

From: **Matthew Balfour – Cabinet Member for Environment & Transport**

Barbara Cooper, Corporate Director for Growth, Environment and Transport

To: **County Council 14th July 2016**

Subject: **Adoption of the Kent Minerals and Waste Local Plan 2013-30**

Key decision – affects more than 2 Electoral Divisions

Classification: **Unrestricted**

Past Pathway of Paper: 12 December 2013 Full Council; Cabinet 27th June 2016
Environment & Transport Cabinet Committee 8th July 2016

Electoral Division: Kent wide

Summary: This report is to note the outcome of the Examination into the Kent Minerals and Waste Local Plan 2013-30 by the Government-appointed Inspector and to seek adoption of the Plan.

The County Council is recommended to:

1. Note the Main Modifications to the Kent Minerals and Waste Local Plan 2013-30 (KMWLP) and the responses to their consultation;
2. Note the contents of the Inspector's Report and his conclusion that with the Main Modifications (Appendix 3), the Kent Minerals and Waste Local Plan is sound and legally compliant;
3. Note the minor non-material modifications made to the Kent Minerals and Waste Local Plan (Appendix 5); and
4. Adopt the Kent Minerals and Waste Local Plan, incorporating the Main Modifications and minor modifications (Appendix 1);

And to authorise the Corporate Director for Growth, Environment and Transport to:-

- (i) make any further minor modifications which may be needed, such as formatting changes and typographical errors in order to publish the Development Plan; and
- (ii) approve and publish the adoption statement and the Strategic Environmental Assessment Adoption Statement.

Please note that this report is accompanied by a number of appendices. Given their size, only Appendices 1 (the Plan) and 6 (the Equalities Impact Assessment) are published in hard copy to accompany the Papers. A hard copy of all the appendices is available in the Member's Room, the 4 Group Offices and the Information Point. Electronic copies are available via the Council's website (<https://www.kent.gov.uk/media/kcc/documents/Appendices-for-Committee-Report.pdf>) and hard copies are also available upon request to the Minerals and Waste Planning Team via mwdf@kent.gov.uk.

The following appendices are relevant:

- Appendix 1 – Kent Minerals and Waste Local Plan 2013-30 as modified May 2016 – The Plan to be adopted
- Appendix 2 – Background documents
- Appendix 3 – The Inspector's Report with Schedule of Main Modifications
- Appendix 4 - A summary of Main Modifications by Chapter
- Appendix 5 – Additional (Minor) Modifications
- Appendix 6 – Equalities Impact Assessment
- Appendix 7 Sustainability Appraisal Synthesis Report

1. Introduction

The Kent Minerals and Waste Local Plan 2013-30

- 1.1 The production of a Local Plan that contains policies for the management of waste and the supply of minerals is a statutory requirement for the County Council in its role as the Minerals and Waste Planning Authority for Kent. It provides a local Kent perspective on national planning policy and guidance in this area. An up to date Plan is advantageous as it provides certainty as to where mineral and waste management development can and cannot take place in the County. Without such a Plan, planning application decisions cannot be determined according to local priorities, but rather are determined in accordance with nationally set policy considerations and a number of very historic saved¹ planning policies, some dating back to the 1980s. There is also a greater risk of planning decisions being determined via appeal and the possibility of the Department of Communities and Local Government taking over the County Council's responsibility for preparing a local plan.
- 1.2 Once adopted by the Council, the Kent Minerals and Waste Local Plan (KMWLP) will provide planning policy for the management of all waste streams and the supply of minerals in Kent. Adoption of the KMWLP would be in accordance with the Minerals & Waste Development Scheme (MWDS) agreed by the Cabinet Member for Environment & Transport. A copy of the Plan proposed for adoption is included as Appendix 1.
- 1.3 The KMWLP will form part of the statutory development plan for Kent together with the adopted development plans (Local Plans) prepared by the twelve

¹ Policies in existing development plans that the Secretary of State has recognised can be used for decision making for a temporary period.

Kent district and borough planning authorities and relevant Neighbourhood Plans prepared by local communities. In particular, the KMWLP will form the policy basis for decision making by the County Council and the Ebbsfleet Development Corporation when determining planning applications for minerals and waste management development. As part of the development plan for Kent, the Plan will also be used, by district and borough planning authorities when determining planning applications for non-minerals and waste developments, particularly with regard to the safeguarding of mineral and waste management resources.

- 1.4 The Plan is presented in 9 chapters. Chapters 1 and 2 set out the purpose and status of the Plan, its links with other legislation, policies and strategies and identifies the County's environmental assets as context for the Strategy. The Plan sets out the spatial vision and objectives for managing minerals and waste resources within Kent (chapters 3 and 4) with each being supported by a delivery strategy as to how the vision is to be achieved (chapters 5 and 6). Chapter 7 of the Plan sets out a suite of supportive development management policies. Plan monitoring and the Policy Maps are set out in chapters 8 and 9 respectively.
- 1.5 Throughout the Plan period, 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 hierarchy² 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.
- 1.6 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 to support growth and innovation, the provision and safeguarding of infrastructure and employment opportunities and the protection of the environment. The steady and adequate supply of aggregates and the use of recycled material have an important role to play in the delivery and maintenance of the county's infrastructure and for the construction industry.
- 1.7 The KMWLP is one of three Local Plan documents to be prepared by the Council. The current document (previously known as the Core Strategy) will set the context for site allocation work for the future Minerals and Waste Sites Plans. These Sites Plans will allocate sites suitable for mineral extraction and waste management development. Prior to changes in planning guidance, some work was undertaken on the Sites Plans up until 2012. This work will need to be reviewed in light of the current Plan and will be progressed on adoption of the KMWLP.
- 1.8 Work on the KMWLP commenced in 2009 and, once adopted, its policies will replace the remaining saved policies in the previously adopted minerals and waste plans. These relate to the Kent Minerals Local Plan Construction Aggregates (1993), Kent Minerals Local Plan Chalk and Clay, (1997), Kent Minerals Local Plan Oil and Gas, (1997), Kent Minerals Local Plan Brickearth

