

From: David Brazier - Cabinet Member for Transport & Environment
Mike Austerberry - Corporate Director for Enterprise & Environment

To: Cabinet – 14 October 2013

Subject: Submission of the Kent Minerals and Waste Local Plan 2013-30 to the Secretary of State for Communities and Local Government

Classification: Unrestricted

Past Pathway of Paper: Environment, Highways & Waste Cabinet Committee – 3 October 2013

Future Pathway of Paper: County Council - 12 December 2013

Electoral Division: All of the Kent County Council authority area

Summary: This report covers the submission by the County Council of the Kent Minerals and Waste Local Plan to the Secretary of State. This will enable the adoption of this planning policy document for use in the determination of planning applications for proposed mineral and waste management developments. This will also allow the formal stages of the Minerals and Waste Sites Plans to be commenced as the Minerals and Waste Local Plan includes policies on the locational criteria for new sites

Recommendation(s):

Cabinet is asked to endorse the Pre-Submission Draft Kent Minerals and Waste Local Plan (MWLP), prior to its submission to the County Council for approval to submit the Plan to the Secretary of State, subject to:

1. A six week period of public consultation on the plan;
2. No material objections being received during the public consultation
3. The Director of Planning & Environment being given delegated powers to approve any non material changes to the MWLP in consultation with the Cabinet Member for Transport & Environment following on from the public consultation and to agree any amendments to the MWLP during the Examination in Public for submission to the appointed planning inspector, if these amendments are likely to resolve objections.

1. Introduction

The Kent Minerals and Waste Local Plan

- 1.1 The purpose of this report is to ensure that the County Council submits its Minerals and Waste Local Plan (MWLP) to the Secretary of State. After an Examination in Public into the soundness of the plan has been held and reported upon by an appointed planning inspector, the County Council will be able to adopt the MWLP as its planning policy for minerals and waste management.
- 1.2 The production of a Minerals and Waste Local Plan (MWLP) is a statutory requirement for the County Council. When adopted, along with Local Plans produced by District Councils and Government Planning Policy, it will form the policy basis for decision making by the County Council when determining planning applications for proposed minerals and waste developments. Its preparation is separate from KCC's role as Waste Disposal Authority (WDA) for household (municipal) waste. It is also a distinct function from KCC's role as Planning Authority in determining minerals and waste planning applications.
- 1.3 The MWLP is one of three plans that are being prepared to make planning for minerals and waste development in Kent more transparent. When it is adopted, the policies in the MWLP will be used to identify and allocate sites for future development for minerals or waste management development in a Minerals Sites Plan and Waste Sites Plan.
- 1.4 The MWLP is an important planning policy document for the Council as it will assist business and future economic development in Kent by giving a clear steer on where minerals and waste development would be acceptable in the future. It also provides safeguarding of viable mineral reserves and safeguarding of both current and any allocated mineral and waste sites from other forms of development. It contains planning policies and proposals for economic minerals and waste streams arising in Kent for the next 20 years. It provides the planning policy base for:
 - the locational criteria for site allocation in the Minerals and Waste Sites Plans;
 - the need for new minerals and waste development up to 2030;
 - two strategic sites, one for mineral development and one for waste which are essential to the delivery of the objectives of the MWLP;
 - a development management policy framework against which minerals and waste planning applications will be determined.

It also provides safeguarding through protection from other forms of development for:

- viable mineral reserves;
- mineral import wharves and railheads;
- all current permanent minerals and waste sites;
- any site allocated in the Minerals and Waste Sites Plans.

A list of all the planning policies in the MWLP can be found in Appendix B.

2. Financial Implications

- 2.1 Hosting the Examination In Public and paying for the appointed planning inspector is the County Council' responsibility. It is estimated that this will cost up to £250,000 and a budgetary provision for this has been made.

3. Bold Steps for Kent and Policy Framework

- 3.1 The MWLP links with the Bold Steps for Kent County Council by supporting and facilitating new growth in the Kent economy and tackling disadvantage by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well being.
- 3.2 Throughout the plan period to 2030, minerals and waste development will make a positive and sustainable contribution to the Kent area and assist progress towards a low carbon economy. The main aims of the plan are to drive waste up the waste hierarchy enabling waste to be considered as a valuable resource, rather than simply disposing of it, whilst at the same time providing a steady supply of minerals to allow sustainable growth to take place.
- 3.3 The plan contributes to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth and innovation; and by identifying and co-ordinating development requirements, including the provision of infrastructure and employment opportunities.
- 3.4 It will support needs arising within the major growth areas and through collaborative working with local people, communities, landowners, the minerals and waste industries, the environmental sector and local planning authorities, deliver cost effective, sustainable solutions to Kent's future needs for minerals and waste.

