CSW 17: Nuclear Waste Treatment and Storage Dungeness	Neutral	Red	None	Yes
Policy CSW 18: Non-nuclear Radioactive Low-Level Waste (LLW) Management Facilities	Neutral	Red	None	Yes
Policy DM 1: Sustainable Design	Green	Red	Amber	Yes
Policy DM 2: Environmental and Landscape Sites of International National and Local Importance	Green	Red	Amber	Yes
Policy DM 3: Ecological Impact Assessment	Green	Red	Amber	Yes
Policy DM 4: Green Belt	Green	Green	None	No
Policy DM 5: Heritage Assets	Green	Amber	Red	Yes
Policy DM 6: Historic Environment Assessment	Green	Amber	Green	Yes
Policy DM 7: Safeguarding Mineral Resources	Green	Green	Green	No
Policy DM 8: Safeguarding Minerals Management, transportation Production & Waste Management Facilities	Green	Green	Green	No
Policy DM 9: Prior Extraction of Minerals in Advance of Surface Development	Neutral	Green	Red	Yes
Policy DM 10: Water Environment	Green	Green	Red	Yes
Policy DM 11: Health and Amenity	Green	Red	Red	Yes
Policy DM 12: Cumulative Impact	Green	Amber	None	Yes
Policy DM 13: Transportation of Minerals and Waste	Green	Red	None	Yes
Policy DM 14: Public Rights of Way	Green	Green	Green	No
Policy DM 15: Safeguarding of Transportation Infrastructure	Green	Green	None	No
Policy DM 16: Information Required in Support of an Application	Green	Amber	Red	Yes

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Policy Number & Title	Monitoring	National & Local Policy	Other Observations	Update Required
Policy DM 17: Planning Obligations	Green	Red	Red	Yes
Policy DM 18: Land Stability	Green	Green	Red	Yes
Policy DM 19: Restoration, Aftercare and After-use	Green	Red	Red	Yes
Policy DM 20: Ancillary Development	Green	Green	Red	Yes
Policy DM 21: Incidental Mineral Extraction	Green	Green	None	No
Policy DM 22: Enforcement	Green	Green	Red	Yes

Recommendations for updates to the Plan's policies are set out in the tables below.

Strategic Minerals Policies

Policy	Recommendation
Policy CSM 1: Sustainable development	Policy and supporting text require updating to ensure consistency with national policy and to ensure that the wording of the policy is effective. Reference to 'associated Planning Practice Guidance' should be deleted.
Policy CSM 2: Supply of Land-won Minerals in Kent	Specific reference to the 'Mineral Sites Plan' should be deleted in the sub-title and the first sentence of the policy prior to the criteria that will be used to screen sites for suitability for identification as future allocations. <i>N.B. Factual Updates will also be made to reflect most recent monitoring</i>
Policy CSM 8: Secondary and Recycled Aggregates	Policy remains effective, though modification is required to remove reference to sites being identified in a Mineral Sites Plan and a change to the minimum capacity of such facilities to be maintained over the remainder of the plan period.
Policy CSM 9: Building Stone in Kent	The policy is no longer consistent with national policy and needs to be updated due to a change in the NPPF involving deletion of the term 'small scale'. The policy should also be updated to reflect the fact that stone is extracted in Kent to main historic buildings beyond the County.
Policy CSM 10: Oil, Gas and Unconventional Hydrocarbons	Policy remains effective and is currently consistent with national policy. The supporting text should be updated to reflect the changes to the national planning policy on unconventional hydrocarbons.
Policy CSM 11: Prospecting for Carboniferous Limestone	Policy remains effective and consistent with national policy, though supporting text requires additional text to reflect the Environmental Impact Assessment process.
Policy CSM 12: Sustainable Transport of Minerals	Policy and supporting text require updating to ensure consistency with national policy and to ensure that the wording of the policy is effective.