² Waste hierarchy ranks waste management options. It gives priority to prevention, preparing for re-use, recycling, recovery and then disposal (e.g. landfill).

(1986) and the Kent Waste Local Plan (1998). There have been considerable changes to planning policy and guidance since the adoption of the existing development plans.

- 1.9 The Minerals and Waste Local Plan is listed in Kent County Council's Constitution in Appendix 3: Policy Frameworks.

KWMLP Evidence Base

- 1.10 The policies contained in the KWMLP are based upon a supporting evidence base. This evidence base contains 'topic papers' on the requirements for the various mineral resources and waste streams in Kent, in addition to technical reports such as the Habitat Regulations Assessment as well as the representations received from previous public consultation. Throughout its preparation, the Plan has also been informed by Sustainability Appraisal (SA). A full list of background documents can be found in Appendix 2. These are published online on the main Minerals and Waste Local Plan Examination website. A copy of the Sustainability Appraisal and the Habitat Regulations Assessment are available via a link to the examination website³ and a hard copy is available for Members to view in the Members' room, the 4 Group Offices and the Information Point.

2. Submission and Public Examination of the Kent MWLP 2013-30

- 2.1 At its meeting on 12 December 2013, Full Council agreed to endorse the Pre-Submission Draft Kent Minerals and Waste Local Plan (MWLP), prior to its submission 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.

- 2.2 The KWMLP was formally submitted to the Secretary of State on 3 November 2014 who appointed Planning Inspector Mr Jonathan G King BA (Hons) DipTP MRTPI to examine the plan for its soundness and legality. The submission included all background documents, along with the representations made by interested parties and stakeholders in response to the public consultation referred to in para 2.1 above (the submission consultation). There were 83 representations to this consultation, which raise matters of legality and soundness that they wished the Inspector to consider.

³ The Kent MWLP Examination website is also available via the County Council's website

2.3 The Examination process is a term used to cover the whole assessment of the Plan by the Inspector, from submission to when he issues his report. It includes public hearings, the assessment of the Plan and supporting evidence and consideration of third party views. In the case of the KMWLP, public hearings commenced on 14 April 2015 and ran for six days over a two-week period. They then reconvened for a further three days on 26 May 2015. In total, the Inspector has had to have regard to some 250 types of evidence as part of the Examination process, including some 2500 representations. These documents are available via the KMWLP Examination website.

3. Proposed Modifications Necessary for Soundness

3.1 A Local Plan Making Authority can only adopt a plan that is considered to be sound by the Planning Inspectorate. The Council therefore wrote to the Inspector in January 2015 requesting that, as part of the Examination process, and pursuant to section 20(7C) of the Planning and Compulsory Purchase Act (2004) (as amended), the Inspector be invited to recommend modifications to be made to the KMWLP to ensure it satisfied the requirements in subsection (5)(a) of the Act and is sound.

3.2 During the course of the Examination, the Inspector indicated that the Plan should be modified in a number of areas. Two sets of proposed Main Modifications were therefore published for representations on their soundness and legality from 17 August 2015 to 12 October 2015 and 8 January 2016 to 4 March 2016 in accordance with the Council's Statement of Community Involvement. Publication of the modifications was agreed with the Cabinet Member for Environment & Transport beforehand. The modifications principally arose from concerns raised by stakeholders through public consultation and were debated at some length at the public hearings. A number of additional (minor) modifications which aid clarification and remove ambiguous text, which could lead to policies in the Plan being misinterpreted, were also consulted on. Details of the modifications are set out in the Inspector's report in Appendix 3. Appendix 4 briefly summaries the main modifications that arose following the Examination Hearings by chapter.

4 Public Consultation and Engagement

4.1 The Kent Mineral and Waste Local Plan has been in a state of review for a number of years, as policy requirements and the nature of delivery for plan-making has changed. There was a shift in direction following the introduction of the Localism Act in 2011 and the NPPF in 2012. Prior to this, the 2004 Planning and Compulsory Purchase Act introduced Local Development Frameworks, replacing the old style local plans. Despite the legislative changes, public engagement has remained a key element throughout the KMWLP plan-making process. The 'core' of the Plan stems back to public engagement and the 'Issues Consultation' document of 2010. Such documents and consultation are considered the building blocks of the development plan.