4. Detail

4.1 Background

4.1.1 Since 2010, two major public consultations have been conducted on the Draft Minerals and Waste Plan in order to shape its development. The first consultation was the 'Issues' stage document (carried out in autumn 2010) and the second was the Strategy and Policy Directions stage (carried out in summer 2011). The comments received were reviewed and where possible have been used to inform the next stage of the plan making process. See Table 1 for further information.

Table 1: Previous consultation on the Kent Minerals and Waste Local Plan 2013-30

Consultation	Number of consultees	Number of comments
Issues document	85	1180
Strategy and Policy Directions document	80	655

4.1.2 The Pre-Submission Draft has been prepared following two public consultations on issues (in 2010) and on strategy and policies directions (in 2011). A public consultation specifically on mineral safeguarding was also carried out earlier this year. Two consultations on the issues and preferred options for the Minerals and Waste Sites Plans (in 2011 and 2012) have also assisted in the development of policies in the MWLP. Throughout this process, the work has been guided by an Informal Members Group, chaired by Cllr David Brazier.

4.1.3 The MWLP has been assessed by independent consultants who have carried out in parallel with all stages of its preparation, sustainability appraisals and assessments under the Habitats Regulations. Assessments for landscape, transport and equalities have also been carried out by officers. The results of these assessments have all contributed to the development of the policies in the MWLP. A list of these documents along with reports on the consultations and topic papers on minerals and waste issues can be found in Appendix A.

4.2 Programme

4.2.1 The future programme for the MWLP is set out in the following table:

Table 2: Future Programme for the Minerals and Waste Local Plan

Stage	Dates
The Pre-submission draft of the Minerals and Waste Local Plan 2013-2030 will be published for consultation	January 2014
Submission of the Minerals and Waste Local Plan to the Secretary of State.	May 2014
An Examination in Public on the submitted Minerals and Waste Plan 2013-2030 will take place before an appointed	September 2014

Stage	Dates
planning inspector.	
Receipt of the appointed planning inspector's report	January 2015
Adoption of the Minerals and Waste Local Plan 2013-2030.	April 2015

4.2.2 When the Minerals and Waste Plan 2013-2030 is adopted, the County Council can then proceed with the formal stages of production of the Minerals and Waste Sites Plans. It is estimated that these documents can be finished, consulted upon and submitted to the Secretary of State such that they could be adopted by the County Council during April 2016.

4.3. Public Consultation

4.3.1 The intention is to publish the pre-submission draft for public consultation from 17 January 2014 for six weeks. Previous engagement and promotion of the Plan at earlier stages in the development of the document has culminated in a stakeholder database of nearly 3,000 names and contact details of residents, organisations and companies interested in the development of the Minerals and Waste Local Plan. The public consultation will be initiated through direct contact with these stakeholders, and a notice in the local press immediately after the County Council on 12 December has received the report on the MWLP.

4.3.2 Any late representations will be still be considered and included in the consultation commentary report until report is completed. The length of the consultation period has been designed to reflect the next formal stage of the plan making process which will involve a statutory six week period for any representations to be lodged which are then submitted to the Secretary of State along with the MWLP.

4.3.3 The January 2014 public consultation will be primarily web based with the access to the consultation documents and the ability for submission of comments direct into an online system. Printed copies of the documents will be made available at all Kent libraries and Kent Gateways. CD ROMs with electronic copies of the consultation documents will be sent to any member of the public who requests one. Comments are also accepted by post and email. Notices about the consultation will be provided to all Parish Clerks, libraries and the Kent Gateways for display.

4.4 Submission

4.4.1 Upon completion of the consultation and assessment of the representations, it is only intended that the MWLP would be amended with any significant changes (i.e. removal of a policy or the inclusion of a new policy) if it is considered that the representations might lead to the MWLP being found unsound by the appointed planning inspector.