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Strategic Waste Policies

Policy	Recommendation
Policy CSW 1: Sustainable Development	Policy and supporting text require updating to ensure consistency with national policy and to ensure that the wording in the policy is effective. Reference to 'associated Planning Practice Guidance' should be deleted.
Policy CSW 2: Waste Hierarchy and Policy	An update to the policy is recommended to avoid confusion when assessing whether waste management proposals are sustainable and consistent with the waste hierarchy.
Policy CSW 3: Waste Reduction	Updates to the policy and supporting text are necessary to ensure development comes forward in a way which is consistent with circular economy principles. The supporting text should be updated to confirm how developers may be required to make financial contributions for the provision of capacity required to manage the additional household waste arising.
Policy CSW 4: Strategy for Waste Management Capacity	Updates to the supporting text which set out issues concerning the management of waste in Kent are recommended to cover the need for the development of additional LACW transfer capacity. An amendment to the target for non-inert Construction, Demolition and Excavation waste such that it is expressed as % of the non-inert fraction only.
Policy CSW 6: Location of Built Waste Management Facilities	Updates to the policy are required to ensure consistency with other policies in the KMWLP and with national policy. Updates are recommended to ensure the Plan is effective with regard to how the location of facilities takes account of the water environment and flood risk.
Policy CSW 7: Waste Management for Non-hazardous Waste	Policy CSW7 should be updated to avoid duplication with policies CSW2 and CSW8. Other updates to Policy CSW7 are considered necessary to ensure it is effective.
Policy CSW 8: Recovery Facilities for Non-Hazardous Waste	Policy CSW8 and supporting text should be updated to strengthen the need for energy recovery facilities to utilise heat and to ensure Carbon Capture Utilisation and Storage is included in proposals. The supporting text should be updated to include a cross reference to CSW2 and the Policy title should be amended to ensure consistent use of the term 'recovery'. The monitoring framework for Policy CSW8 includes a duplicate indicator and trigger and so updates are needed to address this matter.
Policy CSW 9: Non inert Waste Landfill in Kent	The policy should be strengthened to ensure proposals consider how methane will be captured and utilised while a non-inert landfill site is operational. The policy should be reworded to ensure it can be implemented effectively and its meaning is clear.
Policy CSW 10: Development at Closed	A minor update to the text of criterion 1 is required to ensure it is clear and effective. Updates to criteria 2 and 3 are needed to

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Landfill Sites	avoid duplication and ensure the most effective use of methane gas is promoted.
Policy CSW 11: Permanent Deposit of Inert Waste	Changes to the supporting text and policy are needed to ensure that the policy provides more flexibility for deposit to land options for inert waste, and to ensure disposal of inert waste by landfill is not promoted. Some changes to the monitoring framework are needed to ensure that the implementation of this policy can be effectively monitored.
Policy CSW 12: Identifying Sites for Hazardous Waste	It is considered that the assessment of proposals for the management of hazardous waste on the basis of achieving net self-sufficiency is not consistent with national policy and could lead to confused decisions on the acceptability of such proposals. In addition, the policy ought to allow consideration of provision of replacement hazardous waste landfill capacity. In light of these matters the policy should be updated.
Policy CSW 14: Disposal of Dredgings	Changes to supporting text to clarify how proposals would be considered.
Policy CSW 15: Wastewater Development	Policy CSW 15 requires updating to recognise that the general locational criteria for waste management facilities including in Policy CSW6 does not cover the specific locational requirements of wastewater treatment facilities. The supporting text could also be updated to reflect Ofwat's current position on the sustainable management of sludge. Updating needed to ensure use of biogas as a fuel
Policy CSW 16: Safeguarding of Existing Waste Management Facilities	The text of Policy CSW16 should be updated to remove the reference to the Waste Sites Plan and to expand the scope of safeguarded sites.
Policy CSW 17: Nuclear Waste Treatment and Storage Dungeness	Updates are recommended to address the issue that Policy CSW17 is not, as currently worded, sufficiently flexible in overall radioactive waste management terms, as it does not allow for LLW derived from the Dungeness Nuclear Estate to be flexibly managed, in that it precludes disposal of this material within the nuclear facility site area.
Policy CSW 18: Non-nuclear Radioactive Low-Level Waste (LLW) Management Facilities	Updates are recommended to address the issue that Policy CSW18 is not, as currently worded, sufficiently flexible in overall waste management terms, as it does not allow for LLW derived from locations other than Kent to be managed in Kent. This is inconsistent with national policy.

Development Management Policies

Policy	Recommendation
Policy DM 1: Sustainable Design	Policy DM1 should be updated to reflect more stringent targets and policy relating to mitigation of and adaptation to climate change.
Policy DM 2: Environmental and Landscape Sites of International National	Policy DM2 should be updated to reflect changes to the NPPF which expect geodiversity to be enhanced as well as protected as well as changes concerning protection of AONB.