4.2 Since 2010, six major public consultations have been conducted on the draft Minerals and Waste Plan. Public consultation was undertaken with a wide

range of stakeholders throughout the plan-making process and included statutory bodies, district, borough and parish councils in Kent, county councils in the South of England, the minerals and waste industry and members of the public. The consultations are listed below in chronological order:

- 'Issues' stage document - Autumn 2010
- Strategy and Policy Directions stage - Summer 2011
- Pre-submission stage - Winter 2014
- Submission consultation - Summer 2014
- Proposed Modifications consultation - August to October 2015 and January to March 2016

4.3 The comments received to each consultation were reviewed and where appropriate have been used to inform the subsequent stages of the plan-making process. See Table 1 for further information. A cross party Informal Member Group has been involved during the plan making process since 2010.

Table 1: 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
Pre-submission	82	355
Submission	83	213
Proposed Modifications (2015) - Following the Hearings	46	91
Proposed Modifications (2016) - Following the Hearings	32	65

5 Consultation Response on Proposed Modifications

5.1 The purpose of the Proposed Modifications public consultation, which ran from 17 August to 12 October 2015, was to address the potential unsoundness and legal compliance issues discussed with the Inspector during the Examination. In particular, these related to issues raised during the Examination Hearings by the Inspector and other stakeholders. Representations received focused on a small number of areas which are considered below.

5.2 Representations to modifications concerning safeguarding mineral resource and mineral and waste infrastructure policies suggested that the modifications were too onerous for future development or insufficient depending upon the interest of the respondent. As the safeguarding aspects are a matter for the Borough Councils to consider when determining non-mineral and waste development proposals, it was also considered necessary for a safeguarding supplementary planning document (SPD) to be prepared post adoption of the Plan to address implementation matters between the county and borough planning authorities.

5.3 A number of respondents disagreed with the Inspector's view on the definition of inappropriate development for mineral plant and waste activities in the Green Belt. Contrary to the Inspector's view, they argued that mineral plant was not inappropriate development for the purposes of assessing proposals against Green Belt policy.

5.4 Proposed modifications to the Policy concerning Oil, Gas and Unconventional Hydrocarbons attracted a number of representations. Friends of the Earth (FOE) submitted a representation and although it recognised that the modifications addressed a number of its concerns, it still maintained an objection based on a number of its original concerns. The modification reflects Government guidance and the recent Infrastructure Act 2015 and it sets out the criteria against which proposals will be considered. It also makes specific reference to hydraulic fracturing and sets out the criteria that would need to be satisfied should this be proposed within Kent.

5.5 Modifications relating to the supply of land-won minerals were generally supported, albeit minor amendments were sought to policy concerning silica sand by an operator who is understood to be seeking permission for extraction of silica sand in the near future. A stakeholder interest sought greater clarity for developments that may affect the setting of the AONB in the Postling area.

5.6 In light of the representations made to the Inspector in December 2015, he felt that further modifications post the Hearings were necessary to address soundness or legality matters. Following agreement with the Cabinet Member for Environment and Transport, these further modifications were published for public consultation on their soundness and legality between 8 January and 4 March 2016. These are set out in Appendix 3 and identified with FM references.

5.7 A total of 34 representations were received to this consultation raising 65 comments. Of these, 33 comments were supportive of the proposed modifications. The remainder continued to raise objections in respect of restoration requirements, the AONB, safeguarding and oil, gas and unconventional hydrocarbons. In summary, the following issues were raised:

- (i) In respect of site restoration, the amended wording was criticised for being too vague and not enforcing restoration as a preferred option over built development. Others disagreed with this and praised the modifications for their increased flexibility. The modification ensures that sites are to be restored to the highest standard to sustainable afteruses that benefit Kent communities.
- (ii) It was thought by some that the modifications to Policy CSM4, Non-identified Land-won Mineral Sites, weakened the Policy's defences against development within the AONB. The Inspector concluded that this was not the case and that the policy as modified provides that permission will only be granted where it has been demonstrated that there are overriding benefits that justify extraction at the exception site. This gives the necessary weight to the economic, social and environmental roles of the Plan

- 5.8 Objections were raised to the modifications to Policy DM8: Safeguarding Minerals Management, Transportation Production and Waste Management Facilities on the basis that the policy may leave mineral wharves without safeguarding. Others argued that this policy is now inconsistent with Policy DM7, Safeguarding Mineral Resources, and that Policy DM7 should be amended to resolve this. Policy DM7 provides a presumption for safeguarding, but sets criteria where development will be exempt.
- 5.9 There was a minor modification made to Policy CSM 10 - Oil, Gas and Unconventional Hydrocarbons. This substituted 'production' in place of 'development' in the policy which reflects the wording in the NPPF. Several objectors alleged the policy still to be unsound as they considered that it does not take into account the environmental risks associated with the production of these types of materials.
- 5.10 These outstanding objections on alleged unsoundness were considered by the Inspector in examining the Plan and in preparing his report.