4.4.2 Minor amendments might be carried out to provide greater clarity or to reference to any new national planning policy (the Government has currently issued a draft of a revised Planning Policy Statement on Sustainable Waste Management and a draft of the Waste Management Plan for England). However, the Pre-Submission Draft is the finished version of the MWLP and it is intended that this should be the document that is submitted to the Secretary of State subject to any serious issues developing from the consultation.

4.4.3 Prior to the submission of the MWLP to the Secretary of State, a statutory period of six weeks is provided for public representations. These representations are then submitted to the Secretary of State along with the MWLP. The Secretary of State will then appoint a planning inspector who will hold an Examination in Public. The Examination in Public will be held regardless of any objections being received as the planning inspector is appointed to examine the soundness of the plan. Soundness is defined in national planning policy as:

- Positively prepared
- Justified
- Effective
- Consistent with national policy

4.4.4 The planning inspector will prepare a report on the Examination in Public for the County Council which can include recommendations to adopt or not, along with suggested amendments.

4.5. Options

4.5.1 Various different options were considered at Strategy and Directions Consultation Document Stage of the Minerals and Waste Local Plan during 2011 for both the delivery strategies for minerals and waste. This covered both the choice of any strategic sites and the basis upon which the need for new development for minerals or waste management would be defined. The commentary report on the Strategy and Directions Consultation can be viewed online and a link is provided in Appendix A.

4.6 Legal implications

4.6.1 There is a risk that, if timely progress is not made with the adoption of MWLP and Waste Sites Plan, fines could be incurred by the County Council because of a failure by the Government to meet EU Waste Framework Directive requirements. The Government has determined that Waste Local Plans form part of the national Waste Management Plan which it is required to produce under the Waste Framework Directive.

4.6.2 The fines would result from possible infraction proceedings arising from the European Commission taking a member state to the European Court

of Justice for breach of its obligations under the EC Treaty. The Localism Act contains provisions for the Government to recoup such fines from any local authority that has caused the infraction. Therefore, Kent could be fined a proportion of the total infraction costs, the levels of which would depend upon the number of waste planning authorities which fail to have site specific waste local plans in place at the time of the breach of European Law.

4.7 Equalities Implications

4.7.1 An initial Equalities Impact screening of the Kent Minerals and Waste Plan 2013-30 has been carried out and finalised. The results of the screening recognise that the Kent Minerals and Waste Local Plan's policies are unlikely to have any specific, adverse or positive impacts upon the nine protected characteristics¹. However, this assumption will be tested during the scheduled public consultation on the Draft Plan due to commence in January 2014. A full impact assessment will therefore be carried out after the consultation has taken place to assess any unexpected equalities issues as part of the reporting on the overall consultation outcomes.

4.8 Delegated Powers

4.8.1 In order to prevent any delay in the submission of the MWLP to the Secretary of State, the Director of Planning & Environment will need delegated powers to agree non material changes to the MWLP in conjunction with the Cabinet Member for Transport & Environment following the consultation on the Pre-Submission Draft. Furthermore, the Director of Planning & Environment will also need delegated powers to agree changes to be put before the appointed planning inspector which might resolve any objections that occur during the Examination in Public.

5. Conclusions

5.1 The purpose of this report is to ensure that the County Council submits its Minerals and Waste Local Plan to the Secretary of State. After an Examination in Public into the soundness of the plan has been held and reported upon by an appointed planning, the County Council will be able to adopt the MWLP as its planning policy for minerals and waste management.

5.2 The Pre-Submission Draft Minerals and Waste Plan has been prepared following public consultations and assessment of its implications for sustainability, effects upon habitats, landscape, transport and equalities. It is suitable for submission to the Secretary of State but will first undergo

¹ The characteristics are: Age, disability, gender, gender identity, race, religion or belief, sexual orientation, pregnancy and maternity, marriage and civil partnerships and carer's responsibilities.

a further period of public consultation. It is not anticipated that any material changes to the MWLP will be necessary before submission.

5.3 The adoption of the MWLP will enable the commencement of the formal stages of the Minerals and Waste Sites Plans (i.e. consultation on the Pre-Submission Drafts, and their submission to the Secretary of State).

6. Recommendation(s)

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7. Background Documents

See Appendix A attached for the full list of background documents; all documents listed are available to view from:

http://www.kent.gov.uk/environment_and_planning/planning_in_kent/minerals_and_waste.aspx

8. Contact details

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