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and Local Importance	<p>The supporting text of Policy DM2 should be updated to refer to the County Council environment documents; Kent Environment Strategy 2016 and Kent State of the Environment Report 2015.</p> <p>Depending on when the Environment Bill receives Royal Assent the supporting text should be updated to reflect the requirements concerning biodiversity net gain.</p> <p>Depending on the timing and content of the Third Revision to the Kent Downs AONB Management Plan which replaces the current Management Plan, Policy DM2 and/or the supporting text, should be updated to ensure it is consistent with those changes.</p>
Policy DM 3: Ecological Impact Assessment	<p>Depending on when the Environment Bill receives Royal Assent, the policy wording and supporting text should be updated to reflect requirements concerning biodiversity net gain. Criterion 5 in particular may need to be strengthened to reflect the net-gain objective rather than making a 'positive contribution to the protection, enhancement, creation and management of biodiversity'.</p> <p>The policy and supporting text should be updated to reflect changes to the NPPF which refers to 'European Sites' as 'habitats sites', including the addition of a definition. Updates are also needed to reflect changes to the Conservation of Habitat and Species Regulations, specifically the language of 'European Sites' following the exit from the EU.</p>
Policy DM 5: Heritage Assets	<p>The supporting text should be updated to include reference to the Historic England (2015) Historic Environment Good Practice Advice in Planning Notes.</p> <p>The final sentence of Policy DM5 should be updated to add 'unacceptable adverse' before 'impact' to be consistent with the NPPF.</p>
Policy DM 6: Historic Environment Assessment	<p>The supporting text should be updated to include reference to the Historic England (2015) Historic Environment Good Practice Advice in Planning Notes.</p>
Policy DM 9: Prior Extraction of Minerals in Advance of Surface Development	<p>Policy DM9 is consistent with national policy however the wording of criterion 1 is unclear and does not adequately express the intention of the policy, in light of this it is proposed that it be updated to ensure its effectiveness.</p>
Policy DM10: Water Environment	<p>The policy should be updated to accord with the NPPF on water resources and the need to include sustainable urban drainage in development proposals. Following consultation with the Environment Agency, updates are also recommended to strengthen the requirement for risk assessments to consider impacts to groundwater from minerals and waste development.</p>
Policy DM 11: Health and Amenity	<p>Policy requires review with regard to referencing blasting, and possible strengthening of wording regarding health impacts through vehicle emissions to increase its effectiveness. The final sentence of the policy requires clarification.</p>
Policy DM 12: Cumulative Impact	<p>Supporting text to the policy should be updated to ensure that the policy is effective given the changes to air quality legislation since the Plan's adoption in 2016.</p>
Policy DM 13: Transportation of	<p>The policy and supporting text should be updated to ensure effectiveness and consistency with national policy, with regards to</p>

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Minerals and Waste	the connection between vehicle movements and climate change and sustainable transport initiatives in the NPPF such as the provision of charging points for electric vehicles.
Policy DM 16: Information Required in Support of an Application	Policy should be removed as it is not justified. The text should be retained elsewhere in the Plan as information but updated to reflect the Habitat Regulations.
Policy DM 17: Planning Obligations	The policy not justified and so should be removed from the Plan, however the text provides useful information and should be retained elsewhere in the Plan.
Policy DM 18: Land Stability	The second sentence of Policy DM18 should be expanded upon to provide additional precision as well as more information in the supporting text as to why land stability might be an issue for waste and minerals development. Alternatively, the second sentence of the Policy could be deleted, and more information added into the supporting text to explain why land stability might be an issue for waste and minerals development e.g. quarries and landfill.
Policy DM 19: Restoration, Aftercare and After-use	Policy DM 19 requires rewording to make the text more precise and informative including the possible need to secure financial instruments to secure restoration.
Policy DM 20: Ancillary Development	Policy DM20 is not consistent with national policy as it does not have regard to potential impacts on communities that may occur as a result of ancillary development. Policy DM20 should be updated to reference impacts on communities.
Policy DM 22: Enforcement	Policy is not considered fully effective and in any event should be deleted as it provides supporting information rather than land use planning policy. The text could be retained elsewhere in the Plan for information purposes.

Planning Practice Guidance indicates that a local planning authority should publish the outcome of the review and the full report will be published on the Council's website. The Review Report can be found here: <https://www.kent.gov.uk/about-the-council/strategies-and-policies/environment-waste-and-planning-policies/planning-policies/minerals-and-waste-planning-policy>

Updating of the Kent Minerals and Waste Local Plan in response to the review will require agreement of the Council as this is a Council policy document. To this end, the version of the revised mineral and waste planning policies (and supporting text) that the Council intends to submit to the Planning Inspectorate for independent examination will require consideration by County Council and Cabinet.

The process of updating the Plan will follow a statutory process as set out in the Town and Country (Local Planning) (England) Regulations 2012 (as amended). In anticipation of the need for updates to the Plan the Council's current Mineral and Waste Development Scheme (adopted January 2021) includes a timetable for the process which is set out below.

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Mineral and Waste Development Scheme (adopted January 2021)

Stage	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	January 2023

* In light of the report to Environment and Transport Cabinet Committee in November 2021, consultation on draft updated policy (Regulation 18) is now proposed to be November – January 2022. A revised Mineral and Waste Local Development Scheme is being prepared to reflect this new timetable.

Consultation relating to the update of the Plan will take place in accordance with the Council's recently updated Statement of Community Involvement. Progress on the activities described above against the timetable will be reported on an annual basis in the County Council's Annual Monitoring Report.

In undertaking this review it is recognised the review's recommendations are based on information currently available and there are a number of uncertainties which may have an impact as the process of updating the policies takes place. Uncertainties include the ability of current reserves of crushed rock in Kent to meet future supply requirements which is currently being investigated by the relevant mineral operator.