6 Corporate Policy Implications

- 6.1 The National Planning Policy Framework (paragraphs 143 and 153) requires preparation of a Minerals Local Plan. There are similar provisions in the National Planning Policy for Waste, 2014. In the absence of an up to date Local Plan, there is no overall local development plan to enable planning authorities to reject inappropriate development. As a result, there is a greater risk of planning by appeal and the loss of local planning decision making, increased administrative costs from appeals and public inquiries, along with reputational cost and potential blight (due to a delay in the Sites Plans).
- 6.2 The KWMLP supports and aids delivery of a number of corporate and partnership strategies. In particular it underpins corporate policies contained within the Strategic Statement 'Increasing Opportunities, Improving Outcomes – Kent County Council's Strategic Statement 2015-2020' by supporting and facilitating new growth in the Kent economy, and the creation of a high quality built environment.
- 6.3 Previous stages of the KWMLP's development have been in accordance with the relevant County Council corporate strategic policies in place at that time including Bold Steps for Kent which covered the period 2010-2014/15.
- 6.4 In addition, the Plan has a role to play in the delivery of the Kent Environment Strategy, the Joint Municipal Waste Strategy and the Kent and Medway Growth and Infrastructure Framework.

7. Financial Implications

- 7.1 The costs of preparing and adopting the KWMLP to date are included in the Environment Planning and Enforcement Division's budget. In the event that the Inspector's recommendations are not accepted, then the Plan cannot be

adopted. The Plan would therefore revert to the earlier Regulation 18 plan-making stage⁴. This would have considerable funding and timing implications.

7.2 In addition, there is an expectation by Government (DCLG) that all planning authorities have an up to date local plan in place by 2017. Without an adopted Plan, there is a risk that DCLG will step in as the plan making authority, reducing local accountability. The current Development Plan for minerals and waste management is found in various documents that date from 1986 to 1998. Planning policy has been revised considerably during this time and as a result planning decisions in Kent are currently determined against a small number of 'saved' locally set policies and national planning policy and guidance.

7.3 Furthermore, in addition to the County Council's legal obligation under the Town and Country Planning legislation to prepare a statutory Development Plan, the Government has determined that Waste Local Plans form part of the National Waste Management Plan that it is required to produce under the European Waste Framework Directive. There is a risk that, if timely progress is not made with the adoption of the KMWLP (and the Waste Sites Plan), fines could be imposed on the County Council because of a failure by the Government to meet the EU Waste Framework Directive requirements.

8. Inspector's Report

8.1 On 26th April 2016, the Inspector issued his Report to the Council and, subject to the inclusion of the Main Modifications referred to above, he has concluded that the Plan is legally compliant and sound. Only a sound plan can be adopted. In considering the Plan, the Inspector has had regard to whether the planning test of soundness is met. This is defined in national planning policy as:-

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

8.2 The Inspector's report is included as Appendix 3. It includes an appendix which sets out the Main Modifications to the Plan and his reasoning for the modifications set out in his Report.

9. Next Steps

9.1 There are a number of steps to be followed in order that the KMWL Plan can be adopted. The first is the resolution by the County Council to adopt. This is followed by publicity advising of the adoption and making inspection copies available at libraries, Kent County Council offices and Gateways and via the Council's website. A Statement of Adoption needs to be sent to the Secretary of State and those parties who have asked to be notified of the adoption of the Local Plan. As the Plan has been subject to Sustainability Appraisal (SA), the

⁴ This would require further policy assessment and drafting, public consultation, sustainability, habitat and equality appraisal along with further formal examination and hearing processes.

SEA Regulations also require that post adoption, a copy of the Plan, alongside a copy of the SA Report and the SEA Adoption Statement is publicly available, and that the public and consultation bodies are informed about the availability of these documents.

9.2 The Kent Minerals and Waste Local Plan 2013-30 is the lead document of the County Council's statutory development plan. Two other documents, the Kent Minerals Sites Plan and the Kent Waste Sites Plan are statutorily required as part of the Council's strategic planning function and will complete the Development Plan. They can only be progressed once the Kent MWLP 2013-30 is adopted. It is anticipated that preparation of the Sites Plans will take approximately two years, such that their adoption is anticipated in 2018. The process of consulting on these documents will be set out in an update to the Statement of Community Involvement that will be prepared later this year.

9.3 In light of concerns raised during the Examination Hearings concerning the clarity of the Council's approach to safeguarding minerals resources and waste and minerals infrastructure, a document, known as a 'Supplementary Planning Document' (SPD) is also required. This work cannot be formally progressed until the Kent MWLP is adopted. A working draft is currently being prepared. The SPD will provide further guidance on the implementation of the Plan's safeguarding policies. It should be particularly useful to the district and borough councils in the delivery of their duties on mineral safeguarding as set out in the National Planning Policy Framework (NPPF) 2012 and as part of KCC/District Council duty to cooperate discussions. A decision to adopt the SPD will be a matter for the Cabinet Member for Environment and Transport. A draft of the SPD will be shared for comment with Environment and Transport Cabinet Committee in advance of adoption.

9.4 The timetable for preparation of the Minerals and Waste Sites Plans, the Safeguarding SPD and the Statement of Community Involvement (SCI) is to be included in a proposed revision to the Local Development Scheme (LDS). These are matters to be agreed with the Cabinet Member for Environment and Transport.

10 Legal Implications of the Suggested Action

10.1 The County Council has a legal obligation under the Town and Country Planning Legislation to prepare a statutory Development Plan for minerals and waste management matters. The Kent MWLP has been prepared to comply with the relevant planning legislation, the Localism Act 2011 and to be in conformity with the National Planning Policy Framework 2012 and the National Planning Policy for Waste, 2014. The Inspector's recommendation is that the Plan is sound, subject to the modifications he proposes.

