

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

**Barbara Cooper, Corporate Director for Growth,
Environment and Transport**

To: **Environment and Transport Cabinet Committee - 17
November**

Subject: **Minerals and Waste Safeguarding Supplementary
Planning Document (SPD)**

Decision Number: 16/00123

Classification: **Unrestricted**

Past Pathway of Paper: N/A

Future Pathway of Paper: Cabinet Member Decision

Electoral Division: Kent wide

Summary:

This report is to inform members of the Environment and Transport Cabinet Committee that following the adoption of the Kent Minerals and Waste Local Plan 2013-30 (MWLP), a draft Supplementary Planning Document (SPD) (**Appendix B**) has been produced regarding minerals and waste safeguarding. This reflects the expectation of the Government-appointed Inspector who examined the Kent MWLP. The draft SPD reflects the safeguarding strategy set out in the Kent Minerals and Waste Local Plan. It details the process that should be followed when dealing with planning applications and local plan allocations that have implications for minerals and waste safeguarding.

Recommendation:

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Environment and Transport on the proposed decision to endorse the Kent Minerals and Waste Safeguarding Supplementary Planning Document (SPD) for public consultation.

1. Introduction

1.1 National planning policy requires local plans, including those prepared by the Borough and District Councils, to safeguard mineral resources, minerals production and transportation infrastructure, and waste management facilities. This safeguarding plays an important role in sustainable development, supports economic growth and our quality of life, and ensures that there is sufficient waste capacity to manage Kent's waste arisings. It ensures that

mineral and waste management resources are considered when determining planning applications and allocating sites for development within local plans.

- 1.2 In planning, safeguarding is the term used to describe the process of ensuring that:
 - Natural mineral resources are not unnecessarily sterilised by other types of development, remaining available for use by future generations; and
 - The capacity and operation of minerals and waste management and transportation infrastructure is not lost to, or compromised by, other types of development except in the special circumstances set out in the Kent MWLP.
- 1.3 The Kent Minerals and Waste Local Plan 2013-30 (MWLP) was adopted by Full Council in July 2016. Within the Plan are a number of policies concerning minerals and waste safeguarding to ensure that development does not sterilise natural mineral resources, or compromise the capacity and operation of minerals and waste management and transportation infrastructure. Whilst minerals and waste planning falls within the remit of the County Council, safeguarding is the responsibility of all planning authorities within Kent. When considering a planning application or proposing a local plan allocation, borough and district authorities must have due regard to whether it will compromise natural mineral resources or any other existing or planned minerals or waste development. Applicants also need to be aware of safeguarding when compiling a planning application or promoting sites for potential allocation.
- 1.4 As a result of this responsibility, the Local Plan Examination for the Kent MWLP recognised the need for the County Council to produce a safeguarding supplementary planning document (SPD) following the adoption of the Kent MWLP. The Planning Inspector supported this approach in his report on the MWLP Plan (April 2016). The draft SPD at **Appendix B** sets out in detail the process that should be followed by the County Council, the borough and district councils and applicants when dealing with applications and local plan allocations that have implications for minerals and waste safeguarding. Importantly, the SPD does not create new policy; it simply provides guidance on the implementation of the adopted policies that have already been adopted within the MWLP.
- 1.5 Safeguarding issues were a key matter at the Kent MWLP Examination with representations from some borough councils, developers, landowners and the mineral industry. In February 2016, a workshop was held to discuss implementation matters regarding the safeguarding policies and how best to address these in a SPD. Those parties who had responded at the Examination Hearing, along with additional borough and district councils, were invited to the workshop and had the opportunity to shape a working draft of the SPD. This version was subject to further informal discussion with an Informal Members Group for the Kent MWLP appointed by the Cabinet Member.
- 1.6 In order that the SPD can be adopted and be used in the decision-making for planning applications and plan making, public consultation is required. Upon

adoption, the County Council will have a robust and comprehensive set of planning policies on minerals and waste safeguarding.

2. The Draft SPD

2.1 The SPD identifies the policies within the Kent MWLP that relate to safeguarding, and provides guidance to local authorities and/or or developers on how to proceed with planning applications and local plan preparation which have safeguarding implications. The draft SPD sets out:

- the importance of minerals and waste management resources;
- what is safeguarded;
- the approach to safeguarding in Kent, including the information required when non-mineral and waste development is promoted in safeguarded areas;
- the roles of the applicant, borough/district councils and the County Council;
- Mineral Assessments; and
- the consultation procedures to be followed.

It also includes details of monitoring and review arrangements. The safeguarding policies and a summary of the provisions are included as an appendix to the SPD.

2.2 The policies relating to safeguarding in the adopted MWLP are as follows:

- Policy CSM5: Land-won Mineral Safeguarding
- Policy CSM 6: Safeguarded Wharves and Rail Depots
- Policy CSM 7: Safeguarding Other Mineral Plant Infrastructure
- Policy CSW16: Safeguarding of Existing Waste Management Facilities
- Policy DM7: Safeguarding Mineral Resources
- Policy DM8: Safeguarding Minerals Management, Transportation, Production & Waste Management Facilities.
- Policy DM 9: The Extraction of Minerals in Advance of Surface Development

2.3 The SPD does not amend these policies; rather, the purpose of the SPD is to provide guidance on the implementation of these policies and to aid applicants in making successful applications. The public consultation process will provide an opportunity for those that will use the policies to comment and influence the draft implementation guidance so that it best meets the needs of users.

Land-won minerals

2.4 Land-won minerals can only be worked where they naturally occur, and any non-mineral development occurring on or in close proximity can have the potential to sterilise the resource. The adopted policy recognises that the economic mineral resources as defined by the British Geological Society and

the Kent MWLP should be safeguarded. These minerals are brickearth, sharp sand and gravel, soft sand including silica, ragstone and building stone.