11. Equalities Implications

11.1 An initial Equalities Impact Screening of the Kent Minerals and Waste Local Plan 2013-30 was carried out in September 2013. The results of the initial screening recognised that the Kent Minerals and Waste Local Plan's policies were unlikely to have any specific adverse or positive impacts upon the ten

protected characteristics⁵. This assumption was tested during the public consultation of the Draft Plan which commenced in January 2014. The Equalities Impact Assessment was updated following the end of the consultation in July 2014 and reviewed prior to consultation on the Main Modifications; it was concluded that there were no unexpected impacts on any of the protected characteristics. The Equality Impact Assessment is attached as Appendix 6.

12. Conclusions

12.1 The KMWLP sets out waste and minerals planning policy to 2030 which updates most of the Council's current planning policies on waste management and minerals supply. Following a public examination of the KMWLP, the Government-appointed Planning Inspector has found that subject to the published modifications, the Plan is legally compliant and sound. This means that the Council may now adopt the Plan. Once adopted, it will provide a Kent perspective on national planning policy and local determined guidance for the determination of planning applications. Adoption of the Plan will ensure that the County Council has a sound and robust Development Plan in place to facilitate waste management and minerals supply which is essential to the delivery of economic and social growth. It will also set the context for the subsequent Sites Plans.

12.2 It is recommended that the County Council notes this committee report, the contents of the Inspector's report and the modifications made and adopts the Plan. Environment and Transport Cabinet Committee and Cabinet both have advisory roles in the decision making process to adopt the Plan. Cabinet are to consider this matter at its meeting on the 27th June 2016 and Environment and Transport Cabinet Committee on 8th July 2016. The outcome of the earlier committee considerations will be reported verbally to County Council.

⁵ The ten characteristics are: Age, disability, gender, gender identity, race, religion or belief, sexual orientation, pregnancy and maternity, marriage and civil partnerships and carer's responsibilities.

13. Recommendation

The County Council is recommended to:

1. Note the Main Modifications to the Kent Minerals and Waste Local Plan 2013-30 (KMWLP) and the responses to their consultation;
2. Note the contents of the Inspector's Report and his conclusion that with the Main Modifications (Appendix 3), the Kent Minerals and Waste Local Plan is sound and legally compliant;
3. Note the minor non-material modifications made to the Kent Minerals and Waste Local Plan (Appendix 5); and
4. Adopt the Kent Minerals and Waste Local Plan, incorporating the Main Modifications and minor modifications (Appendix 1);

And to authorise the Corporate Director for Growth, Environment and Transport to:-

- (i) make any further minor modifications which may be needed, such as formatting changes and typographical errors in order to publish the Development Plan; and
- (ii) approve and publish the adoption statement and the Strategic Environmental Assessment Adoption Statement.

14. Background Documents

See Appendix 2 for the full list of background documents; all documents listed are available to view from <http://www.kent.gov.uk/about-the-council/strategies-and-policies/environment-waste-and-planning-policies/planning-policies>.

15. Contact details

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Adoption of the Kent Minerals and Waste Local Plan 2013-30

APPENDICES

Please note that this report is accompanied by a number of appendices. Given their size, only Appendices 1 (the Plan) and 6 (the Equalities Impact Assessment) are published in hard copy to accompany the Papers. A hard copy of all the appendices is available in the Member's Room, the 4 Group Offices and the Information Point. Electronic copies are available via the Council's website. Hard copies are also available upon request to the Minerals and Waste Planning Team.

The following appendices are relevant:

Appendix 1 – Kent Minerals and Waste Local Plan 2013-30 as modified May 2016

– The Plan to be adopted (Available as a freestanding report)

Appendix 2 – Background documents

Appendix 3 – The Inspector's Report with Schedule of Main Modifications

Appendix 4 - A summary of Main Modifications by Chapter

Appendix 5 – Additional (Minor) Modifications

Appendix 6 – Equalities Impact Assessment (**Attached**)

Appendix 7 Sustainability Appraisal Synthesis Report

KENT COUNTY COUNCIL EQUALITY IMPACT ASSESSMENT

This document is available in alternative formats and can be explained in a range of languages. Please call 03000 413359 or 03000 413376 or email mwdf@kent.gov.uk for details.

Directorate: Growth, Environment and Transport

Name of policy, procedure, project or service

Kent Minerals and Waste Plan 2013-30 (the MWLP Plan)

What is being assessed?

Planning policy for minerals and waste management

Responsible Owner/ Senior Officer

Sharon Thompson, Head of Planning Applications

Date of Initial Screening

10 September 2013

Date of Final EqlA

28 April 2016. Updated July 2015 and subsequently December 2015

Version	Author	Date	Comment
1	J Prosser	August 2013	Original
2	R Cutler/J Prosser	September 2013	Updated using the July 2013 template and to take account of Clive Lever's (Equality Impact Advisor) comments dated 28.08.13
3	R Cutler	June 2014	Updated following the MWLP Pre-submission consultation (Jan-Mar 2014)
4	R Cutler	July 2015	Updated following the Independent Examination hearings on the Plan by a Planning Inspector appointed by the Secretary of State
5	B Geake	December 2015	Updated following further consideration on the Plan by the appointed Planning Inspector post Hearings
6	B Geake	April 2016	Final EQIA screening and sign off for the Plan post receipt of the Inspector's Report from the Planning Inspectorate on 26.04.16
7	A Agyepong	May 2016	Comments

On the 26 April 2016 the County Council received the Inspector's report concluding the Examination of the Kent Minerals and Waste Local Plan in accordance with planning legislation. The non-technical summary stated:-

"This report concludes that the Kent Minerals and Waste Local Plan provides an appropriate basis for the planning of minerals and waste in the county providing a number of modifications are made to the Plan. The Kent County Council has specifically requested me to recommend any modifications necessary to enable the Plan to be adopted.

All of the modifications to address this were proposed by the Council but where necessary I have amended detailed wording and/or added consequential modifications; and I have recommended their inclusion after considering the representations from other parties on these issues.

The Main Modifications I recommend cover a large proportion of the subject matter of the Plan, but the principal ones may be summarised as follows:

- *Revising the approach to the supply of land-won minerals and secondary and recycled aggregates in order to ensure a steady and adequate supply.*
- *Removing the requirement for all minerals development on non-allocated sites to demonstrate overriding benefits.*
- *Placing silica sand within the ambit of the policy for the supply of land-won minerals rather than that relating to non-identified land-won minerals sites.*
- *Revising the suite of policies relating to the safeguarding of land and facilities for minerals and waste development.*
- *Revising the policy relating to oil, gas and coal bed methane to address hydraulic fracturing and to reflect the planning requirements of section 50 of the Infrastructure Act 2015 & section 4A of the Petroleum Act 1998.*
- *Placing greater emphasis on waste recovery instead of energy from waste.*
- *Making policy for the Green Belt and the AONB consistent with the NPPF.*
- *Revising the monitoring framework for the Plan.”*

The Plan in its final modified form requires a further screening process to be undertaken to consider any new equality impacts that may flow from the modifications to inform the final assessment process. The table below details this screening process.

Characteristic	Could this policy, procedure, project or service affect this group less favourably than others in Kent? YES/NO If yes how?	Assessment of potential impact HIGH/MEDIUM LOW/NONE UNKNOWN		Provide details: a) Is internal action required? If yes what? b) Is further assessment required? If yes, why?	Could this policy, procedure, project or service promote equal opportunities for this group? YES/NO - Explain how good practice can promote equal opportunities
		Positive	Negative	Internal action must be included in Action Plan	If yes you must provide detail
1. Age	No	None	None	Any impacts would be no different to impacts on the general population. No further assessment is required.	No
2. Disability	No	None	None	Any impacts would be no different to impacts on the general population. No further assessment is required.	No
3. Gender	No	None	None	Any impacts would be no different to impacts on the general population. No further assessment is required.	No
4. Gender identity	No	None	None	Any impacts would be no different to impacts on the general population. No further assessment is required.	No
5. Race	No	None	None	Any impacts would be no different to impacts on the general population. No further assessment is required.	No
6. Religion or belief	No	None	None	Any impacts would be no different to impacts on the general population. No further assessment is required.	No

7. Sexual orientation	No	None	None	Any impacts would be no different to impacts on the general population. No further assessment is required.	No
8. Pregnancy and maternity	No	N/A	N/A	Any impacts would be no different to impacts on the general population. No further assessment is required.	No
9. Marriage and Civil Partnerships	No	N/A	N/A	Any impacts would be no different to impacts on the general population. No further assessment is required.	No
10. Carer's responsibilities	No	N/A	N/A	Any impacts would be no different to impacts on the general population. No further assessment is required.	No

Screening Grid

Low	Medium	High
Low relevance or Insufficient information/evidence to make a judgement.	Medium relevance or Insufficient information/evidence to make a Judgement.	High relevance to equality, /likely to have adverse impact on protected groups

Proportionality - Based on the answers in the above screening grid what weighting is ascribed to this function

State Rating & Reasons

Screening of the Kent Minerals and Waste Local Plan 2013-30 as modified by the Inspector is concluded that **Equality Impact Assessment of Potential Impact is Low**; screening indicates that impacts on the ten characteristic are unlikely, or no different to impacts on the general population.

Context

The production of a Minerals and Waste Local Plan is a statutory requirement for the County Council as a Local Planning Authority. Once adopted, along with Local Plans produced by District Councils and Government Planning Policy Guidance, it will form the policy basis for decision making by the County Council in determining planning applications for proposed minerals and waste management development and mineral safeguarding for the District Councils. It will also provide the context for allocations in the future minerals and Waste Sites Plans

The Pre-Submission Draft Minerals and Waste Local Plan (January to March 2014) was a draft for consultation prior to the County Council submitting the Plan to the Secretary of State for examination in November 2014.

The plan making process included an Independent Examination by an Inspector appointed by the Secretary of State to ascertain whether the KMWLP (Kent Minerals and Waste Local Plan) is sound prior to adoption and must conform to certain planning and legal criteria. The Planning Inspector held Hearings in April and May 2015 to consider objections to the Plan made by representors and to assess other matters that affected the soundness and legal compliance of the Plan. This resulted to in a number of main and additional modifications being recommended. These modifications required further consultation to be undertaken by the County Council in both August to October 2015 and January to March 2016. The Inspectors report concluded that the KMWLP *“provides an appropriate basis for the planning of minerals and waste in the county”* subject to these modifications being incorporated into the Plan. On that basis the county Council can adopt the KMWLP 2013-30.