2.5 Policy CSM 5 identifies the areas in Kent containing the above primary land-won mineral resources which are safeguarded; these are known as Mineral Safeguarding Areas (MSA). Policy DM 7 requires that planning permission for non-mineral development within a MSA will only be granted where:

- the applicant can justify that the mineral is not of economic value or does not exist; or
- the extraction of the mineral would not be viable or practicable; or
- the mineral can be extracted prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or
- the incompatible development is of a temporary nature; or
- there is a clear overriding need for the non-minerals development.

2.6 Satisfaction of these criteria would need to be evidenced in a minerals assessment. Kent County Council as the Minerals Planning Authority (MPA); must be consulted on any planning application or local plan allocation for non-mineral development within a MSA. It would give a view on whether a minerals assessment is required, and if one has been submitted, provide technical advice on the adequacy of the assessment.

2.7 The SPD sets out in detail, what is expected from applicants in terms of Minerals Assessments. It also explains the consultation process between the district/borough council and the MPA, as well as encouraging pre-application discussions between any applicant and the MPA regarding applications within a MSA.

Minerals Management and Transportation Infrastructure and Waste Management Facilities

2.8 Given that land-won minerals are a finite resource, minerals transportation infrastructure such as wharves and rail-heads are essential to ensure a constant and steady supply of minerals into Kent. Without this infrastructure, greater reliance will be needed on road transport. Whilst wharves may be attractive for other types of development, such as residential uses, once a wharf is lost to another type of development, it is likely to be lost as minerals transportation infrastructure indefinitely.

2.9 Policies CSM 6 and CSM 7 safeguard all existing, planned and potential wharves and rail transport infrastructure, and all other minerals plant infrastructure. Policy DM8 sets out when development can be considered exempt from the safeguarding requirements; this includes scenarios where it can be demonstrated that replacement capacity equal to or greater than that of the existing facility is available at a suitable site elsewhere.

2.10 It is also important that sufficient capacity exists for Kent to manage its waste arisings and future needs sustainably. It is required by national planning

policy to safeguard waste management facilities. Policy CSW16 safeguards all existing waste management facilities, as well as sites allocated in the Waste Sites Plan.

- 2.11 To ensure that amenity impacts are adequately considered when assessing new development in proximity to non-mineral and waste development, a consultation zone of 250m is identified. The County Council would need to be consulted on any application within the consultation zone as part of the determination of a planning application or plan allocation. This should ensure that new development will not inhibit the mineral or waste management facility from operating, nor give rise to unacceptable amenity impacts for occupiers of new development. Whilst the policies within the Plan make provisions for this situation, the SPD further strengthens this requirement.

3. Corporate Policy Implications

- 3.1 The draft SPD supports the objectives and principles within the MWLP and helps ensure that Kent's physical and natural environment is protected, enhanced and enjoyed by residents and visitors.
- 3.2 A steady and adequate supply of minerals helps ensure that well planned housing growth can be supported, so Kent residents can live in the home of their choice.
- 3.3 Sustainable minerals and waste development is essential to giving Kent residents a good quality of life, and enabling economic growth.

4. Financial implications

- 4.1 The costs of preparing the Kent MWLP Mineral and Waste Sites Plans are included in the Environment Planning and Enforcement Division's budget. There is an expectation by Government (DCLG) that all planning authorities have an up to date local plan in place. Without an adopted Plan, there is a risk that DCLG will step in as the plan making authority, reducing local accountability. There are no financial implications associated with this decision.

5. Legal Implications

- 5.1 The County Council is required by national planning policy to ensure that local plans safeguard mineral resources and minerals and waste development. The delivery of a SPD will play an important role in ensuring that development in Kent has proper regard to safeguarding matters and that local planning authorities can deliver their obligation pursuant to the National Planning Policy Framework (para. 143).

6. Equalities Implications

- 6.1 The Kent MWLP was subject to a detailed EqIA which concluded that there were no equality implications. The safeguarding SPD does not create new

policy. It provides further guidance on the implementation of the adopted policy and as such is adequately covered by the Kent MWLP EqIA.

7 Conclusions

7.1 Safeguarding is an important aspect in the delivery of sustainable development. The SPD, once adopted will be a material planning consideration in the determination of all planning applications and plan allocations affecting safeguarded mineral and waste management matters. It does not introduce new policy. It provides guidance on the implementation of the adopted policies within the Kent MWLP. The SPD will act in support of the adopted Kent MWLP and ensure that the capacity for Kent's waste arisings and minerals supply are protected and maintained for Kent's current and future residents. The draft has already been informed by its intended audience, and a public consultation is required to ensure that the County Council has a clear, fit for purpose and comprehensive SPD.

8. Recommendation

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Environment and Transport on the proposed decision to endorse the Kent Minerals and Waste Safeguarding Supplementary Planning Document (SPD) for public consultation.

9. Background and Appended Documents

- Proposed Record of Decision – Appendix A
- Draft Safeguarding Supplementary Planning Document - **Appendix B**
- Kent Minerals and Waste Local Plan – Inspector's Report – <http://consult.kent.gov.uk/file/3932748>
- Minerals and Waste Local Plan 2013-30 - <http://consult.kent.gov.uk/file/4073744>

10. Contact details

Report Author: Name: Sharon Thompson/Alice Short Job Title: Head of Planning Applications/ Trainee Planning Officer Tel - 03000 413468 / 03000 413328 Email – sharon.thompson@kent.gov.uk / alice.short@kent.gov.uk	Relevant Director: Name: Katie Stewart Job Title: Director Environment, Planning and Enforcement, Tel – 03000 418827 Email – katie.stewart@kent.gov.uk
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