On adoption of the Minerals and Waste Local Plan, the County Council can then proceed with the production of both a Supplementary Planning Document on Mineral and Waste Safeguarding, setting out the consultation protocols required to ensure the plan's policies are effective in their mineral and waste safeguarding purpose. In addition, the Plan provides the context for the

County Council to proceed with the Minerals and Waste Sites Plans. The Mineral and Waste Local Plan 2013-30 sets the context for these Sites Plans by quantifying the need for new development and providing the locational criteria for the selection of sites.

Aims and Objectives

The Minerals and Waste Local Plan 2013-30 establishes the following aims and objectives:

- make a positive and sustainable contribution to Kent and Progression to a low carbon economy, which supports Kent's growth;
- encourage and promote the use of recycling and secondary aggregates;
- the locational criteria for site selection in the Minerals and Waste Site Plans;
- the need for new minerals and waste development up to 2030 to maintain a and adequate ready supply of minerals;
- promote management of waste to higher levels of the defined waste hierarchy to reduce the amount of waste being sent to landfill for simple disposal;
- for waste management to achieve overall net self-sufficiency and manage waste close to the source of production (high proximity);
- promote the use of waste as a resource;
- two strategic sites - one for mineral development and one for waste management which are essential to the delivery of the objectives of the Plan;
- a development management policy framework against under which minerals and waste planning applications will be determined; and
- ensure high quality of restoration of land

The Minerals and Waste Local Plan 2013-30 will also provide safeguarding through protection from other development for:

- viable mineral reserves;
- mineral import wharves and railheads;
- all current permanent minerals and waste sites;

- sites identified in the Minerals and Waste Sites Plans.

These aims and objectives of the Plan will be achieved through the implementation of the strategy as set out in the document's strategy policies and as facilitated by the development management policies.

Beneficiaries

When adopted, the Minerals and Waste Local Plan 2013-30 will provide greater certainty for residents and communities as to where future minerals and waste management development is likely to be acceptable. It will also provide the minerals and waste industries with a better understanding of the basis upon which planning permission is likely to be granted for new development. The Kent economy will benefit through the continuity of mineral production in Kent and the provision of facilities to manage the waste arisings in the county. These developments will play an important role in delivering infrastructure and economic growth in the county and the protection of its environment. Future generations will benefit from prudent safeguarding of economic minerals ensuring that they are used sustainability and not needlessly sterilised by other development.

Consultation and Data

The process of consultation during the development of the Minerals and Waste Local Plan is driven by legislation. The County Council is required to produce a Statement of Community Involvement which sets out how and when consultations will be conducted during the production of the Plan. The Statement of Community Involvement was also subject to consultation prior to the final document being completed.

Since 2010 (up to the Submission of the Plan under Regulation 20 of the planning Act 2008), five major public consultations have been conducted in order to inform the development of the Minerals and Waste Local Plan 2013-30 formulation process. A variety of different methods have been used to both disseminate information and to encourage participation through providing views in writing to the County Council, such as:

- Direct notification to an evolving list of stakeholders, including the District and Parish Councils, Statutory Agencies, neighbouring Minerals and Waste Planning Authorities, the minerals and waste industries and local residents;

- Public Notices in local papers, press releases and notices for Parish Council notice boards;
- Drop in session at different locations in Kent;
- Workshops for the minerals and waste industry, for parish councillors and for district planning officers and environmental groups.

This has culminated in the development of a stakeholder database of nearly 3,000 contact details of residents, organisations and companies which are interested in the development of the Plan. The material has been available in electronic form and hard copy.

Following each consultation, the views of all participants were available to view online. Post consultation, a report on the results of the consultation was prepared and published online. These reports were used to inform the development of the next stage of the plan making process.

Wider population demographics are considered through the Minerals and Waste Annually Monitoring Report, using available data from Kent County Council's Research & Evaluation Team. These Monitoring Reports form part of the supporting evidence on which the Kent Local Plan is based and considered by the Inspector.

Summary of the Involvement and Engagement Process for the Plan

The Minerals and Waste Local Plan Team have hosted public 'drop-in' sessions for pre-submission consultations. In recognition that people with vision or print impairments may not find out about the consultation, if they do not have internet access and/or are not able to read noticeboards or newspapers, the following actions were taken:

- Kent Association for the Blind was added to stakeholder database and was informed of consultations and their publication.
- Information on alternative formats was positioned on the inner side of the front cover of the consultation document where it is more likely to be seen sooner by anyone reading out loud to a person.

In order to ensure a wide dissemination of the emerging KMWLP's (the Plan) policies and engagement with plan formulation to submission consultations were primarily web-based with access to the consultation documents. There was the ability for submission of comments direct into an online system. Printed copies of the documents were also made available at all Kent libraries and Kent Gateways. CD ROMs with electronic copies of the consultation documents were sent to all Parish Clerks and to any member of the public who requested one as there are parts of Kent where the speed of web access makes viewing large documents on-line difficult.

The County Council analysed all the representations received during the Pre-submission Draft Plan consultation that was undertaken in January 2014, together with the views received during the Issues and Options and Preferred Options stages of the Plan. This included specifically an analysis of whether there were any identifiable groups that the Plan affected, and if so, was this effect negative. This approach was an ongoing step by step screening of the Plan during its formulation to its submission to the Secretary of State for Independent Examination. This initial screening did not reveal any negative impact upon the ten identifiable groups, as set out above in the screening grid table.

Moreover, the representations were considered by the Inspector as part of the Independent Examination process. Further consultation and stakeholder engagement took place as part of the Hearings (in April and May 2015) and the Examination process included public consultation on the proposed July 2015 and December 2015 modifications. During this process no specific impacts arising from the Plan's policies on definable groups (as per 1 to 10 above in the screening grid) were found.

Consultation at each stage was initiated through direct contact with our stakeholders, a notice in the local press, a press release and notices for Parish Council notice boards. Participation in the consultation by email or letter was possible. Comments received were added to the consultation portal so that they were also publically available. The submission of views in written format is essential as the consultations form part of the evidence base for the Plan which had to be submitted to the Secretary of State for Independent Examination by the Planning Inspector.

Submission and Examination of the Plan

The *Kent MWLP 2013-30* was formally submitted to the Secretary of State on 03 November 2014 for Independent Examination. Planning Inspector Jonathan G King *BA (Hons) Dip TP MRTPI* was appointed by the Planning Inspectorate to undertake the Examination of the Plan.

The public Hearing on the Examination of the Plan commenced on Tuesday 14 April 2015, and ran for six days over a two-week period, reconvening for a further three days from 26 May 2015. The hearings were attended by a number of the parties who had made formal representations on the soundness of the Submission version of the Plan (published for consultation in July 2014). The Plan, supporting evidence and the formal representations received were reviewed and discussed with the Inspector and the representors in attendance.

During the course of the Independent Examination, a number of main modifications to the Plan were discussed with the Inspector. These main modifications were considered necessary to address potential unsoundness and legal compliance issues. Having considered the various representations made during the Examination, the County Council also proposed a number of minor changes. Whilst these additional (minor) modifications do not affect the overall soundness and legal compliance of the Plan, they add clarity to the Plan. Consultation on these modifications took place in August 2015 and January 2016.

None of the proposed modifications discussed with the Inspector has an adverse impact on equality issues.

Potential Impact

The purpose of the Plan is to provide a framework for determining planning applications. The Minerals and Waste Local Plan 2013-30 policies are considered highly unlikely to have a specific impact, either positive or negative, on any of the protected groups identified above to any lesser or greater extent than the general population.

The subsequent Minerals and Waste Site Plans, which will allocate sites in Kent for minerals and waste development will be subject to their own Equality Impact Assessments. These allocation Plans will provide a further opportunity to consider the equality impacts arising from individual site considerations which are not possible at the strategic level of the current MWLP Plan. The Kent MWLP Plan will have no direct physical effect until such time as proposed developments are granted permission and development

commences. It should also be noted that the County Council is subject to a statutory requirement to conduct public consultations on planning applications.

Adverse Impact:

The Minerals and Waste Local Plan 2013-30 policies are unlikely to have a specific, adverse impact on any of the protected groups identified above to any lesser or greater extent than the general population.

Positive Impact:

The Minerals and Waste Local Plan 2013-30 policies are unlikely to have a specific, positive impact on any of the groups identified above to any lesser or greater extent than the general population.

JUDGEMENT

The Kent MWLP has been considered against the Equality Impact Assessment flow chart set out in Appendix 1. Having been screened, it is considered unlikely to have any specific, adverse or positive impacts upon the identified nine characteristics.

Option 1 – Screening Sufficient	YES
Option 2 – Internal Action Required	YES
Option 3 – Full Impact Assessment	NO

Though the initial screening demonstrated the lack of negative impacts resulting from the Kent Minerals and Waste Local Plan 2013-30, the subsequent Minerals and Waste Sites Plans may demonstrate such impacts and are linked to the delivery of the current Plan's strategy. Therefore, while it can be concluded that a full impact assessment of this current Plan is not required, Option 2 of the process should recognise that further assessment will be required in relation to the following Sites Plans. These Plans will require wide consultation and engagement with their own separate Equality Impact Assessment and Independent Examination by an Inspector appointed by the Secretary of State. As has been acknowledged in this report the Minerals and

Waste Sites Plans proposals will have impacts upon Kent residents that may specifically impact upon particular protected characteristics. On this basis, it is considered that the Site Plans may well require a Full Equality Impact assessment.

Monitoring and Review

The Minerals and Waste Annual Monitoring Report (AMR) undertaken by the County Council contains contextual data on Kent's population and is updated and published every year. Once the Plan is adopted, the AMR will monitor the effectiveness of the Plan's policies.

Sign Off

I have noted the content of the equality impact assessment and agree that the Kent Minerals and Waste Local Plan 2013-30 does not have any adverse or positive impacts upon the identified ten characteristics of equality impact.

Senior Officer

Signed: **Name:** Sharon Thompson

Job Title: Head of Planning Applications **Date:** 27th May 2016

DMT Member

Signed: **Name:** Katie Stewart

Job Title: Director of EPE **Date:** 27th May 2016

Appendix 1

DET = Diversity Equality Team

Equality Impact Assessment See the EqIA guidelines on KNet for detail and forms

